

LAW UPDATE

GSP TRADE DISPUTE

Time to use WTO multilateral forum

MD. ABU SALEH

THE US suspended Bangladesh from its Generalised System of Preferences (GSP) scheme on 27 June 2013, following concerns over poor labour conditions particularly after the horrific collapse of Rana Plaza. The US Presidential proclamation confirmed that the suspension has been effectuated because Bangladesh is not taking appropriate measures to afford internationally recognised workers rights in the

negotiations for almost last two years, but which presently seems to be an ineffective means for the country to get the preference back. So it is the high time to challenge the unilateral suspension of GSP program under WTO laws, so far both the countries are WTO members. GSP as a corner stone of Special and Differential (S & D) treatment has become part of WTO laws in 1979 (The Enabling Clause). It has placed the concept of S&D treatment at the heart of the WTO/GATT legal system (Edwinki Kessi, 2007). The Enabling

WTO can challenge the legality of negative conditionality (suspension or withdrawal of preferences due to a failure to afford internationally recognised workers rights) before the dispute settlement body of WTO (Steve Charnovitz, 2004).

The former US Ambassador Dan W Mozena to Bangladesh said, 'if I were a Bangladeshi I would make powerful arguments before the US Congress to restore GSP and for that you have to have a mechanism to deal with the problem, this is not a rocket science-this is very simple,

ruled in favour of India stating that the EC regime of special tariff preferences for developing countries was discriminatory and therefore in violation of the 1979 Enabling Clause. It is an established fact that the purpose of GSP is to promote developing countries economy, and anything that are unrelated to that goal that would be inconsistent with Enabling Clause and thereby would amount to be illegal in WTO laws (Jennifer L. Stamberger, 2003).

Bangladesh can choose dispute settlement mechanism set up by WTO to resolve the GSP dispute with US, because in bilateral trade negotiations it finds itself in a highly unequal position, which does not produce a fair outcome. The opportunity to refer the dispute to WTO for settlement where experts and observers from several countries other than the disputants become involved can tilt the balance toward a more level playing field. The country previously experienced two years failed bilateral negotiation efforts to settle an anti dumping dispute with its powerful neighbour India.

Finally as a first LDCs member of WTO, Bangladesh approached WTO to settle the trade dispute and Bangladesh got what the country wanted from the WTO dispute settlement mechanism. Lastly, as a leader of LDCs, Bangladesh should challenge the legality of US suspension of GSP program in WTO forum and there is high probability that it would serve the purpose of the country itself and all developing beneficiary member states as well including LDCs. It is an open appeal to the respective government officials of Bangladesh to take the matter into account and proceed further.

THE WRITER IS STUDENT OF LLM AT SOUTH ASIAN UNIVERSITY, NEW DELHI, INDIA.

As a leader of LDCs, Bangladesh should challenge the legality of US suspension of GSP program in WTO forum and there is high probability that it would serve the purpose of the country itself and all developing beneficiary member states as well including LDCs.



country to meet the statutory eligibility criteria of labour rights. Later on both the countries entered into bilateral negotiation to reinstate the preferences, where US has conditioned the restoration of GSP on fulfilling the Plan of Actions consisting of 16 requirements. USTR, the US administrative body in its GSP Review of Action Plan (January, 2015) acknowledged the progress in some sectors and also urged for further compliance with worker rights issues.

Bangladesh has been trying to resolve the GSP dispute through

Clause has become part of GATT 1994, on the grounds that it is one of the 'other decisions of the Contracting Parties to GATT 1994' referred to in paragraph 1(b)(iv) of the same 'language of Annex 1A' of GATT 1994. This is subject to another debate whether preferences granted under GSP are voluntary or obligatory (Kele Onyejekwe, 1994).

