Law and Our Rights

"All citizens are equal before law and are entitled to equal protection of law"-Article 27 of the Constitution of the People's Republic of Bangladesh

Bias of a Judge:

What and Why?

By A K Roy

In all cases of bias, such as, direct connection with the litigation, or pecuniary bias, a judge is wholly disqualified. Even in case of personal bias, the test is not the truth of the matter and whether such bias has affected the judgment. But the test is, if a litigant would, in such an event, reasonably apprehend failure of justice. Is there a "real likelihood of operative prejudice, conscious, or unconscious?" That will be the test. But bias can be waived by the conduct of the party, if he submits to it having known of it all the time.

BIAS may be of various kinds. It may be direct (not pecuniary or personal) as when a judge has direct knowledge of the facts of a case.

It may be that, the judge had examined himself as a witness in the case, in which event, he ought not to hear the case at all.

In all cases of bias, such as, direct connection with the litigation, or pecuniary bias, a judge is wholly disqualified. Even in case of personal bias, the test is not the truth of the matter and whether such bias has affected the judgment. But the test is, if a litigant would, in such an event, reasonably apprehend failure of justice. Is there a "real likelihood of operative prejudice, conscious, or unconscious?" That will be the test. But bias can be waived by the conduct of the party, if he submits to it having known of it all the time.

The requirements of natural justice vary with the constitution of the various quasi-judicial bodies and has to be considered in the light of relevant statutory provisions. Justice must be seen to be done. The opinion of Lord Hewart "that justice should not only been done but should undoubtedly be seen to be done" was later approved in Frome United Breweries v Bath justices. But unreasonable and baseless suspicions can in no way indicate any reasonable bias.

In a Madhya Bharat Case, the High Court refused to quash the decision of an Election Tribunal when the only ground of bias alleged was that, the Chairman's wife was a Congressman and the petitioner had suffered defeat in the hands of a Congress candidate (Murlidhan v Kadam Singh, AIR 1954 MB III, 113: 1954 MBLJ 578).

It must be remembered that in England, Parliament is supreme and so if a statute enjoins on the Minister or a Secretary to decide any issue, there can be no question of official bias. But in our sub-continent, law made by Parliament or a State Legislature is not so immune. It should also stand the test of Fundamental Rights guaranteed by the Constitutions of respective countries.

What is prohibited is that, an officer adjudicating a cause should not have personal interest in the matter. There is nothing wrong if he merely starts the proceeding and the same is to be heard by some other officer.

In State of UP v Mohd Nooh (AIR 1958 SC 86) the Supreme Court condemned the practice of the Deputy Superintendent of Police who was conducting the enquiry, he himself giving testimony against the Police Constable facing a departmental enquiry. The Court said it was 'shocking to the motions of judicial propriety and fair play'.

But, what is judge's bias?

Rules of natural justice require that the judge of the tribunal should be free from bias of all kinds pecuniary or personal. Lord Conttenahm (The Lord Chancellor) had an interest as a share-holder in a company established for constructing a canal and a person claiming some right in a land which had been purchased by the company sued for ejectment. So, in these circumstances, in Dimes v Grand Function Canal (1952 3NIC 759:10 ER 301) the Law Lords asked the opinion of the judges on the specific preliminary point.

"Was this a case in which the order and decree of the Lord Chancellor were void on account of his interest and of his having decided in his own cases?"

Parker J answered the query by stating that the order of decree of the Lord Chancellor Conttenahm was not absolutely void on account of his interest but voidable only that it might be questioned and set aside by appeal on some applications to the Court. On this opinion the House of Lords said (per Lord Campbell):

"With respect to the point upon which the learned judges were consulted, I must say that I entirely concur in the advice which they have given to your Lordships. No one can suppose that Lord Conttenahm could be in the remotest degree influenced by the interest that he had in this concern, but My Lords, it is of utmost importance that the maxim that no man is to be a judge in his own cause should be held sacred.

