

HUMAN RIGHTS advocacy



RIGHTS corner



The other silent killer

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WE all know about the various aspects of domestic violence, thanks to media reporting and human rights organisations. But how many cases are actually reported? Why do we have to wait for the victim to be murdered, commit suicide or be doused with kerosene or acid and burnt in order for the news to hit the headlines in an attempt at a series of cheap sensationalism or for the police to be embarrassed into doing their duty?

We all know as well that despite the well-intended laws prevalent in the country purporting to protect women from violence, the lack of implementation of such laws, police indifference and the slower-than-a-snail pace at which the legal system tiredly moves, makes seeking remedy a futile effort. Furthermore, the two reigns of 'shame' and 'honour' (meaning father and/or husband's honour, of course) hold back attempts to report domestic violence. Like carbon monoxide, domestic violence is, in many cases, the silent killer.

Why is domestic violence such a 'speak no evil see no evil hear no evil' kind of thing? Is it macho or manly to beat the heck out of one's wife? Is it a mark of dominance? Or is it economic frustration? Maybe it is sheer impatience and a mean disposition. Unfortunately, in

some cases it is a mix of all, with a good helping of family attitude and misguided upbringing. Women are subjugated to silence and tolerance by fear and mental and physical pain or by the fear that they may not be accepted in their father's home even if they

demand for dowry seem to be two of the main causes of domestic violence. Every year there are hundreds of reported cases of such violence. One can only wonder about the number of others not reported. In 2003, 261 women were reportedly killed by their

It is easy to guess that the former may be the truth of things. What adds to the cruelty is that a large number of wives who suffer domestic abuse are below the age of 18 child brides. Thus, these women suffer a double abuse. Such young women often end up

Violence law? We have laws for almost everything else on paper. At least, if there was such a law, seeking remedy for such criminal violence might not be such a tedious event. May be the reason for not drafting a law on domestic violence and the reason for not ratifying the whole of the UN Convention on the Elimination of all Forms of Discrimination Against Women are the same they will bruise the male ego. It is no excuse to state that the Penal Code and the law protecting against repression of women and children are enough to safeguard women. Domestic violence has a lot of dimensions to it and the sheer fact that it is so close to the proximity of women, proves that it needs to be dealt with separately and swiftly.

Again, in order to pass such a Bill, there needs to be actual participation of women not only in the legislature, but also in the NGO arena, the grass roots level and from all professions. There needs to be a collective female will strong enough to create a tidal wave to wash away male biases and hesitations. For those interested in drafting such a Bill and making sure it is enacted, Domestic Violence laws can be found in India, the UK and in the United States for reference. One word of advice please do not leave mental torture and aggravation out of the equation. They leave scars as well.

The author is a member of Odhakar.



PHOTO: AFP

find the strength to leave their husband's. However, some, especially in rural Bangladesh, accept it as their lot and expect to be beaten at will.

On a more serious note, economic frustration and the illegal

husbands in domestic disputes over dowry. In the first eleven months of 2004, there were already 149 such deaths reported, which leads one to think whether such incidents are on the increase or whether more are being reported.

as victims of acid violence, grievously injured by their husband's and/or in laws.

Since the Legislature is so good at drafting new laws at the drop of a hat, how come no bright sparks thought about drafting a Domestic

A human rights approach to control over food

SHAILA SHAHID

FOOD-the basic and fundamental need of life is organically connected to the most basic right to life. The concept of the right to food has been formally recognised since the adoption of the United Nations Universal Declaration of Human Rights (UDHR) in 1948.

United Nations has identified access to adequate food as both an individual right and a collective responsibility.

The 1948 Universal Declaration of Human Rights proclaimed that "everyone has the right to a standard of living adequate for the health and well being of himself and his family, including food...". Nearly 20 years later, the International Covenant on Economic, Social and Cultural Rights (1966) developed these concepts more fully, stressing "the right of everyone to ... adequate food" and specifying "the fundamental right of everyone to be free from hunger." A further commitment to the right to adequate food came in 1999 from the United Nations Committee on Economic, Social and Cultural Rights. An authoritative statement, General Comment 12 also seeks to clarify the substance of the right to adequate food, stating that the right is realised "when every man, woman and child alone or in community with others (has) physical and economic access at all times to adequate food or means of its procurement". This implies the availability of food in a quantity and of a quality sufficient to satisfy the dietary needs of individuals, free from adverse substances and acceptable within a given culture. Also the accessibility of such food should be in a ways that are sustainable and that do not interfere with the enjoyment of other human rights.

