From Charity to Right: An Overview of the Historical Development of the Legal Aid System in Bangladesh

Dr. Farzana Akter*

Introduction

The right to legal aid is a basic prerequisite in ensuring effective access to justice[1]. It has been even said that access to justice refers to the provision of legal aid without which judicial remedies become available only to those who have the financial resources to satisfythe cost of lawyers and other related expenses of the administration of justice.[2] According to the United Nations Special Rapporteur on the Independence of Judges and Lawyers, legal aid is an essential element of a fair and efficient justice system based on the rule of law.[3] It eliminates the obstacles and barriers which restrict access to justice by providing assistance to those who would not otherwise have been able to afford legal representation and access to the court system.[4] However, legal aid is not a recent development[5]and the concept has changed considerably in different contexts over time.[6]

Article 27 of the Constitution of Bangladesh ensures a fundamental right of equality before the law and equal protection of the law.[7] Moreover, the Constitution has guaranteed the right to a fair trial. Still, as Khair notes, the country requires a national legal aid system to meet the needs of the poor and disadvantaged in the

* Assistant Professor, Department of Law, University of Dhaka.

1 Skinnider, E., "The Responsibility of States to Provide Legal Aid", Paper prepared for the Legal Aid Conference Beijing, China (March 1999) at 16.http://icclr.law.ubc.ca/sites/icclr.law.ubc.ca/files/publications/pdfs/beijing.pdf (accessed on 15 August 2016).

2 F. Francioni, The Development of Access to Justice in Customary Law, in: F. Francioni(ed.), Access to Justice as a Human right 1 (Oxford, Oxford University Press, 2007).

3 G. Knaul, Report of the Special Rapporteur on the Independence of Judges and Lawyers, A/HRC/23/43 (15 March 2013), para. 20.http://www.wave-network.org/sites/default/files/UN%20Special%20Rapporteur%20on%20the%20Independence%20of%20Judges%20and%20Lawyers.pdf (accessed on 13 March 2016).

4 Ibid, para. 27. It is also noted that legal aid helps to resolve disproportionate access to justice based on economic and social power. D. L. Rhode, Access to Justice, 69 Fordham Law Review1794-1796 (2001).

5 G. J. Bingert, Legal Aid in Modern Society, 36 Women Lawyers Journal 8(1950).

6 M. Cappelletti, The Emergence of a Modern Theme, in: M. Cappelletti, J. Gordley and E. Johnson, Jr., (eds.), Toward Equal Justice: A Comparative Study of Legal Aid in Modern Societies 6(Milano, Oceana Publications, 1975).

7 Article 27, the Constitution of Bangladesh.

society.[8] In 2000, the government passed the Legal Aid Services Act[9] to carry out legal aid activities in an organizedmanner. In this context, the article examines the historical background of the legal aid system of Bangladesh. In doing this, the article begins with an overview of the evolution process of legal aid system in other countries.

Historical Development of the Legal Aid System in Other Countries

According to Bingert, the concept of legal aid is not new.[10] It existed in the willingness of a neighbour or a relative to assist person involved in legal proceedings or in a dispute of legal nature. But the stages of development for the courts to recognize the need of the skilled help of lawyers and then to direct them to provide the necessary help on a charitable basis is not that much clear.[11] However,it is found that historical development of legal aid has followed different forms and institutions which were accordant with the social and economic contexts of the given time.[12]

In the medieval times, legal aid was prevalent as a form of charitable exercise. Christians provided such assistance as pious work in similar fashion as they honoured the Peace of God during war, built hospitals for the ill people or provided food during famine.[13] Benevolent exercise of the Church and rulers brought abouttwo other kinds of assistance- one was the *advocatuspauperumdeputatusetstipendiatus*, who was employed and paid by the Church to represent the poor in ecclesiastical courts. This system was applicable in secular courts of various parts in France and Italy. The other system required the magistrates to waive the court fees of poor litigants as well as to assign a private lawyer for the purpose of helping them voluntarily.[14]The French lords and kings very often exercised this power. In addition, Louis IX, Charles V and Charles VI took other steps. Thus, various initiatives were taken to reduce poor men's court fees until the Revolution.[15]