And that is not to be confined to a cause to which he is a party, but applies to a cause in which he has an interest. Since I have had the honour to be the Chief Justice of the Court of Queen's Bench, we have again & again set aside proceeding in inferior tribunals because an individual who has an interest in a case, took part in the decision. And it would have a most salutary influence on these tribunals when it is known that this High Court of last resort, in a case in which the Lord Chancellor of England had an interest, considered that his decree was on that account, a decree not according to law, and was set aside. This will be a lesson to all inferior tribunals to take care that not only in their decrees they are influenced by their personal interests but to avoid the appearance of laboring under such an influence."

The principle to be deduced from the above weighty pronouncement is that even least pecuniary interest in the cause disqualifies a judge. This indeed is an important matter of public policy in the administration of justice. Lush J. would demand this principle to be observed to clear away every thing which might endanger suspicion and distrust of the tribunal and so to promote the feeling of confidence in the administration of justice. Lord Hewart, CJ stated it differently by saying that "nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice." Lord Hardwick went so far as to mention that "in a matter of so tender a nature even the appearance of evil is to be avoided."

Indian Courts were equally emphatic in this regard. The dictum of Lord Hewart & Lord Hardwick were quoted with approval by Rajamannar, CJ in Visakhapatnam Coop Motor Tpt v Bangaruraju (ILR 1954 Mad 36: AIR 1953 Mad 709).

Whatever may be the interest, pecuniary or otherwise, which an officer has in the subject-matter, it will be improper for him to act as a deciding authority when a cause arises in that regard. The American view as to pecuniary interest of Judges is not different. Chief Justice Tuft had no hesitation in saying that officers acting in a judicial or quasi-judicial capacity are disqualified by their interest in the controversy to be decided.

In R v Sussex T.T., Exparte Melarlhy (1924 IKB 256) the conviction in respect of a motoring offence was set aside, since the acting clerk to the Justice was member of a firm of solicitor who represented the plaintiffs in the connected pending civil action. The opinion of the Court was that since the clerk's firm was connected with the case in the civil action, he ought not to advise the Justice in the criminal matter. May be, the clerk never really advised. But wife must be above suspicion.

The proper significance of the bias of the Judge was pinpointed in Franklin's Case (1948 AC & J) where the House of Lords viewed its proper significance to denote a departure from the standard of even handed justice which the law requires from those who occupy judicial office. The same was differently echoed by Their Lordships of the Supreme Court of India, in Manak Lal v Prem Chand, Dr (AIR 1957 SC 425) where they said that a member of a tribunal called upon to decide in judicial or quasi-judicial proceedings must be able to act judicially and that "it is of the essence of judicial decision and judicial administration that Judges should be able to act impartially, objectively and without any bias." The test is, if a litigant could reasonably apprehend, that a bias, attributable to a member of the tribunal, might have operated against him in the final decisions of the tribunal. The bias must be pecuniary or personal.

In the case of pecuniary bias, the person who sits in the Tribunal should not partake in the enquiry. In the case of other kinds of bias, personal or official, it is necessary to consider, whether there is a reasonable ground to consider the possibility of bias and whether it is likely to produce in the minds of the litigant or the public at large a reasonable doubt about the fairness of the administration of justice. For, justice must not only be rendered but must appear to be rendered. No tribunal can be judged in his own cause and any person sits in judgement over the rights of others should be free from any kind of bias and must be able to hear an impartial and objective mind to the questions in controversy.

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Fatal Accident: Bangladesh Perspective

A Thorny Shelter of Law

By Mohammed Saleem Ullah

The procedural laws of the our country need drastic changes to make the disposal of the cases easy and the insurance company liable for the damages that may be awarded by the court in a suit under Fatal Accidents Act, 1855. There should be a provision of interim damages. No appeal, review, revision, or any proceeding to set aside, modify or reverse the decree or reduction in decretal amount should lie unless the judgement debtor pays 50 per cent of the decretal amount to the decree holder. This may give some interim relief to the victims or to the heirs.

