

## FOCUS

## Human Rights Law and Institution

by Abdul Matin Khasru, MP

*The process for formulation and adoption of our own Charter of Human rights may begin by forming a Consultative Committee of Members of Parliament who may then co-opt a small number of experts for assistance and at the same time involve the jurists, academics and leading public leaders to advocate, propagate and campaign for forming public opinion and building political support for such a Charter.*

FIFTY years have now elapsed since the proclamation of the Universal Declaration of Human Rights and we in Bangladesh have celebrated the 50th anniversary of the four Geneva Conventions. The last half a century has surely been that period in the history of mankind in which the question of human rights and humanitarian law has had a greater and more general significance in theory and practice than at any other comparable period.

In Asia we have different history, cultural and social moorings, but at the same time we are connected and linked by our strong belief in human dignity, respect for each other's culture and religion. Our civilization is based on our belief in our roots and respect for our social values, struggle and sacrifice of our ancestors for sustaining each of our civilizations. The colonial rule and the war and conflicts and their fallout in Asia have been the greatest impediment against our progress and development. We, therefore, realize more than any other people and nation as to how important it is to protect our freedom and sovereignty to work for peace to ensure the sustainable development in our region.

We firmly believe that peace is intrinsically linked with progress and development, and in order to ensure peace, we must have deep commitment to social, economic and political values and respect for human rights and the rule of law.

We are therefore, firmly committed to constitutional pledge towards our country in which 'rule of law, fundamental human rights and freedom, equality and justice, political,

economic and social, will be secured for all citizens.'

We are also deeply committed to link our economic prosperity with aspiration of mankind and to the economic prosperity of our region so that our people can make 'full contribution towards international peace and cooperation in keeping with the progressive aspirations of mankind.'

In addition to our initiative towards peace, Bangladesh has acceded to five such important instruments on the 5th October, 1998 which are: the International Covenant on Economic, Social and Cultural Rights 1966, the Convention on the Protection and Punishment of the Crime of Genocide 1948, the Convention on the Political Rights of Women 1952, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage 1962, and the Convention against Torture and other Cruel, Inhuman or Degrading Punishment 1984. Other major international human rights instruments of recent times such as Convention on the Rights of the Child (CRC) 1989 as a matter of fact Bangladesh Government enacted the Children Act, 1974, to consolidate, and amend the law relating to the custody, protection and treatment of children and trial and punishment of youthful offenders and Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 have long been ratified and acceded to and last year we have withdrawn two of our four reservations to the CEDAW. Also, the government is actively considering accession to a number of other international human rights Conventions. Bangladesh is also com-

mitted to sign the statute of the International Criminal Court.

More importantly, we are now finalizing a statute for the establishment of a National Human Rights Commission in Bangladesh. Considering the importance and role of such a Commission, the draft Bill was first formulated by my Ministry and made open for public consultation and deliberation on the day of the 49th anniversary of the UDHR, i.e., on 10th December, 1997. Since then, this draft Bill for the National Human Rights Commission has been discussed and scrutinized by a large number of groups and sections of our civil society comprising of jurists, judges and academics have consistently responded to their suggestions and recommendations. A number of organizations have not only commented but also published and circulated the draft Bill to elicit public opinion and have put forward their comments. We have incorporated a number of such suggestions and recommendations into the Bill for the establishment of the National Human Rights Commission.

We are aware that government must be mindful of the legitimate expectations of the people not only for the betterment of their material conditions of life but also be responsive to the concerns about transparency, accountability and people's participation in

the process of governance. Our task, as representatives of our respective peoples, is not only to legislate and exercise powers and functions but also to ensure accountability through institutions which can act as watchdogs. The older paradigm of check and balance fashioned through the separation of the three traditional organs of state, i.e., legislature, judiciary and the executive must now be supplemented by other institutions and organizations.

