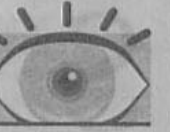


LAW vision



Rights of girl child and ground reality

MD MOKADDAS

BD ANGLADESH is a country with evenly distributed male and female population. From the very beginning of its journey as an independent country it has been cherishing of harmonised growth of both male and female population. But it is far behind in materialising the envisaged goals for male population even, let alone for female population although

organisations on different occasions delineate the pale picture of the girl children and women of our country. They tell of the destitute social status of women in our country and what we should really do has become the core question now-a-days. The experts underscore on the various measures to be undertaken to ameliorate their distressing conditions. As per Article 28(2) and 28(4) our constitution guarantees equal

human rights and fundamental freedoms. Despite all these, women in Bangladesh are subjugated, marginalised, deprived and subjected to violence within and beyond family perimeter. Number of causes contribute to the continuation of this situation and we must be more attentive to redress these phenomena. Though there exists a law debaring girls' matrimony below age 18 in Bangladesh, statistics

marriage a girl even fails to preserve her reproductive right, she fails to take decision when and how many children she will take because getting married immature with inadequate education constricts her decision making power within her new household. In the prevailing socio-economic conditions of Bangladesh the imperative is the ubiquitous preaching and propaganda in favour of timely marriage and educating the people in this respect by the intellectuals, politicians, other civil society members along with planned and organised initiatives by the GOs and NGOs rather than enacting laws rampantly. Bangladesh's feeble effort, evidenced by pale statistics, has got to be strengthened all out to surmount the daunting consequences of early marriage.

Poverty has been a deciding factor in Bangladesh. It compels parents to keep malnourished or undernourished their children, and especially the girl children are subject to more undernourishment traditionally. These undernourished girls grow up with multifarious deficiencies and again under go reproduction system giving birth to more vulnerable child and these threaten dire consequences in the days to come. Only masterly designed all out concerted programme has to be taken with utmost priority vis-à-vis the burning issue of poverty alleviation.

Comparing the 12 percent women literacy rate under age 15 in the year 1970 with 41 percent in the year 2004 one of course finds success in women education. But is it a significant statistics after 35 years of independence? Again mere literacy can contribute insignificantly in ameliorating the status of women especially in the context of Bangladesh where customs, tradition, religious obligations, patriarchy, social values and above all superstitions still play significant role in decision



making regarding women affairs in family. Now time has come to be more practical in designing our educational texts both for formal and non-formal classes. Reproductive health care and child care is still a far cry in our text. But time is running out fast to include these in our curricula in a pragmatic way to denounce all negative perceptions. In a patriarchal society like ours it has become a custom that the women in family are to eat less than men which is equally applied in case of children. The consequence is malnourished mother. Helen Keller International (HKI) Bangladesh, in its survey report (1999) on iron deficiency described that 52.7 percent of Bangladeshi children between age 6-59 months suffer from anaemia and at puberty suffer from stunting. Approximately 70 percent are victims of iodine deficiency. These children experience mental impairment, middle age diabetes and heart disease due to chronic susceptibility to metabolic disorders. The cumulative impact of malnutrition of girls is reflected in the high maternal mortality rate, low birth weight of baby, high child mortality and high fertility rate. To prevent nutritional shortage in child care breast feeding, ensuring regular dosage of vitamin A, iron, zinc and calcium can be much effective. To ensure nutrition in adolescence we need the knowledge of nutrition science which can help parents to ensure balanced food within their capability. And we desperately need to include nutrition science from primary level to at least higher secondary level of education and disseminate this knowledge of nutrition among the common mass by continuous propaganda in electronic and print media, distributing leaflet, organising non-formal education through GOs and NGOs etc. Violence to women, both inside and beyond family ambit, in Bangladesh has been frequent and more perilous is that such incidents are on spate. The statistics of March 2005 only is enough to reveal the agonising picture of violence against and subjugation of women in Bangladesh. In March last year 605 women had become victims of violence of which 99 faced rape, 35 were gang raped, 11 were strangled after rape, 22 fell under trafficking, 11 faced sexual harassment, 113 faced physical torture, 29 were kidnapped, 5 were doomed by dowry, 4 were sold to brothel, 2 were burnt, 6 were harassed by police and rest were tortured in different ways. According to World Population Fund (WPF) 47 percent of women in Bangladesh are subject to violence by men. Not only adult women, violence to girl children are also teeming which is really dreadful. The statistics could be most grave should all the incidents came to light which experts guess not revealed by the victims apprehending social humiliation and threat from perpetrators. Introduction of more stringent laws and its sterner implementation, stopping patronisation of such culprits in political banner, denouncing these culprits socially and introduction of women human rights and its positive impact in education system could be most effective options to rein in the spree of such crimes. In spite of our two major political parties being headed by women for more than two decades and they have been ruling the government and the opposition for last fifteen years, empowerment of women in Bangladesh still seems a far cry and needs a long way to go. Number of women in the decision-making apex body of all the parties including major two is negligible. Only 2 percent lawmakers are directly elected in the National Parliament and recently a Bill to create 45 reserved seats for the women in parliament has been passed by the present parliament and these women MPs are to be selected by the directly elected