8 S. Khair, Legal Empowerment for the Poor and the Disadvantaged: Strategies Achievements and Challenges. Experiences from Bangladesh 212(Dhaka, Department of Justice Canada's CIDA Legal Reform Project in Bangladesh, 2008).
9 Act No. VI of 2000.
10 Supra note 5.
11 Seton Pollock, Legal Aid- The First Twenty Five Years 9 (London, Oyez Publishing, 1975).
12 Supra note 6, p. 6. This section of the article largely depends on this source and very much structured and developed on it.
13 Ibid, p. 11.
14 Ibid, p. 12.
15 Ibid, pp. 12-13.

In England, the poor's writs were carried out without payment during the reign of Henry III.[16]In 1495, Henry VII adopted the statute II that established the foundation of the proceedings described as *in forma pauperis*.[17] It required the judge to assign counsel to the poor and was in use until 1883.[18] Italy and Germany also adopted similar arrangements through different laws.[19] A charitable notion of legal aid, in this way, influenced the Middle Ages. It called on the kings and lords to support the poor and the oppressed as their paternal duty towards them.[20]

After the French Revolution in 1789, the adoption of secular political theory in successive periods brought remarkable change. The notion of legal aid developed into a new form and the State underwent a contractual obligation to protect the rights of the citizens. The American Bill of Rights[21]and the French Declaration of the Rights of Man gave special recognition of the rights of the people to secure justice. [22]Equal access to the courts of law became the spirit and attempts were taken to that end. For instance, American constitutional guarantee of the right to counsel and the French principle of the *gratuite de la justice* were adopted. However, these principles were not able to assist the poor in engaging lawyers according to their need. As a result, significant reforms were made in legal aid provision throughout the West while the laissez-faire ambience was found in post-Civil War America and France together with the revolutionary movements of 1848. England also made reforms following the Reform Bills and both Germany and Italy did the same after national unification.[23]

16 F. Pollock and F. W. Maitland, The History of English Law before the Time of Edward I 195 (New Jersey, the Law Book Exchange Ltd., 1996).

17 J. M. Maguire, Poverty and Civil Litigation, 36(4) Harvard Law Review 363 (1923); T. Goriely, Civil Legal Aid in England and Wales 1914 to 1961: the emergence of a paid scheme, PhD Thesis, University College London (2003) at 48-49.

18 J. Mahoney, Green Forms and Legal Aid Offices: A History of Publicly Funded Legal Services in Britain and the United States, 17(2) Saint Louis University Public Law Review 226(1998); Pollock, supra note 11, p. 12.

19 Supra note 6, p. 13.

20 J. Huizinga, The Political and Military Significance of Chivalric Ideas in the Late Middle Ages, in: Men & Ideas, Essays on History, The Middle Ages, The Renaissance 197-198, 206(New York, Harper Torchbooks, 1970); Cappelletti, supra note 6, pp. 13-14.

21 The first ten amendments of the US Constitution collectively are called the Bill of Rights and were adopted in 1789. http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html (accessed on 15 August 2016).

22 Approved by the National Assembly of France, August 26, 1789. The basic principle of the Declaration was that all men are born and remain free and equal in rights upholding the inviolability of the person and resistance to oppression. http://avalon.law.yale.edu/18th_century/rightsof.asp (accessed on15 August 2016).

23 Supra note 6, pp. 16-18.

The Law of January 22, 1851 of France can be identified as the first statute that sought to remove financial obstacles of the poor in litigation. It ensured the right of the poor to have lawyers free of charge. The Act culminated in the establishment of the national *bureaux* by an amending the Act of 1901. This Act determined the eligibility of the legal aid recipients. In 1865, Italy established a national system and declared legal aid an obligatory but voluntary duty of the legal profession. Even the Law of 1923 had the provision of non-paid service with the excuse of court costs.In accordance with the Code of Civil Procedure of 1877, Germany also established legal aid system. The Code allowed judges to assigna counselto the poor and the non-payment of court costs if the litigant could establish his poverty and severity of the case.[24]

