

# "We have not made the transition to the constitutional imperatives"

**Vrinda Grover**, human rights lawyer at the Supreme Court of India and advocate for women's rights, talks to Amitava Kar of The Daily Star about the hurdles people of this region face seeking justice and how to possibly overcome them. Vrinda Grover was one of Time magazine's 100 most influential people in the world in 2013.

What are the main impediments to dispensation of justice in South Asian countries?

We see a lot of injustice across this region and it's brutal and it's glaring. In India, we have a constitution that guarantees equality and dignity. But as a society we have yet to emerge from various forms of discrimination and prejudice based on caste, feudalism, gender, religion, and ethnicity. It is good for countries to have constitutions that guarantee equality. But does that necessarily permeate the sensibility of those who are at the helm of institutions? Is that the manner in which legislators view all groups? Are these issues of priority to the executive branch? Is the judiciary taking its decisions in accordance with issues prioritised by the constitution? We still think that it's alright to oppress certain groups of people. Institutionally and as a people, we have not made the transition to the constitutional imperatives.

A lot of people continue to be persecuted and tortured in these sovereign states long after gaining independence from colonial regimes. Why do you think that is?

In India, after independence, servants of the crown were declared public servants. But the power, the immunity and the privilege that the law gave them were not changed. As a result, we see governments acting like rulers. They need to understand that their roles have changed. There is now a different paradigm of citizen-state relationship in which they need to engage.

What kind of challenges does an ordinary citizen face in seeking justice in India?



Vrinda Grover

Let me take the example of a common woman. It would depend on many factors. Is she a Dalit? Is she a Muslim? Is she an Adivasi? The law says that she has a right to legal aid but will it be effective legal representation? Women have gone to courts. There are times when the courts have responded recognising their rights. And there are times when the courts have considered other interests—for instance, economic growth. Land has been grabbed, dams have been built and the working class

people are saying that their rights are being trampled upon. Police stations do not necessarily inspire confidence. A woman from the working class will not usually turn to the police for help because she is afraid of facing further violence at the police station. There is a lot of systemic violence against the Dalit community. Rarely are those cases registered. Investigating police officers often do not investigate these cases properly. You will not have a case that will withstand the court's scrutiny and lead to conviction.

Do governments need to focus more on the professional development of law enforcement officials and prosecutors?

It is very important to understand the issue of social justice. Law enforcement officials should be taught not only the provisions of the penal code but also the constitution. What are the rights they have to protect? A police officer today [in India] thinks that he exercises power. He has a gun or a stick. And he thinks it's his job to go around putting people in place. I think somewhere we have made a mistake interpreting law and order. The job of the police is not to maintain law and order for the ruling class but protect the rights of the people.

It is said that the law itself is not enough—the mindset of the people needs to change. How to do that?

I would emphasise the importance of freedom of expression, freedom of association and freedom of assembly which are protected under the constitution of India. It is very important for disadvantaged communities to be organised as groups. But when people protest, criminal charges are often brought against them and they are beaten. NGOs are being brought under very severe laws. Social media is being brought under control. The electronic media is owned and controlled by the corporate world. We are having a drastic change in the labour law which is going to go against the interests of the workers. But you won't find a single TV programme that will discuss the labour law. There is still some space in the

print media but that is also rapidly shrinking. And I would link it with both the authoritarian nature of the state and the neo-liberal global economy which sees South Asia and India as a huge market.

Despite many limitations, the judiciary in Pakistan has played a very strong role throughout history. What can we learn from them?

I wouldn't want to comment on the Pakistani judiciary at all. I don't know enough. I think the strength of Pakistan lies in its civil society groups which have, through harsh experiences of military regimes and other obstacles, been able to sustain a voice—a voice that has challenged all forms of repression, upholding the rights of citizens.

The border killings by the BSF are unacceptable. If someone crosses the border illegally, perhaps India could try them under law instead of killing them.

I think it's something India needs to take a very serious note of. We are talking about the lives of the most vulnerable here. I am a member of a platform called South Asians for Human Rights. We strongly condemn killings by the BSF or any other force along the border. Yes, there are persons of Bangladeshi origin who enter India as undocumented workers. There is a legal procedure; they can be arrested, prosecuted, and jailed. And we can only hope that we will stop seeing these borders as places where we express hostility, violence and terror, and rather see them as channels of communication with each other.

