



**HUMAN RIGHTS** *advocacy*

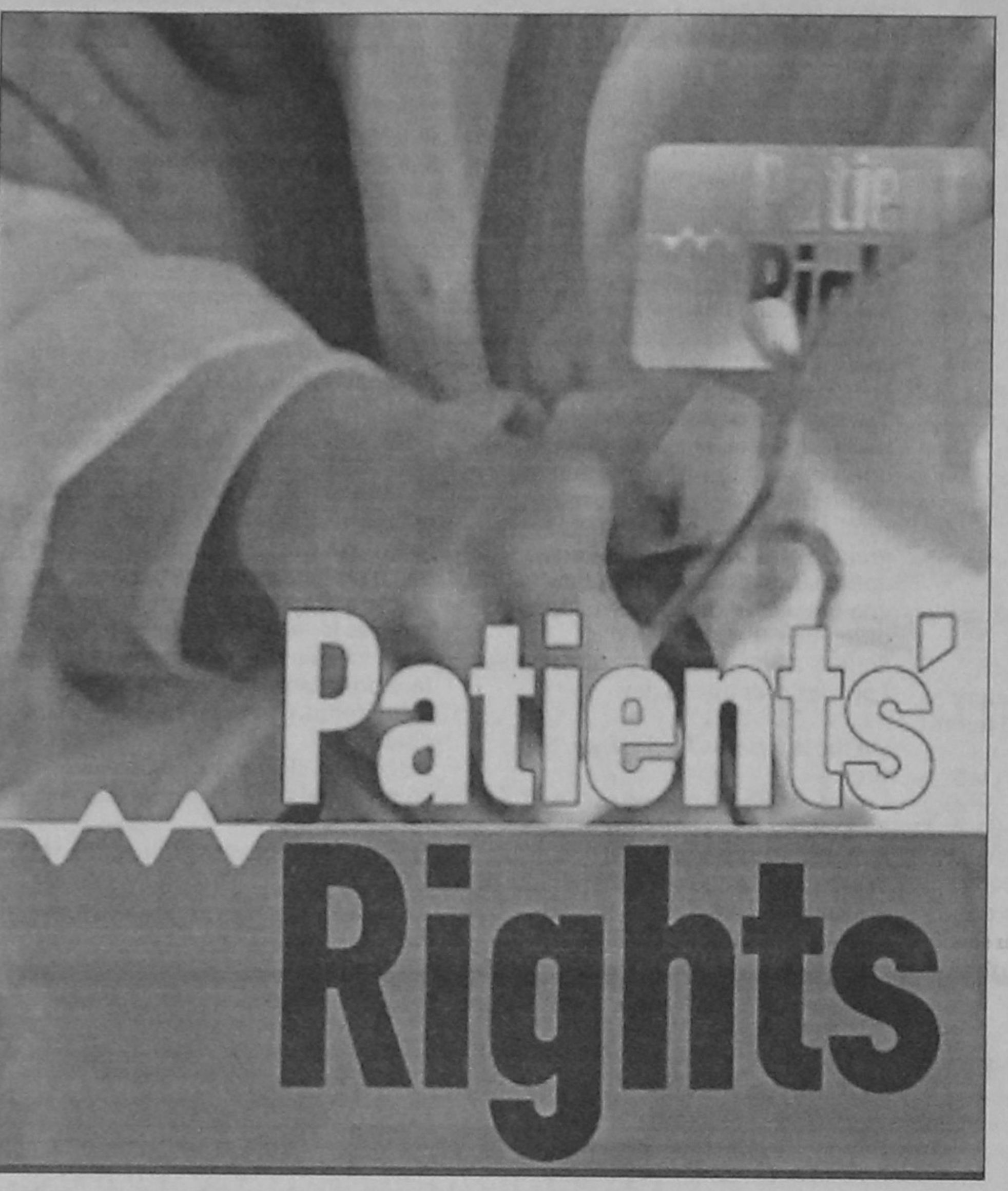
## Patient's right is also consumer's right

SYED GOUSEZZAMAN HAIDARI ALI  
**P**ATIENTS receiving services from doctors or hospitals are also consumers. They consume medical services. Patients are one of the most important classes among the consumers. In Bangladesh patients belong to the most neglected sector of consumers. Patient's rights have never been thought of or taken into account seriously.

conduct in respect of his profession, the Council may refuse to permit registration of that person. The Council may also direct the removal of the name of any registered medical practitioner or dentist from the Registration, altogether or for a specified period, on account of professional misconduct. Section-5(a) of the Code of Medical Ethics provides that gross negligence of medical and dental practitioners in their duties to their patient may be regarded

respondent's hospital for treatment. The doctor tried to reduce the fracture, and in doing so he did not give anaesthetic but only administered morphine injection to the patient. He used excessive force in going through his treatment by using three of his attendants for pulling the injured leg of the patient. The treatment resulted in shock and caused the death of the patient. It was held by the Supreme Court that the doctor was guilty of negligence.