At this juncture let me recall that the goals of human rights law and humanitarian law overlap. Both humanitarian law and human rights are designed to restrict the power of State apparatus. With a view to safeguarding the fundamental rights of the individual. Human rights treaties (supported by customary law) achieve this objective in a comprehensive way insofar as they cover almost all aspects of life. Their rules must be applied to all persons and be respected in all circumstances (although a number of rights may be suspended in time of a grave emergency).

There are complaints, often on genuine grounds, of human rights violations, sometimes of very serious nature, of weaker groups by stronger groups in society if you look around and beyond yourselves, you shall be convinced of what I am trying to emphasize. Such violations

are taking place within the same country, even within the same religious, ethnic or cultural groups. These internecine conflicts often cause violence, punitive actions and bloodshed resulting in loss of life, liberty and property, mostly of innocent victims. These conflicts resulting in violation of basic human rights norms also cause massive movement of population from their country of origin and normal place of abode to places of safety in other countries and such movements invariably cause tensions between the states from where the movement takes place and the receiving state. Such movements also require enormous resources for maintenance, rehabilitation and repatriation of the migrants. These resources could very well be utilized for development of the countries concerned if these conflicts could be resolved peacefully with a little compassion for, understanding of, and will to, redress the problems and grievances of those sections of society which feel deprived. For resolution of internal conflicts-compromise, not confrontation, accommodation, not acrimony must be aim of the states faced with the problem. It is needless to mention that use of force and cruel treatment cannot solve any internal conflict be it for the right of self-determination or economic emancipation of the ethnic mi-

norities.

A further development in the philosophy underlying human rights law is the appearance of "Third Generation Human Rights", which particularly points to the need to be able to show proper respect for economic and social rights, the appropriate economic resources are required. The right to development is the uncheckable cry of the developing countries. The Vienna Declaration and the Programme of Action (VPA) says that "democracy, development and respect for human rights are interdependent and mutually reinforcing". It is now also universally recognized that "democracy, rule of law and good governance are essential for the protection, promotion and enjoyment of fundamental freedoms and human rights". The effective enjoyment of human rights, as we all know, depends largely on the objective conditions to be created through economic development and social justice.

The United Nations Declaration on the Right to Development and the VPA recognize Development as an inalienable human right. "The existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights," the VPA says, "its immediate alleviation and eventual elimination must remain a high priority for the international community."

The rights proclaimed in the Declaration appear meaningless for those whose basic needs

— food, clothing, shelter, health care and education are not fulfilled. The challenge before us has been to extend the noble ideals of human rights relevant to those whose life is a constant

desperate struggle for survival at a sub-human level.

As a representative of these deprived millions of a Third World State, may I urge for appropriate economic measures and mechanism for getting appropriate economic resources from our developed partners for the development of the developing countries so that the rights, particularly the economic, social and cultural rights, guaranteed in the International Bill of Human Rights may be meaningful to our peoples in these countries.

Bangladesh could initially, with support and endorsement of other, take on the responsibility of the Secretariat for initiating this process of formulation and adoption of the proposed Asian Charter of Human Rights.

One of the roles that the Members of Parliament often play in their respective countries and constituencies has traditionally been the role of human rights Ombudsman. This role can be linked with the institutions such as National Human Rights Commission in this country, as well as, within the regional framework as it may be likely to emerge in future. Along with conventional human rights, for us in Asia, the right to development is of utmost importance and I am sure that our Charter of Human Rights will adequately reflect this primary concern.

The right to development, of which peace and peaceful resolution of all conflicts is an integral part and may be set out in the Charter apart from similar documents of other regions and continents. The conference of people's elected representatives may adopt a Declaration announcing to the world our intention to proceed with the task of formulating an Asian Charter of Human Rights.

This article is based on a paper presented by the writer, who is the Minister for Law, Justice and Parliamentary Affairs, Govt. of Bangladesh.

