

Tortured for dowry

Put an end to the bestial behaviour

WE see a continuous display of grief and sorrow in the media—bodies lined up after car crashes, someone lying in a hospital bed with a leg chopped off for standing up to those who stalked his daughter, domestic workers abused by people who are otherwise known as decent, law abiding citizens of the society. But the single image of Fatema Akter Liya of Tangail, her shaven head exposing grievous injuries, in this newspaper, sums up everything that has gone wrong with our society. Five days into the delivery of their second child, her husband lacerated her with a sharp object for dowry. What would be an appropriate response to this brutality? Should we be satisfied with ourselves by showing empathy for Fatema who can barely talk now? Should we let out a hint of a sigh and then go back to doing whatever we were doing?

The picture induces cringes, but it's not the whole. Incidents like this hardly occur in vacuum. Despite the hue and cry, they continue to take place unabated, mostly due to the culture of impunity. How many people have been punished for demanding or taking dowry which is illegal in this country?

Fatema's loss must not be kicked into the long grass. All the talk about women empowerment will be meaningless as long as women are abused this way and the perpetrators walk free. There is also a need to increase the level of social awareness to rid society of this menace.

Missing youths

Worrisome development

IN the last two weeks nine youths have been reported missing. None of them was wanted by the police or had criminal record, and all of them were pursuing higher studies in public and private institutions except for one who was a madrasa student. That they were not picked up surreptitiously at the dead of night can be safely assumed because the telltale signs that accompany such disappearances are absent in all the nine cases. The question then is, where are they?

One wonders whether there are grounds to presume another worst case scenario in the disappearance of the nine young men, that they have left the country clandestinely to join international Islamist extremist groups. Only in August this year we were informed by the police that between 30 and 50 young men had gone missing. And several of those killed in counterterrorism operations in recent months had been reported missing earlier. If they are bound for where conjecture suggests they are, then it is worrying.

Obviously, the message of the extremists are still resonating in the psyche of a section of our youth, albeit very minuscule. It is obvious too that the more educated section of the youths are being targeted for recruitment.

It is time we seriously devised means to make our society impervious to these extraneous pulls that the youths are being subjected to. We must also make sure that their entry in the country is made as difficult as it has been easy for them to leave, and that they are preempted before they can cause any damage to us.

LETTERS

TO THE EDITOR

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Talking about human rights

Every year when the International Human Rights Day comes around, the media covers various subjects that are in the news related to human rights. But we should keep in mind that human right applies to all of mankind. Yet, how humanistic are we, really?

Men and women are continuously being oppressed, humiliated and tortured by other men and women, all over the world. So, first we have to be true humans and act like it. Only then can we have the right to speak about our right as humans.

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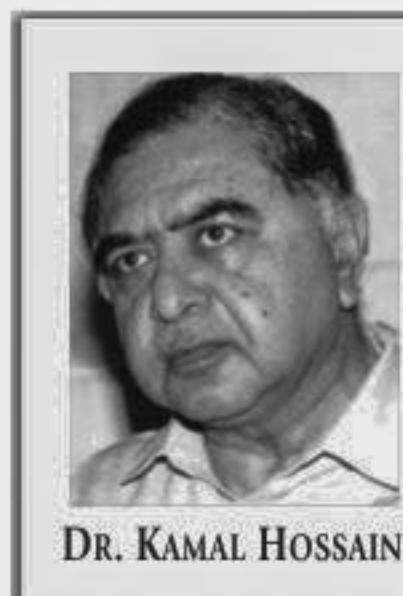
Influx of foreign funds

As per *The Daily Star's* business news and also of several other newspapers recently, foreign funds have begun to come into the Bangladesh Stock Market. During the current year, it increased by 9 times compared with the previous year. As I wrote for more than a year, the Bangladesh Stock Market has been lucrative for investments, particularly for banks and other financial institutions. But I do believe that it still has a long way to go before our investors properly understand "stock investing" which requires patience. Pension funds such as those in the developed world, if created, will not only boost the capital market, but will also help stabilise the market in times of need.

