

LAW REVIEW

# Reimagining legal aid in Bangladesh

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Legal access to justice continues to be a problem for many, especially for the marginalised, underprivileged, and those who suffer social exclusion. Although the Legal Aid Services Act 2000 was enacted to provide legal aid to persons unable to afford legal services, it has never worked efficiently due to structural problems, limited outreach, and the time-consuming nature of the legal process itself. Thus, the Legal Aid Services (Amendment) Ordinance 2025 and the Legal Aid Services (Second Amendment) Ordinance 2026 are positive steps toward improving the structure of the legal aid system in Bangladesh.

Amongst other changes, one of the most notable amendments made by the ordinances is the inclusion of pre-case mediation in section 21B. While previously the primary purpose of

the traditional litigation-based system. Therefore, the adoption of mediation mechanisms in conjunction with litigation-based systems can create a more diverse model of delivering justice.

Another very significant institutional change introduced by the ordinances is the replacement of the National Legal Aid Service Organisation with the Bangladesh Legal Aid Department. With this change, the power over legal aid services has been centralised within a single department. The Department has been given the authority to regulate, coordinate all government and nongovernment legal aid programmes, develop standards for mediator training and certification, and therefore, these functions are designed to increase accountability and efficiency in legal aid program delivery.

Additionally, an Advisory Council on Legal Aid has been established under section 6. The Council consists of members from the judicial branch, executive branch, and legal professions. Among other responsibilities, the Council will assist in formulating policies, plan strategically, and monitor performance. In addition to creating an advisory council, there are now increases in the number of functions that are performed by the Department. Specifically, provisions have been added relating to emergency legal support per section 7. Emergency legal support will allow for immediate



assistance when urgent situations arise. The expanded scope of functions reflects a broadened understanding of what constitutes legal aid.

Perhaps one of the most progressive features of the ordinances is the inclusion of legal aid provisions specifically applicable to expatriate Bangladeshis and migrant workers as mentioned in amended section 7. The ordinances provide for expatriate Bangladeshis and migrant workers to receive legal assistance via their respective countries' diplomatic missions. The extension of legal aid

services beyond national boundaries acknowledges that many migrant workers experience cross-border legal issues. Additionally, it demonstrates that the State recognises its obligation to protect its citizens regardless of where they reside in the world.

Importantly, in order to strengthen accountability mechanisms, panel lawyers will now face tighter supervision. Any allegations of misconduct against panel lawyers, whether based on unethical behaviour or financial exploitation, can result in disciplinary action, up to and

including removal from the list of approved panel attorneys and referral to the Bar Council under section 8B. This change is critical to maintaining professional integrity and building confidence in the system. Similarly, as part of an effort to establish quality control for mediation services, a formal certification system for mediators has been included.

As stated above, digitalisation is another feature of the changes. Individuals seeking legal aid may submit applications electronically, and there is a means by which applicants whose requests are denied may appeal per amended section 16. The electronic submission mechanism will likely improve accessibility particularly for residents in rural areas as well as increase transparency and efficiency in processing applications.

Ultimately, however, if implemented successfully, the success of these ordinances will depend upon successful implementation. There are several factors that could limit its success, including limited funding, inadequate numbers of trained staff, lack of public awareness regarding available services, as well as, ensuring effective coordination amongst government agencies, NGOs, and legal practitioners. Only time will tell how effective the amendments are.

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legal aid was to provide legal assistance to clients, the new framework includes mediation mechanisms, which are time and cost-effective alternatives to



COURT CORRIDOR

## The writ on banning “MANGAL SHOBHAJATRA”

NISHAT TASNIM HRIDI

Recently, a writ petition with the High Court Division of the Supreme Court has been filed seeking a permanent ban on “Mangal Shobhajatra” held on Pchela Baishakh. The petition claimed it was offensive to Islamic beliefs, infringing the constitutional rights of the Muslim majority, and threatened communal harmony. Before discussing the merit of the petition, it is worth recalling what “Mangal Shobhajatra” actually is, how it began, and what it represents. Notably this year, “Mangal Shobhajatra” is being organised as “Boishakhi Shobhajatra”. My piece is not about the changes in name, because what is in a name anyway? I rather discuss its substance because the writ aims for a substantive ban on the procession itself.

Mangal Shobhajatra is an annual procession organised by the Faculty of Fine Arts at the University of Dhaka on the day of the Bengali New Year. It began as “Anondo Shobhajatra” in 1989 as an act of protest against military rule and, over time, has become a defining part of Pchela Baishakh. The supporters of the demonstration say that the masks, folk motifs and large colourful figures carry a language of resistance and renewal. For them, it is a secular expression of Bengali identity, unrelated to any religious ritual. In 2016, UNESCO recognised the procession as intangible cultural heritage. This recognition placed it in a global frame of cultural significance, and therefore, any demand to suppress it must be lawful, grounded in sound logic, and proportionate to the harm it seeks to protect. In contrast, critics of the procession argue that the word “Mangal” has Hindu associations and some imagery used in the demonstration is drawn from non-Islamic traditions, making the procession incompatible with Islamic norms. However, the objection seems to focus more on the procession’s appearance than on what it actually represents.