MEANING of 'Fatal Accident', as given in Miter's Legal and Commercial Dictionary, is "an accident which causes death"; English dictionary says "an accident which causing or ending in death." But in our country whenever we hear the word 'Fatal Accident', a road accident scene flashes before our eyes and we see a wretched person's body lying dead in a pool of blood. But it never comes across our mind that all unnatural death caused to a person by another person come under the definition of 'Fatal Accident.' Be it caused by a physician or a driver of a vehicle or in the mill/factory or by a hoodlum or by any other person; all cases of culpable homicide amounting to murder or not amounting to murder or felony or other crime also come under 'fatal accident.'

We have inherited our laws from Britain as a result there is much similarity between the laws of England and laws of India, Pakistan, Bangladesh and the erstwhile British Colonies.

There was no provision in the law for realization of damages by the heirs of a deceased against the tortuous act of another person. The common law in England was based on the fundamental principle that where there is a right, there is a remedy but this remedy did not provide any remedy to the dependents or the heirs of the deceased person whose death was caused by the wrong doer, as the cause of action to sue dies with the person. But the legal position was otherwise for a person who had sustained slight or serious injury, could maintain an action against the wrong doer.

This legal position was based on the basis of Section 306 of the Indian Succession Act-1925 which runs as follows:

"306. Demands and rights of action of or against deceased survive to and against executor or administrator:

All demands whatsoever and all rights to prosecute or defend any action or special proceeding existing in favour of or against a person at the time of his decease, survive to and against executors or administrators; except causes of action for defamation, assault as defined in the Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party the relief sought could not be enjoyed or granting it would be nugatory."

The English maxim *"action personalis moritur cum persona;"* means that personal right of action dies with the person or to put in more clear words, the right to sue for tort is extinguished by the death of the person aggrieved. Section 306 of the Succession Act applies to executors and administrators and not to heir representing estate of the deceased.

The aforesaid position was prevailing in British India. This was a peculiar position that it was better to kill than to maim or cripple a person and allow one to bring legal action against the tortfeasor.

Facing the reality and to fill-up the vacuum in law, the British lawmakers enacted a law for removing the legal difficulties in 1846 which was known as Lord Campbell's Act. But the similar laws were enacted in British-India in 27th March, 1855. On the same day two laws viz., The Legal Representatives' "Suits Act, 1855" (Act XII of 1855) and "The Fatal Accidents Act, 1855" (Act XIII of 1855) were enacted. The former law was enacted to enable executors, administrator or representatives to sue and be used for certain wrongs, whereas the later law was enacted to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong; these laws are the legal basis for the dependents or heirs of the deceased victim and are seldom used in this country, primarily of our ignorance and mainly for our lengthy legal system. "Delay and expensive judicial system frighten many of the pursuant of Justice" said the former Chief Justice of India Mr Justice B N Bhagwati. This is the correct picture of this sub-continent in realizing the damages.

In this article I will try to touch certain aspects relating to the realization of damages by the dependents or heirs of deceased victim against the wrong doer.

Of all, the Court Fees Act is the greatest hurdle for the poor family members of the victims to realise damages from the wrong-doers. Protracted litigation is another factor. In most of the accident cases the wrong-doers have nothing at stake.

In the cases where the wrong-doers have no assets/money to compensate, those case even the Insurance Company escapes the liability beyond Tk 20,000.00 under the Motor Vehicles Act, 1939. This sum fixed in 1939 by the Motor Vehicles Act, when Taka was called Rupee in British India. Rupee had much value.

Section 95 (A) says, amongst other "..... in the case of death of the victim a sum of twenty thousand Taka ... "

This was the position up to 1983.

On 21st Sept 1985, The chief Martial Law Administrator promulgated The Motor Vehicles Ordinance, 1983. The Ordinance repealed the Motor Vehicles Act 1939. The purposes was to promulgate and amend the law relating to motor vehicles. (The ordinance was amended twice by Act 27 of 1988 and Act 19 of 1990).

This discussion of, The Motor Vehicles Ordinance, 1983 is not examined in the socio-economic and cultural context of Bangladesh, then this particular subject will not be clear.