## LETTER FROM AMERICA

## "Turkey Blocking Muslim Aid to Quake Victims"

Dr Fakhruddin Ahmed writes from Princeton

*Suffering a ferocious earthquake on August 17, and a considerable aftershock two weeks later, Turkey needs all the help it can get. And people of every colour, creed and religion all over the world are dying to aid the Turkish citizens in their hour of need. It will be helpful if the Turkish government and military put the interest of quake victims ahead of their own.*

THE above was a headline in the *New York Times* on Friday, August 27; the writer did not make it up. A week earlier, before the Juma prayers on Friday, August 20, the Imam at our local Islamic Centre made an earnest appeal for donations for Turkey's earthquake victims. We all emptied our wallets. It may have been in vain. If the *New York Times* report is correct, the Turkish government may not accept our donations! On August 31, The American Jewish Committee took out a full page ad in the *New York Times* soliciting donations for Turkey, the cherished friend of Israel and the Jews." Lucky Jews, they know that Turkey will accept their money!

At this critical juncture, the last thing one wants to do is criticise Turkey's earthquake relief efforts. However, one has to point out the impediments placed by those who put their self-interest above those of the earthquake sufferers, in the way of maximum aid quickly reaching those who need it most — the earthquake victims.

When a catastrophe such as the devastating Turkish earthquake occurs, the first reaction of a half-decent human being is human — to reach out to the victims. You do not worry about the nationalities or the religion of the victims. Hats off to the Jews of Israel and America, and Christians of the West for coming to Turkey's aid! Our Islamic centre had raised funds for the victims of the Oklahoma city bombing 1995, none of whom were Muslims, and received a gratitude-laden letter from the state's Governor.

Our hearts and dollars went out to the victims of Union Carbide's (American company) Bhopal, India, plant explosion in December, 1984. The explosion resulted in the emission of poisonous fumes that killed thousands of people in the surrounding areas. No one asked whether the victims were Hindus or Muslims. In fact, the

writer had taken to task an Indian (Hindu) friend who bought Union Carbide stocks after it nose-dived in the aftermath of the Bhopal accident: "How can you buy the stocks of a company for a profit when they have just murdered thousands of your country people?" I had said.

Unfortunately, Turkish authorities do not feel that way. At a time of national peril, the Turkish government and military remain deeply suspicious of the motives of donors who share the same Islamic faith of the Turkish masses, to the detriment of the earthquake victims.

The *New York Times* report read: "Early last Saturday morning, a squad of police officers arrived at the Istanbul headquarters of a Muslim-oriented foundation called Maziim-Dar and searched the premises. They were not looking for weapons or subversive material but for illegally collected blankets, tents and other earthquake relief supplies. It turned out that the foundation had not collected any supplies, and the officers left empty-handed. On Monday, however, the governor of Istanbul ordered the foundation's bank account blocked until further notice."

The raid reflected the government's determination not to allow Muslim groups to join the earthquake relief effort. Senior military and civilian leaders fear that if such groups win public confidence with their relief work, they will also win new converts to the cause of political Islam, which the Government views as a threat to Turkey's secular order. Government officials have urged

donors to contribute only to the Red Crescent, Turkey's equivalent of the Red Cross or other officially approved relief groups. They have refused to grant permission to groups that are perceived as pro-Islamic, like, the Mazlum-Dar foundation, to collect or distribute aid in the earthquake zone."

For years, religious groups in Turkey have served as unofficial welfare agencies for the destitute, homeless, unemployed and dispossessed. When a house burns down, a child takes ill or a family is evicted from its home, Islamic foundations and neighbourhood clubs often respond more quickly and generously than government agencies. And the beneficiaries of their help often become enthusiastic supporters of the Islamic political movement. After last week's catastrophic earthquake, it seemed logical to expect that Islamic groups would be among the most active in aiding victims. But in most devastated towns, they were nowhere to be seen. The Islamic-oriented political party, the Welfare Party, was banned last year."