During this period, common law countries like England developed the *in forma pauperis* procedure in 1883 by raising the maximum capital requirement from £5 to £25 to get assistance. The service was also extended to both the parties to the suit.[25] The procedure was modernized for appeal cases to the House of Lords in 1893. But in 1914 the system was refined vitally by the abolition of the requirement of a solicitor's letter of attestation that showed the merits of the case in favour of the applicant.[26] This new scheme 'the Poor Persons Procedure' came under Rules of the Court and was applicable only for litigation before the Supreme Court. A person was admitted as a 'poor person' if he could satisfy the Court that he had a reasonable cause of action or defence and his income did not exceed £50; in special circumstances the limit was £100 upon the personal consideration by a Judge.[27] Under this procedure, private lawyers used to render voluntary and gratuitous service.[28] Finally in 1925, the government assigned the Law Society the duty to administer the programme.[29] It was a significant event in the history of legal aid on the realization that legal aid system cannot be satisfactorily administered only by the courts but also requires an organization to run the programme effectively. For the first time, public money was granted for this scheme, though it was only for administration. The outbreak of the Second World War in 1939, however,caused seriousdecline of legal aid services. The solicitors and counsel departed to join the Armed Forces. On the other hand, matrimonial cases were filed in large numbers that required the establishment of a Services Divorce Department in 1942. This is also a remarkable event as it involved the employment of salaried solicitors with

24 Ibid.
25 Maguire, supra note 17, p. 380; Goriely, supra note 17, p. 50.
26 Maguire, supra note 17, p. 380; Pollock, supra note 11, pp. 12-13.
27 R. Egerton, Legal Aid 11 (London, Routledge, 1945);Goriely, supra note 17, pp. 54-55.
28 Pollock, supra note 11, pp. 12-13.
29 Maguire, supra note 17, pp. 391-398; Pollock, supra note 11, pp. 12-13.

sufficient staff. A fixed government budget started to be provided not only for administrative costs but also to meet the salaries for their service.[30]

In 1944, the *Rushcliffe Committee* was appointed to enquire about the existing facilities for legal aid and advice and to accordingly make recommendations.[31] The recommendations indicate that the notion of legal aid as a voluntary service should be replaced as a matter of right and legal aid should be allowed in all courts. Moreover, the beneficiaries of the scheme should include the poor as well as persons of wider income groups in the sense that legal aid should be allowed to persons who were eligible under the Poor Persons Procedure along with those whose income exceeded this limit.[32] Those incapable of affording the cost received legal assistance free but others had to contribute as the scale provided. In addition, the Committee, though it did not bar voluntary service by lawyers, clearly stipulated that the cost of running the programme would be carried out by the government. It reemphasized the indispensable role of the legal profession and made provision for their adequate remuneration. It also mentioned that arrangements should be made to increase the awareness of the public about available services.[33] As far as criminal legal aid was concerned, the Committee recommended liberalizing the criteria for its potential recipients and repealed the limitations as to grave and exceptional charges. As a result, legal aid should be granted in all criminal courts where it seemed appropriate in the interests of justice. The recommendation allowed time for solicitors to prepare their cases. These recommendations eventually culminated in the adoption of the Legal Aid and Advice Act 1949.[34]

In the US, development of legal aid system almost maintained a similar pattern. Legal aid began in 1876 as an organized movement. The first legal aid society started its activities in New York City in order toassist the German immigrants.[35]Benevolent individuals or the volunteer private lawyers took the responsibility until 1964.[36] In accordance with the decision of *Gideon v. Wainwright*,[37] the State became responsible to provide legal aid in criminal cases.

30 Pollock, supra note 11, pp. 13-16.
31 C. Wegg-Prosser, Looking at Lawyers, Their Past, Present and Future, 3(1) Poly Law Review 12 (1977);Goriely, supra note 17, pp. 134-163.
32 Pollock, supra note 11, pp. 18-19.
33 Pollock, supra note 11, pp. 19-21, 30-31; G. Bindman, What Made Me a Legal Aid Lawyer? 29 (3) Journal of Law and Society 514-515(2002).
34 Pollock, supra note 11, pp. 16-20, 30-31; Bindman, supra note 33, pp. 514-515.
35 Bryant Garth, Neighborhood Law Firms for the Poor 17(The Netherlands/USA, Sijthoff and Noordhoff, 1980);Philip L. Merkel, At the Crossroads of Reform: The First Fifty Years of American Legal Aid, 1876-1926, 27 Houston Law Review 6, 8 (1990).
36 Merkel, supra note 35, pp. 9-10.
37 372 U.S. 335(1963).