Even presuming the voluntary nature of GSP simply does not mean that these schemes should not be subject to WTO rules (Lorand Bartels, 2003). Thus any GSP beneficiary member states of

you have experts and money'. Being failed to restore GSP through bilateral negotiations, cannot Bangladesh take up the issue before dispute settlement body of WTO, if it does it would not be the first country to bring GSP dispute before WTO. One precedent is available that is EC Tariff Preferential Case (2002), from which the country can frame strong arguments in against US GSP suspension.

In December 2002, India challenged the EC special GSP scheme for twelve developing countries excluding India, the appellate body

RIGHTS ADVOCACY

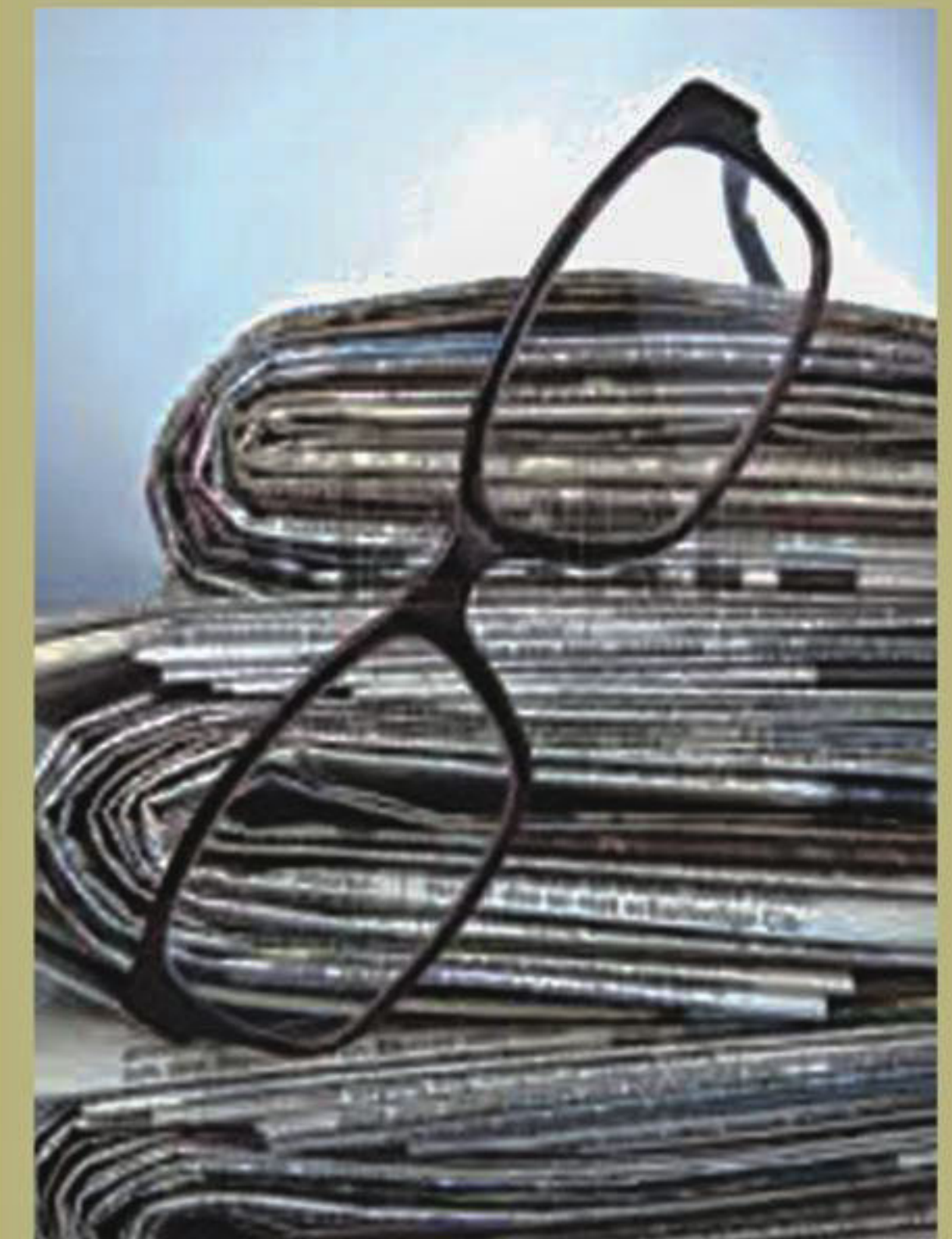
Build the culture of 'responsible reading'

