



Enacting a Law to secure right to food



ability of resources, this condition is to be understood in a qualified way as to make the government of the state responsible for making all out efforts and take compulsory measures to make good for resource constraints.

Article 15 of the Constitution of Bangladesh provides for fundamental responsibility of the state to secure to its citizens basic necessities of life including food. It may be argued that this provision being merely one of the state policies is not justiciable and hence not enforceable by any court of law. However, right to life as a fundamental right entrenched in the Constitution is justiciable and enforceable. But what would right to life mean if a person has no access to adequate food? So the courts in the countries of South Asia especially in India have explained and qualified right to life to include right to food.

DR. M. SHAH ALAM

FIRST ever South Asia Right to Food Conference was held in Dhaka during May 30-31 and June 1, 2015. The Conference brought forth issues immensely important for the people of the region to protect their right to food and to promote their human rights. Experts on the issue and concerned persons discussed and emphasised wide range of issues encompassing social, economic, administrative and political aspects of the right to food. Naturally, discussions often centered round the problem of poverty which itself is one of the main violators of human rights and human dignity in the South Asia Region.

By FAO statistics, of nearly 795 million people of the world who do not have enough food at present to eat, about 281.4 million live in South Asia. These figures, however, underestimate the real picture of food insecurity, because there are countless cases of hidden hunger, nutritional deficiency and unsafe food. Although economic underdevelopment, underproduction and resource constraints are the reasons for food and nutritional insecurity, this is not the whole story.

History witnessing, despite sufficient food production and availability of resources, there took place at different time and different places acute food shortage for many people, even famine disrupting life of an entire nation. Bengal famine in 1876 and 1941 are grim examples. This led Professor Amartya Sen to come with his famous theory on Entitlement to find out the causes of food crisis and famine. His main focus is the man-made factors of reaching food to those who need them most. Problem is transportation, communication and other physical facilities of carrying and reaching the food, as

well as the people responsible for administering and arranging these facilities. When food does not reach the people, they are deprived of their right to entitlement to food. This problem needs to be addressed.

In spite of substantial increase of food production and near self-sufficiency in food, we are yet to provide for full food and nutritional security. We still have many empty stomachs and hungry mouths. Besides increasing food production, Bangladesh, therefore, relentlessly continues her programs of Vulnerable Group Feeding, Vulnerable Group Development, Food for Work, Test Relief etc. The problem of food security more or less prevails in other countries of our region as well. Regional cooperation and sharing the experiences as well as collective efforts to resolve the problem are necessary. Move to create a SAARC Food Bank is a commendable step taken. Pledges to contribute to the Bank have already been made by the member states. The Bank is expected to be operational sooner than later to help face food-crisis situation anywhere in the region.

Can any legal obligation be imposed on the government to guarantee food security or to provide for right to food for its people? Perhaps it cannot be in absolute sense. But certain concrete legal obligations can definitely be put on the government to undertake measures to minimize problem of food security in general and to compulsorily reach food to certain categories of people or to certain age groups.

Universal Declaration of Human Rights of 1948 and International Covenant on Economic, Social and Cultural Rights of 1966 have bound the states to secure for their citizens economic and food rights. Although ICESCR has made this right contingent upon the avail-

India has adopted a special law in 2013 to secure right to food, making this right justiciable and legally enforceable. The law applies only to special categories of people who do not have sufficient food for their subsistence. Other countries in the region are also considering various legal frameworks to make sure one's life is not at stake for want of food. Considering present level of food production and government's concerns and priority for making the society free from hunger, it is desirable and possible Bangladesh go for such an enactment. Of course, it would be applicable to the most-need and specified categories of people and age groups.

A special law to provide for right to food and nutritional security would invariably lead to the following obligations and imperatives on the government:

1. To oblige the government to intensify its efforts to further increase production of food;
2. to take necessary steps to prevent wastage of food;
3. to take special care to enhance transport, communication and other physical facilities to reach food to those who need them most;
4. to build more infrastructural facilities to increase storage of food to face any crisis of food specially during natural calamities.

Enactment of a special law to provide for food and nutritional security and to ensure right to food specially to the most vulnerable and make the right legally enforceable is likely to intensify the government efforts for more production of food, reduction of wastage and improving transport and communication network for carriage of food.