On the other hand, the federal government provided funding in civil programmesfrom 1964 to 1967. This was made possible through a number of social programmes as War on Poverty under the auspices of the Office of Economic Opportunity (OEO).[38] As a result, legal services programmes were linked to antipoverty strategy.[39] OEO funded legal services were applicable in appeal cases including lobbying and organizing strategies. Moreover, legal services were provided for the purpose of reallocatingrights as well as changing relationships between the poor and the rich.[40] Finally after continued negotiations, Congress passed the Legal Services Corporation (LSC) Act in 1974.[41] The Act established a quasi-governmental organization for the collection and distribution of federal funds, then regulate them and also to modify the agenda of the programme. It also modified law reform strategies in fixing the organization's priorities.[42]

The above exposition reveals that the development of legal aid follows a specific pattern. Legal aid started as a charitable practice in the Middle Ages and was replaced as a right by specific legislative and administrative planning with the definition and criteria of persons who would receive it. States have been entrusted with the responsibility and therefore required to affirmatively act to ensure such right for those living in poverty.

Historical development of the Legal Aid System in Bangladesh

According to Murshed, Bangladesh has a history which is several thousand years old.[43] It includes the ancient, medieval and colonial era from antiquity to 1947, when India was partitioned. Therefore, the history of Bangladesh prior to 1947 is a history of India since Bangladesh was a part of it.[44]This means that the history of the Bangladeshi legal aid before 1947 is the history of the Indian legal aid system.

38 Edgar S. Cahn and Jean C. Cahn, The War on Poverty: A Civilian Perspective, 73 Yale Law Journal 1317(1964).

39 Ibid.

40 Joan Mahoney, Green Forms and Legal Aid Offices: A History of Publicly Funded Legal Services in Britain and the United States, 17 Saint Louis University Public Law Review 236(1998).

41 Public Law 93-355, 93rd Congress, H.R. 7824, July 25, 1974.

42 Deborah M. Weissman, Law as Largess: Shifting Paradigms of Law for the Poor, 44 William and Mary Law Review 756(2002).

43 M.M. Murshed, Bangladesh.http://www.ic.keio.ac.jp/en/download/jjwbgsp/2010/3_Bangladesh_2010.pdf(accessed on 15 August 2016).

44 C. Farid, New Paths to Justice: A Tale of Social JusticeLawyering in Bangladesh, 31(3) Wisconsin International Law Journal 424 (2013-2014).

It is noted that the history of Indian legal aid is related to the history of its legal system.[45]According to Singh,the spirit of legal aid emerged from the retributive instinct of man and the efforts of Indian society to dispense justice.[46] Therefore, it can be said that the philosophy of legal aid was present even in the ancient Indian society.[47]However,the Indian system embraced the formal concept of legal aid when the system of courts, the appearance of lawyers and the institution of court fees was adopted.[48]

As Galanter and Hayden say, India followed Hindu as its ancient legal tradition.[49] The Hindu political system and institutions were under the rule of *Dharma,* a Sanskrit word.[50]*Dharma* suggests the right or appropriate conduct, and includes the English concepts as law, morality, duty and obligation.[51]A wide body of Sanskrit texts involving rights and other normative topics, known as the *Dharmashastras,*emerged in India during the period between 600 BCE and 500 CE.[52] However, India followed the caste system which is considered one of the most rigid social systems of the world.[53] Each caste had its own specific rules relating to lawful activities and social functions.[54] Moreover, each caste used its panchayat[55] system for the purpose of resolving disputes in society.[56] These institutions maintained the rules of the caste or local custom and the *dharmashastra.*[57] Rules ofthe *dharmashastra* were also followed by the king or his delegate in royal courts situated in capitals and in some larger towns.[58] In fact, the *dharmashastra* motivated the kings to regard the people as God and serve them with love and devotion.[59] The

