

SOCIO-ECONOMIC CONCERNS RELATING TO HUMAN RIGHTS AND PIL

Over the years, Public Interest Litigation (PIL) has emerged as an effective tool for seeking judicial responses and subsequent government actions to the socio-economic challenges of the unorganised, powerless and those segments of the society who are precluded from resorting to legal redress owing to resource or knowledge constraints. PIL has enabled public-spirited individuals, groups and conscious citizens to litigate in the interest of the poor and disadvantaged; and widened the scope for NGOs and civil society to participate in formulation of pro-people policies and laws.

A PIL (a petition brought before the High Court Division of the Supreme Court of Bangladesh in the nature of writ under Article 102 of the Constitution) is generally instituted for the enforcement of the constitutional and legal rights of the poor and excluded groups as well as ensuring accountability of concerned government and public authorities towards issues of public importance. Persistent efforts by NGOs and social action groups through PIL has, in many occasions, prompted the High Court Division to issue directives and orders that in turn addressed the socio-economic concerns of the poor and the marginalized groups.

The Advocacy and PIL unit of BLAST filed seven public interest litigations during 1 April 2004- 31 March 2005 covering a range of issues which include, amongst others, challenging the wholesale and blanket arrests of mass people (most of whom are indigent) by law enforcement agencies; money suit claiming compensation to the tune of Taka 290 million on behalf of 121 plaintiffs in a damage suit following the M.V. Nasreen Launch capsized that caused damage to life and property of hundreds of poor people; challenging the forced eviction of 40,000 landless people in Noakhali Chars and residents of Agargaon Basti in Dhaka; challenging the ban on sale and distribution of publications by the Ahmadiya community in Bangladesh; and challenging the legality, lawful authority and propriety of a public notification relating to ... issued by the Additional Divisional Commissioner (General), Chittagong styling himself and acting as Ex-Officio Sessions Judge of Rangamati, Khagrachari and Bandarban districts.

In recent times, forced eviction of slum dwellers without service of notice and alternative rehabilitation arrangements has become an endemic practice. Forced eviction is accompanied by a series of socio-economic challenges for the poor slum dwellers. Hundreds and thousands of poor men, women and children living in the slums are denied of their basic human rights including access to food, shelter, sanitation, education and medical care when their homes are plundered and destroyed overnight by concerned government authorities.

However, in stark contrast, the fundamental principles of the State Policy envisioned in the Constitution of Bangladesh lay down that it shall be the responsibility of the State to secure for its citizens (that also include slum dwellers) the provisions of the basic necessities of life, including food, clothing, shelter, education and medical care {Article 15 (a)}. In most cases, the government has justified its eviction drives as lawful and carried out to protect national interest including ensuring safety and security of its citizens. They justified their actions on the pretext that slums are safe havens for anti-social and subversive activities. Unfortunately, the urban middleclass also remain indifferent to forced eviction of slums and seem to forget and overlook the contribution of the urban poor towards city life. Reluctance on the part of the civil society and media to address the housing challenges of the urban poor has created an enabling environment for the government authorities to carry on their unplanned and arbitrary eviction drives against the spirit of the Constitution, which also account for deteriorating law and order situation.

Recognizing the potential of public interest litigation to address the socio-economic challenges of the landless slum dwellers, BLAST along with ASK and other human rights organizations have moved the High Court Division challenging forced eviction of slum dwellers in different parts of Dhaka city through PIL. In response to the housing challenges of the urban poor, the High Court has, on a number of

occasions, passed ad-interim orders, which in turn have protected the right to life and livelihood of slum dwellers and prompted the concerned government authorities to incorporate provisions for rehabilitation of slum dwellers in the National Housing Policy, 1993 and the draft National Housing Policy, 2004. The High Court has also in many instances opined that the fundamental right to life includes the right to housing and shelter, and that evictions should not be carried out without serving due notice and making alternative arrangements for rehabilitation of slum dwellers.

However, in dealing with the slum eviction cases, BLAST has recognized that getting a stay order from the court is not enough and the impact of PIL in securing the social and economic rights of the slum dwellers is constrained by the fact that there is a general reluctance on the part of the relevant government authorities to comply with court orders. In the absence of an effective monitoring mechanism to ensure compliance with directives and orders passed by the High Court Division, poor slum dwellers continue to be denied of their basic human rights despite judicial responses to the socio-economic challenges of the urban poor. Thus, in order to translate the notion of social and economic emancipation of the landless slum dwellers, it is imperative that legal-aid NGOs ensure their access to basic health care, education, and housing, water, sanitation and micro-credit loans through referral linkages with other development NGOs apart from securing judicial responses from the courts.

Besides filing PIL for protecting the right to life and livelihood of landless slum dwellers, BLAST has also attached significance to filing damage suits claiming compensation for the victims of the M. V. Nasreen launch that capsized on 8-7-2003 in the estuary of the Meghna and Dakatia River claiming hundreds of lives and leaving many injured. In recent times, launch capsizes owing to negligence and corruption on the part of concerned government authorities have resulted in fatal accidents.

It has been observed that launch owners in connivance with unscrupulous government officials engage in the brisk and profitable business of plying faulty, unfit vessels carrying passengers and goods way beyond their capacity. In most cases, these navigation vessels are seldom registered properly and operate in the waterways without experienced and skilled navigators causing serious accidents. Overwhelming majorities of the victims of these accidents belong to economically disadvantaged segments of the country.

Undeniably, when a single breadwinner of a family dies in launch capsized; the family is engulfed by extreme hardship and poverty. The problem is further exacerbated when neither of the dependants is capable of making a livelihood. Sensing the incapacity of poor victims and their families to seek legal redress, BLAST has filed civil suit claiming damages on their behalf. In this suit compensation has been calculated on the basis of the average life expectancy of the deceased together with loss of life and income and punitive damage. Although, it is going to be a long and agonizing wait before a decree is obtained from the civil court, nevertheless it is hoped that judicial responses to the economic challenges of the poor will be evoked in course of time through recognizing the right to compensation as a basic human right.

PIL is only a step forward in the direction of focusing the attention of the State to the collective concerns of the poor, unorganized and disadvantaged segments of the society and assuring them that they are also equally entitled to enforce their fundamental human rights guaranteed for all citizens under the Constitution of Bangladesh. However, to achieve the objective of PIL, collaboration and coordination among the government agencies, rights groups, NGOs and civil society are essential. Otherwise, constituents may not reap the maximum benefit of PIL cases.