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YOUR ADVOCATE



This week Your Advocate is Barrister Omar Khan Joy, Advocate, Supreme Court of Bangladesh. He is the head of the chambers of a renowned law firm, namely, 'Legal Counsel', which has expertise mainly in commercial law, corporate law, family law, employment and labor law, land law, banking law, constitutional law, criminal law, IPR and in conducting litigations before courts of different hierarchies.

Query
I am a 27 year old girl currently residing in Dhanmondi. Two years ago, my husband and I got married in Shantinagar, i.e. my parents' house. Although the marriage took place at my house, the Quazi who conducted the marriage was brought by my husband's family, i.e they brought the Quazi who operates at Motijheel where my husband's family lives. Recently, I have come to know from my uncle that a Quazi from a particular area cannot conduct marriages beyond that area. Is this true? Does this make our marriage invalid?
Simin.
Dhanmondi

the Muslim Marriages and Divorces (Registration) Rules-1975. As per the said Act, Muslim marriage has to be registered within 30 days of solemnization. If the marriage is solemnized by the Quazi himself, it shall be registered at once. It is also to be clarified that a valid marriage does not become void/defective, if the same is not registered. Registration does not confer

His license is granted for a particular geographical area and he can only register marriages solemnized within that area and divorced effected within that area. There is no provision in the law that allows a marriage to be registered by a Quazi in an area if they are not in charge of that particular area as per the requisite license granted by the Government.

the registration defective. In your case, since your marriage had been solemnized in Shantinagar, i.e. your parents; residence, only the Quazi having jurisdiction for Shantinagar area, as opposed to the Quazi from Motijheel, or any other area had the authority for registration of your marriage. As such, the Quazi on your husband's side, by solemnizing your marriage which



Response
Thank you for your query on this issue, as it is a commonly occurring, yet frequently misunderstood issue in the context of Muslim marriages in Bangladesh. I shall first detail the situation in general for your convenience, before moving on to consider the particular scenario that you have found yourself in.

The procedure for Muslim marriages in Bangladesh is largely governed by the Muslim Marriages and Divorces (Registration) Act-1974 and

validity to the marriage. Registration makes the marriage documented and capable of being proved by acceptable evidence. Lack of registration may cast serious doubt on the solemnization of the marriage itself. While the non-registration of the marriage does not make the marriage invalid, the same is considered as a crime punishable even with imprisonment.

The Muslim Marriage/Divorce Registrars are popularly known as 'Quazis'. They are licensed by the government to register marriages and divorces.

As such, it is clear that a Nikah Registrar/Quazi is not authorized to be Nikah Registrar for a place beyond their defined jurisdiction, and in the situation where a marriage is conducted by a Registrar in an area of which he is not in charge; it becomes misconduct on the part of such Nikah Registrar. Commission of such misconduct by the Quazi may result into revocation/suspension/ annulment of his license by the government. Such violation/misconduct by the Quazi does not, however, invalidate the marriage or does not render

is beyond his jurisdiction, has committed misconduct. Nevertheless, there is no reason for you to worry since this misconduct by the Quazi does not make your marriage invalid or does not render the marriage registration defective. I hope the advice will give you some comfort. Those who are planning to get married shall also remember the above notes so that they can register their marriages with the appropriate Quazi offices.

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Towards responsible consumption of resources

WITH many of the earth's ecosystems nearing "critical tipping points," the United Nations invited each of the seven billion people on the planet to mark this year's World Environment Day by making one change towards a more responsible consumption of resources – "be it refusing to buy single-use plastic bags or riding a bike to work."

"Humanity continues to consume far more natural resources than the planet can sustainably provide," Secretary-General Ban Ki-moon said in this year's message for the Day, observed annually on 5 June. "It is time for us to change."

"The goal of sustainable development is to increase the quality of life for all people without increasing environmental degradation and without compromising the resource needs of future generations," he noted. "We can do this by shifting our consumption patterns towards goods that use less energy, water and other resources and by wasting less food."

World Environment Day is the opportunity for everyone to realise the responsibility to care for the Earth and to become agents of change.