45 S. Muralidhar, Law, Poverty, and Legal Aid: Access to Criminal Justice 31(New Delhi, LexisNexis Butterworth, 2004).
46 S. Singh, Legal Aid: Human Right to Equality 74 (New Delhi, Deep and Deep Publications, 1996).
47 Ibid.
48 Ibid.
49 M. Galanter and R. M. Hayden, Law: Judicial and Legal Systems of India, in: Encyclopedia of Asian History 411 (New York, Charles Scribner's Sons, 1988).http://marcgalanter.net/Documents/papers/scannedpdf/judicialandlegalsystemsofindia.pdf (accessed on 28 May 2014).
50 V. D. Kulshreshtha, Landmarks in Indian Legal and Constitutional History 3(Lucknow, Eastern Book Company, 1995).
51 Galanter and Hayden, supra note 49, p. 411.
52 Ibid.
53 Kulshreshtha, supra note 50, p. 2.
54 Ibid.
55 It is an indigenous dispute resolution mechanism that includes five or more leading villagers.
56 Kulshreshtha, supra note 50, p. 2.
57 Galanter and Hayden, supra note 49, p. 411.
58 Ibid.
59 Kulshreshtha, supra note 50, p. 3.

kings provided financial assistance or other help to those who had faced attacks or were in need.[60]

In the twelfth century Muslim invaders occupied India and changes were made in the divergent system of the Hindu period.[61] The Muslims were unwilling to follow the caste system.[62]They began to apply *Shariat* (Islamic law) in the social, political and judicial system.[63] During the Muslim period, royal courts wereestablished in cities and administrative centres that had general criminal and sometimes commercial jurisdiction. In addition, civil and family matters were decided in these courts.[64] However, the villagers followed the panchayats to resolve their disputes as there were no courts in villages.[65]

In the Muslim period, the courts followed a systematic judicial procedure. Two Muslim Codes namely the *Fiqh-e-Firoz Shahi* and *Fatwa-in-Alamgiri* explained the powers of the courts.[66] The courts were arranged in an order ofhierarchy based on the political divisions of the kingdom.[67] Formal procedures like plaint, written statement, cross-examination of witnesses and delivering judgments in the open courts were introduced. Moreover, the courts began to follow the principles of estoppel and res-judicata.[68] The right of appeal could be exercised as well.[69]However, the system of courts, compliance with the formal procedures and the rules of evidence made the administration of justice relatively complex. As a result, the use oflegal experts became essential to represent the parties.[70] A group of professional legal experts, popularly known as *Vakils*, started to represent litigants before the courts. But there was no Bar Association during this period.[71] The *Vakils*were required to have a high standard of legal training and behaviour.[72] During the reign of Shahjehan and Aurangjeb, a specific group of State *Vakils* called '*Vakil-e-Sarka*r' or '*Vakil-e-Shara*' was appointed to provide free of charge advice

60 Singh,supra note 46, pp. 75-76.
61 Galanter and Hayden, supra note 49, p. 412.
62 Kulshreshtha, supra note 50, p. 15; Singh, supra note 46, p. 80.
63 Galanter and Hayden, supra note 49, p. 412; Kulshreshtha, supra note 49, p. 15.
64 Galanter and Hayden, supra note 49, p. 412.
65 Ibid.
66 Kulshreshtha,supra note 50, p. 25; Singh, supra note 46, p. 83.
67 Kulshreshtha, supra note 50, p. 25; Singh, supra note 46, p. 81.
68 Kulshreshtha, supra note 50, p. 25; Singh, supra note 46, p. 83.
69 Galanter and Hayden, supra note 49, p. 412.
70 Kulshreshtha, supra note 50, p. 24; Singh,supra note 46, p. 83.
71 Ibid.
72 Kulshreshtha, supra note 50, p. 25.

to poor litigants.[73] Thus, the concept of legal aid emerged in the Muslim period of India.

