

WORLD DAY FOR SAFETY AND HEALTH AT WORK

In sight but out of mind



UPASHANA SALAM

THIS year Bangladesh exceeded all expectations, achieving a GDP rate of over 7 percent. With higher growth, the issue of labour rights is also gaining prominence in our national discourse, with more and more emphasis being given on workplace safety and wellbeing. Those amongst us who are educated are becoming more and more aware of our rights in our workplace, as we unhesitatingly demand for better pay, better facilities, a better life, really. And why shouldn't we? This is our right as promised by our Constitution and by our state. But there still remains a large portion of our workforce, over 80 percent to be precise, who are not warranted recognition by any of our state apparatuses. When we talk proudly of progress and development, we tend to take for granted that only those who fall under a formalised structure deserve acknowledgement and thereby can demand their rights under the law. We choose to ignore more than half of Bangladesh's population who, despite their indispensable contribution, are regarded as expendable, replaceable, and thus, undeserving of formal rights or protection. In Asia, the informal economy accounts for 78.2 percent of total employment. It's ironic that in a world which still depends on informal employment to run their economies, those working in this sector continue to be treated as necessary but unacknowledged and invisible clogs of society. There is a not-so-subtle disdain for those who make our beds or build our homes; we choose to ignore that as human beings they too might have the same concerns and needs as the rest of us. Most people enter the informal

economy because they have no other means to sustain themselves, with no education, skills or capital to participate in the formal workforce. But this does not mean that the risks associated with their work is only theirs to accept; the employment of workers in the informal economy, including housemaids, agricultural labourers, construction workers, day labourers, fishermen, vegetable vendors, etc, might be self-managed but the services they provide is universal.

While those working in the informal economy are not even recognised as 'workers' in the Bangladesh Labour Act, 2006, the Informal Sector Survey 2010 by the Bangladesh Bureau of Statistics asserted that the informal sector was the major source of employment in the country, amounting for 89 percent of the total jobs. As self-managed employment is socially unrecognised as work, it becomes easier for workers to be exploited. Thus, you hear of the brutal murder of 13-year-old Rakib Hawladar, whose former employer killed him in an inexplicably violent manner when he switched jobs. You regularly read stories of construction workers falling to their deaths, due to the lack of safety gears or adequate protection. How many times have you looked up a building to see a person dangling from a scaffolding, with nothing but a rope as a measure of safety? Every time I look up at them, I am overpowered by a sense of dread, and am forced to look away after a few minutes when I start feeling dizzy; but these people continue doing their work in the only way they know how to - with confidence galore and little attention to the risk that they are putting themselves in. Accidents and deaths on site go largely unreported; in the rare occasions that the death of a worker is reported, there is no follow-up from the police, government, media or their own families, who in their



PHOTO: STAR

struggle to make ends meet with one less earning member, are unwilling to demand compensation that they will not get or go to the court where their voices will be muffled. A report published by the Asian Development Bank stated that unlike employees working under a formalised structure, workers with irregular employment don't have any

specified working hours, as they often have to work an average of 54 hours a week "with non-commensurate compensation." Workplace safety is practically unheard of in the informal economy, and there's no question of holidays, sick days or downtime. Brick kiln and construction workers have scarce drinking water and no toilet facilities to speak of. With

wages being disbursed on a daily basis and no bargaining power with employers, they rarely take days off even when they suffer from ailments resulting from having to work long hours in intense heat. Let's not talk about education or training opportunities, which cannot even be regarded as luxuries in a sector that is not even officially recognised by the law.

Given the dearth of official data, it is difficult to even ascertain the particular health problems faced by people working in the informal economy. However, according to a report titled 'Health Vulnerabilities of Informal workers' by the Rockefeller Foundation, there is increased risks of malnutrition, physical and psychological disorder, respiratory trouble, heart attack, etc, due to the nature of their work, where they are forced to endure excessive labour, and an unhealthy work environment. More than a million workers who work in the brick kilns of the country, which produce over 12 million bricks a year, often suffer from skin diseases and are susceptible to bronchial infections. As per the report, workers often take drugs "to boost their physical and mental energy" when their body no longer supports their need to earn a livelihood. Rickshaw pullers, for example, are addicted to various drugs as these help them deal with the intense temperament of their work.