SHEKH MD. MUHIBBULLAH

IN today's free world freedom of press is the heart of social and political interaction. The press has now assumed the role of the public educator making formal and non-formal education possible in a large scale particularly in the developing world, where television and other kinds of modern communication are not still available for all sections of society. The purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic electorate cannot make responsible judgments.

In an Indian case *Express Newspapers (Bombay) Private Ltd. and others v Union of India and others* reported in (1985) 1 SCC 641 the court says, 'Newspapers being purveyors of news and views having a bearing on public administration very often carry material which would not be palatable to governments and other authorities. The authors of the articles which are published in newspapers have to be critical of the actions of Government in order to expose its weaknesses. Such articles tend to become an irritant or even a threat to power'.

Over the years, Governments in different parts of the world have used diverse methods to keep press under control. They have followed carrot-and-stick methods. Secret payments of money, open monetary grants and subventions, grants of lands, postal concessions, Government advertisements, conferment of titles on



editors and proprietors of newspapers, inclusion of press barons in cabinet and inner political councils etc. Enactment of laws providing for pre-censorship, seizures, interference with the transit of newspapers and demanding security deposit, imposition of restriction on the price of newspapers.

These are some of the ways in which Governments have tried to interfere with freedom of press. With a view to checking such malpractices that interfere with free flow of information, democratic constitutions all over the world have made provisions guaranteeing the freedom of speech and expression laying down the limits of interference with it.

It is, therefore, the primary duty of all the national courts to uphold the said freedom and invalidate all laws or administrative actions which interfere with the constitutional mandate. Though in many writ petitions our domestic court upheld the press freedom but it never explained the term 'responsible reading'. In the absence of responsible reading news items are being wrongly explained. In India- While going through a news item, the courts have emphasised the culture of "responsible reading". The Supreme Court vide its judgment in *Ajay Goswami v Union of India and others* reported in (2007) 1 SCC 143 had dealt with such an issue and the passages found in Para- 78 and 79 may be extracted below:-

"We are also of the view that a culture of "responsible reading" should be inculcated among the readers of any news article. No news item should be viewed or read in isolation. It is necessary that a publication must be judged as a whole and items, advertisements or passages should not be read without the accompanying message that is purported to be conveyed to the public. Also the members of the public and readers should not look for news meanings in a picture or written article, which are not conceived to be conveyed through the picture or the news item'.

Any people would expect from great writers like the first defendant, high thinking, higher living and high learning. The law in Bangladesh does not permit scrawling writings by individuals just for the purpose of satisfying their impulses arising out of personal animosities. Therefore no news should be read in segregation; only through collective and constructive reading a concerned reader can understand the true essence of the news. Let's be constructive and build the culture of 'responsible reading'.

THE WRITER IS A STUDENT OF LLM, UNIVERSITY OF DHAKA.

HUMAN RIGHTS MONITOR

Endorsing anti-trafficking law

SUSHMITA CHOUDHURY

IN this present era human trafficking, a worst form of human degradation extends its malevolent drives more than ever to confine the human souls and their physical movement. In fact, in response to that devastating effect, a little number of efforts has been taken to counter the clandestine moves of human trafficking. Since Bangladesh has consistently remained the favorite pocket of labor and sex trafficking, in order to tackling the crime a spectacular Law namely "The Prevention and Suppression of Human Trafficking Act 2012" was promulgated which offers a holistic package by including male trafficked victims in the realm of human trafficking law and defining the terrible conditions like forced labor, debt bondage and servitude they could be trapped in.