## SAVING THE DAY



AHMED HUSSAIN

**B**ANGLADESH Nationalist Party (BNP) chief Khaleda Zia's latest stance for a neutral election-time government system (instead of the usual non-party caretaker government) has indeed opened a new window of opportunity in the country's politics. It is true that had the party taken this stance before the controversial January 5 election, strings of violence that had plagued the country in the last two years could have been averted.

There is no denying that Khaleda had missed the train in two phases. She could have taken Sheikh Hasina's phone call as an opportunity, withdrawing or relaxing the strike for a day to join the talks in which the prime minister had invited her. Or the BNP could have accepted the latter's proposal of an all-party unity government to help the Election Commission oversee the national election. On the contrary, Khaleda did what she had done during the movement to oust Ershad's autocratic regime. She remained as

uncompromising as she had been with Ershad. But make no mistake. The BNP in 2015 is a skeleton of the party in the eighties. So is its student wing. Even though the party has a strong supporter base in the grassroots, at the end of the day it is an election-oriented party and its workers, especially in the cities, find it difficult to brave police action and bring out processions. This is what makes the party dependent on Jamaat to carry out its political programmes.

Be that as it may, the BNP's latest stance brings about a pleasant break. If the party really accepts the idea of a 'neutral' caretaker government, instead of its original demand—a non-party caretaker government—it means that the party has accepted the changed political atmosphere and has learned to concede some ground to gain more. Even though the Awami League (AL) high-ups, it seems, has not taken Khaleda's latest proposal seriously, the party, too, has a lot to gain from it.

The present government, whether it accepts it or not, suffers from a huge legitimacy crisis. Voter turnout was remarkably low in the January 5 polls, added to that is the election where MPs were elected unopposed in more than half the parliamentary seats. Amidst a boycott by all major political parties but the AL and its Mohajor members, the election had all the hallmarks of Ershad's 1988 election, in which ASM Abdur Rab's Combined Opposition Parties consisted of outfits that no one had ever heard before. This is not befitting of a party that has a glorious history, a past that speaks of fighting for people's democratic rights. Strange as it may sound, Khaleda's 'neutral' caretaker government proposal can be the agenda based on which a round of talks can start.

In fact, the nation badly needs to reach some consensus over the issues that presently plague the country. Its urgency is all the more highlighted by the killing of four eminent bloggers that have taken place in the last seven months. There is no denying that a government elected 'more democratically' would have handled the issue better. A government that is not

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makes a country a breeding ground for terrorists; and if that nation has unemployment and a youth bulge, it is a recipe for disaster. A dialogue on the modalities of the election time, government and its formation, empowering the Election Commission and fighting terrorism can save the country from yearly bloodshed that we had witnessed in the last two winters.

It is high time the ruling party understood that economic growth and infrastructural development alone is not enough to fight growing extremism; there are hearts and minds to win and the only way it can be done is through politically empowering the masses. Khaleda and her BNP, for their turn, must shun violence and declare to accept the election result, whatever it may be. Even though she has said that her demand for a 'neutral' government must not be misconstrued and that she has not moved away from the demand of a 'neutral' government, her repeated use of the term 'neutral' and the careful omission of 'non-party' tells us that a change in heart is perhaps on the way. Even though it is premature to tell if the ever-quarrelling side will finally talk out their differences, it is, presently, the only way out for us.

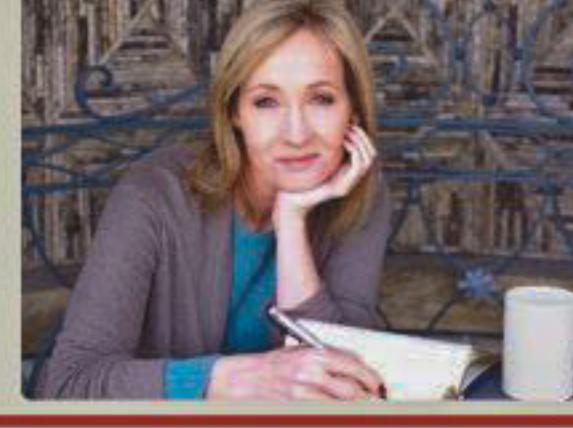
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QUOTABLE  
Quote

"It takes a great deal of bravery to stand up to our enemies, but just as much to stand up to our friends."

J. K. ROWLING  
AUTHOR



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