

## HUMAN RIGHTS analysis



## LAW campaign



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RIDOYPUR DECLARATION  
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# Women's human rights

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HOW do you judge the progress of a society? This query raises another question: what is the status of women within the society?

Treatment of women mirrors a society. It implies that the yardstick of judging a society is to measure as to what extent women enjoy rights as equal as men in all spheres of public activity.

Equal opportunity to all irrespective of the gender stands for fairness, no matter where you are born, who you are, what you like or what your social status is. Every one is entitled to the same opportunities as every other person.

It is acknowledged that giving proper and equal status of women is imperative for healthy development of society. In other words, development and women's human rights go together and cannot be separated.

Nobel Laureate Amartya Sen in his book "Development as Freedom" (1999) argues development as a means of removing discrimination to women and separation of economic from political rights is not possible. Development means providing empowerment of women in society. Empowerment gives creativity, innovation and improvisation to women.

### Women are discriminated in both developed and developing countries

In both developed and developing countries women are not treated equally. For example, in industrialised countries, women still get less pay in most private sectors. In the corporate world, women face "glass ceilings or barriers" to rise to the top. Most women do not get jobs when they are between 35 to 40 years of age. For example, in some airlines, they only recruit young airhostesses, while men stewards can be of any age.

In the developing world, large number of women is deprived of basic human rights such as equality with men in society. Employers often provide women workers with low wages and seldom give maternity allowance.



PHOTO:AFP

Discrimination is seen widely in employment in private sectors.

### International Human Rights Instruments for Women's Rights

The most important document is the 1948 UN Universal Declaration of Human Rights. In its Article 1, it reads: "All human beings are born free and equal in dignity and rights" There is no distinction between boys and girls.

The most significant document is the 1979 UN Convention on the Elimination of All forms of Discrimination Against All Women (CEDAW). More than 165 countries have ratified it.

In Article 1 of the Convention, discrimination has been defined as "any distinction, exclusion, or restriction made upon" on women which has the effect of impairing or nullifying or restricting the rights of women.

Under the Convention, a UN Committee of Experts monitors annually the legislative, judicial and administrative measures of state-parties and report any failures or shortcomings in the implementation of women's rights in countries to the UN Economic and Social Council of the General Assembly.

The 1993 Vienna Declaration at the World Conference on Human Rights makes it clear

that all violence against women in public or private life and all forms of harassment exploitation and trafficking in women are prohibited. The Convention goes further and stipulates that "customary and cultural practices" against women grossly violate women's human rights.

Two Human Rights Conferences on Women were held in 1995 (Beijing) and 2000 (New York) to highlight the promotion and protection of women's human rights.

### Society's responsibility to promote equality of men and women

To eliminate discrimination, great amount of work needs to be done in changing the attitude of men towards women and there is a role for the government, non-governmental organizations and civil society.

Discrimination, like disease, exists in many varieties and forms, some are subtle and some are obvious. Discrimination, unless checked, slowly creeps in a society that in turn distorts conduct and behaviour of human actors.

Some sociologists suggest the change must begin from household. Empirical evidence indicates parents in general have a bias in treating boys better in preference to girls. Boys get all attention, are often sent to better schools and even get comparatively nutritious food than girls. This is partly because boys are destined to play a pre-determined cut-out role in a patriarchal society, denied, otherwise denied to girls.

Academic institutions must ensure that boys and girls are not discriminated. Interpretation of religious texts must not provide an excuse to treat girls discriminately from boys.

Government has to address the root causes of discrimination of women and some of them include (a) anti-poverty approach, (b) equity approach and (c) empowerment approach.

In these approaches, there is an underlying "golden thread" that both men and women can equally contribute to development of the country through their productive work. All these steps signify myriad processes of creating social consciousness about the role and status

of women in the country.

### Bangladesh and Women's Rights

Bangladesh's Constitution and various laws provide equal opportunity for men and women.