The MV Ordinance 1983 has 11 chapters and 1-177 sections and 12 schedules.

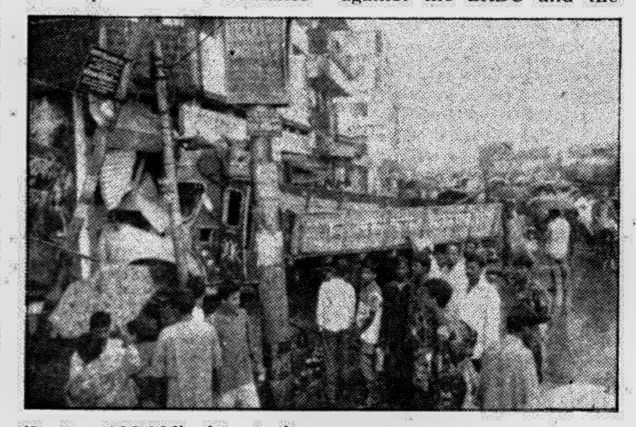
This ordinance is a cocktail of procedure, laws relating to issuance of driving license, classification of vehicles, registration, etc., penal provision for each of the offenses relating to driving of vehicles and condition of vehicle, fitness, etc. establishment of claim tribunal and procedure to be followed by the tribunal.

The present law was enacted with a view to give benefit to the victims or their heir, as the case may be, to compel the tort feasor and the insurance company to pay more. But since there is loophole in the law, the parties to the contract vehicle owners and the Insurance Company are taking full benefit of the same. The vehicle owners take insurance coverage policy for third party risk only up to Tk 20,000.00 as compensation, this they do, just to pay lowest premium to insurance company.

In the new law in Section 110(1) proviso (iii) the amount of compensation has been kept open to cover any contractual liability between the owner of the vehicle and insurance company for the benefit of the third party heirs of the victim.

It is, therefore, necessary that the law should be amended by incorporating the specific amount of Tk 20,00,000 (twenty lac) as minimum compensation or any contract whichever may be the higher.

Chapter 9 of the Ordinance



(Sections 108-136) relates to the Insurance of Motor Vehicles against third party risks.

Section 126 cast a duty upon the person who alleges that he is entitled to claims compensation to furnish particulars of the vehicle involved in the accident; Section 128, amongst others, makes it mandatory to file claim within 6 (six) months of the occurrence of the accident (but under general law the limitation is one year).

Under the Motor Vehicles Ordinance 1983 the claimant must apply in CTA form which contains as many as 27 heads and under equal number of subheads and appears to be most cumbersome and requires identification by a gazetted officer, certificate from registered physician, etc. The information required for filing claim before a claim tribunal may require more than six months and even difficult to understand by the junior lawyers not to speak of common people.

The purpose would have been better served, had the lawmakers made the procedure a summary one under the existing law and enhanced the period of limitation to 6 (six) years to simplify damages claimed under Fatal Accident Act.

The law should be amended so that, for damages, the owner in addition to the driver of vehicle be made liable in person for any suit of damages in a Civil Court.

A survey in the Dhaka District Civil Courts give a dismal picture about the suit for damages. The examples which I would like to cite, obviously from my own frame of reference, I have tried to lay my hand on any decision of higher court within our jurisdiction under the Fatal Accident Act, 1855, but I failed.

In a case, Captain M.N. Saleem, Chief Pilot of Bangladesh Biman, met with a road accident. On 1 June 1984, and succumbed to injuries on 14 June 1984, his parents brought a lawsuit under Fatal Accident Act, 1855 for Taka 15 million against the BADC and the driver in the 3rd Court of Subordinate Judge, Dhaka. The suit was decreed on 13-8-92 on contest. The Court decreed the suit for Tk. 5,00,000.00 (taka five lac) only against BADC while the insurance company will reimburse the BADC for an amount of Taka 20,000.00. During the pendency of the suit Captain M N Saleem's father died and his heirs were substituted. The court while decreeing the suit directed BADC to pay Taka one lac to the mother and two lac each to one daughter and one son. The rest of heirs got nothing. The plaintiff had to pay more than Tk 15,000.00 to the government as court fees. The decretal amount was paid on July 12, 1993 by BADC.

