

"Legislative and cultural change cannot come about separately."

Flavia Agnes, prominent Indian lawyer and co-founder and director of MAJLIS, India, speaks to Nahela Nowshin of The Daily Star on May 16 at the second forum of Gender, Justice and Religion held at Spectra Convention Centre in Dhaka. The forum is a joint initiative between Georgetown University and BRAC University.

The Daily Star (TDS): Tell us a few words about how gender, justice and religion intersect.

Flavia Agnes (FA): For women who are religious, justice cannot be placed outside their own beliefs and frameworks. Women have various identities: within the state, the family and the religious institution. If a state law goes against their religious principles, they will not accept it. So it's important that we work with them in that context to understand what they want.

TDS: You said religions do give women rights but women have to go to the court to claim those rights. Please explain.

FA: The Dissolution of Muslim Marriages Act and the Muslim Women Act 1986 that was passed after the Shah Bano judgment are state acts. You can always use them in a civil court, they can be challenged under the constitution and women can access them like any other law that Hindu or Christian women use. But people don't know that they can, in fact, go to a state court. If someone goes to a state court and a positive judgement is passed and written about, a lot more people will come to know about it. But see, they're not written about because there's no news value when something good happens to Muslims! When you only talk about negative things about Muslims, how do you expect Muslim women to know their rights?

People don't know the positive develop-

ments of the Shah Bano case. It gave rights to Muslim women. My question is: how do people not know this? There's a whole cultural bias against Muslims in India. Only the negative things about Muslims are highlighted in the media.

After 1986, for 15 years, many high courts interpreted the Muslim Women Act positively but we never heard about it. In 2001, the constitutional bench consisting five judges looked at the law and examined whether it's constitutional. It interpreted the law, taking into account Islamic principles, and concluded that a Muslim woman is entitled to a free, fair and reasonable settlement. But these positive developments never got written about.

TDS: There seems to be a tension between constitutional rights and personal laws.

FA: In India, we have personal laws but they're state enactments. Whether it's Christians, Hindus or Muslims, the laws are based on religion but they're administered in a court of law. For example, the Hindu Marriage Act can be implemented through a court of law instead of a religious institution. People don't understand this complexity. You can also challenge the provisions in a court of law and get them (re)interpreted. Again, these are state enactments. Similarly, Christian women didn't have the right to divorce on the grounds of cruelty. The Christian Divorce Act

1869 was challenged.

The Indian Divorce (Amendment) Act 2001 was fought for within the church as well as in the courts. So a consensus is needed between religious institutions and the courts. Ultimately the state will have to go to the religious bodies; you cannot leave the latter aside.

TDS: Legislative reforms aside, how important would you say cultural reforms are?

FA: Legislative and cultural change cannot come about separately. For instance, under the Hindu Marriage Act, the bride must be at least 18 years of age. But child marriage in Hindu families is still prevalent, so what does this mean? Without cultural reform, no one will care about the law. The Dowry Prohibition Act was passed in 1961 and amended in the 1980s but practices of dowry still prevail. It's because there hasn't been a cultural change.

TDS: Tell us a bit about the challenges of protecting minority rights, especially of minority women, in a multicultural world.

FA: When you constrain the space for minority activities, women suffer. Families tend to become more conservative and things like child marriages increase. In essence, the government defends regressive practices of a



Flavia Agnes

minority by not giving them enough of an economic and political representation. For instance, regressive Hindu laws can be reformed much more easily in India than in Bangladesh or Pakistan since Hindus in India are the majority. The same goes for Islamic laws in Bangladesh or Pakistan where Islam is the majority religion.

TDS: You mentioned the Gujarat riots of 2002...

FA: In the Gujarat riots of 2002 upto 2,000 Muslims were killed. We heard horrible stories about Muslim women being brutally tortured and raped. There were hardly any legal actions taken against the people who

did it. After a couple of years, a few people were convicted but then they got bail. It's a never ending battle.

So you cannot separate women's issues from state issues. And here, we're talking about minority women. You need stability in the state and space and recognition for minorities. When you have an anti-minority government, bringing reform becomes even tougher because minorities tend to hold on to their culture and laws, whether it's Hindus in Bangladesh, Muslims in India or Christians in Bangladesh and India.

TDS: What's your take on the general view that people have of gender, justice and religion?

FA: People look at it as either/or. I think Muslim bashing has become very fashionable because of the general anti-Muslim sentiment globally. It further complicates the situation of women's rights in a Muslim country and makes it tougher to bring in new laws for women.

If you look at Morocco or India at the time of independence, you'll see that it's easier to bring reforms at a time of political upheaval. In today's world, any country would find it very difficult to change its family laws because there are so many other integrated issues. We changed Hindu laws in the 1950s but I doubt we would have been able to change it as easily today.

