

Law and Our Rights

The Impact of Religious Fanaticism on Women in Bangladesh

by Saira Rahman

Many Governments around the globe are becoming increasingly aware of the dangers of allowing religion to be used for political purposes. In Bangladesh we are actively trying to persuade the Government to ban politics of communalism. Islam preaches tolerance, peace and harmony. The Jamaat-e-Islami of Bangladesh follows the path of hatred, malice and violence. Let our government ban Jamaat-e-Islami without further delay and declare all communal and other fascist organisations illegal.

— Jahanara Imam, February 1994

The early years

MUSLIM domination over the land of Bengal was not established before the fall of the 13th century AD. Combined with the preaching of traveling 'Sufi' various Muslim conquerors who established their hold over the sub-continent, helped preach Islam. The form of Islam preached by the wandering Sufis emphasised on a spiritual union with God and did not require followers to give up traditional beliefs totally. One may call this an unorthodox form of Islam and it was not until the awakening of the Islamic Reformist movement which commenced in India during the sixteenth century — and spread into Bengal in the 18th and 19th centuries, that the conflict between religion and custom arose for Bengali Muslims. This conflict is yet to be resolved.

In the early 19th century, there was a reform movement in Bengal founded by one Haji Shariatullah. He was born in the late 18th century and apparently went to Mecca in 1792, where he stayed till 1802. On his return to Bengal he instigated the 'Fara'id' movement or the 'movement of purification' which was based on three factors: 1. an anti-British sentiment by declaring the India was no longer the 'abode of Islam', but had become the 'abode of war'; 2. socio-economic reform directed against the rich landowners and land lords in the interest of the peasants and workers; 3. purification of Islam from Hindu ideas and Sufi excesses. The movement was continued by his son, Dudu Miah, but Sufism did not disappear altogether. It took on a new form under strict orthodox pressure which resulted in denuding the practice of its metaphysical character and robbing it with the thoughts and practices of orthodox Islam.

Independence of Bangladesh and the role of Razakars

After partition in 1947, the geographical, cultural and economic disparity of the two wings of Pakistan and the inhuman dominance of West Pakistan over East, led to the creation of Bangladesh in 1971. Islam was frequently used by Pakistan as a political tool both before and after Liberation of Bangladesh. The Mullahs and self-proclaimed 'religious' political parties misinterpreted Islam in order to mislead the uneducated, innocent rural Muslims that liberation forces were out to destroy Pakistan and that the separation of East Pakistan would lead to destruction and loss of religion. During the war the politicisation of Islam took dizzy heights. The Pakistani army tutored its soldiers that the Muslim of East Pakistan were converts from low-caste Hindus and were therefore not 'pure-blood' Muslims.

The role of the Razakars (collaborators) during the war is known to all. These and their supporters — the religion-based

political groups — benefited themselves from the partition of India in 1947 due to the establishment of an 'Islamic' state of Pakistan. Such groups were specially helpful to the invading Pak-Army in rural Bangladesh, where the latter found the unfamiliar terrain difficult to maneuver in. In the villages they abetted in the killing of people and reducing women to sex slaves for the invading army. According to a report in the New York Daily News dated 27 December 1971, "A stream of victims and eyewitnesses tell how truckloads of Pakistani soldiers and their hiring razzakars swooped down on villages in the night, rounding up women by force. Some were raped on the spot. Others were carted off to military compounds. Some women captives were still there when Indian troops battled their way into Pakistani strongholds. Weeping survivors of a village raised because they were suspected of siding with the Mukti Bahini told of how women were raped before the eyes of their bound husbands, who were then put to death."

The above, supposedly 'religious' forces, whose leaders disappeared after the liberation of the country in December 1971 — and who were left out from being punished for their war crimes by the country's first political government — reappeared in Bangladesh after the first Martial Law regime, to form 'religious' political parties under the Political Parties Regulation. This ultimately gave birth to the Bangladesh edition of the fascist organisation the Jamaat-e-Islami (Jamaat), whose supporters, along with social and religious rural elite are violating all sense of moral, religious and humane behaviour and violating the human rights of women in the country in the name of 'Fatwa'. These fanatic forces have found further strength from different constitutional amendments. The Fifth Amendment introduced the phrase 'Bismillah-ur-Rahman-ur-Rahim' and 'absolute trust and faith in the almighty Allah...' into the secular constitution of 1972. The Eighth Amendment further destroys secularism by stating "the State Religion of the Republic is Islam, but other religions may be practiced in peace and harmony in the Republic." These amendments were made during Martial Law regimes — which have, in practice, had links with fascist parties.