She was under the treatment of Dr. Pradeep Mathur privately. Afterwards she was admitted to a hospital. In the hospital as well she was under the treatment of Dr. Pradeep Mathur. The patient died within a few days. It was found that there was no negligence on the part of the doctor. There was negligence on the part of the nursing staff, there was leakage in the catheter and the bed was not proper for the patient. So, the patient developed bed sores. All these inadequate facilities hastened the death of the patient. Held, the hospital was liable and was directed to pay compensation to the plaintiff.



Doctors also have a duty of care under section 2(1)(g) and section 14(1)(d) of the Consumer Protection Act 1986 of India. In the case of Hareesh Kumar vs. Sunil Blood Bank 1992 1 CPJ 645, the complainant's wife was a patient who had to undergo blood transfusion. The blood was found to be contaminated with hepatitis virus. The patient got infected with hepatitis and subsequently, patient's husband who was a complainant also got infected with hepatitis. Held, there was negligence on the part of the doctor and of the blood bank. The complainant was awarded Rs. 20,000 as compensation.

Regarding government hospitals, there is a controversy, whether the patients are consumers. In the case of Consumer Unity and Trust Society vs. State of Rajasthan, (1991) 1 CPR 241 (NC) it was decided that the patients of the government hospitals are not consumers because they do not pay for the treatment. That is, they do not buy the medical service. But patients of a government hospital can be interpreted as consumers. Citizens are paying taxes to the government. In return the government is providing many kinds of facilities to citizens including medical facilities. Therefore, patients of a government hospital can be interpreted as consumers indirectly.

Besides doctors, both private clinics and government hospitals owe duty of care to the patients. In private clinics and diagnostic centres, patients pay money for their treatment. Therefore, patients become consumers there and are entitled to get proper services. Section-9 of the Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance 1982 of Bangladesh provides that conditions precedent for establishing a private clinic are, proper accommodation with hygienic environment for the patients, at least eighty square feet of floor space for each patient, air conditioned operation theatre, availability of all the essential equipments, adequate supply of life saving and essential medicines, required number of full-time registered medical practitioners, nurses and other staff and specialists for the operation, treatment and supervision of patients. Section-11 of the same Ordinance provides that the Director General of Health or any other officer authorized by him shall have the authority to inspect any chamber of registered medical practitioner, private clinic, private hospital or pathological laboratory whether they have contravened or failed to comply with any provision of this Ordinance. In case the Director General finds that they have contravened any provision of this Ordinance, he may recommend the government in case of medical practitioner to debar him from carrying on medical private practice, in case of private clinic or private hospital to cancel the licence in respect thereof and in case of pathological laboratory to close it down. In the case of M.L. Singhal vs. Dr. Pradeep Mathur H.I. R. 1996 Delhi 261, the plaintiff's wife suffered from anaemia, general weakness and problem of not passing urine.

In Bangladesh, government hospitals are regulated by the Directorate General of Health. In the case of Rajmal vs. State of Rajasthan A.I.R. 1996 Raj. 80, the petitioner's wife died while she was undergoing surgery at Primary Health Care Centre. It was a government hospital. It was found that there was no negligence on the part of the doctor performing the surgery, nor his integrity or efforts could be doubted. The apparent cause of death of the patient was lack of adequate resuscitative facilities in the form of proper equipment, as well as trained and qualified anaesthetist. Held, there was negligence on the part of the hospital and the State Government was liable to pay compensation.

The fundamental principle is that patient's right to get proper treatment is a right to life. Whether the medical patient is a consumer or not is of less importance. Hence, there should be a comprehensive law for the protection of patient's right of getting proper treatment. The government should come forward to protect the rights of all kinds of patients, whether they are paying for their medical service or getting free treatment. The government should enact a new law, which can be called, Patient's Rights and Safety Act. This Act should bind with obligations, all who are related to health services. This Act should impose legal obligations upon medical practitioners, dentists, private clinics, private hospitals, pathological laboratories and also upon government hospitals.

The writer is Advocate of the Supreme Court of Bangladesh.

**GOOD NEWS**

### UN provides support to war crimes investigations

**T**HE government of Bangladesh has sought and received UN assistance in its efforts to investigate and prosecute crimes against humanity and other serious violations of human rights and humanitarian law committed in 1971. Four international war crimes experts, Louis Bickford, Priscilla Hayner, Bogdan Ivanisevic and Alexander Mayer-Rieckh, have been named to assist the government. Amnesty International welcomed the news, having called on the Caretaker Government and political parties in January 2008



to address impunity for violations carried out in 1971 in the context of the independence war.

"The failure to seek truth and justice for crimes against humanity and other serious violations of human rights and humanitarian law committed in 1971 has encouraged the persistent nature of impunity in Bangladesh," said Irene Khan, Amnesty International's Secretary General.