However, this significant law not only frees thousands of male victims from the disgrace of the title of

launching widespread campaign in the vital area of human trafficking. The following milestones of RI have been conducted by their 20 partner organisations around the country. **Anti Trafficking awareness campaign blends with breathtaking Football Match in Jessore:** RI's partner Rural Reconstruction Foundation (RRF) located in Jessore organised a football match in Sreepur Upazila of Magura district where Srikol S. S Uttarar Shangha and Joka Jubo Shangha participated. This thrilling program gathered about 5,000 people in the gallery. Interestingly, this foot ball match was designed to disseminate the anti trafficking spirits among the mass. Through cheering their favorites the wonderful crowd were embracing the anti trafficking spirits and illuminating themselves about the unique provisions of newly enacted anti trafficking law. For instances, Mrs. Pinku Rita Biswash, Deputy Executive Director, RRF delivered

of human trafficking. In order to capture the public attention and highlight the salient features of the law, in collaboration with Radio Nalta, a widely popular radio station, operates in Nalta of Kaliganj Upazilla, Sathkhira District and has a listenership of 400,000 people of the community, RI has broadcasted 10000 PSA continuously for 6 months from September to February. The dramatic presentation of the announcements spread positive wave in the society and triggers the inquisitive minds of the youths to learn more about this issue. Generally, these announcements provided insight to the people to know how the traffickers dig the grave for distressed people and exploits the youth in the name of safe migration.

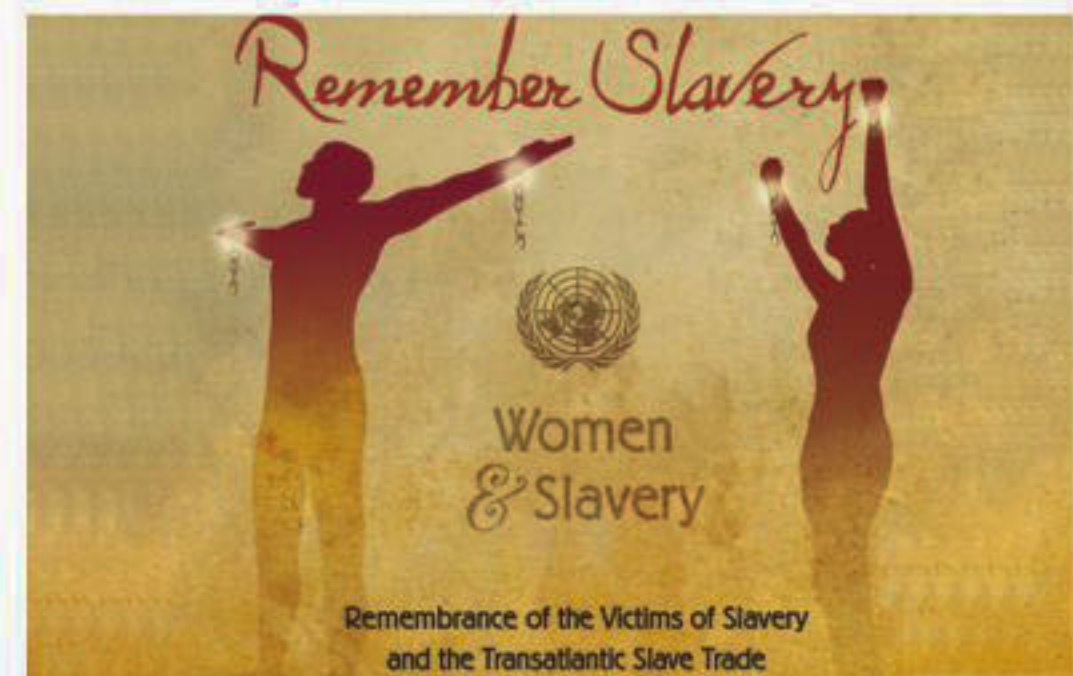
Response to the traffickers in Cox's Bazaar: Alarming number of the victims of human trafficking has been caught in the diverse points of Cox's Bazaar and those continuous horrendous incidents turn this zone into a death valley of human trafficking. On the other hand traffickers consider those points as the safe haven for their illicit activities. In response to that phenomenon the efforts of RI's partner Help Cox's Bazaar are remarkable as they arrange flurry of awareness activities like courtyard meetings, human chain mainly with the purpose to warn the potential traffickers by enlightening them on rigorous punishments prescribed in the Law. Apart from this, RI in association with a leading Radio station broadcasted a considerable number of Public Service announcements drawing the attention of public. Thus the way RI has already reached out 1.8 million people in Cox's Bazaar.