Luthfe Ali, On email

The role of the judiciary

Protecting human rights, the constitution and promoting social change



DR. KAMAL HOSSAIN

The challenge of change: From a colonial society to an independent state

Our current history begins from the emergence of independent states in societies which till then had been under colonial rule. Independence promised to usher in social change. Colonial societies were marked by feudal hierarchies, patron-client relationships, and disparities of wealth, class and caste. Equal opportunities for self realisation were a far cry as access to education and access to health for all was a distant goal. A classic work by an anthropologist on post-colonial Africa bears the title *From Subject to Citizen*. In a colonial society, a person was the subject of an imperial ruler, whose viceroys exercised executive authority without constitutional limits. They were thus under no constitutional obligation to respect the fundamental rights of their subjects, nor in these societies could the subjects seek judicial protection of their rights. Upon independence, subjects emerged as citizens, whose fundamental rights were recognised. In the realisation of these rights, the judiciary was to make a significant contribution.

A Constitution has been described by the architect of the South African Constitution as "the autobiography of a nation". It reflects its history and many of its provisions can best be understood as responses to the historical experience of the nation and as providing guide-posts to a future which is free from the negative features of the past. A Constitution is thus both a document that a generation drafts in the light of its experience and the prevailing currents of thought and which seeks to anticipate the future and to provide a framework for orderly change. Constitutions which mark freedom from colonial or authoritarian rule must necessarily promise change to correct the disparities and inequalities inherited from the old order. The fundamental rights clauses and the directive or fundamental principles of state policy provide a reservoir of legal resources which can be drawn upon to bring about such change. They provide the mandate for innovative laws, innovative institutions and remedies and for affirmative action designed to give substance to the constitutional pledges of freedom, equality and justice.

Expanding frontiers of judicial review

The incorporation of a Bill of Rights in our Constitution and conferment on the judiciary the power of judicial review and

the power to enforce fundamental rights has enabled the judiciary to play a profoundly catalytic role. By expanding the frontiers of judicial review, and by being creatively proactive, the judiciary has drawn upon the resources in our constitution to promote social change.

The judiciary has been promoting social change through rights-friendly interpretations of the Constitution aimed at implementation of economic and social rights. The increasingly positive attitude of the judiciary towards public interest litigation, overcoming earlier inhibitions which had constrained the role of the judiciary, has enabled the judiciary to play a dynamic role in

had to be dealt with by the judiciary.

In Bangladesh following a landmark judgment delivered by the Supreme Court of Bangladesh in 1999 which held that an Association of Environmental Lawyers had standing to present a writ petition in the public interest, public interest litigation has grown significantly. The petition had successfully challenged the legal validity of a flood action plan prepared without any participation of concerned and affected persons which threatened adversely to affect the lives and livelihood of substantial sections of people and to have adverse environmental and ecological effects. The Supreme Court has entertained public

upon the executive. If the executive defaults on its legal and constitutional obligations however, courts and judges cannot take a view that violations of rights involved in such defaults are no concern of theirs. If the duly authorised constitutional officers fail to discharge their constitutional and legal obligations, an activist of judiciary is justified in issuing directions to them to discharge their duties expeditiously. If there are large numbers of under-trial prisoners, not brought to trial for a long time, a judge might feel more than justified in ordering expeditious trials for their release. If conditions in jails are inhuman and debasing, a judge may order



PHOTO: STAR

facilitating and promoting social change.

Judicial review has continued to expand in South Asia on the premise that while every organ functioning under the Constitution has limits it is for the court to determine those limits. This has accounted for the expansion of the scope of judicial review. The challenge of implementation of economic and social rights has seen innovative approaches being applied, including the development of public interest litigation. New challenges are presented by the issues, among others, of gender justice, bonded labour, forcible eviction of slum dwellers, and different forms of environmental degradation which have

interest petitions relating to a wide range of issues including industrial safety (fires and unsafe factory buildings of garment factories), environment (the gas explosion in a gas field), corruption (illegal granting of public land without following proper procedures), inhuman custodial practices (imposition of bar fetters in judicial custody, confinement of rape victims (in handcuffs) and other women in "safe" custody) and forcible eviction of slum dwellers.

Judiciary as enforcer of Constitution

The responsibility for effective execution of constitutional and legislative mandates expressed through statutes rests clearly

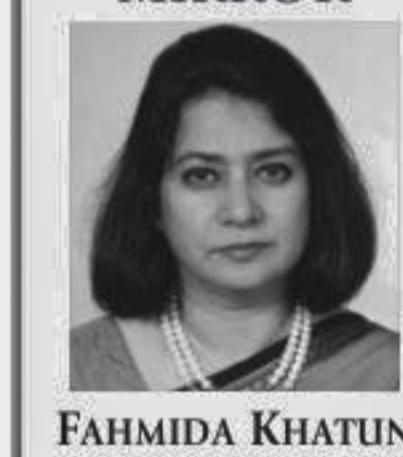
corrective action. If slum dwellers are threatened with forcible eviction, they can seek and obtain protection from the Judiciary.