The Fatal Accidents Act, 1855, the Court Fees Act 1870, the Contract Act 1872 the Code of Civil Procedure 1908, Limitation Act 1908, Motor Vehicles Ordinance 1983 Labour Law, both the Criminal and the Penal Code and Insurance Act should be suitably amended fixing a minimum amount of Tk 20,000.00 as fine. This amount shall be given to heirs of the deceased in addition to any future law suit that may be filed against the wrong doer.

The suits under Fatal Accidents Act should be disposed of by the District Judge, under summary procedure like summary suits under Order 37 of the C.P Code. The amounts mentioned in Motor Vehicles Act need be enhanced to Tk 20,00,000.00 (twenty lac). Insurance Act be amended making it liable for the amount that may be decreed in favour of the plaintiff, also making provision for interim payment of damages to the plaintiff.

Much has been said and written about road accidents, but little has been said about the financial reliefs to the victims who though survived the accident but become half dead or permanently invalid or live on very costly life supporting machine and confine to bed. Through court of law, a new concept named "structured damages" has developed in England which is very much beneficial to victims. 'Structured damages' to a victim of a road accident would mitigate not only the sufferings of the victims but also be a deterrent to the Insurance Company and owners of the vehicles. The owners are vicariously liable for the drivers' rash and negligent driving.

In England the High Court in Sheffield in 1991 awarded £ 2.1 million damages to a boy who was severely handicapped as a result of a car crash. The settlement was awarded on January 29, 1991 by Mr. Justice McCullough. The award was £ 5.00,000.00 higher than the previous any award for a road accident victim in England. The boy Garylee Grimsley, 15, had sued his father who was driving the car and the driver of the other car. The Insurance Company ultimately paid the assessed damages.

The action was brought by Garylee's mother, Laura Grimsley and supported by his father, Gray, 33. It also included a claim against the driver of the other car which was involved in the head-on collision in 1985. The accident left the boy with head injuries. After being on a life support machine for three weeks, he was confined to a wheel-chair. He had great difficulty in speaking but was mentally aware.

The judgement brought to an end a six years old legal campaign by the family. The award was in the form of "structured damages," a new mechanism for awarding compensation to the plaintiff. It will provide guaranteed minimum period of 30 years. On 1-09-95 (published in the newspapers on 03-09-95) a cancer victim was awarded US $.2 million by a San Francisco jury in a lawsuit against a US tobacco company. Let us get inspiration from these cases.

On May 2, 1993 upon an application a Division Bench of the High Court Division, comprising Mr. Justice Anwarul Huq Chowdhury and Mr. Justice K M Hasan, issued a Rule Nisi upon the Government and the Drug Administration directing them to show cause as to why all the Paracetamol syrup which have been found to be unsafe causing deaths to children should not be seized and removed from the market and banned for sale and manufacturing until they are guaranteed as safe for human consumption. Syed Borhan Kabir, a journalist, brought the writ petition. But parents who lost their children would not bring any lawsuit for realisation of damages/compensations for reasons, among others, of the complacancy in the existing legal system including the payment of huge court fees. In a welfare state, the law should for the good of the citizen. The law for realisation of court fees is the legacy of the British Raj in the sub-continent, the court fees in a suit for damages must be exempted to make easy for a plaintiff to realise the damages through Court under Fatal Accident Act.

Bhopal incident compelled India to enact "Public Liability Insurance Act" which came into effect on January 1, 1993, to make the Insurance Company liable. We need similar law in Bangladesh. In India the Consumers' Protection Act 1986 has provided relief against any misfeasance, nonfeasance and malfeasance which is equally applicable against any professional group including physicians; with the exception government hospitals and physicians. It is a beneficial law for the victim patient. The Consumer's Protection Act, 1986 of India is in many ways a beneficial law. Firstly, it made law of limitation applicable for condoning delay in filing claim and made it mandatory to communicate its order to the parties concerned free of cost. The law was amended from time to time and last amendment was made on 27-08-93.