The General Comment further identifies three types of obligations emanating from the International Covenant. That is like other economic and social rights, the right to adequate food confers an obligation over states to respect, protect and fulfilment of that right. This emphasises that states should not adopt measures that could ultimately prevent access to adequate food, rather state should adopt measures to ensure that no individuals are deprived of their access to adequate food and they should proactively engage in activities to strengthen peoples access to and use of resources, including means to ensure their livelihood and food security. Thus the livelihood and food security can be met by effective implementation of land laws, labour laws, humanitarian laws and genuine agrarian reform. Whenever an individual or group is unable for reasons beyond their control to obtain adequate food through the means at their disposal, states have the obligation to fulfil that right directly. The right to freedom from hunger is fundamental. This means that the state has an obligation to ensure, at the very least, that people do not starve. As such, this right is intrinsically linked to the right to life. Subsequently, its provision should not interfere with the enjoyment of other human rights -- for example, the acquisition of sufficient food for an adequate diet should not be so costly as to threaten the satisfaction of other socio-economic, civil and political rights.

Eradicating hunger is not merely a lofty ideal. Ensuring the right to adequate food and the fundamental right to be free from hunger is a matter of international law specifically enshrined in a number of human rights instruments to which states around the world have committed themselves.

- Many existing multilateral agreements and Conventions addressed the right to food and enshrine utmost importance to get freedom from chronic hunger and malnutrition. A short list includes:
- Universal Declaration of Human Rights
 - The International Covenant on Economic, Social and Cultural Rights
 - Universal Declaration on The Eradication of Hunger and Malnutrition
 - Convention on the Rights of The Child
 - The Convention on Biological Diversity
 - World Food Summit Plan of Action
 - Beijing Platform for Action
 - Habitat Agenda
 - Agenda 21

It is to be mentioned that more than 40 countries of the world already have the right to food entrenched in their constitution though very few countries however elaborated the constitutional provisions into domestic legislation as required by the International Covenant. At present, there is no internationally binding instruments to recognise and guarantee the peoples and communities right to food. Nationally and internationally a binding instrument is urgently needed to guarantee and safeguard peoples and communities right to food, which can assure and provide the freedom and power to exercise the rights by the people.

A rights-based approach can provide to ensuring adequate food by empowering poor people who are food insecure. Empowerment also removes the full burden of states for providing food. When people enjoy food security they are also better able to participate in the civic life of their community and nation. The rights-based approach introduces the well-established principles in international human rights law and nondiscrimination and equality.

It is obvious that when we recognise peoples right to food then we must also recognise the right to produce food and assure the access to the productive resources like land, water and technology. Furthermore, mere recognition of rights cannot bring any changes until we realise and take necessary step towards achieving those. It assumes the recognition and empowerment of people and communities to realise their economic, social, cultural and political rights regarding the choice of food, access to food and to produce food of their culture. Hence a single and narrow approach of right to food cannot address and give the solutions of overcoming the problems of freedom from hunger. A more comprehensive approach from "Food security" to "Food sovereignty" can bring a pro-people movement where farmer has the control over their land and has access to resources to ensure food production.

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HUMAN RIGHTS monitor



Ethnic and refugee children are struggling for their rights

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CHILDREN often suffer from problem created by adults. As they are suffering in Iraq. However, they also suffer in emergency situation like in separatist movement as they are suffering in Sri Lanka. Children in Bangladesh have also encountered problems when there is a crisis situation. Children in Chittagong division particularly children from ethnic community of Chittagong Hill Tracts (CHT) has suffered a lot as there had been bloody clashes between the government forces and rebel Shanti Bahini. Again, Rohingya children from neighbouring Myanmar took refugee in Bangladesh and their suffering knows no bounds. Thus, children are the worst sufferers of any emergency situation and their survival and development are greatly hampered due to their vulnerability in a state of emergency.

Non discrimination--the key human rights principle

Firstly, non-discrimination is one of the basic principles of human rights conventions. Though discrimination is made on the basis of ethnicity, it has been codified in International Covenant on Civil and Political Rights (ICCPR) "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, 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."



PHOTO: INTERNET

It is the entirely true in case of children, nevertheless, UN Convention on the Rights of the Child (UNCRC) clarifies it explicitly in Article 2, "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."

Refugee children in Bangladesh

Though military junta in Myanmar tried to use public emergency as an excuse, ICCPR asserts it vividly in Article 4, "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin."

Without showing any respect to international law, the military junta of Myanmar banished a good number of Arakani people solely on the basis of social origin. As a result, their children are being grown up in refugee camps in Bangladesh.

Again, all the governments of Pakistan who came to power after 1971 seemed to be very reluctant to settle Bihari issue, though UNCRC clarifies the responsibility in Article 22, "States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties". Children from Bihari community are growing in a condition harmful to their mental and physical health in refugee camps.

Ethnic children in Chittagong Hill Tracts (CHT)

As there had been a political unrest in CHT, the children from ethnic minorities suffered a lot. A good number of them took refugee in neighbouring India with their parents. Though international laws provide safeguard for refugee children, their survival and development greatly hampered for living in an inadequate living condition in refugee camps.