The British brought the next legal tradition in India in the seventeenth century.[74]The administration of justice became wider and more complicated under the British rule.[75]In accordance with the Charter of 1600, the East India Company took control to regulate its own servants.[76]The Mughal emperor made the treaty of 1618 that approved this power for the company'sfactory at Surat.[77] New British settlements required the establishment of new company courts but these courts were different in different areas. In 1726, the courts got a uniform structure with the provision of appeal to the Privy Council in London.[78] However,the introduction of the Anglo-Saxon system became responsible in making the adjudicatory process more formal.[79]

In 1858, the responsibility of the administration of the East India Company was taken by the British Crown,[80] and it escalated the anglicization of the law.[81]During the next quarter century, a series of codes based on English law were adopted and they were applied throughout the British India.[82] The Criminal Procedure Code was enacted in 1898. Section 340 of the Code provided the accused a right to be defended by a pleader.As regards civil matters, the 1908 Code of Civil procedure embodied the idea of legal aid in the name of 'Suitsby Indigent Persons'. It should be noted that these provisions of the Criminal and Civil Procedure Code are still applicable in Bangladesh. However, the Civil Procedure Codehas the provision in the name of *forma-pauperis* suits.

After the partition in 1947,[83]several Law Reform Committees were formed to improve and make civil law reforms in Pakistan.[84]The government in 1967 set up a

---

73 Kulshreshtha, supra note 50, pp.24-25; Singh, supra note 45, p. 83.
74 Galanter andHayden, supra note 49, p.412.
75 Singh, supra note 45, p. 84; F. H. Zemans, Recent Trends in the Organization of Legal Services 308 (1985).
76 Kulshreshtha, supra note 50, p. 30.
77 Kulshreshtha, supra note 50, p. 31;Galanter and Hayden,supra note 49, p. 412.
78 Galanter and Hayden, supra note 49, p. 412; Singh, supra note 46, p. 85.
79 Singh, supra note 46, pp.84-85.
80 Kulshreshtha, supra note 50, p. 165.
81 Galanter and Hayden, supra note 49, p. 412.
82 Ibid.
83 With the expiration of the British Empire in India in 1947, two separate States namely India and Pakistan emerged. The main reason for this division was religion and it constituted a Muslim majority in Pakistan and a Hindu majority in India. Pakistan was again divided into two parts in the east (East Bengal, which became Bangladesh in 1971) and in the west (western Punjab). The Road to Partition 1939-47. http://www.nationalarchives.gov.uk/education/topics/the-road-to-partition.htm (accessed on 14 March 2016).

committee of ten members headed by Justice HamoodurRahman to ascertain the causes of delay in the disposal of cases and to recommend efficacious measures for it. The Committee was also suggested to recommend ways to provide competent legal aid to poor litigants.[85] The committee submitted a comprehensive report on the delays in civil and criminal litigation in 1970 but due to the Liberation War of 1971, the finding of the committee was stalled.[86]

After independence, the government of Bangladesh set up a Law Reform Commission in 1976. The Commission was headed by Justice KemaluddinHossain and aimed at examining and recommending measures for civil law reforms. It recommended the government to undertake steps that would be useful in providing competent legal aid to poor litigants.[87] The government accepted many suggestions of the Commission and then enacted the Law Reforms Ordinance, 1978.[88]The Ordinance contains provisions for the amendment of the Court-fees Act (1870),the Small Cause Courts Act (1887), the Code of Criminal Procedure (1898), the Code of Civil Procedure (1908) and the Arbitration Act (1940). However,it did not contain legal aid provisions.

Thus, as Muralidhar states, organized State efforts to establish a national legal aid system have a fairly recent origin in Bangladesh.[89] The government granted a legal aid fund in 1994 and it is considered the first initiative towards a national legal aid system.[90] For the fiscal year 1996-1997, the total allocation for this legal aid fund was taka[91] 13,700,000. The District and Sessions Judge of each district was responsible for the distribution of the amount. The amount varied in proportion to the size of the respective district.[92] In 1997, a National Legal Aid Committeewas constituted according to a Resolution of the Ministry of Law, Justice and Parliamentary Affairs.[93] The Minister of the Ministry of Law, Justice and Parliamentary Affairs was the chair of the committee. The Resolution also contained provision for the establishment of District Committees that were to be chaired by the

