



# WOMEN'S RIGHT TO POST-DIVORCE matrimonial compensation

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WE all are aware of the fact that our society has a prescribed set of stereotyped gender roles to the effect that men are the bread-earners and women are the caregivers. This prescription makes women dependent on men for their livelihood. This notion of stereotypical gender based roles has

in Bangladesh provide provision of awarding post-divorce maintenance or post-divorce matrimonial compensation, to the divorced women. Although, in the famous *Hefzur Rahman v Shamsun Nahar Begum and another case* (1995 15 BLD HCD 34), the High Court Division of the Supreme Court of Bangladesh paved the way for post divorce maintenance for Muslim women, the judgment was not sustained in appeal

the USA, the courts while dealing with the suits of post-divorce maintenance usually by and large take into account the following facts which are relevant for us in allowing appropriate compensation to divorced wives:

- the life-style and the way of living established throughout the course of marriage;
- the duration of the marriage and the age and physical as well as

- mental state of the wives;
- the financial resources of couples, the non-marital and the marital assets and liabilities;
- the contribution of wives to the marriage, including, but not limited to, services rendered in homemaking, child care, education, and career building of the husbands;
- the actual needs of wives and the present and future earning capacities of the same;
- any impairment and disability of the present and future earning capacity of the wives seeking compensation on account of those wives' devoting time to household duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage;
- the time required to make possible for the wives seeking compensation, to obtain appropriate education, training, and employment
- contributions and services by the wives seeking compensation to the education and learning, profession and career, or career potential of the counterparts;
- any valid contract of the couples; and
- any other issues that the court thinks just and equitable.



been undergoing a process of change over time; however it still is prevalent in our society. Despite having education and required skills for getting involved in income generating activities, many women have to opt for living as housewives to take care of children and in-laws.

During the continuation of marital relation, a wife may have double responsibilities of working outside as well as of taking care of the children and family members. However, given the fact stated in the preceding paragraph, it can be argued that women are in dire need of financial support after divorce. Women who have no earning capability or who have to give up on their jobs for remaining as housewives for a long time in husbands' house befall in great misery and financial crises after divorce which is thus mostly attributable to divorce itself. Ironically, at present, neither the personal laws nor the statutory laws

at the Appellate Division.

Hence, based on the contributions of husband and wives to the matrimonial property and wives' sacrifices made for the in-laws' family, the wives should be compensated by the husbands. The amount of compensation may vary depending upon the wives' education, health, remarriage, their monetary and non-monetary contribution to the family, children, ages, their ex-husbands' income and assets, etc. The purposes of awarding compensation are: to provide for the needs and the necessities of the wives after divorce, to assist wives to achieve self-sufficiency and to help out the wives to attain the capability of earning a livelihood which can enable them a standard of living equivalent to that enjoyed during the marriage.

We can import the USA's example in this regard. Though, their socio-economic condition is different from that of ours, we can nevertheless consider and analyse their laws. In

*Neither the personal laws nor the statutory laws in Bangladesh provide provision of awarding post-divorce maintenance or post-divorce matrimonial compensation, to the divorced women.*

Compensation may be a gross amount which may be awarded either as a lump sum amount or in a certain number of periodic installments. Wives may be awarded compensation on permanent basis, if they are employed only at a low income and there is less potentiality of achieving economic independence because of their lack of ability to maintain the standard of living achieved during the marriage.

Compensation may be given to the wives to support them throughout the course of divorce proceeding or for certain time required for their rehabilitation or permanently on the basis of particular case of each party.