The definition of 'Fatwa'

What is 'fatwa' really? Fatwa, in the true Islamic context, has been defined by Dr Syed Anwar Hussain as the opinion of a mufti who is a versatile person having sufficiently strong grounding in Islamic principles. A Mufti is a religious person appointed by the state for the purpose of issuing fatwa and no one else can do so. Therefore, in other words, a 'fatwa' is a religious decree or edict according to Quranic doctrine. The term itself is derived from the Arabic 'to give decision'. During the time when Islam was still young, during the Umayyid and Abbasid dynasties religious courts were held where fatwa was passed. Due to outside influences and changes in society, the responsibility of judging the people was given to the state, but everyday, domestic disputes were resolved by special fatwa institutions, which were, however, not allowed to pass decisions over criminal offences.

Fatwa in Bangladesh

In Bangladesh today, considered from a strict Islamic point of view, the practice of Fatwa is an anathema. It is an instrument of exploitation disguised in religious garb. It is targeted against the most vulnerable members of society to achieve social, political and

economic advantage and has roots in the policies and practices of political elite who seek gain through the patronising of anti-social anti-development forces. Furthermore, the practice of Fatwa is not sanctioned by the law and, therefore, the sentences of death, and the sentences and acts of whipping and stoning, passed by some rural mullahs with the silent approval of the rural elite, are criminal offences in the eyes of the law. The Jamaat-e-Islami and other like-minded political

parties claim that they do not recognise the Constitution of Bangladesh since it is a 'man-made' code. They fail to realise that the Constitution is the 'law of the land' and any law made or act done in contravention to its provisions is illegal.

The effects of 'fatwa' on women in rural Bangladesh

The Constitution, in its Articles 10, 11, 16 and in its chapter on Fundamental rights plays a role in protecting wom-

en's rights and NGOs and GOs are cooperating in improving the standard of rural women. The village elite and their so-called religious counterparts have no right to undermine these efforts, specially when they do nothing to improve the standard of living themselves. Not only does the practice of Fatwa violate statutory law and Muslim Law, it is also a gross abuse of the basic human rights of life and liberty. The Quran

contains doctrines which enshrine the necessity for believers to be humane, tolerant, patient and respectful towards each other as well as towards those who are of other religions. It is, in many respects, a document of Human Rights. Fatwa in rural Bangladesh has caused the death of many women who were never even given a chance to defend themselves. Noorjahan, Dulali, Firoza and many like them were forced to commit suicide after being flogged or stoned as

a result of 'fatwa'. One was even burnt to death. The Quran states, in Surah Al-Nisa: "It is unlawful for a believer to kill another believer except by accident... he that kills a believer by design shall incur the wrath of God, who will lay his curse on him..." Women have been prevented from voting — even in the Parliamentary Elections of 12 June 1997 — and from working or continuing to work in development projects due to fatwas passed by local Imams that women should not leave the four walls of their homes and should not come in front of strange men. If women were required to go into segregation and cover themselves from head to toe, perhaps the Imams forget the teachings in Surah An-Nur: "Tell the believing men to lower their gaze and be modest. That is purer for them..." and also the teachings in Surah Al-Nisa which lays down that women have as much right to earn a living as men: "And covet not the thing which Allah hath made some of you excel others. Unto men a fortune from that which they have earned and unto women a fortune from that which they have earned. Envy not one another but ask Allah of his bounty. Lo! Allah is ever Knower of all things."

Fatwa mongers have also accuse innocent victims of rape and as being adulterous. On study of the Quran, it will be noted that it is the accuser who has to prove the act of adultery. If he cannot prove it substantiated he is he and not the victim who is punished. The Quran says: "Those that defame honorable women and cannot produce four witnesses shall be given eighty lashes. Do not accept their testimony ever after, for they are great transgressors — except those among them that afterwards repent and mend their ways. God is Forgiving and Merciful."