Articles 19, 27 and 28 of the Constitution emphatically make clear that women should enjoy equal rights with men and no discrimination is permissible.

Prominent laws to protect women in the country include, the Dowry Prohibition Act, 1980, Cruelty to Women Act, 1983, Child Marriage Restraint Act, 1984, Dissolution of Muslim Marriages Ordinance (Amendment), 1986, Women and Children Repression Prevention Act, 2000, Acid Offence Prevention Act, 2002 and Acid Control Act, 2002.

On paper, the laws sound fantastic. However, the laws are not enough because the enforcement of laws is weak.

Furthermore, women face numerous difficulties to dissolve marriage. It is noted that the rule 18 of the marriage deed (nikahnama) appears to be clearly in favour of men. Rule 5 of the deed discriminates women because women have to declare before marriage whether they were married before, while men do not have to declare such statement.

The existence of some orthodox groups in the society that want to restrict the role of women in public spheres does not help in removing discrimination between men and women.

### Conclusion

Discrimination of women is a global problem. It has to be acknowledged first that women do contribute to development and economic growth of a country. Until and unless public policies accord due recognition to participation of women in public spheres and design in such a manner to draw women in developmental activities, there will be manifest discrimination against women.

It is a long-term task and cannot be removed by laws only. The attitude of society towards women needs to be changed

The author is Former Bangladesh Ambassador to the UN, Geneva.

## HUMAN RIGHTS monitor

# 'Are people receiving justice?'

SHAKEEL ANWAR

### Child, yet not a child

Surrounded by raised walls like a jail, Poolerhat juvenile correction centre stands at one end of the Jessore district town. Simply put, it is a jail for juvenile offenders.

On the other side of the huge iron gate, 20 to 25 youths are enthusiastically playing cricket in a rain-drenched field. Some of them are here for murder cases, some for arms, and some merely for stealing or running away from home.

Mojibur Rahman, the Centre Supervisor, gave permission for a few of them to talk, though for legal reasons their real names and identities are not mentioned here.

Thirty years in jail." When the judgement was delivered, at the beginning of 2003, Kader was fifteen years old. The judgement at his trial says that it was made according to the Children's Act, yet he was sentenced to 30 years.

Mujibur Rahman, the centre supervisor told the BBC that "we often see these kinds of strange, self-contradictory judgements. According to the Children's Act, there is no provision for punishment for more than ten years. It seems to me that a lot of learned judges do not have a clear idea about the Children's Law."

"There's a lack of clarity in the explanation of the law regarding some important issues" he added. "For example, we can't keep anyone in the centre who has reached 18 years of age. What will we do with those who cross that

cents were supposed to be judged by the Children's Act 1974. Under no circumstances were they supposed to be with adults in a normal jail. But very few of the juveniles of Poolerhat have been fortunate enough to receive such protection.

### Shorupjan Bibi: At the doors of the Law

Sharsha is a village of Tala thana in Shatkhira, situated on the banks of the river Kopotaksha. It is like any other Bangladesh village. After a long search we found Shorupjan Bibi's house: a straw-covered thatched-roof earthen hut, a tiny courtyard.

Coming out of her kitchen made of bamboo laths and seeing people she didn't know, the elderly lady, Swarupjan bibi, shrivelled a bit at first. After learning our identities she spread out a mat, woven of date-palm leaves, on the veranda. Then she started to share her story slowly.

Widowed with a son at a young age, Swarupjan bibi, received approximately an acre of land in writing from her mother. But to protect this, Swarupjan has been fighting for over a decade. In 1989, by producing fake documents, an influential person of the village grabbed that piece of land. From then on, for the last 15 or 16 years this widow has been shuttling from court door to court door.

While showing us the court papers, Swarupjan bibi said that "the verdict of the Shatkhira Zilla Judge Court in 1992 was in my favour. I thought Allah had saved me. But then they took the case to the Dhaka High Court."

When the hearing day is fixed this illiterate widow collects from here and there and travels 200 miles to the court in Dhaka.