The government has worked on various fronts to prevent Islamic groups from aiding earthquake victims. They are doing everything in their power to make sure that these groups are not allowed to work visibly in the earthquake zone. They see this work as ideological, and don't want Islamic groups or Islamic people to be able to take credit for helping anyone. Many earthquake victims are seething with outrage at the government's relief efforts, which they

complain began late and remains in chaos. Officials fear that in this climate, Islamic groups could win considerable sympathy if they show themselves able to deliver aid quickly and effectively."

"The government is very sensitive, because they are worried about the political consequences of this growing public anger. Muslim brotherhoods have been very active in meeting the needs of the migrants and poor people, and they are now trying to reach the people in the earthquake area. The government finds this very alarming. They see it as an effort to create a support base for Islamic politics."

"Although Islamic groups have not publicly protested restrictions on their relief work, some of their avid supporters have suggested that the earthquake was a form of divine punishment for Turkey's insistent secularism. It is suggested that the naval base at Golcuk, which was destroyed in the quake, was a target of heavenly wrath because it was the site of meetings in 1997 at which the military officers decided to crack down on Islamic political movements."

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"Such views are not widely shared even among devout Turkish Muslims," the *Times* report concludes. And rightly so. God works in mysterious ways; mankind can only speculate. However, what is amazing is people's reactions in the aftermath of such catastrophes. Before the Bosnian holocaust (1992-95), the Muslims of Bosnia were indistinguishable from Christians — they drank, dated and ate pork. Having lived through hell, they are turning more and more to Islam. The Kosovars were no different. After suffering through Serb pogrom, the only thing the Kosovars the writer met in America wanted was "anything Islamic."

The contradictions inherent in Turkish society — devout Muslim masses, and a "secular" (anti-Islam) government and military — cannot continue for ever. Sooner or later Turkey is going to burst at the seams. Having lived in the US, the writer knows what a truly secular state is like. Turkey is not secular; its government and military are rather anti-Islamic. To an outsider, it appears that like communism, Kemalism has failed. Only the beneficiaries of Kemalism — the government and the military — want it continued. The good things the world remembers Turkey for, predates Mustafa Kemal Ataturk.

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quake on August 17, and a considerable aftershock two weeks later, Turkey needs all the help it can get. And people of every colour, creed and religion all over the world are dying to aid the Turkish citizens in their hour of need. It will be helpful if the Turkish government and military put the interest of quake victims ahead of their own.

**W**ORRY is interest paid on trouble before it becomes due," said Dean Inge, an English clergy of the 19th and early 20th century. In fact, this perceptual saying is universally applicable to all people in all ages without exception. But there is variation in the degree of worry from person to person.

Psychologists look at it as an impact of "bad emotions caused by a faulty attitude to life, and in particular, to other people". Fundamental misunderstandings in the sphere of human relationships is yet another palpable cause that creates worries. Most of us have problems from time to time and sooner or later they pass. Yet we suffer a lot of needless misery because very few of us have any idea about the course that would bring relief and/or even remove our worries. We may have a look at the rules of happy living. These are collected from widely different sources in the form of advice which may be found interesting and also thought-provoking:

1. Don't worry: Worry is a waste of time; it is also dangerous. Try not to worry about either the dead past or the unborn future. Sir William Osler, one of the greatest doctors who ever lived, said: "Shut off the past! Let the dead past bury its dead! The load of tomorrow, added to that of yesterday, carried today, makes the strongest falter. Shut off the future as tightly as the past — the future is today — there is no tomorrow. The day of man's salvation is now. Waste of energy, mental distress, nervous worries dog the steps of the man who is anxious about the future."

2. Work well: The best cure for worry is hard work. Bernard Shaw wrote: "The secret of being miserable is to have the leisure to bother about whether you are happy or not."

3. Have good aims: "Happiness is a state of going somewhere"; have an aim in life. Cultivate friends and concern yourself with other people's well-being rather than exclusively with your own. Happiness is a by-product of leading a useful life and cannot be found by a deliberate search for it. "Whosoever will save his life shall lose it."

