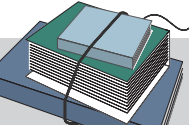




HUMAN RIGHTS special



REVIEWING the views



Deteriorating conditions of human rights and human dignity in Bangladesh

DR. M. SHAH ALAM

PROTECTION and promotion of human rights is a function of multiple factors. State of human rights in a particular country may not necessarily be determined by its material and cultural richness. Polity and political regime, economy, rule of law, history, culture all come to complex interaction to influence human rights situation in any country. We in Bangladesh made a solemn pledge to secure human freedom, human dignity and fundamental rights for ourselves. Accordingly we laid down in our Constitution fundamental principles and norms under which the State of Bangladesh would function. We have been trying hard to build a society with this end in view, but not always with success. Many of our failures are attributable to circumstances under which we emerged as an independent nation. Yet, independence gave us the best opportunity to build a society to secure human rights and human dignity.

However fragile, we as a nation-state made a democratic beginning, and with many failings we are still engaged in the struggle for democracy, for it is only under democratic polity and good governance that human rights and human dignity can be secured. While we have so far not been able to create the best conditions for human rights and human dignity, our successes may also be not undermined. Considering multitude of historical and social adversities that we are confronted with, our performance is not a case of a failed state, and more importantly, is indicative of great potentials to be nurtured with care. Yet, there are signs which can be termed as anything but encouraging.



It may sound idealistic and simplistic or even rhetorical, but it is true to say that whatever we may have achieved is attributable to our people at large, and our failings are the results of manipulations and machinations perpetrated by the people at the helm of affairs, leaders both of the government and of the opposition. We make pledges which we ourselves break; we make laws which we do not implement, rather ourselves violate; we do everything and anything to cling to power or to come to power. In the process, situations are created where evils in human person are unleashed. Our laws and

their implementations, government actions as well as the actions of the responsible individuals and groups in the society ought to invoke the best in the citizens. But alas! their actions are increasingly having negative impact on the society posing grave danger to human rights and human dignity. Let us consider few instances.

Crossfire or extra-judicial killing has been widely criticized as violating human rights and human dignity and an affront on our criminal justice system. Proponents of crossfire argue, hardened criminals who are the causes of many violations of human rights are

being eliminated in crossfire. But this is not rule of law, rather rule of jungle. Rule of law is a basic condition for the protection of human rights. Crossfire killing brutalises society and sets ominous precedent. When we need to stop killing by mob, not very infrequent in Bangladesh, crossfire tends to encourage such barbaric acts. Crossfire culture leaves scope for political killing which in view of our confrontational politics may become a dangerous weapon in the hands of the party in power. Political killings and repressions are becoming phenomenon in our country.

Excesses and atrocities committed by police not long ago in confronting citizens' protests, processions and meetings give reasons for grave concern. Mass arrests, torture in police custody and in remand are not good messages for human rights.

Corruption, bad governance, lack of transparency and accountability, mismanagement of development works and misappropriation of public funds have been thoroughly portrayed in the media. In fact, Bangladesh in recent years has repeatedly topped Transparency International's annual list of the most corrupt countries. Link between corruption and violation of human rights has been proved beyond all doubts. Corruption specially at the top infringes people's interests and deprives them of their legitimate rights.

Stage set by the immediate past government of the four-party alliance for general elections to be conducted under caretaker government proved to be a time-bomb for widespread protests, movement, violence and consequential violations of human rights. Whether it was appointment of the judges at the higher judiciary, or enhancing the tenure of the judges, or

posting and transfer of the executives at different levels, or appointment of election commissioners, or even preparation of voter lists all proved to be seeds planted for protests, not always peaceful, during caretaker government, which have actually taken place and are taking place.