"I think I have been to Dhaka 50 times. Even after all these days, I can't repay the 20,000 Taka I borrowed on interest and paid to the advocate. I collect money through begging, asking people and give it to the court", Swarupjan bibi said in her local accent of Shatkhira.

Yet she had a stroke of luck recently. She is now receiving legal assistance from a local non-governmental organisation.

However, visit any court in Bangladesh and one will find frustrated and bewildered people with minor cases shuttling backwards and forwards for years on end. The cases have left many of them utterly ruined.

But there are problems inside the court too.

### On the veranda of the court

Chudanga district court. Even before the clock has struck ten, the veranda of the court, the courtyard and the long hall of the advocates are spilling over with people.

Two clients were on the heels of Mahtab Hossain, a renowned lawyer in this district. Both have hearing dates today. But they do not know whether their hearings will take place.

After filing a case to evict a tenant, Mahfuzul Islam has been coming here for ten years. There is no special bench in Chudanga to try such minor cases. It is difficult for his case even to be listed in other benches.

Osman gani's case is also of eviction. He said, "The SA record is in my name, Dalil [land registry documents] is mine, and I've been enjoying the land for last 33 years. Yet, they are harassing me by lodging a case against me with fake documents".

The case has been running for seven years. "It doesn't end. The dates of the case are shifting each month. They say that the judge is absent. [It's all about] coming to Chudanga each month, leaving my job and counting the fees of the advocate".

However Advocate Mahtab Hossain said that the main reason for the cases' lingering is the shortage of judges. There are two assistant judge posts in Chudanga. The assistant judge post for two thanas of Alamdanga and Damurhuda have been vacant for the last ten years.

"Moreover, it has become a routine matter that, when government witnesses come to attend the criminal cases the civil cases get adjourned", Mahtab Hossain added.

In an interview, Law minister Barrister Moudud Ahmed told the BBC, that the lengthy process of litigation is a matter of great anxiety for him.

He spoke about quite a few initiatives taken to solve this problem. For example, the courts are given targets of time to dispose of the cases. Severe prohibited orders were made to stop the wilful adjournments.

"We are mostly trying to reduce new court cases". Mr. Ahmed said that, "30% of cases in the country are of small issues. We are trying so that these cases can be disposed of by mediation outside the court".

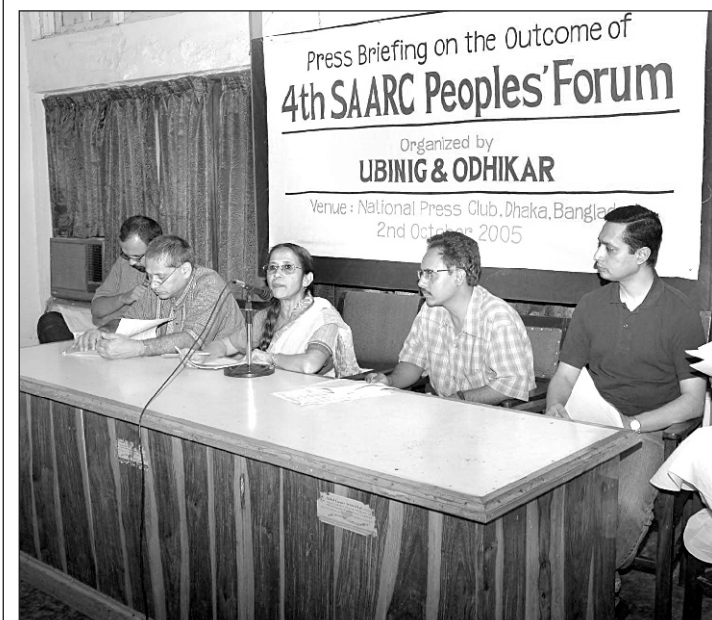
For this, alternate dispute resolution, i.e. mediation, has been given a legal footing. In four months 4,000 cases have been disposed off through mediation, the Law Minister added.