4. Help others: Try to help others whenever possible, but do so from the inner joy of giving and helping, not in order to earn their gratitude. Gratitude is one of the rarer virtues.

5. Don't expect too much from others: Don't be cynical about people, but, on the other hand, don't expect too much of them. Marcus Aurelius, the

Roman emperor wrote: "I am going to meet people today who talk too much, people who are selfish, egotistic, ungrateful. But I shall not allow myself to be surprised or disturbed, for it would be impossible to imagine a world without such people."

6. Be modest in your demands of life: Don't expect too much of life, and certainly don't allow yourself to feel permanently frustrated if you fail to get what you want. The Roman philosopher Seneca said: "If you have what seems to you to be insufficient then you will be miserable even if you possess the world."

7. Avoid the "bad" emotions: Avoid like the plague the harmful emotions of anxiety, fear, hate, resentment and jealousy. They are a waste of energy; they make you an unpleasant companion to others; and they make you seriously ill. The resentful and jealous or aggrieved person is, as Shaw puts it: "a self-centred little clod of ailments and grievances complaining that the world will not devote itself to making him happy."

8. The character of our own thoughts: In the last analysis all troubles are psychological — they are never determined by circumstances. "Our life is what our thoughts make it," said Marcus Aurelius.

9. The selfishness of depression: Nearly all depression is a form of selfishness. Psychologist Alfred Adler wrote: "It is the individual who is not interested in his fellow man who has the greatest difficulties in life. He is unhappy because he does not find others who are interested in him."

10. Cultivate your religion: Dr A B Brill, a leading psychoanalyst said: "Anyone who is truly religious doesn't develop a neurosis," and the greatest psychiatrist, Professor C G Jung wrote: "Among all my patients over thirty-five there has not been one whose problem in the last resort was not that of finding a religious outlook on life. Everyone of them fell ill (with neurosis) because he had lost that which the true religions of every age have given to their followers, and none of them has been really cured who did not regain his religious outlook."

**Causes of Unhappiness:** To a doctor, a social worker or a psychologist it transpires soon that there are three immediate causes of unhappiness: ignorance, environmental problems, and psychological problems.

Most unhappy people are suffering from a mixture of all three.

By "ignorance" it is meant that many people are discontented or troubled either because they do not know where to turn for help when it is needed or because they have got into difficulties through not knowing the rules of living.

Environmental problems mean not getting on with the people one has to associate with, being in a job which one finds unsatisfying, and all the other everyday situations which arise from clashes between the individual and his surroundings.

It is however difficult to define psychological problems. While "environmental problems" represent the trouble lying mainly in the person's surroundings and circumstances, the "psychological problems" point to the trouble lying mainly within the individual himself. For example, if a man is unhappy in a particular job, leaves it, and later finds a job in which he is quite satisfied, it should be supposed that it was originally a case of "right man, wrong job", but if he goes from one job to another, never finding the "right" one, then there is surely something wrong with the man. Similarly, it is quite possible for a girl to meet the wrong man once, or even twice, but if all her attachments end unhappily, it is likely there is something wrong within herself.

**Conclusion:** In order to be happy one needs a goal to strive for, the love of a few, and the respect of those who share our views. The opinions of others need not matter. Therefore, one is unhappy: 1) if one has no goal; 2) if one is prevented by circumstances from attaining reasonable goals; 3) if one has chosen unreasonable goals which cannot be attained; 4) if one is compelled by circumstances to mix with the kind of people one finds congenial; 5) if one is prevented by one's own personal defects (shyness, for example) from mixing with those who are congenial.

Lastly, there are those unfortunate people among us who may have done some wrong at some time in the past, and can't stop thinking about it. Everyone has done mistakes, everyone has done wrong — but if you go on brooding over it and let it interfere with your duties of today, you are doing much more wrong. Depart from evil and do good" — goes the holy saying — "turn wholly from evil, stop thinking about it and do good. You have done wrong? Then balance it by doing right."

(The writer is an industrial management consultant.)

## Garfield

