

No justice for Rohingyas?

C R ABRAR

ARTICLE 31 of the Constitution of Bangladesh categorically states that "To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law ...", is not only the inalienable right of every citizen but also of "...of every other person for the time being within Bangladesh". The Article further goes on to state that "no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with the law". In other words, the supreme law of the land has accorded what the government terms as the right to access due process and equal protection of the law to the Undocumented Myanmar Nationals (UMN) currently staying in Bangladesh.

This important Article of the Constitution was premised on principles enshrined in a number of international instruments. The Universal Declaration of Human Rights enjoins, "Everyone has the right to recognition everywhere as a person before the law" (Article 6), that "all are entitled to equal protection against discrimination" (Article 7), and that "Everyone has the right to an effective remedy by the competent national tribunals..." (Article 9).

Likewise, Article 2/1 of International Covenant on Civil and Political Rights, of which Bangladesh is a State party, obliges the country "to respect and to ensure... all individuals within its territory and subject to its jurisdiction" enjoy the rights recognised in the Covenant "without distinction of any kind" including "national and social origin". It further elucidates that any person whose rights or freedoms are violated "shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity" (Article 2/3/a). The Convention on the Rights of the Child and that of Elimination of all forms of Discrimination Against Women also contain related provisions.

Thus as per the Constitution of the Republic and Bangladesh's obligation under international treaties, protection of the law and the right to seek legal redress are guaranteed for all Rohingya refugees including UMN. However, evidence from the field informs that there is a palpable deficit in creating an enabling condition for the Rohingyas, particularly those with undocumented status, to seek legal redress and protection when needs arise.

Currently there are 32,000 registered Rohingya refugees residing in two official camps. They receive protection and assistance from the Government and the UNHCR. In addition, Bangladesh government estimates that there are some 300,000 to 500,000 UMN. The National Strategy on Myanmar Refugees and Undocumented Myanmar

Nationals in Bangladesh (hereafter the National Strategy) adopted by the government acknowledges that these people are victims of "systematic persecution" in their country of origin and their "humanitarian needs" should be met. However, the Strategy document failed to clarify their legal status.

This failure to recognise undocumented Rohingyas as a special group by the Bangladesh government has resulted in their lack of protection and thus made them vulnerable to exploitation of unscrupulous elements denying them fair wages and meting out ill-treatment. The UMN are also easy prey of women and child traffickers and human smugglers. The 2014 RMMRU-RPC study on undocumented Rohingya refugees has found ample evidence on how lack of legal status and documentation has been the prime source of deprivation, exploitation and harassment of the members of this community. It also

two young sisters who were victims of gang rape in Cox's Bazar district a couple of years ago. When the father of the sisters went to lodge a complaint in the local police station, the Police Officer informed him that he could accept the report but that he must also charge the victims and the father for illegal entry into Bangladesh which entails five years imprisonment. Not surprisingly, the father decided not to pursue the matter. Local rights activists inform that lack of redress has encouraged perpetrators to commit heinous crimes including rape and trafficking. Rohingyas have been termed as "one of the most persecuted minorities of the world". The Myanmar government has been accused of "genocide" and "ethnic cleansing" against the community. UN agencies, international and regional organisations such as the Organisation of Islamic Conference and the ASEAN, and international human rights bodies

Myanmar government and that of government of Rakhine province and adverse socio-economic condition" particularly of the Muslims of Rakhine province are the reasons behind the movement (Para 3 of Bangla version). It also highlighted the killings, repression and torching of houses and shops of minority Muslims. The Strategy document categorically stated that "The root causes of the systematic persecution and deprivation need to be highlighted in consistent manner at UN, OIC and other multilateral fora" (para 05/d of English version).

Thus, in order to ensure that all Rohingya refugees enjoy the right to access justice as enshrined in the Constitution of Bangladesh, the government needs to address the discrepancy that exists between Section 14 of the Foreigner's Act (that provide for 5 years imprisonment for illegal entry) and the National Strategy that

Where is Zoha?

Law enforcers must cooperate

ACCORDING to our reports there has been no progress in finding IT expert Tanveer Hassan Zoha who has been missing for more than three days. The 32-year-old IT expert was allegedly picked up and whisked away by plainclothes men while he was returning to his Kalabagan house with a friend by a CNG auto-rickshaw around 1:00 am on Wednesday. Is it just a coincidence that his abduction came only a few days after he had talked to the media about the \$81 million cyber heist of Bangladesh Bank reserve?

What followed Zoha's abduction is equally disturbing. Three different police stations of the capital allegedly refused to accept his family's application for filing a general diary. And the home minister's reported response that he was unaware of the matter offers cold comfort to Zoha's family and any law abiding citizen of the country. Who do we turn to for help when one of our family members or friends goes missing?