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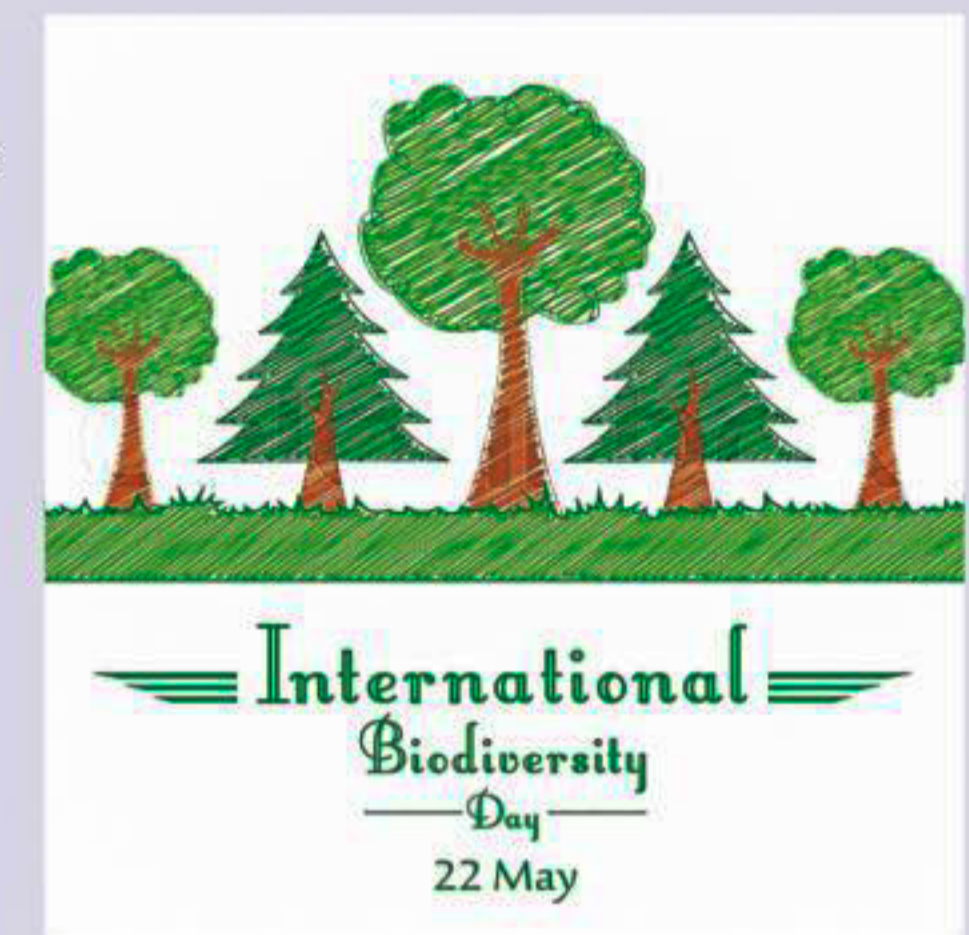
FOR YOUR INFORMATION

## Celebrating 25 Years of Action for Biodiversity

THE Convention on Biological Diversity (CBD), an international treaty for the conservation of biodiversity, the sustainable use of the components of biodiversity and the equitable sharing of the benefits derived from the use of genetic resources, opened for signature at the Earth Summit in Rio de Janeiro in 1992, and entered into force in December 1993. The Convention on Biological Diversity is, with 196 Parties so far, has near universal participation among countries. It seeks to address all threats to biodiversity and ecosystem services, including threats from climate change, through scientific assessments, the development of tools, incentives and processes, the transfer of technologies and good practices and the full and active involvement of relevant stakeholders including indigenous and local communities, youth, NGOs, women and the business community.

In order to increase the understanding and awareness of biodiversity issues further, the United Nations has proclaimed May 22 the International Day for Biological Diversity (IDB). When first created by the Second Committee of the UN General Assembly in late 1993, 29 December (the date of entry into force of the Convention of Biological Diversity), was designated The International Day for Biological Diversity. In December 2000, the UN General Assembly adopted 22 May as IDB, to commemorate the adoption of the text of the Convention on 22 May 1992 by the Nairobi Final Act of the Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity. This was partly done as it was difficult for many countries to plan and carry out suitable celebrations for the date of 29 December, given the number of holidays that coincide around that time of year.

Through a notification, the Secretariat announced that it would invite Parties to the Convention to participate in the 25th anniversary by, among other activities, organising and hosting local celebrations on 22 May 2018, the International Day for Biological Diversity (IDB). In line therewith, the Secretariat announced that this year's IDB theme will be: "Celebrating 25 Years of Action for Biodiversity" in order to mark the 25th anniversary of the entry into force of the Convention on Biological Diversity and to highlight progress made in the achievement of its objectives at both national and global levels. It was further mentioned in the said notification that the Secretariat is in the process of developing a variety of outreach materials to support the celebrations on this important day.



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## An appraisal of Electricity Act

THE Electricity Act, 1910 has been repealed on 12th February 2018 by re-enacting the Electricity Act 2018 for ensuring better supply as well as use and for meeting up the gradual accumulative demand of electrical energy all over the country.

The main objective of 1910 Act was to ensure the supply and optimal use of electrical energy which is attainable through compensatory punishment as opposed to a retributive one because only fine recovered from an offender as compensation could be used for power development. Every

The 1910 Act had defined criminal offences concerning illegal, unlicensed and unauthorised electricity consumption. The definition was more self-explanatory than the one provided in the Electricity Act, 2018. The term 'electricity theft' has dubiously been defined in the new Act of 2018 under section 2(12). The definition has no interpretive clause in explaining theft through the use of different appliances like through meter by-pass, meter tempering, meter jamming etc.

Originally there was a mandatory provision to serve a

without service of notice or without prior permission of the court.