It is surprising to note that not only do these self-proclaimed religious parties totally disregard the tenets of the Quran, but also that they feel no fear of the wrath of God and the afterlife. The patriarchal system — one of the root causes of women's oppression — is the patriarchal hold over religion and the idea that women are weak and must be kept in control comes from the idea of male superiority. Surah

Al-Baqarah states "women shall with justice have rights similar to those exercised against them, although men have a status above women. God is almighty and wise". The phrase 'status above women' is what is so misquoted today. The Arabic word 'qawwamun' meaning 'guardian made responsible to keep the wards on the right path' has been misrepresented by medieval minded ulemas to mean that men have a claim of superiority over women. The word actually 'refers to an advantage that the breadwinner had over his dependents'. This misinterpretation of the term is one of the root causes of the suffering of Muslim women not only in Bangladesh, but all over the world.

Realising the contribution of women

Women are an integral part of development both in the public and private sector. Some 3 million women around rural Bangladesh have taken loans from NGOs and more and more women are turning to income generating work to help support their families. Women are entering a male-dominated society with a vengeance. Unfortunately, some sections of society vehemently oppose this 'shocking' and 'shameless' transgression of women from subservient doormats to independent bread winners.

The rights of women are guaranteed in the Quran, but later history — not only in Bangladesh but also in other parts of the Muslim world — seems to have robbed the spirit of equity and Quranic misinterpretations have robbed women of all status. Interpretations — all carried out by men — seem to have the sole goal of trying to prove that men are superior to women and that Islam is a religion of strict punishment and intolerance. The term 'Islam' is ancient Arabic for 'peace' and those who use it as a weapon are committing two grave crimes — distortion of Quranic teachings to violate human rights and forcing these distortions on the unsuspecting and vulnerable sections of society.

(To be continued)

The writer, a Legal Researcher, is an Advocate of the Supreme Court.

INTERVIEW

'It's better to have a National Human Rights Commission as a constitutional body' — Justice V R Krishna Iyar.

Justice V R Krishna Iyar, former Judge of the Supreme Court of India, better known to many as 'Guru' has attained a distinguished place in the South Asian legal fraternity. His tremendous dedication to the legal profession, profound commitment to the people and sincere activism in the field of human rights make him an exception. Abul Hasnat Monjurul Kabir talks to this living legend specially on institutional development of Human Rights Commission at national level.

Daily Star (DS): "Our legal system is not people friendly" — is now-a-days an off-repeated aphorism. This is true not only to Bangladesh but also to other South Asian countries. How can we overcome this awkward situation?

Justice Krishna Iyar (KI): A change of mind among the bar, court and the people is a must for a radical transformation of judicial system to bring it closer to the people. Both the judge and the lawyer must have an empathy and professional discipline to reduce the duration of trial and avoid a lengthy process that denies justice. There should be a peer group among the judges to discipline them for not delaying cases on various pretexts like failure to attend the office on time, staying there and developing quick process for hearing and delivering the judgement to expedite justice. Unless the whole system is overhauled with a change in mentality of people, lawyers and judges, there can not be a people friendly legal system.



Justice Krishna Iyar

DS: Can SAARC play conducive role in this regard?

KI: Whenever heads of states, diplomats politicians and military strategists, meet they discuss only trade arrangements, commercial concessions, military understandings and mutual industrial investments and financial assistance, loosely put the market and military hardware, often marred by hard bargaining economic confrontations or cooperation possibilities. This agenda is incomplete and is flawed if one basic consideration is buried. There can never be true understanding or abiding agreement with implementational potency, unless there are legal systems in the countries concerned which will ensure peace and tranquillity, rights and remedies and other facets of civilised jurisprudence and meaningful adjudicatory systems. If a country has no legal system with shared institutional operators, effective remedial processes and judicial norms and juristic reciprocity, there can not be any dealings between countries in the assured confidence that expectations shall come to

pass and promises shall be performed. Sans these primary conditions, suspicion, mistrust and wrangles will spoil the best commercial treaties and even military pacts. It is thus essential for the success of any group of countries coming together, like the 'SAARC', that a common legal regime of sorts is forged on a sound footing.

In other words, broadly acceptable jurisprudence which comports with international values, jurisdictional commitments and remedial methodologies must functionally come alive. Of course, there are international instruments in profession emanating from the United Nations which relate to must human rights areas.

Reforming the legal system to make it people friendly, protecting their rights while cutting the delays in dispensation of justice at a cheaper cost can be an effective common agenda for action of the SAARC countries.

DS: Recently the Government of Bangladesh has decided to set up a Human Rights Commission with the broad objective of protecting and promoting human rights. How do you evaluate this non-traditional mechanism for institutional protection of human rights?

