

## RIGHTS ADVOCACY

# Vaccination is health right not a privilege

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Bangladesh's Globe Biotech is the only company, globally, to be listed with three vaccine candidates – DNA plasmid vaccine, Adenovirus Type 5 Vector and D614G variant LNP-encapsulated mRNA and other companies have one or two varieties. The candidature of the Globe Biotech vaccine has been shown on the WHO list as a DNA plasmid type vaccine at the preclinical stage.

A Nepalese company Anmol Healthcare Ltd has placed order to buy two million shots of vaccine developed by Bangladeshi company Globe Biotech Ltd after it passes trials. However, Bangladesh government is yet to announce any plan to buy local vaccine. Government has set to import some three crore doses whenever available.

There is a debate all over the world on who should have been at the top of the list to get priority for Corona vaccine. Traditionally, first in line for a scarce vaccine should be the health workers and the people most vulnerable to the infection.

Some experts have already developed draft guidelines for the deployment of early vaccines and proposed a framework for the equitable distribution of any vaccine. These guidelines mostly focus on using the vaccine to protect individuals as targets of the virus, as opposed to using vaccination to slow viral transmission.

An advisory group of the WHO has proposed focusing on the protection of older and more vulnerable people, essential health-care workers and groups in dense urban environments. Another group of experts opined that the less prevalent the virus is, the less that vulnerable people need protecting. Some epidemiological research

even unprotected — far less likely to be exposed to the virus. It also came up in the study as to how many doses of the vaccine were available. If few doses were available, it would be best to vaccinate the most vulnerable. If there were enough doses to vaccinate a decent fraction of the population, then targeting the spreaders would be a better idea, as the achieved immunity level could eliminate viral spreading, although the required fraction depended on how easily the virus could transmit. This study was for influenza, not the novel coronavirus, so its conclusions can only be suggestive.

Management Taskforce has prepared a draft list of ten groups and professions and placed for approval of higher authority. If it is approved, a selected number of people of some profession and group will get the first shots from the 3 crore vaccine doses being procured by Bangladesh.

The largest group to get the Covid-19 vaccine is the people aged sixty and above, which includes residents of old homes and religious leaders. In the initial phase, 4.5 lakh government sector health workers and seven lakh private sector health workers will get the vaccine. Another 1.5 lakh health management and support workers,



The comparisons between data emanated from both the 1918 and 1957 influenza epidemics, the latter of which was more coronavirus-like, with fatalities among older people. The researchers found that the best strategy is to target the most vulnerable and vaccinating the younger people and children to reduce viral transmission.

There is no published study so far on current coronavirus. It should be noted that protection is only one part of vaccination.

Canada has identified key populations that also include health care workers, caregivers in long-term care facilities and all essential front-line responders essential in managing the COVID-19 response. People who are unable to work remotely and are at risk of exposure, such as police, firefighters and grocery store staff, are also among the key groups in consideration.

The National Academy of Medicine of USA report proposes regarding distribution of vaccine in four phases as it becomes available. The first recipients are obvious picks: health-care workers, emergency responders, people with underlying conditions, and older adults living in group settings.

WHO recommends that priority be given to people who score high on the Social Vulnerability Index, which identifies factors such as poverty, lack of access to transportation, or crowded housing that are linked to poor health system. The goal is to rectify the pandemic's disproportionate burden on minorities and poor people and to work toward a new commitment to promote health equity.

In Bangladesh, the Covid-19 Vaccine

including employees of various government and private hospitals. Besides, 5.5 lakh Bangladesh Police personnel will get the shots, with a priority on traffic police officials.

Among others, three lakh front liners of the Bangladesh Army, 50,000 journalists and 5,000 civil surgeons, deputy commissioners, and ministry officials will be vaccinated. The vaccine will be distributed to 2.10 lakh Freedom Fighters as well. Moreover, there will be in line, 70,000 public representatives including members of Parliament, chairpersons and members of Upazila and Union Parishads. Depending on the availability of the vaccine shots, it will gradually be distributed to immunocompromised people, sufferers from chronic diseases, teaching professionals, and public transportation workers.

The policy and plan have not mentioned whether the government has given priority to the prevention of corona or reduction of spread of virus. The primary vaccine program is set for 1.5 crore people or 9% of the population and ten categories of professions and groups. All other countries have common policy of priority to elderly persons and frontline medical professionals.

The treatment or preventive vaccine is not privilege but a human right. It should only be there on equitable basis and not on the basis of some priorities, it should be there for the needy regardless of race, colour, religion, sex, language, political or other opinion, national or social origin, property, birth or other status.