She Power: A tribute to my mother Begum Nurjahan Murshid

KUMAR MURSHID

IN the relatively brief history of our nation, a few good women stand out as the torch bearers of women's empowerment and gender justice. Of these Begum Sufia Kamal, Jahanara Imam and Begum Nurjahan Murshid are most noteworthy. They have all passed on to the life hereafter but their legacy of hope for the women of this nation still reverberates strongly within the body politic. It is this legacy that allowed women to stand firm in their determination to fight for equality in the face of obscurantism and misogyny from religious fanatics who would push our women back to the Middle Ages, given half the chance.

My mother, the late Begum Nurjahan Murshid, was a wonderful human being, a consummate politician and a true trail blazer for women's empowerment. We marked her 91st birth anniversary on May 22, 2015. She was the embodiment of 'she power' and devoted her life to the pursuit of equality and gender parity in the context of a broader framework of social justice and equal opportunity for all.

One of seven sisters, Begum Murshid was amongst a very small number of Muslim women who entered higher education and obtained her Master's degree in History from Calcutta University in the mid forties. She was the first Muslim woman to be employed as a broadcaster for All India Radio in 1946.

The partition of the sub-continent amidst extreme Hindu-Muslim antagonism was a 'trial by fire' for this exceptional woman. Influenced as she was by the 'Swadeshi Movement' and Gandhi's fast-unto-death, Nurjahan threw herself into political activism to stem the tide of religious hatred that was consuming the nation at the time. Her vigorous anti-colonial stance and her proximity to stalwarts like Shahid Suhrawardy, A K Fazlul Haq, Maulana Bhashani and Sheikh Mujibur Rahman began to define her political priorities and aspirations for autonomy and freedom for the Bengali nation.

Begum Murshid always saw the emancipation of women as part and parcel of the broader struggle for economic justice of the labouring class. Hers was a holistic, consistent view of the interconnectivity of human struggles.

This trail blazer, my mother, was not just an educationist and aesthete, she had the gumption to consistently challenge social taboos and demand equal rights for women long before the tag 'feminist' entered popular consciousness.

She was the first Bengali Muslim woman to act on stage in East Pakistan in 1949 alongside Munier

Chowdhury, at a time when women were not visible on the streets. My mother was then a new bride, having married my father, a young lecturer at the English Department of DU in 1948. The fact that she had the support of her husband and her in-laws is most remarkable given the period we are talking about. In fact, my grandfather Ali Ahmed Khan, a Muslim League MLA encouraged my mother to enter mainstream politics.

She was one of two women directly elected to the Legislative Assembly in 1954 on a United Front ticket. She went on to become a great leader of women and progressive egalitarian politics and embodied the hopes of the whole nation as she threw herself into the movement of the late 60s and subsequently our liberation struggle as part of the first government of



Nurjahan Murshid

Bangladesh (in exile).

Begum Murshid was the first president of the Bangladesh Mahila Samity, founder of Agrani Balika Biddyaloy, and a sponsor of Ain o Shalish Kendra in its infancy. She was his nation's first Health and Social Welfare Minister.

My mother was an evolved human being. I salute my mother and the legendary figures of her generation that have provided us with a foundation that allows us to hope for the future. We must evolve as a society that appreciates fully the centrality of women in national development and the advancement of the society. Anything less is unacceptable.

The writer is head of Career Services, BRAC University.

Should fortune-seekers be punished?

SHAKHAWAT LITON

IN 2012 the Parliament criminalised human trafficking by enacting the Prevention and Suppression of Human Trafficking Act. The Act has a provision for punishing human traffickers. In doing so, the parliament has used its wisdom and refrained from making any ridiculous provision for punishing fortune-seekers who have fallen victim to the heinous crime of human trafficking. The parliament's will, expressed in the legislation, is that the government would enforce the law to protect innocent people from being trafficked by punishing the real culprits.

The prime minister, however, now wants to punish the victims of the trafficking racket which she has expressed through some shocking remarks on Sunday. She announced that actions need to be taken against victims along with the human traffickers. Her remarks run counter to the will of the Parliament. If her directive is implemented, it will only contribute to the increasing misery of the surviving victims instead of giving them any hope to move on with their life.

Many people may find it difficult to believe that the government will take such actions against the victims. But it may not be surprising if some of the victims are forced to face consequences, following the prime minister's statement that they "tarnished the country's image" by trying to go abroad in an illegal manner.

In her words: "It is not true that everybody is moving this way for want. They are in fact running after the 'golden deer' as they think they will earn huge amounts of money if they can go abroad." The premier also described such migrants as "mentally sick."

The prime minister, however, refrained from commenting on whether her government will take any action against the members of the law enforcement agencies for their failure of taking any strict actions against the traffickers.