Zoha had reportedly identified himself as an official of the Bangladesh Bank's ICT division which the latter denied. And his uncle had claimed that he had regular contacts with various detective agencies to help them solve cyber crimes, which has neither been dismissed nor confirmed.

But who the IT specialist worked for is not important at this stage. The indifference with which the administration has seemingly dealt with the matter so far only undermines the rule of law rather than strengthen it. That a citizen of this country can be abducted with police stations refusing to take the complaint is indeed frightening and unacceptable. The law enforcement agencies have an obligation to come to the aid of the distressed family, trace him and find out who he was picked up by and why.

Gas leak in apartment block

Compensate for negligence

WE are appalled by the incident of gas explosion that ripped through a 6-storey building in Banani residential area on March 18, which is clearly a case of gross negligence by TITAS. A whole block of flats have been set afire and all due to the fact that TITAS officials failed to respond for days to repeated calls by residents to fix a damaged pipeline. There are also allegations that Dhaka North City Corporation did not take adequate measures to ensure safety after a gas pipe was damaged during excavation work.

It is sheer luck that there were no fatalities among the 25 residents of Silverstone Sapphire, although at least ten people were injured. The building itself suffered massive damage. An immediate investigation should look into why the utility company failed to respond to complaints about the gas leak, as well as whether DNCC did everything in its power to ensure the safety of the community after it damaged the pipeline. Those responsible for this unpardonable negligence must be held accountable and given exemplary punishment. In fact, TITAS should compensate the flat owners for damages caused. In addition, there should be a coordinated identification of vulnerable spots all over the city where gas leaks may be present.

We had hoped that the earlier incident of gas leakage on February 26, which killed four members of a family, would have served as a wakeup call for the utility company, but obviously it has not.

It is clear that a serious review of the entire service infrastructure in the city is in order. Utility companies like TITAS have a duty to perform monthly checks on gas lines for perforations in the line and the emergency helpline needs to respond immediately to complaints.



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noted that most members of the community live in constant threat of being apprehended and detained and subsequently imprisoned for five years for illegal entry under Section 14 of the Foreigners' Act. It is this fear of being locked up for many years that deters them from approaching law enforcement agencies to report abuses and serious violations of their fundamental rights.

The failure of the authorities to grant the UMN special status has created an unintended yet adverse condition in which individual perpetrators of criminal acts and those of criminal gangs operate with virtual impunity. In other words, lack of legal standing in effect denies them from accessing justice. This has been clearly illustrated in the case of

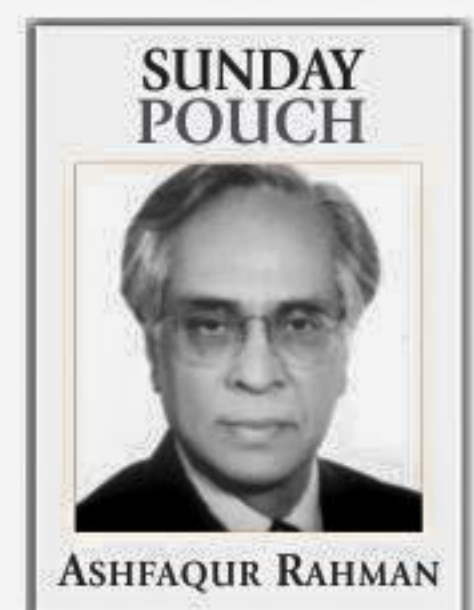
including International Commission of Jurists, Amnesty International and Human Rights Watch, have all acknowledged that Rohingyas are fleeing persecution and thus are not mere economic migrants.

Often the point is made that since Bangladesh has not ratified the 1951 Refugee Convention it is not obliged to protect the refugees. It has been stated earlier that the right to asylum is a universal right and Article 14(1) of the UDHR affirms that "Everyone has the right to seek and to enjoy in other countries asylum from persecution". Even the government's own National Strategy document acknowledged that "anti-Muslim internal laws, particularly the Citizenship Act of 1982, communal violence, various statements of the

acknowledges the community's need for humanitarian assistance. Such action would not require time consuming legislative amendment of the law. Sections 3 and 10 of the Foreigner's Act empower the executive authority to exempt any group, including the UMN, from the application of the Foreigner's Act 1946. It is pertinent to mention that some other refugee receiving countries in the region including India, Malaysia and Indonesia have also made exception to their regular immigration laws to cater to specific needs of the people seeking asylum. It is time that Bangladesh follows suit.

The writer teaches International Relations at the University of Dhaka. He researches and writes on migration and rights issues.