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## LAW WATCH

## Revisiting the discourse of gendering crime

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Laws are meant to regulate the behavior of human beings with the conformity of equality, equity, fairness and justice. Though legal regimes in South Asian countries greatly attributed to religious, social, cultural repercussions towards a set of norms, sometimes the execution of these rules revolve only around the weaker gender of society. That masculine conundrum of abiding rules sometimes caused dismay among fellow citizens. If we gaze at the platitudes of ethical discourse, the conclusion often reaches to one point of convergence that is 'morality cannot be subjective, it must have some objective connotation'. In our country's perspective, if we think morality as a product of some ethical, religious and idyllic thoughts, it has also some neutral standing stone to placate the sense of justice. The submissive and subjugating approach by assumed dominant gender towards the weaker gender of society in regards to crime cause anarchy. This subliminal non-legal aspect of crime should be initiated in the discourse of socio-psychological causation of crime.

Recently, a video went viral in social media showing a female was smoking in the public place of Rajshahi City. On that place, many other males were also smoking. But this particular woman was humiliated for not being a violator of law but being a 'woman' smoking in public. So let's stare for a moment at the relevant law applicable in this situation. Bangladesh became a Party to the WHO Framework Convention on Tobacco Control on February 27, 2005. Mandated by constitutional provision of improving public health as a primary duty, the government enacted "Smoking and Using of Tobacco Products (control) Act 2005". According to section 4 of the Act, it is prohibited to smoke in public places and public vehicles. Section 4 also made it a penal offence by imposing fine. The language of this section is clear enough to trace and does not implicate any gender prerogatives. Interestingly, in that viral video, the scolding males were dispersing ponderous ethics toward the female when they think the same deviant act as quite right for them because they are the 'Alpha Male'!

A close perusal of religious scriptures in this regard also suggested gender-neutral directives to follow. Neither Law nor religion opens up the venture to interpret rules with the prism of patriarchy. It is the subconscious dominant features of distorted masculinity that determine the unjust thinking line of right and wrong. According to marginalisation theory of female criminality, inducing women to a constant marginalised position as a victim or as a perpetrator is self-derogatory. When socialisation process makes women a second sex and tries to hold them as downcast, women become more prone to violating the norms.

Moreover, the strain model of crime causation propounded by famous socio-criminologist Robert K Marton suggested that when there is no junction between the cultural goals and institutionalised means, retreatism and revolution arises to support the new norms. Fluctuation in the moral dimension of 'Gender' in our country creates unnecessary strain on some of the classes of citizens. If a particular social structure is inherently unequal or there is unequal execution of social norms or legal rules, this may change the individual perceptions as to means and opportunities. Role of male or female in preventing crime should be complementary to each other. Uneven gender notion should not be utilised to hold one as a victim or a perpetrator. It is the high time to replace our notion of 'gender' by equitable cultural ethics.

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suggests that vaccinating the most vulnerable may not be the right thing to do.

A modeling study (2009) on vaccination strategies for influenza concluded that the optimal policy should be on the basis of various measures including deaths and economic costs and a number of other things. If the vaccine apparently immunises only around 50 percent of those vaccinated, then focusing on the most vulnerable was the best strategy. With low vaccine efficacy, even vaccinating most of the population would not be able to prevent continued viral spreading, and so the vulnerable would need direct protection.

High vaccine effectiveness makes it possible to greatly curtail viral spread, thereby making the most vulnerable —

## GLOBAL LAW UPDATES

## Headscarf ban held unconstitutional in Austria

Austria's constitutional court has struck down a law prohibiting primary school children from wearing specific head coverings having religious significance. This judgment is significant since it makes it clear that bans cannot ensure self-determination for women and girls, as much as impositions cannot. Both impositions and bans militate against free choice of women, and their freedom of expression. The court said that since the law was aimed at the Islamic headscarf, it breached rights having bearing on religious freedom.

The court said the law could lead to the marginalisation of Muslim girls. It also rejected the government's argument that the prohibition could protect girls from social pressures from classmates, saying that it penalised the wrong people. It further said, if necessary, the State needed to draw up legislation to better prevent bullying on the grounds of gender or religion.

The legislation, which came into force last year, did not specify that headscarves were banned but instead proscribed the wearing of "religious clothing that is associated with a covering of the head" for children up to the age of 10. The government had itself said that head coverings worn by Sikh boys or the Jewish skullcap would not be affected.

The court decided that the ban was in fact aimed at Muslim headscarves. "The selective ban... applies exclusively to Muslim schoolgirls and thereby separates them in a discriminatory manner from other pupils," court President Christoph Grabenwarter observed.