The new legislation has got its uniqueness from the earlier one firstly because of chapter two for development of electricity sector with a unitary operating system contrary to the previous manifold structure. Secondly, under the new Act, the consumer can get special service through special line subject to a payment of special fees under section 16 and they might avoid complications involved in monthly payment through advance payment under section 22. Thirdly the principles of collective as well as individual accountability have been introduced under section 18(3), 37, 43. Fourthly, unlike 1910 Act, the new Act has classified certain offences as cognizable, non-bailable, non-compoundable and some as cognizable, bailable and compoundable.

Under section 37, for illegal and defective power supply or supply beyond permitted area or discontinuance of supply to certain locality without justifiable ground, a licensee shall be punished with imprisonment for a term not exceeding one year or fine not exceeding one lac or both. A person or groups of person can file a case against a company or licensee for unusual load shedding without justifiable cause under this section. To prevent sabotaging of related structures, heavy punishment has been provided for (that too with alternative heavy fine).

All offences are to be tried exclusively by first class judicial magistrate or metropolitan magistrate. Furthermore, there is no reference as to what extent this Act will be applicable to offences committed by consumer under rural electric board that will surely create jurisdictional paradox in and outside Dhaka because they have only two separate courts based in Dhaka.

**Md. Sumsul Alam**  
Senior Judicial Magistrate,  
Electricity Court, Tangail.



offence mentioned in the 1910 Act was punishable either with fine or imprisonment or both, solely depending on the discretionary power of the concerned court. However, the original Act got its retributive character after an amendment came into force in 2006, through which an authoritarian limit on discretionary power of the court was brought, by inserting conjunctive 'and' before every punishment as such. The new Act of 2018 has re-claimed its original character based on principle of compensatory punishment giving unfettered discretion to the court without limiting minimum period of imprisonment.

ten days clear notice to a consumer before discontinuance of supply who neglects paying charge under section 24 of 1910 Act. And the power of licensees to enter into private persons' premises for inspecting and testing the electric supply lines, meters, fittings works and devices was made subject to a special order made by the Magistrate of the first class. The new Act through sections 18 and 19 has brought about a change in this respect and has overwhelmingly empowered a licensee over a regular consumer. Wide discretionary power has been given to a licensee in respect of disconnecting consumers' connection and of entering into private persons' premises



## Human Rights in the Wonderland

SUSHMITA CHOUDHURY

HUMAN rights are neither gifts nor can be learnt overnight. From the dawn of civilisation, different communities nourished the human rights norms just not only to be enlightened about rights but also to learn about their duties. These human rights norms found in customs, legends, fables and fairy tales have shaped the human rights concepts over the years. Most importantly, these tales trigger us to explore the morals and values that we should translate into our lives through a journey of understanding the human rights perspective in the metaphors hidden in the stories. For example, in the Hans Andersen's story - 'the little duckling', a little duckling was brutally attacked for not being gorgeous; it makes us rethink whether we are treating people around with dignity or not! Because the story in fact is a reflection of our scepticism towards welcoming the differences and diversities around.

The Universal Declaration of Human

Rewinding these stories just not only feeds our fantasy but also provides us with the insight to rediscover the very essence thereof. We believe this new tool of learning will help us to grasp the human rights values more effectively and to learn the secret art of living because learning human rights values is imperative to realise the said art. In a nutshell, revisiting wonderland reminds us of the human rights teachings given by our ancestors which passed through from generation to generation.

Human Rights in the Wonderland, a Facebook page, is designed to promote human rights and to inspire people about learning human rights. Anyone can access the human rights in the wonderland page and learn the lessons offered, regardless of their age, colour, sex, sexual orientation, ethnicity or any protected characteristics. Human Rights in the Wonderland is a joyride to empower compassion over cruelty. Travelling in and through the space of imagination, what wonderland offers- is a roller coaster ride. Above all, it is a training to strengthen



Rights (UDHR), translated into more than five hundred languages, lists bundle of such values and morals crafted in the social fabrics, literature and includes these rights as inherent in all human beings. Unfortunately, this guiding document of human rights fails to communicate its values to the common people; and therefore, the coaching of human rights needs to be unique and communicative. By revisiting the legends, tales and folklore, on one hand, we can meet our favourite fairy tales protagonists, and on the other hand, view the world in the light of human rights.

the morality which we inherit from our ancestors. This initiative is one of its kind as fairy tales, legends and folklore belonging to diverse cultural settings, speak the languagecomprehensible to all human beings. People from every corner of the globe have already started joining the page and sharing their joy, appreciations and powerful feedbacks. This page aims at delivering stories and inviting you all to explore human rights norms weaved in these stories.

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