Article 15 of Bangladesh's Constitution ensures guaranteed employment, work with reasonable wage, recreation and leisure for all workers, while Article 20 argues that employment should be a right for every citizen, insisting that workers should be "treated with justice." Moreover, Article 10 prohibits social exploitation of any worker. However, in this case, there seems to be a clear divide in the treatment of those who are considered "actual workers" and the nameless, faceless millions who simple cannot be brought under a

structure, thereby making it impossible to ensure them the same rights reserved for everyone else. Equality, once more, becomes a tool to bandy around when talking about the achievements of our country and its legal apparatus.

In fact, the Domestic Workers Protection and Welfare Policy 2015, one of the few measures taken to prevent the exploitation of a segment of the workers of the informal economy, is still to be implemented, even though a draft of the policy has already been approved by the cabinet.

There is an urgent need to change our perception toward informal workers, which can help bring a shift in the way they are treated in law and policy. We need to introduce a feasible wage structure, which runs parallel with their working hours and is in sync with their work environment. Moreover, experts have also stressed the need for a pension/insurance scheme, something that has already been undertaken by the Government of Delhi in September 2013 for the informal workers of India. As suggested by lawyer Kawsar Mahmood in a piece he wrote for the Dhaka Law Review, this will offer security for workers in the informal economy during their sickness or after they retire from work. "On registration, workers will be saving a portion of their income per month or per annum in a provident fund where the government will equally contribute," he writes.

As human beings, we have the right to demand better pay, better working conditions and fair treatment from our employers. It'll be a shame if this right continues to be reserved for some of us, while the majority are left stumbling, persisting through life as nameless, faceless beings.

The writer is a member of the editorial team, The Daily Star.

NATIONAL LEGAL AID DAY

Delayed justice: How long is too long?

SAJEDA FARISA KABIR

IN Bangladesh, litigants face various obstacles to access justice in every stage of the legal process, starting from the decision to take legal action, to the investigation, prosecution and trial, until the issuance of a judgment and its enforcement. At the outset, some litigants lack sufficient knowledge of their rights as well as the applicable legal procedures to seek relief before the courts. Many lack resources and are discouraged by the high costs of proceedings or the inaccessibility of the courts. BRAC Human Rights and Legal Aid Services (HRLS) programme, dedicated to protecting and promoting human rights of the poor and marginalised through legal empowerment, has compiled and analysed data regarding court cases, filed through its legal aid clinics with the assistance of HRLS appointed Panel Lawyers, from seven divisions of Bangladesh to identify the number of cases which have been pending disposal in courts for over three or more years. A sizable volume of court case backlog was noticed which in turn also reflects the larger picture of the court system across Bangladesh. According to the data compiled by HRLS, from 1998 till December 2015, a total of 52,117 cases were filed through BRAC Legal Aid Clinics (with the assistance of HRLS appointed Panel Lawyers) among which 14,797 cases are ongoing. The majority of civil cases are concerning dowry, maintenance and execution of decree

and the majority of criminal cases are regarding rape, murder, physical torture for dowry and acid attack. Of the total number of criminal cases pending for three or more years across the HRLS Legal Aid Clinics in seven divisions, 47 percent are rape, 23 percent are murder, 11 percent are cases of physical torture for dowry, 10 percent are other and 9 percent are acid violence cases. The common barriers to women's access to justice can be extracted from HRLS case studies. Among 97 criminal cases, 45 cases were randomly picked for further analysis. The data indicates that 70 percent of the cases are backlogged at the witness hearing stage for a minimum of 3 or more years, whereas 22 percent of the cases are backlogged at the investigation stage for 1 year and above. At the charge hearing stage, 4 percent of the cases took more than 2 or more years, and at the judgment stage 4 percent cases took 2 or more years. Backlog of cases is the biggest impediment in the judicial system of Bangladesh, delaying the process of justice to the people. In Dhaka division, among 12 acid violence cases filed with the assistance of HRLS, not a single one has reached the judgment stage and all cases are pending at the witness hearing stage. One particular acid case which was filed through the Kapasia HRLS Legal Aid Clinic in 2007 is still ongoing. The case was forwarded to an HRLS panel lawyer within five days from receipt of the complaint at the Legal Aid Clinic. This case reveals that it took three years to frame a charge sheet due to transfer of the original

investigation officer (IO), thus delaying the process of handing over his responsibility to the new IO. At the charge hearing stage, it took one year due to the absence of the judge in the Acid Crime Tribunal as well as too many case hearings in one day, thereby delaying the process of a new hearing date. The case is currently at the witness hearing