KI: A human rights commission is a state sponsored and state funded entity generally set up under an Act of Parliament or under the constitution, with broad objective of protecting and promoting human rights. In doing so it performs a range of functions. These include dispute resolution through adjudication or mediation, human rights education, documentation and research, advising governments on human rights issues and human rights standard setting.

Human rights commissions are being set up in many parts of the world. While the powers of these institutions in the different countries vary, there seems to be a 'core' concept emerging. In many countries commissions such this have not matched the expectations they generated when they were first set up. On the other hand, in some other countries where the expectations were not so great, the commissions have brought some positive results. No doubt human rights commissions can be effective consolation; but without power to adjudicate and issue binding commands they would, I am afraid, be glorified ciphers and promise of unreality. Only real political will of the government can help attaining the cherished destination. The decision of the Bangladesh Government to set up a human rights commission is a welcome development but again, the success of the proposed commission will depend on the true political willingness of the government other than public eye-wash.

Bangladesh could do well if it establish its proposed 'National Human Rights Commission' through a constitutional amendment, rather than by a statutory Act. If the commission has a constitutional mandate then it becomes more powerful, effective and would be free from any interference by other similar institutions of the government. It's better to have a National Human Rights Commission as a constitutional body rather than a statutory body.

DS: What is your impression about the performance of the National Human Rights Commission of India?

KI: Yes, it did well. It gives propaganda, publicity in investigating into various areas which are never lying with the government but at the same time it has no power to adjudicate, there is no power for effective investigation specially in the case of army. There is no place of contribution of the NGOs and the people in the functioning of the power of the commission. I mentioned all these points on several occasions because these are very crucial and necessary for the smooth and effective functioning of the commission.

DS: So what are your suggestions for the proposed National Human Rights Commission of Bangladesh?

KI: For successful functioning of the proposed commission the presence of a number of ingredients is a must. These include

- Political will of the government
- Non interference of the government
- Constitutional mandate or footing of the commission
- Sufficient power of investigation and adjudication
- Representation and participation of the NGOs and the people in the functioning of the commission.

And no doubt the role of the commission people is of immense importance.

Metropolitan

'Life' launches no-tobacco signature campaign

In observance of World No-Tobacco Day, different organisations organised various programmes yesterday, reports UNB.

Dhaka University, unit of Life, an anti-drug organisation, launched a 'no-tobacco' signature campaign in cooperation with United Nations Information Centre (UNIC).

Dhaka University Vice-Chancellor Prof AK Azad Chowdhury put his signature first at an inaugural ceremony at his office.

Pro-Vice Chancellor Prof Shahid Uddin Ahmed, UNIC official Kazi Ali Reza, Life Chairman Kamrul Islam Sonu, Life DU Unit President Abu Abdullah Mohammad Saleh were present.

Meanwhile, Bandhan, a voluntary blood donation organisation, and Students Anti-Smoking Committee, jointly organised an anti-tobacco rally on the Dhaka University campus.

To mark the day, Underprivileged Children's Educational Programmes (UCEP)-Bangladesh declared all its premises, including vehicles, as non-smoking area. The decision was taken in a recent management meeting to encourage anti-tobacco movement in the country.

Recent cyclone

Govt's timely disaster preparedness lauded

Bangladesh government's timely disaster preparedness and efficient management to keep the loss of lives and damage to property from the recent cyclonic storm at minimal has been widely lauded by the US government and the diplomatic circles in Washington, according to a message received here, reports BSS.

Different quarters profusely praised the sincere efforts of the Bangladesh government led by Prime Minister Sheikh Hasina to restrict the death toll from the devastating cyclone at a minimum. They said the government's spontaneity to deal with the disaster emanated from its sincere care and concern, and succeeded immensely in saving innumerable lives.

Diplomats indifferent missions in Washington were appreciative of the early forecast of the storm, preparedness for the disaster well in advance and evacuation of lakhs of people to cyclone shelters and safer areas effectively checked the deaths which rose to 111.

The measures to move ships and valuable equipment from sea port and air port areas in Chittagong and Cox's Bazar were also commended.

Spain to remain beside the people in distress was wise and amply demonstrated her unbounded love for them.

A SAARC country diplomat in Washington spoke highly of the present government for effectively handling the situation both before and after the catastrophe.

Another source said the death toll could really be very staggering in the absence of the Prime Minister whose personal initiatives and interests were inspirational for the people and thousands of volunteers who worked wonderfully well to protect the lives and property.