Clashes between rival political parties on October 28 involving tens of thousands of people in down town Dhaka and killings by beating in broad day light stunned the whole nation. Series of clashes and arson in a big medical college and hospital about the same time are alarming indeed. Frequent commotions and resultant clashes in the Supreme Court premises culminating in the Chief Justice's court being ransacked are disaster. Unfortunately, decisions, strategies and tactics of the people at the helm provoked the incidents, which in their turn unleashed evils in human persons. Understandably, it is not easy to keep mass protests in

reaction to any arbitrariness by the people in power peaceful. However, it is the duty of the leaders to keep any outbursts within human norms.

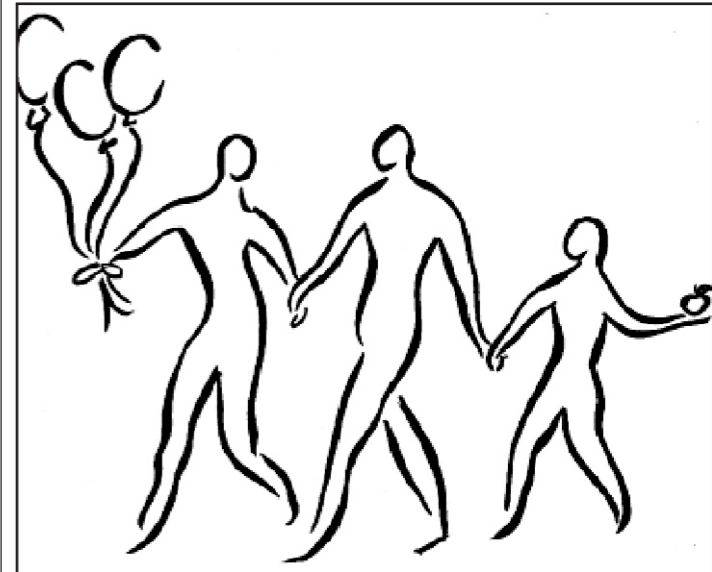
We are concerned rising political tensions may lead to many more situations threatening human rights and human dignity. Leaders ought to move with care and caution.

Back to basics, democratic practices at all levels, accountability and transparency in the administrative process, absence of corruption, appointment of the right persons at the right positions and rule of law as preconditions for good and effective governance can secure human rights and human dignity. These conditions are increasingly becoming victims of our power and wealth hungry politicians (there are exceptions, of course). There is no alternative to fulfilling these conditions for protecting human rights and upholding human dignity.

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Does the 58-year old Universal Declaration of Human Rights adequately address current human rights dilemmas?



Yes. The UDHR sets forth a framework for realisation of the full scope of human rights and freedoms. By design, it is an open-ended and forward-looking document. For instance, Article Two says, that everyone is entitled to all the rights and freedoms set forth in the Declaration, "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." By adding the phrase, "or other status," the UDHR's framers recognized that with time other kinds of discrimination might attract public attention, and they worked to anticipate this.

Now also the question arise that are governments legally required to respect the principles outlined in the UDHR? Yes. While the record shows that most of those who adopted the UDHR did not imagine it to be a legally binding document, the legal impact of the Universal Declaration has been much greater than perhaps any of its framers had imagined. Today, direct reference to the UDHR is made in the constitutions of many nations that realised their independence after the document was adopted. Prime ministers, presidents, legislators, judges, lawyers, legal scholars, human rights activists and ordinary people throughout the world have accepted the Universal Declaration as an essential legal code. Dozens of legally binding international treaties are based on the principles set forth in the UDHR, and the document has been cited as justification for numerous United Nations actions, including acts of the Security Council.

As oppressed individuals turn increasingly to the Universal Declaration for protection and relief, so governments have come to accept the document not just as a noble aspiration, but as a standard that must be realized. Because it is universal, a central and integral part of our international legal structure, the Universal Declaration is widely accepted as a primary building block of customary international law -- an indispensable tool in upholding human rights for all.

