

RIGHTS WATCH

Custodial deaths and the gaps in our law

To give effect to the UN Convention against Torture, the Torture and Custodial Death (Prevention) Act was enacted in 2013. It was hailed by the civil society as a landmark law, recognising custodial death and torture as matters requiring legal intervention. Indeed, once the state deprives someone of liberty, it assumes responsibility for that person's safety.

KMS TAREQ

On 22 August 2025, several Bangladeshi newspapers, including The Daily Star reported another tragedy—the custodial death of a 27-year-old Durjoy Chowdhury, arrested only a day earlier. According to the police, he had “committed suicide” by hanging. But does this explanation absolve the responsibility of the state? To find the answer to this question, we need to look at what our law actually says about deaths in custody.

To give effect to the UN Convention against Torture (CAT), the Torture and Custodial Death (Prevention) Act was enacted in 2013. It was hailed by the civil society as a landmark law, recognising custodial death and torture as matters requiring legal intervention. Indeed, once the state deprives someone of liberty, it assumes responsibility for that person's safety. Even the amended Code of Criminal Procedure (CrPC), section 46D, now makes it a duty for police to ensure the safety of arrestees.

Yet, when we turn to the offence provisions, the scope of the offence shrinks. Sections 13 and 15 only criminalise torture and death resulting from torture. Nowhere in the offence provisions does the law recognise liability for deaths caused by neglect, poor custodial conditions, or suicide in custody.

There seems to be a contradiction here. The Act's title and definition of custodial death promise broad protection. Its preamble aims to prevent both torture and custodial death resulting from torture and omission. But its offence provisions deal only with torture and custodial death resulting from torture.

This suggests that if a detainee dies in custody by suicide, or due to lack of medical care, or under suspicious circumstances where torture cannot be proven, there is no criminal liability under the 2013 Act. In effect, the law's protections stop exactly where they are most needed.

However, international law is clear in this regard. States have a special duty of care towards detainees. Article 6 of the International Covenant on Civil and Political Rights (ICCPR) protects the right to life as non-derogable. The UN Human Rights Committee has repeatedly observed that states must explain any death in custody and show they took steps to prevent it.

Moreover, our own Constitution echoes this. In *BLAST v Bangladesh* (2003), the High Court Division (HCD) of the Supreme Court of Bangladesh ruled that torture and custodial



abuse violate the right to life under Articles 31 and 32. Once a person is behind bars, the state has to take the responsibility for their safety.

British jurisprudence, still persuasive in Bangladesh, reinforces this duty. In *Reeves v Commissioner of Police* (2000), the House of Lords held police liable when a detainee committed suicide. Similarly, in *Kirkham v Chief Constable* (1990), liability was imposed for failing to protect a suicidal prisoner. Although these are tort law cases, they establish that custody means control and, with it, comes responsibility—not only for direct acts like torture, but also for foreseeable harms, including self-harm.

Since the 2013 Act excludes omissions, families must turn to constitutional or tort remedies. Our Supreme Court has occasionally stepped in. In *CCB Foundation v Bangladesh* (2016), the HCD awarded compensation, holding that negligence by public authorities violated the right to life. Again, in *Banu v Bangladesh* (2020), the Supreme Court ordered compensation for wrongful detention.

General tort law also offers a solution as public bodies owe a duty of care once they assume control over a person. However, tort litigation in Bangladesh remains underdeveloped, slow, and costly. As a result,

victims' families often face insurmountable barriers in accessing justice in our country.

For the 2013 Act to live up to its promise, reforms are essential. Custodial death (regardless of how it ensues) must be made a distinct offence, whether caused by torture or by neglect or omission. The burden of proof should be shifted so that authorities have to show they took reasonable steps to prevent a death in custody. Investigations should be carried out by independent bodies, not by the same police implicated. Finally, tort law jurisprudence needs to be substantially developed in relation to custodial torture and death.

Durjoy Chowdhury's death is not only a personal tragedy but also a test of the rule of law. Once the State locks someone in custody, it assumes full responsibility for their life and limb. Comparative jurisprudence also shows that the state cannot escape liability for omissions. Our own courts have recognised that negligence violates the right to life. It is time for Parliament to align the Act's title, purpose, and provisions—and for the judiciary to expand remedies, including through tort law.

The writer is Associate Professor of Law, University of Rajshahi, and a Doctoral Candidate, SOAS, London.

LAW ON THE MARGINS

Ensuring access to justice for marginalised people

TASHDIA TARAFDAR RIDISHA

Access to justice is embedded in the fundamental rights guaranteed by our Constitution. According to our Constitution, every citizen has a right to be treated equally under the law (Article 27) and possesses an inalienable right to legal protection (Article 31). However, justice remains out of reach for millions of underprivileged people living below the poverty line, due to unfortunate circumstances. Legal aid aims to address this disparity, but its effectiveness continues to be an issue of both hope and frustration.

For people with low income, dealing with the legal procedure turns out to be stressful and confusing. The cost of filing a case, hiring a lawyer, visiting court, and lengthy procedural delays often demotivate them from seeking justice. Notably, lack of legal knowledge, social stigma, and anxiety about administrative harassment are the reasons underlying such lack of motivation. Acknowledging these problems, the Bangladesh government enacted the Legal Aid Services Act (LASA) in 2000 and established the National Legal Aid Services Organisation (NLASO).

Through collaboration between government and NGOs, legal aid services can be made easily accessible, well-coordinated, and community responsive. Each entity plays an important role and together, they can ensure more adaptable and accessible ecosystem for accessing justice.