Demands from civil society for the investigation of the crimes committed in 1971 have been gathering momentum in the past few years. Past governments have taken no action to investigate or prosecute these crimes and no official commission has been established to provide a comprehensive account of the events of 1971.

The Bangladeshi government is also reported to have asked Pakistan and the US, which supported Pakistan during the war, to provide Bangladesh with particular documents related to the war and evidence for the trial.

The exact number of people killed by the Pakistan army and their collaborators during the 1971 Bangladesh independence war is not known. Most estimates put the figure at around one million and a further eight to ten million people, both Hindus and Muslims, fled Bangladesh in search of safety in India.

Among the dead were tens of thousands, possibly hundreds of thousands, of farmers, fishermen, villagers and factory workers. The forces also targeted intellectuals, Hindus and women. According to some reports, an estimated 200,000 thousand women were raped during the conflict.

To date, no one has been brought to justice for these crimes. "I hope that the initiative to seek UN assistance to address the 1971 war crimes marks the beginning of a process to heal the wounds of this war in the national psyche," said Irene Khan.

Source: Amnesty International.

**HUMAN RIGHTS** *monitor*

## Unified contract to protect domestic migrant workers in Lebanon

More than 200,000 migrant workers, mainly women, are working in Lebanese households. Although they constitute a large proportion of the workforce in Lebanon, they do not enjoy the same rights as local shop assistants or factory workers.

The unified contract, signed by the Lebanese Ministry of Labour last month, is now effective. Contracts for migrant workers need to comply with the protection standards prescribed by the unified contract before work permits are issued by the Ministry.

hours per day is limited to ten. Employers are obliged to arrange health insurance for

employees in their households. The workers themselves have the right to quit

their workplace if they are abused.



Although being hailed as a substantial improvement, human rights experts regard the contract as only a first step.

"The unified contract offers a very good creative solution to provide some human rights protection for women migrant domestic workers. However, it is a temporary stop-gap measure, until a new law is adopted," says Fateh Azzam, Regional Representative of the OHCHR, who points out that the drafting of the new law is now in process.

The experience with the unified contract, where a government and international organisations successfully cooperated to improve human rights protection for domestic migrant workers in Lebanon, may well serve as a model for other countries in the region seeking to improve legal protection for migrant workers.

Source: Office of the United Nations High Commissioner for Human Rights (OHCHR).

A good number of Bangladeshi women are working as migrant workers in Lebanon. Hopefully the unified contract will help Bangladeshi women workers realise their labour rights as well.

Experts on migrant issues points out that the unified contract will significantly improve the situation of migrant workers in Lebanon.

"The previous contract did not consider the migrant domestic workers as human beings. The new unified contract recognizes the human dignity of the domestic worker," says Roland Tawk, representative of the Pastoral Committee for Afro-Asian Migrants, a non-governmental organisation.

The contract, signed in Arabic and in the language the concerned worker understands, emphasizes the migrant workers' right to decent living conditions and acknowledges their right to adequate food and clothing. It obliges employers to provide them with a place to sleep where their privacy is respected.

Other terms of the contract include guarantees to a weekly day of rest and annual holidays. The number of working

**I**N Lebanon, a unified contract is now in place to protect the human rights of women migrant domestic workers. It was developed by a Lebanese Steering Committee in cooperation with the Office of the High Commissioner for Human Rights (OHCHR) and the International Labour Organisation (ILO).

Numerous reports have pointed to their difficult work conditions. Some of the migrant workers reported that they had been physically and sexually abused by their employers. Others complained about being paid late or not at all. Some were even locked in their workplace and not allowed any free time.

More than 200,000 migrant workers, mainly women, are working in Lebanese households. Although they constitute a large proportion of the workforce in Lebanon, they do not enjoy the same rights as local shop assistants or factory workers. This is because in Lebanon, people working in private households are excluded from the protection of labour law.

Since 2005, OHCHR has been working closely with the Lebanese government, the ILO and various non-governmental organizations to alleviate the hardship of women migrant workers in Lebanon. A Steering Committee was set up to develop a national plan of action.

One of the first major achievements of the Committee is the drafting of a unified contract, which for the first time provides a common set of standards to protect domestic migrant workers.

**LAW** *update*

### Bangladesh bans begging on street



Impoverished Bangladesh will strictly enforce a new ban on begging that aims to fully eliminate it within five years, an official said.

Mir Aslam, a spokesman for the Ministry of Social Welfare, said that they were now preparing enforcement plans following a law passed in Parliament earlier this week.

He said detailed guidelines are expected to be in place within a month.

According to the new law, anyone caught begging in public places will face a maximum three months in jail.

Begging on streets of the nation's capital, Dhaka, is rampant although its economy has grown by about six per cent a year in recent years.

Finance Minister A.M.A. Muhith said earlier that the government wants to eliminate begging from the country within five years.

The World Bank said in November that the percentage of Bangladeshi people living on less than \$1 a day has been reduced to 40 per cent from 49 per cent in 2000.

Source: The Associated Press.