Though they have returned back to Bangladesh after the peace accord came into force, the accord has not been implemented wholly due to the absence of political consensus. There has been a lack of understanding between the hill people and the settlers Bangladeshi in CHT and children from both communities suffer a lot. All the incidents and occurring don't contribute what has been described in Article 29 of UNCRC as the education is directed to the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own.

"In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language" - though it has been codified in Article 30 of UNCRC, ethnic minorities have very limited opportunities to use their language.

Although primary education is free and compulsory and it is a constitutional right (Article 17 of the Constitution of the People's Republic of Bangladesh), literacy rate in CHT is one of the lowest. According to UNCRC, the education of the child shall be directed to the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin. Considering our educational system, it is still a far cry.

Concluding remarks

There has been a Draft United Nations Declaration on the Rights of Indigenous Peoples. "Indigenous peoples have the right to the full and effective enjoyment of all human rights and fundamental freedoms recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law" said in Article 1 of the draft at the very outset. It is similarly applicable to refugee community. Human rights are rights possessed by all persons, by virtue of their common humanity, to lead a life of common dignity and the realisation of human rights would help building a free society in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples.

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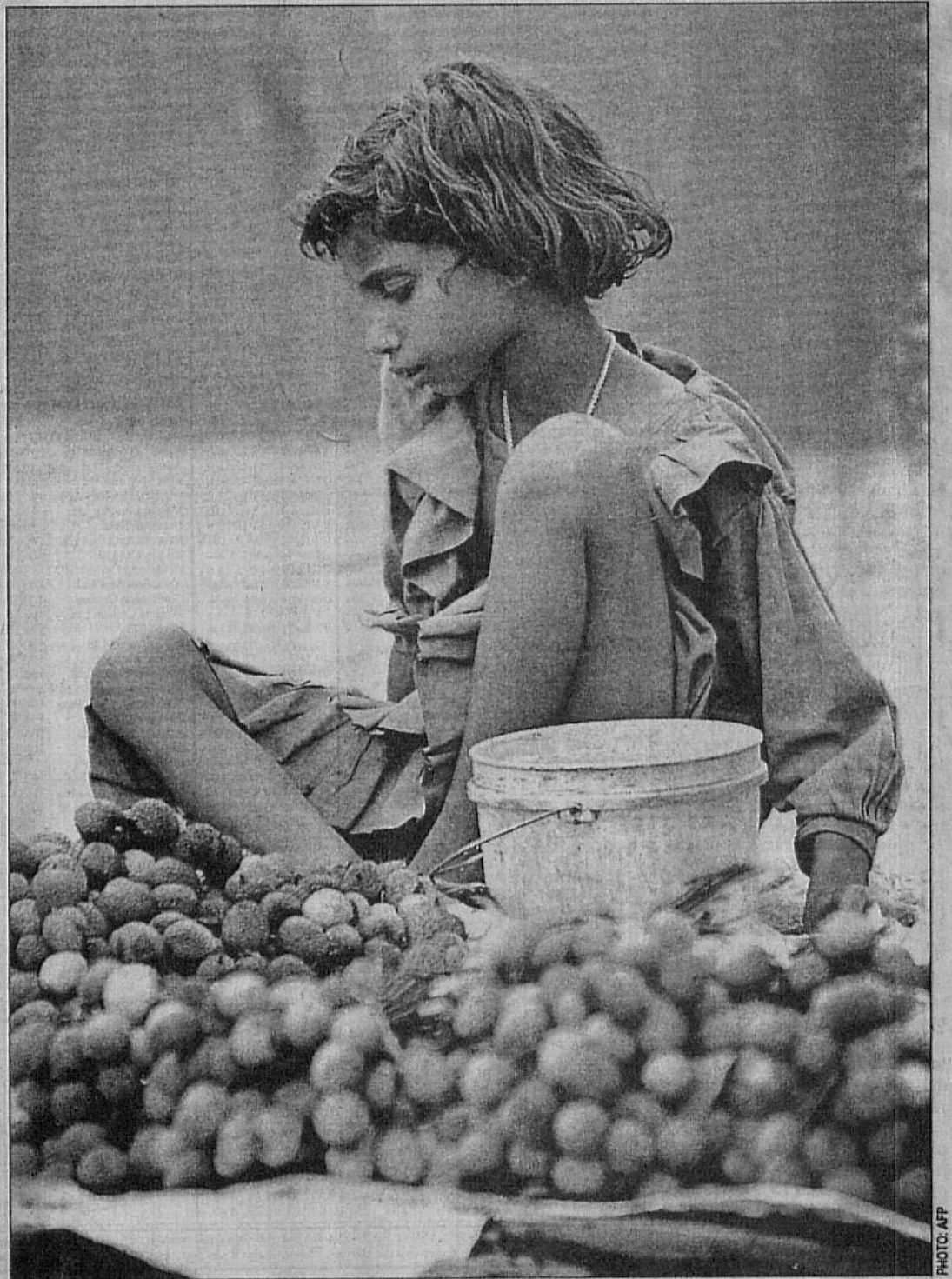


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