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stage for five years due to court adjournment, transfer of the original IO, absence of the judge (due to transfers or promotions), and unavailability of the IO and Medical Officer. According to section 11 of the Acid Offence Control Act, 2002, the investigation officer is under an obligation to complete an

investigation within 30 days from the date of receiving the information of commission of the offence. Where this is not possible, an additional 15 days may be extended provided the Tribunal is satisfied. In any case, the investigation period cannot be extended for more than a total of 75 days [See section 11(1), 11(2), 11(3) and 11(4)(a) of the Acid Offence Control Act, 2002]. Furthermore, the tribunal is under an obligation to conclude the trial within 90 days from the date of receipt of the record of the case, and the hearing must continue every working day consecutively until its conclusion (See section 16 of the Acid Offence Control Act, 2002).

It is not only acid cases which are backlogged. All pending cases from HRLS legal aid clinics from seven divisions reveal the same trend. The most time-consuming stage is the witness hearing stage, usually due to lack of timely appearance of witnesses. Despite the grim picture that this data paints, all is not lost. The Supreme Court, led by the Honorable Chief Justice Surendra Kuman Sinha, has started taking effective measures in order to reduce the backlog of cases, including amongst others, the recruitment of judges, construction of separate court buildings for judicial magistrates, and recruitment of support staff for lower court judges. Additionally, the Justice Sector Facility (JSF) project is being implemented by the Law and Justice Division of the Ministry of Law, Justice and Parliamentary Affairs, supported by UNDP

Bangladesh and UK Aid. This project is intended to assist the justice sector institutions in Bangladesh to bring about more effective case management, strengthen institutional planning capacities across the justice sector, and raise awareness of legal aid and improve its administration (See www.bd.undp.org). For the poor and marginalised clients, the road to access to justice is indeed an arduous one. The decision to seek to assert one's legal right without paying heed to social constraints is the first challenge. Entering the formal court system to seek justice requires poor litigants to be prepared for a lengthy legal battle, fraught with obstacles which are often built into the system or brought about, not only by their opponent's legal representatives, but sometimes their own. Cases involving offences of a sexual nature against women can be particularly strenuous for the survivor as the weight of social pressure stops her from seeing through to the end what is usually a lengthy trial for justice. On behalf of the poor and marginalised litigants of Bangladesh, the hope is that the initiatives taken by the Ministry of Law, Justice and Parliamentary Affairs and the Supreme Court will take shape and bring about a significant reduction in backlog of cases, and enforce effective case management mechanisms throughout the country. The writer is Barrister and Advocate, Supreme Court of Bangladesh, and Programme Head, Human Rights and Legal Aid Services, BRAC.

QUOTABLE Quote

SAMUEL BECKETT

Ever tried. Ever failed. No matter. Try Again. Fail again. Fail better.

CROSSWORD BY THOMAS JOSEPH

ACROSS

- Tarragon or thyme
- Woodwind instrument
- Film
- Rural businesses
- Sports setting
- Follow the outline of
- Totaled, at the register
- Maiden name label
- Tops, as a cake
- Texas baseballer
- Homer's neighbor
- Talk excitedly
- Western spread
- Stupor
- de mer
- Singer Ariana
- Fizzy drink
- Charged particle
- Unpredictable
- Strong winds
- First Lady before Michelle
- Haunted house
- City on the Rhone
- TV award
- Canary snack

DOWN

- "Satires" poet
- Made level
- Saturn sight
- Swain
- Many a time
- Saloon
- Halloween hue
- Hosted
- Sausalito's county
- Visionary
- One of Santa's team
- Ending with sever or suffer
- Utmost
- Writer Ayn
- Sprinted
- Acting company
- Kidnap demand
- Electronics part
- Found darling
- Tibetan monks
- Band's jobs
- Trap
- Woeful cry
- Male cat
- Sun setting

YESTERDAY'S ANSWER

S	L	O	V	E	S	A	R	A	H
C	L	O	V	E	P	L	A	T	O
A	L	D	E	N	R	E	N	E	W
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F	E	E	B	L	E	T	O	S	
D	R	E	A	M	T	I	M	E	
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BEETLE BAILEY BY MORT WALKER

BABY BLUES by Kirkman & Scott

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