The theme of this year's Day – "Seven Billion Dreams. One Planet. Consume with Care," – emphasises the personal responsibility each person bears for enabling inclusive and sustainable economic development while stabilising and reducing the rate of resource use.

Achim Steiner, Executive Director of the UN Environment Programme (UNEP), invited "everyone to imagine what the world would be like if each of the seven billion people made one change towards a more responsible consumption of resources."

"I would like you to hold on to that vision and strive to make it reality – be it refusing to buy single-use plastic bags or riding a bike to work," Mr. Steiner said in his message.

Noting "it is easy to underestimate the power of individual action," Mr. Steiner said "our daily decisions as consumers, multiplied by billions, have a colossal impact on the environment – some of them contribute to the further depletion of natural resources, others help to protect fragile ecosystems."

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HUMAN RIGHTS RIGHTS ADVOCACY

Rights of underprivileged women

ILINA FARUQUE

THE judicial system is a powerful tool at the heart of women's rights enforcement, along with the lawyers that fight for the rights of their clients. However, in Bangladesh where 32% of the people are below the poverty line, and where legal retainer fees are too high even for the middle class, hundreds and thousands of poor women are excluded from the protection of the laws. Since there is little to no pro-bono legal assistance provided in Bangladesh, only legal aid lawyers are making access to courts possible for impoverished women.

In doing so, these lawyers are in effect allowing the stories and voices of their marginalised female clients to be heard, and their problems to be highlighted in the courts and to the public. These women are the victims not only of gender based violence and discrimination but also class and wealth discrimination. Their voices and these stories would be otherwise ignored and drowned out.

The Bangladeshi Ministry for



Women and Children's Affairs ("Ministry") states that "Violence against women in Bangladesh has largely been aggravated by certain socio-cultural factors such as lack of gender equality, lack of awareness and knowledge about rights, poverty, low educational level, women's position in the family and cultural taboos regarding violence and rape." As representatives of one of the most vulnerable and under-represented groups in Bangladesh, legal aid law-

yers hold a unique position of trust and influence with the client and the Court, and can affect the socio-cultural factors stated above by the Ministry.

Legal aid services to survivors of VAWG are dispensed mostly through organisations that retain enlisted lawyers to provide legal assistance to those who cannot afford legal fees. The lawyers typically handle matters of spousal support, dowry, divorce or separation. A majority of these cases

involve abuse and violence and the clients are survivors of one or another form of VAWG. These underpaid and underappreciated lawyers are in fact at the forefront of the access to justice movement, and are true human rights lawyers.

Legal aid lawyers must tailor their services to the client, to meet the huge responsibility that has befallen them. This includes communicating with their clients. The Ministry stated that lack of awareness among

women regarding their own rights is a factor in the widespread violence against women. "Well known risk factors of violence and sexual assaults are prevalent in Bangladesh, among others illiteracy, poverty and lack of education. Very few women are aware of their rights". This is especially the case with poor women. Therefore it is essential that when legal aid lawyers knowledgeable about the laws protecting the rights of poor women are in a position to share that information with them, they do so.

Taking legal action can in itself be empowering experience for the client, in that she is being pro-active and attempting to use the legal system to obtain what is legally hers. This is particularly the case when the lawyer engages the client in the process and she is able to make informed decisions regarding her rights. Being involved in the legal process allows the client to realise that there are laws that protect her, that she is deserving of protection. While those with money and power feel entitled to these protections, the ultra-poor Bangladeshis do not feel this, particu-

larly women, and particularly women trapped within social acceptance of violence against women.

Engaging in the legal system can be an enormous opportunity for education and personal development for another wise marginalized client and her family. A lawyer who involves a legal aid client rather than alienating her, can have the profound impact of educating and enlightening the client and others in her life. Allowing the client to be part of a legal process makes the client aware of the laws, the institutions and the socio-political processes.

Knowing one's rights is the first real step to empowerment, and an empowered and informed citizenry is the foundation of a strong democracy. When these lawyers utilise their potential and position to make social change, they can start making significant and sustainable contributions toward the status of women, an inclusive democracy and the betterment of Bangladesh's developing society.

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