According to section 2 of the LASA, legal aid includes court representation, legal advice, financial support, etc. to ensure justice for disadvantaged people. The objective was to guarantee that no citizen is deprived of access to justice due to financial hardships. Under this commitment, district legal aid offices have been established across 64 districts to serve free legal counseling, representation, and dispute resolution outside traditional courtroom. Complementing these initiatives, several non-governmental organisations also offer legal aid, community mediation, and awareness programmes, frequently focusing on vulnerable sector of the population such as women, children, and various marginalised groups.

Despite having a strong legal and institutional framework, practical challenges still hinder the effectiveness of legal aid services. A substantial segment of the society never seeks such service due to lack of public awareness. Additionally, the process may become frustrating due to delays and bureaucratic hurdles in some districts.

There are geographic inequalities as well. Rural or disaster-prone or affected areas often lack trained staff and strategic initiatives, whereas robust legal aid resources are more accessible in urban areas. As a result, this leads to unequal access to justice, where legal aid varies based on location rather than individual needs.

Legal aid in Bangladesh has achieved significant advancement over the years. According to the report published on the NLASO website, a total of 1,261,650 people has received legal aid at government expense from 2009 to July 2025. To ensure that its benefits reach every segment of the society, a few significant steps could be considered.

Initially, widespread legal awareness initiatives should be taken to empower people to seek justice, especially in rural and low-income communities. The usage of television, the internet, and mobile legal aid clinics may prove effective. Furthermore, a digital application system and online tracking process might enhance clarity and efficiency. And finally, through collaboration between government and NGOs, legal aid services can be made easily accessible, well-coordinated, and community responsive. Each entity plays an important role and together, they can ensure more adaptable and accessible ecosystem for accessing justice.

Legal aid ensures that no individual will be deprived of justice because of financial constraints. In Bangladesh, this commitment has been supported by legislation, institutions, and continuous initiatives from both public and private sectors. Through forward-looking structural reform and continuous involvement, the mechanism of legal aid can be made genuinely beneficial. Justice should not be reserved only for the privileged but should be recognized as an inherent right of each individual.

The writer is law student at the School of Law, BRAC University.



The writer is Joint and Sessions Judge, Bangladesh Judicial Service.

WOMEN AND LAW

Gender justice and patriarchal ideologies in our society

FAIROZE TASNIM

Despite Bangladesh making commendable progress in advancing the rights and treatment of women and children ever since its independence, there are certain enduring challenges that need to be addressed. Gender justice aims to ensure that individuals, regardless of their gender, have equal rights, opportunities and protections. However, the prevalence of patriarchal ideologies creates significant barriers to achieving this goal.

Gender justice encompasses a vibrant and dynamic movement that spans across the world, aimed at dismantling systemic inequalities and promoting equal rights for all. Conversely, patriarchy is fundamentally understood as a social system in which power and authority are primarily held by men, highlighting leadership, moral authority, social privileges, and property control. Understanding patriarchy



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life—in workplaces, on the street, and even within families. More often than not, physical or sexual violence is perpetrated by a woman's intimate family member. Oftentimes, gender-based violence in the form of physical abuse, psychological torture, or verbal abuse result from the non-payment of dowry. Another form of gender-based abuse is custodial rape, i.e., rape of a woman in police custody, has increased alarmingly. Women trafficking is yet another form of violence against women. Unfortunately, a rather ignored form of gender-based violence is self-inflicted (such as through suicide). According to the WHO, suicide is one of the leading causes of GBV across the world. It is important to mention that suicide rate is notably high amongst the victims of dowry violence. In a similar vein, female children who are work as domestic aides and in factories often become the worst sufferers of GBV. Such tireless work under unhealthy working conditions has a detrimental effect on their condition of health.

Lastly, in Dhaka city, street children often face exploitative behavior. A study conducted by UNICEF in 2024 estimates that over 3.4 million children are living on the streets without parental care in Bangladesh. They are vulnerable to exploitation, including being coerced into sex work, trafficking, or being taken abroad to face unsafe working conditions.

In Bangladesh, the pervasive effects of patriarchal ideologies are starkly evident, due to which women face significant challenges rooted in long-standing cultural beliefs and social norms. For instance, many girls are still denied the chance to pursue their studies due to economic constraints. As a result, the rate of female literacy remains disproportionately low when compared to their male counterparts. In the workplace, women often encounter discrimination, resulting in lower wages, limited career advancement and fewer leadership opportunities. By closely examining sectors such as education, healthcare, economic opportunities

and legal rights, we can easily uncover the complex barriers that women face, ranging from discriminatory practices to inadequate access to resources and decision-making power.

To create a more equitable society, it is pivotal to recognise and address the harmful effects of patriarchal ideologies. This requires actively promoting policies and practices that will foster inclusivity and diversity. By dismantling outdated gender roles, we can empower all individuals to thrive and reach their full potential without the constraints imposed by social norms and rules. Educated women are better equipped to challenge societal norms, advocate for their rights and inspire future generations. In the professional realm, women are now increasingly voicing their experiences without hesitation. This will surely help them reshape the organisational environment to prioritise inclusivity and equity. Being a woman from a developing country, what encourages me the most is that we have already achieved considerable success in this regard and have made a consolidated effort through various gender sensitive inclusion and public-private partnership programs to expedite the process of enhancing gender equality and empowerment of women and girls for the betterment of our future.

Gender justice is an inspiring global movement dedicated to establishing a supportive network that empowers the women. The clash between gender justice and patriarchal systems is a dynamic and multifaceted battle that represents an opportunity for understanding, upon engaging all participants in a constructive and versatile journey toward equity and inclusion. By fostering collaboration and solidarity among individuals and organisations, this movement can create spaces for dialogue, amplifying the voices of women everywhere.

requires an exploration of its historical roots, cultural manifestations, race, and class in that domain.

Notably, gender justice is being violated in Bangladesh in all spheres of