



## **Enforcement of Legal Protection - Role of Justice Sector/ Judiciary**

### **Justice Salma Masud Chowdhury.**

Every Citizen has the right to seek legal protection. Laws are being promulgated from time to time for the protection of the citizens of a country, but the question remains how far these laws are being implemented or enforced. Legislature on the promulgation of laws completes its function. Judiciary, another organ of the State, like Legislature then steps into the platform to get the laws made for the protection of the, citizens enforced.

There are many laws or legislations for the protection of the people but for lack of legal knowledge, poverty, social hindrances, most of the citizens cannot approach the justice system of taking legal actions when their rights are being infringed or when they are subject to injustice and illegal attacks.

When an aggrieved person seeks the help of the Justice system, by way of filing their complaints in their local police station, or to the Court directly, prompt actions should be taken by the concerned authority. Justice delayed is justice denied. Justice P.N. Bhagwati, former Chief Justice of India, in many of his judgments said that law has to respond to the unsatisfied urges and demands of the people and bring about a socio economic revolution. If justice is to be done, he said often, then law must not become stagnant or archaic while society moves forward. It must be accessible, intelligible and must change with the time, responding to the realities of modern life. One of the distinguished judges of the 17<sup>th</sup> century Sir Mathhew Hale strove mightily to do justice in accordance with law, but he would not stretch the law to any degree to do or obtain justice. He was very meticulous in keeping strictly to the letter of the law. Justice Bhagwati crossed that barrier. He holds the view that it is the judge's duty to mould the law and interpret statutes to meet the justice of the case and the needs of the time and this found reflection in many of his judgments. Personal liberty is one of the most precious rights of a human being and it cannot be allowed to be smothered by bureaucratic or judicial inadequacy or inefficiency. When an aggrieved person knocks the door, seeking justice, it needs serious consideration and the matter should be resolved at the earliest opportunity. The allegation as made by the complainant must be examined and after complying with all the necessary formalities, the matter needs to be fairly and justly decided after finding out the truth in the allegation. The allegation can be genuine or false. An innocent person should not be harassed unnecessarily. If need be, Court can suo moto interfere for the enforcement of legal protection. When the Court is apprised of and is satisfied about gross violation of basic human rights, it cannot fold its hands in despair and look the other way. It must respond to the cry of the oppressed and the down-trodden for justice by taking necessary action within the parameters of the Constitution and pass appropriate orders or directions in order to render full and effective relief. The Supreme Court always in exercise of its power and jurisdiction can void an executive action and even strike down a legislation found to be inconsistent with the Constitution.

A Court can take a decision for the enforcement of the legal protection of an aggrieved party but the said decision needs to be implemented in criminal cases by the law enforcing agency,

in civil matters by the subordinate Court by way of execution and by the Executive and concerned officials in cases of violation of the constitutional rights.

Days have come when the justice sector or judiciary is thinking that it cannot allow judicial thinking to get construed by reference to the Law as it prevails in the Country but the Court has to buildup its own jurisprudence according to the need of the people and has to evolve new principles and lay down new norms which would adequately deal with the problems of the people.

Definitely all are equal in the eye of law, but special attention should be given when the aggrieved person or the accused is a child or a female as, considering our socio economic condition, it is often found that these persons are the victims of the circumstances. For many reasons they are unable to seek legal protections, but whenever it comes to the knowledge of court, while dealing with a case, that harassment is being caused to a child or a distressed woman, suo moto action is to be taken. Recently a Bench of High Court Division summoned a doctor for mentioning a 13 year old violated girl, as aged 25 years and mother of three children, and also summoned the Principal of a school and two others for torturing an autistic child in a school, on seeing reports in the newspapers. Our judiciary is neither blind nor indifferent and whenever necessary, takes bold steps for the enforcement of legal protection of the aggrieved persons.

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