history provides that our women played no less a role than the males in the junctures of the nation including achievement of independence. Till date their immense and outstanding contributions in the areas of family care, birth control, infant care and nutrition and even in generating income have been proved indispensable. But the expert discussants in the discourses organised by various government and non-government

rights and equal opportunities for women. Vienna Declaration and Programme of Action, where Bangladesh is a signatory, mentions that national and international mechanisms and initiatives should be strengthened for the defence and protection of children, in particular the girl child. Beijing Declaration where also Bangladesh is a signatory, emphasised to ensure human rights of girl child as an inalienable, integral and indivisible part of all

provided by UNEFA reveal that the average matrimonial age of girls in Bangladesh is only 16.9 years and 51 percent of them get married at puberty and 60 percent of these girls become mother before 19. This sort of immature motherhood is increasing birth and death rate, genital damage, obstetric complications etc. The most important is what AKM Nur-un-Nabi, Professor or Population Science Department of Dhaka University, says that due to early

free elections for the women in all sectors and levels including parliament. They demand for more women nominations by the political parties in all tiers of elections. And the political parties got the national obligation to take the bold steps in this connection. Alongside vicious circle of poverty, extortion, social negative view and superstitions and subsequent malnutrition, educational drop out, subjugation and low wage have been pivotal in the increment of sufferings. No other alternative we have but to ameliorate this suffering of our girl children and women by concerted efforts for their existence as well as for the development of the whole nation.

Md. Mokaddas is Assistant Vice President of Eastern Bank Ltd., Head Office, Dhaka.

Star LAW analysis

Office of ombudsman: Why the delay?