Unfortunately, the challenges that the UDHR addressed in 1948 are still very much present in our world. Governments continue to torture and murder individuals because of their beliefs, their ethnicity, or their opinions. Millions across the globe remain "ill-housed, ill-clad, ill-nourished." And, if we ask ourselves which of the rights, framed in 1948, might be dismissed today, we find that none may be. Who would argue that torture or slavery is necessitated by the demands of modern life or of a global economy? Those who have suggested that the rights enumerated in the Universal Declaration are outdated, seem to do so in an attempt to justify oppressive measures that undermine those rights.

Respect for the rights of every individual is enduring and the struggle against human rights violators, ongoing. More and more, individuals throughout the world have formed groups to document the suppression of freedoms set forth in the UDHR and to demand that the Declaration be fully respected in their own societies. The continued violation of human rights - and the achievements of ordinary citizens who turn to the UDHR for defence - both highlight the increasing relevance and importance of the Universal Declaration. The urgent need to protect these rights is more compelling than ever.

Source: udhr.org.



We dedicate December 9 and 16, 2006 "Law & our rights" pages to the observance of "International Human Rights Day".

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LAW alter views



POLITICISATION OF LEGAL PROFESSION

Lawyers becoming 'puppets'?



BARRISTER TUREEN AFROZ

THE current trend of increasing politicisation of our legal profession is alarming. It is not only harmful for the profession per se but also to the society at large. Wholesale politicisation of legal profession

distorts the vision of pluralistic society where lawyers have a professional role to play. There is nothing wrong in lawyers becoming politically conscious or even to be politically ambitious. I would say that every citizen in this country has a right to do so. However, the present practice of

lawyers on compromising legal ethics and professional responsibilities to serve blindly their party-political interests should be condemned.

It is unfortunate to notice that many of the leading lawyers of our country today serve as reserved intellectual army to the

political parties. Their expertise and the position of social acceptability are used by these political parties to further their own political agenda. It is shocking that some of the reputed lawyers of our country have actually become mere puppets in the hands of national political leaders who would want such lawyers to work as a legal stamp, at times to their unreasonable party-political demands. Professional lawyers today are seen to be divided according to their party political beliefs so much so that they would sacrifice their professional responsibilities for the party-political interests.

Professionals could be a political, they should not compromise their professionalism for party politics, so long they are in pursuit of professional duties. It is also essential to differentiate between 'pro-party politics' and 'pro-people politics'. Pro-party politics is one where the political activists rest their blind faith in a particular political party, even when that party is found to have committed a wrong. Pro-people politics, on the other hand,

demands that political activists would raise their voice against any injustice inflicted upon the common people, irrespective of their class, race, gender or even party political affiliation.

It is painful to observe that today's professional lawyers are mostly engaged in pro-party politics. Being divided upon political affiliation, they are keen to attach polarised meaning to the provisions of Constitution to serve the wishes of their respective party politburo. It is at times ridiculous to find that the very notion of justice is now be either of Awami nature or of BNP. Also, it seems that today the professional lawyers have vowed to establish that BNP rule of law is better than Awami rule of law or vice versa.

It is stated that such trend of politicisation of the legal profession should be consciously discouraged. Otherwise, it would cause some irreparable harm to the legal profession in future. First, the social image of lawyers would move from one of 'legal experts' to the one of 'political puppets'. Second, certain activities undertaken in the court premises in furtherance of party-

political interests, would erode people's trust in the justice delivery system and also, in legal profession. Third, indiscriminate involvement in party politics would surely make the lawyers to compromise on their professional duties towards the court, their client, and their colleagues and as such, to the society. Fourth, it would set a very bad trend for new generation lawyers who are expected to learn 'professionalism' from their learned seniors.

It is, therefore, high time that legal profession, as a whole, realises the importance of guarding its own professional reputation. A lawyer, being a respected professional, should be in a position to express his views and to criticise the wrongdoings in the society independent of any party politics. A real lawyer should find it shameful to serve as a puppet in the hand of the political parties. Moreover, he should never ever let his professional place and position to be used for pandemonium of any particular political party.