Bangladesh Ambassador to the United States KM Shehabuddin briefed Ambassador Alan Larson, Assistant Secretary of State for Economic and Business Affairs about the timely preparedness of the Bangladesh government for the storm and massive post cyclone measures to rehabilitate the lakhs of a affected people. Ambassador Larson appreciated the role of Bangladesh government in successfully managing the disaster.

Bangladesh Embassy in Washington is maintaining close contact with the US government officials to keep them informed about the latest situation on the cyclone.



The Sonali Bank DGM Forum accorded a farewell reception to retired deputy general managers of the bank at a city restaurant on Friday.

Radio, TV autonomy body team leaves for Manila today

A six-member delegation taken from the 'committee to determine the autonomy of radio and television' leaves for Manila today on a week-long tour, reports BSS.

The delegation led by Kazi Raquibuddin Ahmed, Secretary, Ministry of Information, will visit Philippine Radio and Television, and hold discussions with the authorities concerned the operation and management of the electronic media.

The delegation will return on June 8.

Eviction of 'illegal' occupants urged

Ex-army Employees Multi-purpose Cooperative Society has urged the authorities concerned to evict alleged unauthorised occupants from its land at Dakkhingao in Sabujh thana, reports UNB.

Addressing a press conference at the Jatiya Press Club yesterday, Society President Hasmat Ullah demanded a temporary police camp and a permanent Ansar Camp in the area.

He also demanded action against holders of 'forged' documents.

Safari Park to be set up in Cox's Bazar

The government will set up a Safari Park and a wildlife breeding centre in the reserved forest area of Dulhaja in Cox's Bazar, an official source said, reports UNB.

The plan is designed to preserve all popular and almost extinct wild lives available in the country, and also to create eco-tourism facilities and an ideal model of natural resource management and development.

The Safari Park will be set up along 10 kilometres of the forest from the sea resort town of Cox's Bazar by 2004.

A project concept paper (PPC) has been prepared by the Ministry of Forest and Environment in the light of a decision taken at a meeting between the Prime Minister and BCS (Forest) Cadre last November.

The ministry will send the PPC to the Planning Ministry for approval within a day or two, the source said.

Physical infrastructure like road, culvert, bridges, lake, water hole, aviaries for birds and artificial facilities for the visitors will be constructed in the first phase of the Safari Park project.

It is likely to be set up in an area of six hectares in the 900 hectares of land of the Dulhaja reserved forest.

The first phase of the project will require over 22.44 crore taka with 80 lakh taka in foreign currency.

Of the estimated cost, 52.56 per cent will be spent for constructing the physical infrastructure including accommodation for the 69 officers and employees of the park, according to the PPC.

Body formed to fight for evicted Kandupatti women

By Staff Correspondent

A number of human rights and women organisations of the country have formed a Solidarity Committee for Women and Children of Kandupatti following the eviction of women and their children from the Kandupatti red light area in the city.

A group of people evicted the women and children from Kandupatti and looted their belongings on May 12.

Naripakkha, Nari Moitree, Nari Unnayan Shakti, Bangladesh Mahila Ainjibi Samity, Manabdhikar Bastabayan Sangstha, Nari Grantha Prabartana, BWIC, Forum for Culture and Human Development, Hotline Bangladesh and Ganoshastha Kendra at a joint meeting on May 20 formed the committee to fight for the rights of the evicted women and children.

Cyclone damages 518 educational institutions in Cox's Bazar

A total of 518 educational institutions in seven thanas of Cox's Bazar coastal district have been affected by the May 19 cyclone, reports UNB.

According to a preliminary report of Education Department, the loss of property in these institutions was estimated to be about Tk 10 crore.

Of the affected institutions, 85 primary schools, 27 high schools and 10 madrasas were totally damaged.

In the worst affected Chakaria thana, 70 primary schools, 40 high schools, five colleges and 30 madrasas have been damaged while the damage in Sadar thana was 65 government and non-government primary schools, 18 high schools, four colleges and 14 madrasas.

Twenty-nine primary schools, six high schools and seven madrasas were damaged totally in off-shore Kutubdia island and 40 primary schools, 13 madrasas, five high schools and one college in the Mohekkhal island.

The other affected educational institutions are 45 primary schools, 14 high schools, one college and five madrasas in Ramu, 42 primary schools, eight high schools and one college in Ukha and 30 primary schools, five high schools and one college and five madrasas in Teknaf.