BARRISTER MD ABDUL HALIM

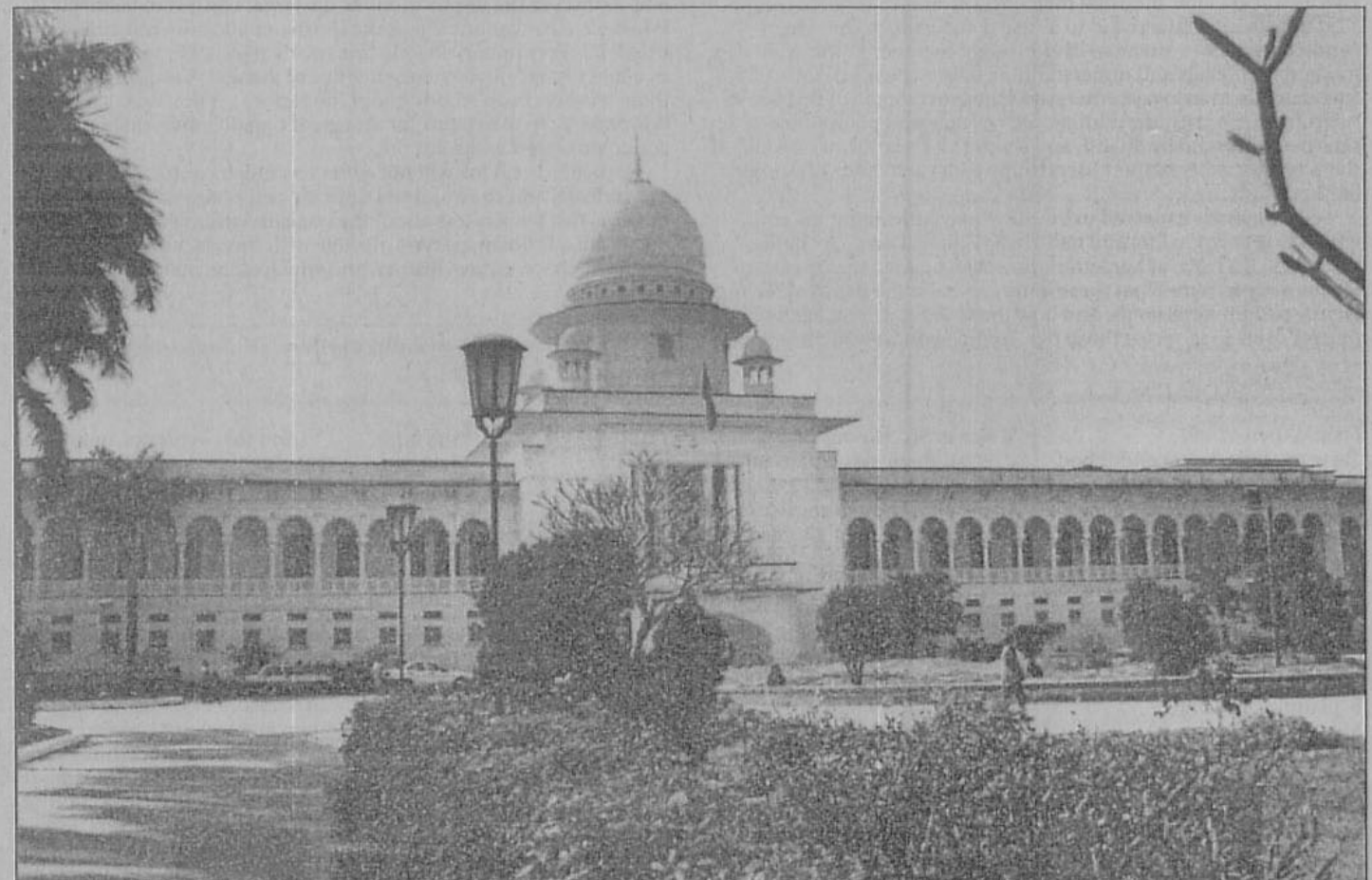
Why is an ombudsman must for Bangladesh There are some justifiable and practical reasons which necessitates the immediate establishment of ombudsman in Bangladesh.

Firstly, in Bangladesh which is one of the most populous countries in the world, there has been an wide expansion of governmental functions of various kinds. The executive officials are always vested with unlimited and often unguarded discretionary power. And this unlimited power has given rise to widespread abuse and maladministration often causing an indescribable sufferings to the ordinary people. There lack of integrity and corruption in administration. Corruption is the biggest evil in our administration. It is not only an evil but also a fatal disease which has adversely affected it; it is a dangerous evil of democracy. Corruption breeds corruption. When it sets in, it grows like weeds in a garden. Corruption is seen in different forms such as bribery, illegal gratification, frauds, embezzlements and misappropriation in commercial transactions and monetary disbursements of the government, tampering with the official records, use of official position for personal gain and acquisition of property, nepotism and favouritism, violation of official rules for personal interests, involvement in smuggling, investment in others' name inside or outside the country and even unwillingness to perform the official duties properly. Secondly, though we have a court system to resolve legal

disputes of various types, it is beset with some chronic problems. The most prominent of them is the inordinate delay due to which our courts can provide only technical justice rather than 'substantial justice'. Cause of delay lies not in the paucity of judges only but mainly in the totally inadequate controlling system, defective investigation procedure, vertical taking 'illegal gratification, misplacing records, removing documents and sometimes even destroying the records' resulting in hindrances to its smooth functioning. But these artificial and technical problems can easily be mitigated by establishing a department of ombudsman.