Now, coming to the current petition, in my opinion, Bangladesh’s constitutional

framework can be interpreted to justify Mangal Shobhajatra far more clearly than any justification to ban it. Even though the future of secularism remains contested due to the reforms tabled by the July Charter, the existing constitution still enshrines secularism as a fundamental principle. At the same time, article 39 guarantees freedom of thought, conscience, speech and expression while articles 37 and 38 protect peaceful assembly and association. Since Mangal Shobhajatra is

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widely understood as a secular celebration of heritage, resistance, and community, it is argued that it falls under the constitutionally protected freedoms of expressive and artistic conduct.

Moreover, article 41 protects the citizens’ right to practice their faith, not the right to curate their surroundings so that nothing challenges their personal comfort. Similarly, Article 2A that recognises Islam as a state religion cannot be used to impose a singular religious view on the masses or suppress secular cultural practices. Additionally, section 295A of the Penal Code 1860 may also

seem relevant as with this section, deliberate and malicious intent to outrage religious feelings is required to be proven. Clearly, the mere fact that some of its imagery allegedly resembles Hindu or folk motifs does not, by itself, show malicious intent. In the broader Bengali cultural context, traditions and symbols have long been shared, adapted and overlapped beyond the ambit of organised religions. In any case, a nationwide ban would almost certainly fail the proportionality test, given its far-reaching impact on freedom of expression, assembly and cultural rights.

Similarly, at first glance, it may seem the petition is maintainable. Under the Dr Mohiuddin Farooque v Bangladesh (1996) case, the Supreme Court expanded the scope of locus standi in entertaining public interest litigation. However, it needs to be remembered that the very mechanism of public interest litigation was designed to expand rights, not to shrink them. When a PIL demands the Court to unreasonably restrict freedom of expression (article 39), restrict peaceful assembly (article 37), and narrowly interpret the equality protections (articles 27 and 28) in favour of a religious or ideological reading, the Court needs to review whose interest is in fact at stake.

Clearly, a permanent ban would not just cancel an annual procession. It would redraw the boundaries of constitutional freedom; it would make articles 37 and 38 negotiable. Most dangerously, it would allow the sensitivities of the majority to dictate what survives in the public space, systematically erasing secularism and equality in the process.

In my understanding, the writ is less about faith and more about exercising power. The majority, by definition, already occupies the dominant space. The presence of something outside its preferred worldview feels like an intrusion, even when it is not. And therefore, discomfort is viewed as danger, disagreement as insult, and coexistence as threat.

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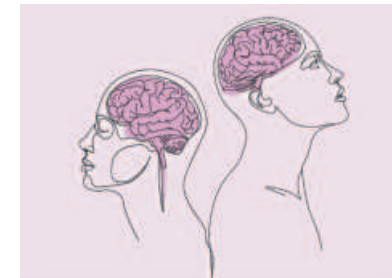
LAW LETTER

## On mental health rights protection in Bangladesh

The statistics on mental health situation is alarmingly critical in Bangladesh. According to the WHO’s Special Initiative Country Report, 18.7% of adults and 12.6% of children in the country are at risk of mental illness, while approximately 92.3% of adults with mental disorders do not receive necessary treatment. This crisis is not only attributable to lack of accessible treatment but also to the combined effects of a truly rights-based legal approach, weak

access to mental healthcare and psychologically safe workplace conditions constitutes a violation of this right. International experience shows that several countries have protected mental health through human rights-based legislation. The UK’s Mental Health Act 1983 and its 2007 Amendment enunciate legal provisions protecting the rights of individuals with mental disorders. Similarly, Australia’s National Mental Health Workforce Strategy aims to improve patients’ rights and access to healthcare services.

In my opinion, it is high time we located mental healthcare within our existing social barriers and emergent vulnerabilities. Besides the district-level mental health review and monitoring committee (that the 2018 Act provides for), an effective and independent central monitoring



implementation of policies, and patent lack of social sensitivity.

Notably, Bangladesh has adopted several legal and policy frameworks; nonetheless, mental health remains inadequately protected. The Mental Health Act of 2018 replaced the old Lunacy Act (1912). However, the Act by and large operates within a medical/clinical conceptual framework of understanding mental health and ignores the societal and structural barriers that individuals face in accessing required healthcare services. Similarly, the Bangladesh’s National Mental Health Strategy Plan (2020-30) sets out plans for mental health integration, patient confidentiality, and capacity building in primary healthcare. However, the implementation pathway remains unclear and largely discretionary for the relevant authorities.

Social and cultural stigma surrounding mental health is critically strong in our society as well. School and college students, especially adolescents, are barely confident to disclose mental health sufferings. In addition, working men and women are reluctant to seek treatment due to fear of vulnerability in the workplace, drawing criticisms from colleagues and supervisors, and lack of faith in the management or the human resources.

Thus, mental health issues receive patently condescending attention, if at all, from both our policy-legal framework and the society in our country at large. However, mental health is not merely a matter of personal convenience or condescension, it is a fundamental human right. The failure to guarantee

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system should be put in place. This may involve patient representatives, health professionals, human rights experts, and civil society actors to oversee implementation of the laws and policies. Moreover, specific allocations and training for mental health services must be made through government budgets. At the same time, trained mental healthcare professionals must be progressively ensured across all districts. Similarly, it is necessary to make mental healthcare mandatory in schools and colleges and to formulate clear laws so that microaggression or discrimination based on mental health issues at the workplace can be adequately prevented and remedied. It is also important to mandate mental health awareness campaigns across workplace and various educational institutions.

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