Changing contours of Bangladesh-Myanmar relations



IN another 15 days, on April 1 this year, our eastern neighbour Myanmar will undergo a change of governance. After 53 long years, this country, which has been a military dictatorship since 1962, will be replaced by a semi-democratically elected government. We say "semi" as, in the new parliament, a significant number of seats will be occupied by members appointed by their Army Chief. Three important cabinet posts -- defence, border affairs and home -- will also be held exclusively by armed forces personnel. The army, in the new context, will still have the power to impose emergency rule and suspend democracy. However, in spite of these shortcomings, it is hoped that neighbouring Myanmar will make an important transition to fully democratic governance in the near future.

What is important for Bangladesh to note is that the autocratic and reclusive country is soon to be a liberal and democratic one, with immense possibilities for growth and trade partnerships. In the imminent transformation, Bangladesh, as a democratic country, with its own political deficits, should strive to create a more meaningful relationship with Myanmar. Both the countries have tremendous potential which can be exploited for a better political and economic future.

It is imperative that Bangladesh engages with Myanmar, and that while doing so, it protects its national interests. We should look to reap the benefits of setting up cross border businesses. We should also persuade Myanmar to allow cross border transit to China. The other aspect that needs close attention now is resolving the Rohingya issue, which should be addressed through extensive consultation with international stakeholders and with the new Myanmar government. We must highlight how resolving the issue would ensure regional peace and economic

integration. The recent crackdown by Bangladesh forces on the Arakanese militants should alert the Myanmar authorities that Bangladesh has no intention to support separatist forces in Myanmar. A democratic dispensation in Myanmar should appreciate Bangladesh's desire to develop cordial relations with the new government there.

As for economic cooperation, Bangladesh ought to convince the central government in Myanmar to draw up plans to set up free trade zones along both borders in order to access each other's markets as well as the international markets. The western part of Myanmar is rich in raw materials and minerals. With Bangladesh's trained manpower in select industries and Myanmar's raw materials, a great manufacturing hub can be created for exports and services.

It is clear that Bangladesh and Myanmar have a shared history. People from the Chittagong area and adjacent districts in eastern Bangladesh routinely travelled to Myanmar, intermarried, conducted business and travelled to other parts of the world together. A

shared past means there is a great potential to build a shared future. Keeping our separate identities, we can leverage on each other to build a better future. To this end, we must consider learning some of Myanmar's languages in special institutions in our country. We must also initiate tourism between our two countries through official channels, visit and learn about their diverse cultures, and import their fine wood, textiles and metals through official channels. Communication by sea, land and in later stages by rail must be introduced. Mobile phone communication must be made easy. Our universities and colleges must encourage Myanmar students (initially in limited numbers) to apply, and a general climate of trust and friendship must be developed between our two peoples.

The people of our two countries have wasted too much time; our present relations can be described, at best, as a relationship between two 'near but far' countries. By the next decade, both the countries must take definitive steps to be described as 'two close neighbours'.

The writer is a former Ambassador and columnist. E-Mail : ashfaqur 303@gmail.com.

COMMENTS

"Public safety ignored"
(March 17, 2016)

Sajjad Mojumder Saju
Everyone is busy trying to maximise profit. That's why they have no time to think about public safety.

"Six power deals get go-ahead"
(March 17, 2016)

Richard Durivage
It is very unfortunate that we are still using fossil fuel as our main source of energy. Solar power seems the best and cleanest way to meet our increasing energy demand.

LETTERS TO THE EDITOR

letters@thedailystar.net

Why Mohammad Mithun?

In the Asia Cup T20 match between Bangladesh and Pakistan on March 2, 2016, after the fall of Shakib's wicket, Mohammad Mithun was sent to the pitch to face the last two balls from Mohammed Amir. The rest is history.

Mohammad Mithun has a batting average of 10 in the T20 format. Why was he selected over an all-rounder like Nasir Hossain?
Engr. ABM Nurul Islam
Milton, GA, USA

Atiur Rahman's bold resignation

Atiur Rahman, the governor of Bangladesh Bank ended up resigning from the post over the issue of controversial foreign reserve heist. Experts say that lax IT security and involvement of someone from inside caused that massive heist. Till now, we are

not sure who the masterminds are but we appreciate Mr. Atiur Rahman's bold decision to resign. It should be an example for those who like to cling to the power forever.
Baitul Aman
Gazipur

No power plant at the cost of the Sundarbans

Rampal power plant will obviously have adverse effects on the Sundarbans. There are many rare species that are already on the verge of extinction. Building a power plant near the Sundarbans would only worsen the situation. Moreover,

local people would be exposed to respiratory and other fatal diseases due to the air pollution caused by the coal-fired power plant.

We expect our government to act wisely in this regard.
Nafis Nihal Ferdaus
Anandamiketan School
Sylhet