

ACCESS TO JUSTICE AND DALIT COMMUNITY IN BANGLADESH



Dalits and excluded communities in Bangladesh face many complex and overlapping forms of discrimination - social, economic, political, religious and cultural - affecting all aspects of their personal and public lives. They experience different degrees and types of caste and social discrimination, violations of their rights and access to justice. As a result, they lack access to education, health care and other basic amenities, valued employment, the right to own a property or land and exclusion from political power or influence.

Dalit communities experience daily insecurity, uncertainty and violence and there are regular reported cases of physical abuse, rape and murder. Atrocities like rape, killing, physical assault, kidnapping and other forms of violence which risk their life and livelihood. In maximum cases the perpetrators are not brought to justice as this malice has a deeper root. These have given birth to discrimination within the police service, lack of priority to deal with such cases, and resultant adverse political lobbying. Often the victim or victim's families lack the money to pursue the case. Victims and their families are also often afraid of further repercussions. It is very common that there is no or nominal legal action against the perpetrators. If arrested, they would come out on bail and threaten the victim's family of untoward consequences and force them to withdraw the cases. Land grabbing and atrocity on the livelihood of the Dalit is very common. Recently two atrocities happened on Pal community in Bogra at different times which destroyed all earthen works, the only source of livelihood of the Pal community. But they dared to lodge complaint against the perpetrators.

In Bangladesh, there has been no formal or systematic study on the ways in which communities are affected by caste based discrimination or are denied access to justice. The depiction that comes through the personal narration of the Dalit activists and concerned civil society leaders is quite dismal. Institutions and agencies are totally insensitive about the victimization and violence that Dalit frequently experience. In recent times the government has undertaken programmes and projects, in collaboration with its development partners, to facilitate the access of poor and marginalized people in the society to both formal and informal justice system. Efforts have also been taken to reform and democratize traditional informal justice mechanisms. However, none of these initiatives has provided clear understanding on how Dalits are denied recourse to justice. Even the programmes undertaken with a view to provide legal aid to the victims are not designed or are open enough to take the Dalit communities adequately on board.

On the whole, the prevailing facts demand special intervention for Dalits and other excluded communities, the systems and institutions have kept Dalits outside the purview of even newly taken interventions. Dalit communities are not getting any special attention or support from the legal-judicial machinery and there also hasn't been any significantly active public interest organization that could promote and protect Dalits' access to justice.

Constitutional/Legal and Policy Framework

The Constitution of Bangladesh generally speaks about entitlement of all the citizens to be equal [All citizens are equal before law and are entitled to equal protection of law-Article 27 Constitution of Bangladesh] protected. Article 31 Constitution of Bangladesh states about Right to Protection of Law as 'To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever s/he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.

The Constitution of Bangladesh's provision for equality of all citizens before the law notwithstanding, no law or policy has included any specific provision for ensuring access to justice for the Dalits as systematically excluded group. Because of this inherent non-recognition and unconcern for the specific situation of Dalit communities and their problems in access to justice, state agencies keep on exacting injustice to the Dalits and no policy or law are framed to thwart that injustice. Though, theoretically, the Dalits of the country are in position to access the legal aid support provided by the government on the ground of being poor, it is quite telling that 'Dalits' are not there in the list of possible beneficiaries. This clearly is a testimony of the level of indifference that the policy makers of the country have as regards the plight of the Dalits of the country.

Recommendations

- The government should make the existing legal aid services more accessible for the Dalit and excluded community;
- The Legal Aid Rules should be amended by the government to incorporate mandatory provision of legal aid to Dalits who need to access justice;
- The government should revisit the policies and laws related to protection of the Dalits and specific provisions should be incorporated to guarantee access to legal remedies for Dalit women and children who suffer human rights violations;
- NGOs should facilitate campaign to raise awareness among the Dalit community of their rights, including the ways to access justice for any rights violations they experience from other communities;
- Efforts should be undertaken to democratize the Dalits' own 'panchayet' system. Promote participation of women in the 'panchayet' to ensure fair judgment especially to women and children (Currently most of the disputes in Dalit communities are settled through 'panchayet' system, which is not always neutral or democratic in nature).

Reference

- 1) চৌধুরী, ইফতেখার উদ্দিন, (২০০৮), দক্ষিণ এশিয়ায় জাতি-বর্ণ বৈষম্য: পরিপেক্ষিত বাংলাদেশ, চট্টগ্রাম; সেন্টার ফর সোশ্যাল রিসার্চ।
- 2) বাংলাদেশে দলিত নারীর বিপন্নতা: আলতাফ পারভেজ, মাজহারুল ইসলাম এবং মনি রানী দাস, বিডিএইচআর এবং নাগরিক উদ্যোগ, ২০১০.
- 3) Benchmarking the Draft UN Principles and Guidelines on the Elimination of (Caste) Discrimination based on Work and Descent, Bangladesh Report, October-2014, published by Bangladesh Dalit and Excluded Rights Movement (BDERM) and Nagorik Uddyog.
- 4) পারভেজ, আলতাফ ও মাজহারুল ইসলাম, (অক্টোবর ২০১৪), বাংলাদেশের দলিত সমাজ: বৈষম্য, বঞ্চনা ও অস্পৃশ্যতা, প্রকাশনায় বাংলাদেশ দলিত ও বঞ্চিত জনগোষ্ঠী অধিকার আন্দোলন (বিডিইআরএম) ও নাগরিক উদ্যোগ।

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