—LAW DESK (SOURCE: BBC.COM).



## LAW OPINION

## The dynamics of Rohingya relocation under 'internal relocation alternative'

SAKHAWAT SAJJAT SEJAN

Internal relocation alternative is one of the doctrines recently developed to determine refugee or asylum seeker status in a host country. It basically examines whether the asylum seeker has exhausted all his opportunities of relocation in his country of origin during status seeking. This principle is also considered as an alternative of phrases i.e. 'well-founded fear of persecution' or 'unable to avail protection in his country of origin' under article 1A(2) of the Refugee Convention 1951 during the determination of refugee status. We can expand the doctrine from country of origin to the territory of host country. If the asylum seekers are already in the host country with minimum chances of repatriation 'internal relocation alternative' might function as a benefactor of principle of non-refoulement. UNHCR has recognised 'internal relocation alternative' in its handbooks and it may examine the expansion of this principle in the host countries as well.

For example, Bangladesh has given refuge to 1 million Rohingyas since 2017. After a lot of bilateral and multilateral steps, repatriation could not take place due primarily to the Rohingya's unwillingness to return and Myanmar's inadvertent approach to them take back. As a consequence, the ecological imbalance and the increase in population has complicated the administrative and environmental mechanisms in Cox's bazar. Hence,

Bangladesh was planning for relocation of Rohingyas since the exodus occurred. According to the relocation plan, they will be transported to Noakhali's Bhashan Char. Bhashan Char being a low-lying land, is designed with protective and productive resources to procure Rohingyas there. In the early week of December, 1600 Rohingyas are relocated to Bhashan Char. International concerns have been on the rise since the beginning regarding the protection of the Rohingyas from natural disasters or the fulfillment of the demands of basic necessities in the Char. Government of Bangladesh has assured international communities that enough protective measures have been adopted. Apart from defending the relocation from this point of view, we better focus on the aspects of 'internal relocation alternative' and whether Bangladesh is a worthy candidate to seek refuge under this principle.

Fundamentally there are two sets of determining factors about the functioning of 'internal relocation alternative'. One is the 'relevance analysis' and the other is 'reasonableness analysis'. Relevance analysis seeks whether the area of relocation is practically, legally, and safely accessible, and if the relocation seekers face serious harm upon the relocation. Reasonableness analysis transpires whether the claimant would be living a comparatively normal life in the relocated place. Imperative answers of these questions will make the 'internal relocation alternative' effective following the directions and practice of UNHCR's

handbook. As the Government of Bangladesh has met the credentials of creating a safe and preserved dwelling place along with livelihood, education, medical facilities, and sufficient freedom of movement for the Rohingyas in the Bhashan Char, it somehow justifies the relocation process at any cost. In fact, if we transpire into the provisions of Refugee Convention, Bangladesh is indirectly treating them with the rights of a refugee despite not having a status as such.



Amidst growing concerns of the United Nations and other international NGOs, this active step of Bangladesh is justified under the auspices of 'internal relocation alternative'. Though generally internal relocation alternative is a threat to non-refoulement principle in the country of origin, but the same principle can be considered as an ace of principle of non-refoulement to some extent if it happens within the territory of host country. In the case of Bangladesh, firstly the country has not pushed the Rohingyas back to Myanmar and secondly after giving them refuge, it proceeded for a planned relocation. Not being a signatory to

the Refugee Convention, Bangladesh is comprehensively opting for protecting the Rohingyas and the relocation alternative is not out of the ambit of its humanitarian responses.

As the case of *Gambia v Myanmar* is still pending with the International Court of Justice, the hopes of repatriation stay dim. In fact, repatriation requires voluntariness, which actually failed twice or thrice due to the trauma carried by Rohingyas and their unwillingness to return. At least the execution of relocation process, as has been seen, has been quite consensual that actually aligns with 'relevance test' and 'reasonableness test' of internal relocation alternative. Since Rohingyas chose to dwell in the char with better refugee facilities, in no way it is justifiable to condemn Bangladesh for such relocation. From the legal point of view Bangladesh did not violate even a single provision or principle of international law rather it opened a scope of newer dimension of 'internal relocation alternative' in the host country. Undoubtedly, the doctrine needs examination, re-examination, discussions, and criticisms, but it will reenergise the refugee protection mechanism by manifesting international refugee law. Lastly, the stance of Bangladesh will create a nexus between the principle of non-refoulement and internal relocation principle by extending the dynamics of relocation from the country of origin to the host country.

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