In the recent past, in Bangladesh near Feni by-pass, on Dhaka Chittagong Highway a gas tanker met an accident as a result several people were killed but none brought any legal action nor the Government set up any Commission to give compensation to the gas accident victim.

The procedural laws of our country need drastic changes to make the disposal of the cases easy and the insurance company liable for the damages that may be awarded by the court in a suit under Fatal Accidents Act, 1855. There should be a provision of interim damages. No appeal, review, revision, or any proceeding to set aside, modify or reverse the decree or reduction in decretal amount should lie unless the judgement debtor pays 50 per cent of the decretal amount to the decree holder. This may give some interim relief to the victims or to the heirs.

It is true that no amount of money can compensate the loss of near and dear ones. The lawyers may help in filing suit for damages. Lawyers should also organise group or association to help the victims of accident or their family members, as is done in of the civilized countries.

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law watch

Another Horrific Year Ends Century of Blood

By A.H.M. Kabir

AT the fag end of the twentieth century, still there is no room for complacency specially with regard to universal human rights. Atleast the latest revelation of 'The Observer' testifies this.

The Observer launched the second 'Observer Human Rights Index' on 24 October 1999. When it was published last year for the first time, it provoked deep outrage in countries where human rights are abused and plaudits from those who monitor abuses around the world. Regrettably, the new rankings reflect no improvement in international observance of human rights.

Indeed, the past 12 months, if anything, have witnessed a worsening state of affairs for the victims of torturing governments, repressive regimes and murderous opposition groups.

The year 1999 experienced genocidal attacks on civilian populations in Kosovo and East Timor. Executions are on the increase in places like Saudi Arabia, Taliban-controlled Afghanistan and the United States, and countries like Trinidad have joined the list of executioners for the first time in a generation. In Europe, the Roma are facing persecution, while the plight of refugees across the continent - including Britain - has grown darker. In the heart of Africa, tens of millions of people have been caught up in the wars that continue to swirl around the River Congo and the Great Lakes; in Zimbabwe, democracy is in accelerated decline under the increasingly autocratic Robert Mugabe, who has attacked the media and individual freedoms. In the Kenya of Daniel arap Moi, the sad story is the same.

There is little good news. Kosovo, while now free of President Milosevic's forces, is being racked by ethnic violence as the Albanians turn on the few remaining Serbs. East Timor, so long a blot on the international landscape as far as human rights are concerned, has become independent. But at what price? Sierra Leone has gained a measure of peace - albeit an uncertain one. In the meantime, we are faced with new conflicts and new abuses. The second Chechen war is already threatening to match the war of 1994-1996 for its ferocity. Angola has returned to violence, as have Ethiopia and Eritrea.

The top 10 human rights abusers remain only too familiar. This year 'The Observer' has departed from the formula of last year's index - which factored in the UN's Human Development Index to raise the profile of abusers in both the developed and the developing worlds. Instead we have produced a simple ranking of incidence of abuse by head of population, under 10 general headings. These comprise: the incidence of extra-judicial executions; disappearances; torture and inhumane treatment; deaths in custody; prisoners of conscience; unfair trials; detention without charge or trial; existence of the death penalty; sentences of death; and abuses by armed opposition groups.

The top five abusers by this accounting - Democratic Republic of Congo, Rwanda, Burundi, Algeria and Sierra Leone - represent countries with despicable records of abuse. But as Chris McGreal argues in his special report, we should also be sensitive to the question of a lack of resources that in some countries can result in a kind of 'human rights rationing'.

For this reason 'The Observer' compiled an alternative list which doubles the score for the first three so-called 'non-derogable' human rights and factors in each country's Human Development Index. This alternative accounting ranks Yugoslavia, North Korea, Indonesia, Algeria and Libya as the worst offenders.