Relief International as a pioneer is committed to support 1000 male victims across the country where the support scheme is designed to respond to the remorse of the victims tailored to their needs. In addition to that RI is leading a widespread anti trafficking campaign and endorsing the recent law widely as a shield to combat trafficking just to beat the stereotype mindset of people.

THE WRITER IS A HUMAN RIGHTS PROGRAM SPECIALIST, RELIEF INTERNATIONAL.

LAW NEWS

UN calls to end modern slavery



AS the international community gathers to commemorate the millions of victims exploited by slavery and the transatlantic slave trade, United Nations Secretary-General Ban Ki-moon on 25 March warned that the insidious practice of forced bondage continued to reverberate around the world in various forms - from forced labour and trafficking to sexual exploitation and captivity in slavery-like conditions.

"Tragically, slavery has still not ended. Slavery stubbornly persists in many parts of the world," Mr. Ban declared in his annual message marking the International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade. "These despicable practices could not exist without deep-seated racism. It is absolutely vital that the dangers inherent in racism are made crystal clear to all."

On March 25 every year since 2007, the UN observes the International Day to honour the more than 15 million men, women, and children who suffered and died during the more than 400-year transatlantic slave trade, the largest forced migration in history.

This year's theme, "Women and Slavery," pays tribute to and celebrates the strength of the many enslaved women who endured unbearable hardships, including sexual exploitation, as well as those who fought for freedom from slavery and advocated for its abolition.

According to the UN, it is estimated that one third of the approximately 15 million people who were deported from Africa through the Transatlantic Slave Trade were women.

In remembering their grim legacy, Mr. Ban acknowledged that women slaves had played "a key role" in maintaining the dignity of their communities, adding that "too often their leadership and brave resistance have been underestimated or forgotten."

"The Transatlantic slave trade remains a monstrous crime and a stain on human history," the Secretary-General continued. "On this important Day of Remembrance, I call for a renewal of our commitment to end modern slavery, so our children will live in a world free of racism and prejudice with equal opportunity and rights for all."

SOURCE: UN.ORG.

illegal immigrants but also has given them access to seek relief under the premises of the law.

As we know action speaks louder than words, it is imperative to look into how the implementation of this law helping the people at grass-roots level. Under a project named "Protecting Victims of Human Trafficking in Bangladesh" run by Relief International (RI) in collaboration with U.S. Department of State Office to Monitor and Combat Trafficking in Persons, put some momentous effort translating the empathy captured in the legislation into the reality. This project is started with identifying massive amount of male victims which is almost 500 in number. It is also

speech on inclusion of male trafficked person as a victim in the recent legislation. Besides, she made people aware about the prescribed stern punishments for traffickers in the law. The viewers expressed their solidarity to combating human trafficking as well.

Community Radio as a primary vehicle to raise awareness: Community Radio always leaves a deep impact on peoples mind as it carries the local flavor during their transmission. After going through the empirical research RI finds Sathkhira as one of the most potential hotspots of human trafficking as its geographic location prompts a massive number of folks to cross the border and get stuck in the cave