84 I. A. Ahmad and M. E. Karim, Principles of Civil Litigation: Bangladesh Perspective 253(Dhaka, Law Lyceum, 2006); M. Zahir, Delay in Courts and Court Management 2-4, 55-71(Dhaka, Bangladesh Institute of Law and International Affairs, 1988).
85 Ahmad and Karim, supra note 84, pp.185, 254-255; Zahir, supra note 84, pp.2-4, 55-71.
86 Ahmad and Karim, supra note 84, pp.185, 254-255.
87 Zahir, supra note 84, pp.4-5, 71-104; Ahmad and Karim, supra note 84, pp.185, 254-255.
88 Ordinance No.XLIX of 1978.
89 Muralidhar,supra note 45, p. 357; Khair,supra note 8, p.221.
90 N. A. Chowdhury and S. Malik, Awareness on Rights and Legal Aid Facilities: The First Step to Ensuring Human Security, in: Human Security in Bangladesh: In Search of Justice and Dignity 42(United Nations Development Programme /UNDP), Bangladesh, 2002).
91 The currency of Bangladesh is called the taka.
92 Chowdhury and Malik, supra note 90, p. 42.
93 S.R.O .No. 74-Law/1997, dated 19 March 1997.

District and Sessions Judges. However, adequate official data on the coverage of this legal aid mechanism is wanting.[94]According to Chowdhury and Malik, legal aid activities were not effectively functional though exception was found in one or two districts. Even judges referred cases to the non-governmental organizations instead of the official legal aid committee.[95] It was further noted that within three year since the programme began, only seven district committees had taken specific steps to provide legal aid throughout Bangladesh.[96]

Another drawback in legal aid activities under the 1997 Resolution was that the allotted budget remained unused. Chowdhury and Malik have identified several factors for this.[97] The District and Sessions Judge was entrusted with the responsibility of the administration of the fund. Asthe District and Sessions Judge is generally overburdened with various responsibilities, the administration of legal aid fund added his responsibility. Again, the District Legal Aid Committee was not able to invite potential legal aid recipients because the committee comprised of the highest government officials of the district such as the District Commissioner and Superintendent of Police. The recipients of the service are typically from the poor academic and financial backgrounds and they are afraid to approach such committee. Moreover, the district legal aid committees were required to follow various formal procedures which made their task more difficult.[98]

Thus the1997 Resolution was not effective and it became essential to take initiatives to adopt specific legislation on legal aid.The government heldseveral meetings to draft the legislation by 1998.[99]After continued discussions, the government finally adopted the Legal Aid Services Act (hereinafter mentioned as LASA)in 2000.The LASA became effective in the same year. The government has established the National Legal Aid Services Organization to implement the Act. Under the LASA, various Committees have been established at the national and district level. Pursuant to the provisions of the LASA, the government framed the Legal Aid Services Policies in 2001 for the purpose of determining the eligibility of legal aid recipients.The Policies have prescribed an annual income limit for the beneficiaries. Moreover, they have defined a specified group of persons who become automatically entitled to legal aid, such as, poor widows, women deserted by their

94 Chowdhury and Malik, supra note 90, pp. 43-44.
95 Ibid, p. 43.
96 Ibid.
97 Ibid, pp. 43-44.
98 Ibid.
99 N. Ameen, The Legal Aid Act, 2000: Implementation of Government Legal Aid versus NGO Legal Aid, 15(2) The Dhaka University Studies, Part F, 63(2004).

husbands, women and children who are victims of human trafficking and women and children who are acid-burnt by miscreants.

Conclusion

It is apparent that legal aid is essential to ensure access to justice for those living in poverty and it has an ancient origin. The concept has developed from the notion of charity and assumed the status of a right by specific legislative and administrative planning of States. Bangladesh has also experienced an identical transformation process. However, organized state efforts towards a national legal aid system have a recent origin in this country. Moreover, such efforts had drawbacks that made the service ineffective. Finally the government has enacted the LASA with a view to ensuring access to justice for those who are in need of the service.