'The Observer' has compiled the 'Human Rights Index 1999' in two ways. The first - the single ranking - represents the incidence of 10 headline abuses given a score that relates to the intensity of the abuse in each country. The controversy of this method of scoring is that it does not take into account the relative development and wealth of individual countries pushing some of the world's most disadvantaged countries to the top. For this reason it has also calculated the data in a second way, doubling the score for the three most serious abuses - extra-judicial executions, disappearances and torture/inhuman treatment.

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Judicial System & Justice for Women in Bangladesh

By Mansoor Mamoon

DISPENSATION of justice at all levels and for all citizens irrespective of sex, creed, caste, colour, ethnicity is the sine qua non of a civil society and a modern democratic state.

Article 31 of the Constitution of Bangladesh provides that every citizen of the country has the inalienable right to the protection of law, and to be treated in accordance with law. This, inter alia, means that any aggrieved person can take recourse to law and seek justice.

Administration of justice and enforcement of law is the responsibility of the judiciary and the police administration. Judiciary in Bangladesh comprises the Supreme Court having two divisions — Appellate Divisions and the High Court Division, Courts of District and Sessions Judge, District Magistrate and ADM at the District Level, Metropolitan Magistracy functioning in the Metropolitan areas, Family Courts, Village Courts and Special Tribunals.

The Court of Assistant Judge is called Family Court when it tries family suits under the Family Court Ordinance 1975. Jurisdictions of Family Courts include-Dissolution of marriage, restitution of conjugal right, dower, maintenance and guardianship and custody of children.

Under the Village Courts Ordinance 1976, Village Courts were set up at the union level to deal with petty civil and criminal matters particularly personal matters like polygamy, divorce, maintenance, etc.

Special Tribunals were set up under the Special Powers act 1974. In 1983 under the Prevention of Cruelty to Women Ordinance, Special Tribunals were allowed to undertake trial of offences like kidnapping, trafficking, dowry death and torture, rape, acid throwing, etc. In 1995 the Ordinance of 1983 was repealed and Women and Children Oppression Act 1995 was introduced.

Even a cursory glance over the state of affairs of these courts will testify that women get very little justice for the myriad of crimes committed against them by the male predators in the society. There is a plethora of laws supposedly for the protection of women's rights and for curbing violence, repression and cruelty against them. But mere enactment of laws has not ensured the rural women's security of life and property and other rights. Strict enforcement of these laws has long been the demand of the Human Rights organizations and the NGOs. In the absence of their strict enforcement, the rural women in Bangladesh continue to be oppressed and repressed as before. Rather incidences of crimes against women are alarmingly on the rise.

Even if the aggrieved rural women seek redress to justice there are instances that they are subsequently forced to back out or had to flee from their houses for fear of reprisals at the hands of the accused persons. The women, therefore, find themselves in a pitiable condition.

Cases are also piled up and remain pending in the courts for years together. According to a survey conducted by the vernacular daily *Muktakantha* (20 August 1999), 60% of the cases relating to repression on women and children remains pending despite the fact that special tribunals were set up for their speedy disposal. According to the survey a staggering number of over thirteen thousand such cases are still pending before the court. In 1997 the number of cases filed before the court was 13,294, in 1998, the number of cases stood at 9040 and during the first six months of the current year (1999) six thousand three hundred ninety cases of woman and child of repression were filed.

Litigation in Bangladesh is a cumbersome process and is often time consuming. It takes years to get proper judgement. Moreover, litigation is also expensive and one is to undergo lot of hassles due to dilatory mode of justice and play of touts and middlemen. When an offence is committed police enquiry and charge-sheets can be tampered through illegal gratification and palm-greasing by influential quarters.

For an average poor Bangladeshi woman of rural origin to take recourse to law often becomes an uphill challenge. Inspite of the fact that there is a preponderance of laws for the protection of the rights of and prevention of violence against women, a miniscule number of them are reported to the police not only because of abject poverty, but also due to social stigma and restrictions, their helplessness in the face of organized strength of the criminals, absence of adequate number of women police and judges to investigate into their allegations and try their cases.

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