There are approximately 10 lakhs of cases pending in Bangladesh, of which 80% are civil cases, especially land-related disputes. In Dhaka alone, there are approximately 100 cases which have been going on for the past 35 years or more. One case in Khulna was adjourned for 1,266 times.

How long the initiatives articulated by the Law Minister will take to achieve results is uncertain. However, victims claim that so many unresolved cases have created a public loss of confidence in the whole judicial system

Bangladesh Sanglap 1: 'Are People Receiving Justice?' is broadcast this evening [Thursday] on BBC Bengali Radio after 'Probaho' from 8pm on special frequencies SW 31 & 41 metre band (9395 & 7520 kHz) and FM 100 MHz in Dhaka. The Daily Star is also a media partner of this. It will be shown on Channel 1 on Sunday from 8pm

The author is working with BBC



transportation, forced movement, and/or selling and buying of women within and/or across borders by fraudulent means, deception, coercion, direct and/or indirect threats, abuse of authority, for the purpose of placing a woman against her will without her consent in exploitative and abusive situations such as forced prostitution, forced marriage, bonded and forced labour, begging, organ trade, etc.'

"Trafficking in children consists of all acts involved in the procurement, transportation, forced movement, and/or selling and buying of children within and/or across borders by fraudulent means, deception, coercion, direct and/or indirect threats, abuse of authority, for the purpose of placing children against their will or without her consent in exploitative and abusive situations such as commercial sexual abuse, bonded and forced labour, begging, sports such as camel jockeying, organ trade, etc."

These definitions should be included in the 'SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution' to broaden the scope of the Convention beyond prostitution. We urge our governments to amend the Convention so that it can address the trafficking for all purposes.

5. We urge upon the SAARC governments to implement the SAARC convention to help the victims of trafficking and to punish the criminals. We are against bilateral agreements between countries of South Asia, as this will weaken the implementation of the SAARC Convention and will result in complications of mutual bilateral issues rather than SAARC as a region. We believe trafficking is not a trade which happens between two countries alone. It is linked to international flesh trade and therefore South Asia must take it up as a regional issue.

6. Trafficking in women is encouraged by the sex trade, particularly prostitution, pornography, abuse of women in media and in general commoditisation of human being particularly women. We must act to stop activities which create demand for trafficking in persons.

7. We reject the Trafficking in Persons Report by US Department of State in which countries are ranked as Tier 1 to Tier 3 on the basis of the government's effort to combat trafficking. Countries ranked in Tier 3 are black listed and therefore are subjected to economic sanctions by USA, particularly cut-offs in non-humanitarian and non-trade related US aid. This report unduly blames the source countries of trafficking but there are no actions against the user and receiving countries.

8. A regional tribunal to dispose of cases must be stationed at a suitable centre, which can rotate as per requirement to stop the criminal trade link nationally & internationally. Policy of decriminalisation for the trafficked person must be adopted.

9. We are concerned that trafficking is also happening in the guise of cultural exchange programmes with the support of the government agencies. These should be stopped.



PHOTO:AFP

'Shafiq' was fielding in the slip with his trousers rolled up. He had been sentenced to eight years for an arms case in the Khulna Court. At the time of the crime he was only fifteen-years-old, though he was not judged according to the Children's Act.

"Before coming here I was in Khulna Jail with adults for two and a half years. Very painful. The adults used to beat me up. I always had to run errands for them. They wouldn't let me sleep," Shafiq said with his head bent downwards.

'Kader' is almost eighteen. "Mine is a murder case.

age? Will we send them to the jail? If so, what's the point of keeping them here and correcting them for all these years?"

Pointing towards a boy of 12 years old, Mojibur Rahman said that the police caught him and sent him here from Barisal nine months ago on a simple stealing charge. He's written three times to the court over the past nine months to try to get his trial started. But he hasn't had any reply. Mr. Rahman informed us that there is one boy whose case has been under trial for four years.

According to the law of Bangladesh all these adoles-