Thirdly, in most cases our courts give the declaration of remedy whereas the real remedy lies with the administration and law enforcement agency which frequently flout the decision of the courts. The need of ombudsman in Bangladesh, therefore, came in focus in a number of cases of arbitrariness of the executive which called for remedial measures through a proceeding for writ in the High Court division. The following instances will suffice to substantiate the point.

In Farzana Hoque V. Bangladesh (writ petition no 271 of 1990) Sanaul Hoque Niru was arrested and detained first on 13.9.87 under the Special Powers Act. His detention was challenged in writ petition no 187 of 1988 and the court declared the detention illegal and directed release of the detenu on 10.5.1988. But Niru was not released. Rather another order of detention was served against him on 29.9.88. Niru was not placed before the Advisory Board within the statutory period of 120 days. The High Court Division again



declared the detention illegal and directed his release. But government did not release Niru. Another order (3rd time) was passed and it was again challenged by another writ petition (writ petition no 989 of 1989). Again, the court declared the detention order illegal and directed release of the detenu. But even this time Niru was not released. Rather another detention order was served. The

matter came up before a Division Bench of the High Court Division in writ petition no 271 of 1990. The High Court Division said: "The least can be said that the detaining authority is paying little regard to the orders of the court. It is unfortunate that the authority which is obligated under Article 32 of the Constitution to protect the liberty of the citizens and further required under Article 112 thereof

to act in aid of the courts order should flout the laws by resorting to authoritarian acts....."

Had there been an ombudsman the government would not be able to flout the court's order in such a manner.

Likewise it is frequently observed that in many cases relating to property matter where the government or the administrative authority is a party

the decree holder cannot realise the decree due to artificial barricade created by the administration and law enforcement agencies. In Radha Kanta V. Deputy Commissioner (31 DLR 352) the petitioner's property was requisitioned. This was challenged and the Pakistan Supreme Court declared the requisition order illegal. But the petitioner's property was not

released. The Deputy Commissioner asked the petitioner to file a civil suit for restoration of possession of his property thereby giving a permission to the respondent who illegally enjoyed the property already for nine years. This case clearly shows the executive's arbitrariness on the face of it. Nothing is more tyrannical than the tyranny in the name of law. Had there been an ombudsman, the petitioner could easily, through the intervention of the ombudsman, realise the decree and had not to suffer for nine years.

Likewise in another case it is found that Nazrul Islam, a young boy, was illegally detained for 12 years. The then chairman of Satkhira District Council in collaboration with a police officer filed a case against Nazrul Islam. He was sent to jail. This was done by the interested group just for grabbing his paternal property.

Had there been an ombudsman the necessity for bringing the above mentioned cases to courts would not have arisen and the administration would not be able to neglect the court's order.

Fourthly, criminal cases filed in a year are far greater in number than civil cases. And these criminal cases are dealt primarily by Magistrates' courts. But these Magistrates' courts are hot-bet of corruption. It is horrible to hear from advocates about corruption in Magistrates' courts in the form of partial judgment. Had there been an ombudsman these magistrates would not be able to be so corrupt as alleged.

Fifthly, public servants of some autonomous bodies like various corporations and particularly most of the teachers of government universities are doing the most

corruption and illegalities by evading their classes and engaging themselves in extra-profitable works. If there is an office and proper functioning of a duly appointed ombudsman by the parliament, then the accountability of these public servants is likely to be well ensured and our public administration will be more effective and clean for the benefit of the people.

Sixthly, every service sector of the Government T&T, BRTA, Police is bedded with corruption and red tepism. Had there been an office of Ombudsman ordinary people could ventilate their grievances to it without any cost.

Conclusion

The above discussion makes it clear that the establishment of an ombudsman in Bangladesh will undoubtedly go a long way in helping to establish a real democratic social order and polity based on parliamentary system of government for the well-being of the people at large. Because the ombudsman will function informally without the assistance of lawyers to be engaged by the complainants. Hence justice may be within the reach of common men who are often unable to pay the fees demanded by the lawyers. And also it will be able to investigate complaints quickly and give redress to the grievances of public. If the government's pledge to the people is to serve them and bring transparency within the administration there is no alternative but to set up an office of ombudsman.

This is the concluding part of the story.

The author is an Advocate, the Supreme court of Bangladesh.