Why do people put their life in danger to go to abroad in illegal ways? The government's official documents describe the reasons. The documents do not indicate any sign that the migrants put their lives in danger because they suffer from any kind of "mental sickness" or because they are running after the proverbial "golden deer."

The official document, the Bangladesh Country Report 2012 on Human Trafficking, says that the issue of human trafficking is integrally linked to insecurity of livelihood as well as to continuing disparities and discrimination against marginalised communities generally, and against women in particular.

According to the document, various factors lead to people being trapped into the vicious cycle of trafficking. They include poverty, unemployment, illiteracy, lack of awareness, gender discrimination, gender-based violence, natural disasters, and lack of

proper implementation of the existing laws.

The 2012 report also says that in the absence of proper measures to address poverty, unemployment and violence against women and proper structures to facilitate safe migration, people willing to migrate for a better life will continue to be vulnerable to trafficking. The report prepared in 2013 also portrays a similar situation.

Acknowledging the gravity of the situation, the government has taken various measures. It has already prepared the National Plan of Actions (NPA) to combat human trafficking. The earlier NPA 2008, which expired in 2011, focused on trafficking of women and children. The government again prepared the NPA for 2012-2014, intending to cover all types of internal and cross-border human trafficking and seeking to address the weaknesses of the previous NPA. The government is now preparing the third NPA, which is likely to be unveiled next month.

Bangladesh has also made commitments at the international level to combat human trafficking. It participated in the first World Congress, held in Stockholm in 1996, against commercial sexual exploitation of children and the fourth World Conference on Women held in Beijing in 1995, and ratified a number of core human rights treaties.

At the regional level, the country has made its commitment to combat human trafficking by joining the third SAARC ministerial meeting on children held in Rawalpindi in 1996. It culminated in State commitments to combat trafficking of children and assist victims of violence/exploitation by evolving administrative, legal and measures for rehabilitation.

But all of its efforts and commitments seem to have failed to protect people. The failure is due to a lack of proper implementation of laws, efforts and commitments.

The government is constitutionally obliged to address the reasons stipulated in the official documents behind human trafficking. The constitution also provides an obligation for the State to prevent violation of human rights in any form, including human trafficking.

Blaming fortune-seekers cannot pave the way for the government to escape from its responsibility to protect people against human trafficking. The government should now give this issue its utmost priority. No work can be more significant than the effort to save lives. No achievement will brighten the government's image if citizens are left to face a miserable death in the sea and jungles of foreign countries. It should be kept in mind that those who were engaged and have cooperated with human trafficking have committed offences against the State. Thus, it is the responsibility of the State to punish the perpetrators, not the helpless fortune-seekers.

The writer is a senior reporter of The Daily Star.

QUOTABLE
Quote

JOHN FORBES NASH, JR. (1928 - 2015)

I cannot waste time in these classes and these books, memorising the weak assumptions of lesser mortals.

CROSSWORD BY THOMAS JOSEPH

ACROSS

1 Troop members

7 Rainbow maker

11 Trumpet's kin

12 Formerly

13 How Rome wasn't built

14 Tip off

15 - a fiddle

16 Clark's partner

17 "Cold As Ever" rapper

18 Oxygen-thriving organism

19 Pull in

21 Checkers side

22 Pigeons' extinct kin

25 Buddhism branch

26 Hawaiian coffee

27 Seem

29 Diplomatic skill

33 Turkey topper

34 Cabinet department

35 Fully developed

36 Professional witness

37 Tied up

38 Wipes out

39 Pitcher Blyleven

40 Loathe

DOWN

1 Verne specialty

2 Like a dunce cap

3 Use a soapbox

4 Chronologically ambiguous

5 Afternoon events

6 Messy digs

7 Yard tool

8 Concisely

9 Old copiers

10 Showed fear

16 Red Square name

18 Shady spot

20 Fine, to NASA

22 Strip

23 In theory

24 Jack hammer sound

25 Croatia's capital

28 News item

30 Humble

31 Hearts

32 Secret meeting

34 Folk tales

36 Homer's neighbor

Yesterday's answer

SPARS

PINUP

ANITA

DAM

ETA

SALTED

TORE

RARE

HAI

ABNER

SIEVE

HARES

COMPS

ONEAL

LEGGY

HOD

ADO

SNAG

OUT

SABRES

ALP

IRA

MANOR

ALONE

NERDS

BEETLE BAILEY by Mort Walker

YOU'RE THE MESSIEST PAINTER I'VE EVER SEEN, BEETLE!

HOW CAN YOU SAY THAT?

I DON'T HAVE A SPOT ON ME!

HENRY by Don Trachte

SOOPER MARKET

DRESSED CHICKENS

UNDRESSED CHICKENS