The Constitution is a living document which reflects the aspirations of the people and aims at promoting progress, peace, welfare, and amity among the citizens; it is the basic structure on which the entire edifice is built. An independent judiciary thus has a critical role to play as guardian of the Constitution and as a catalyst for social change.

The writer is Senior Advocate, Supreme Court of Bangladesh, an eminent jurist and one of the architects of the Constitution of Bangladesh.

Migrant workers deserve better

MACRO MIRROR



FAHMIDA KHATUN

THE ninth Global Forum on Migration and Development Summit is being held in Bangladesh at a time when the world is facing the worst migration and refugee crisis

in the history of human civilisation. With the evolving global political and economic scenario, countries are struggling to manage the crisis of humanity while thousands of people from war afflicted areas of Syria, Afghanistan, Iraq and many more countries are flooding in through the borders of developed countries for shelter. Once considered beneficial for mutual development of countries, migration is now a much disliked concept in the recipient countries. Economic meltdown in the developed countries in 2008 and lack of strength to bounce back since then, deprivation of the common people and the failure of political leadership have contributed to such protectionist outlook among large communities across the world.

However, the importance of international labour migration has not diminished. It yields benefits in both recipient and sending countries. Recipient countries can get their work done by workers from other countries which otherwise could not be done by their own people. For sending countries, movement of people can provide high employment opportunities and contribute to their social and economic development. The income earned by migrants increases welfare of migrant families and strengthens the national economy. Among Asian countries, Bangladesh, Nepal, the Philippines and Sri Lanka are among the top remittance receiving countries.

In case of Bangladesh, the abundance of labour supply has given comparative advantage over many other countries in the global market. Bangladesh earns a significant amount of foreign exchange through remittances of its workers

abroad. In fiscal year 2016, the share of remittances in its gross domestic product was 6.7 percent. Remittances have not only been able to reduce the current account balance and stabilise the balance of payments of the country but have also helped in improving the standard of living of a large section of population through employment of its workers. However, labour mobility from Bangladesh has never been a smooth process due to several external and internal constraints.

Recent trend of migration and remittances is one such situation when a worrying situation is being observed. In

discrepancy between remittance flow and number of migrant population is the overall slowdown of economies in the Middle-eastern countries. Decline in global oil prices, reduced consumption, slowdown in construction sector and low investment in their economies have led to lower wages and cut down of benefits of migrant workers. On the other hand, cost of food and services has increased in those countries. This may have reduced their savings and resulted in lower remittances.

In many countries, labour market for low skilled jobs has been taken over by local workers themselves to a large extent.



PHOTO: STAR

FY 2016 total remittance inflow to the country amounted to USD 14.9 billion compared to USD 15.3 billion in FY 2015, indicating a decline by 2.5 percent in FY 2016. If estimated calendar year wise, remittance inflow from January to November 2016 dropped by USD 1.3 billion compared to that of the same period in 2015, according to official estimates. However, the number of people going for work abroad has increased during this period. Several reasons for this are plausible.

One of the important factors for this

High unemployment rate due to economic slowdown in countries including Saudi Arabia has led to slashing employment of migrant workers — workers who have no jobs but may have continued to stay back in the hope to get back their jobs.

The other reason for low remittances is the use of non-official and illegal channel such as 'hundi' as a preferred channel to official channel for transfer of money. Workers prefer hundi over banking channel because of the lower processing cost and the instant delivery facility.

Higher rate of USD in the informal market also encourages remitters to send money through informal channels.

Migrants from Bangladesh get one of the lowest payments compared to migrants from other countries. This calls for skills development. Along with the government, the private and non-government organisations should impart training on skills upgradation, English language, rights and obligations, safety, accidents and hazards, savings and money transfer before the departure of the migrants.

Of course, effort for higher remittances has to be linked to the overall development of migrants' welfare. Till now a common complain of the migrants is that after migration they do not get the jobs, payments and benefits they are promised before migration. Lack of accommodation facilities, and humiliation and assault from the locals in the destination countries are other problems for the migrants. Foreign missions in destination countries should provide counselling services, welfare assistance, information and advisory programmes, orientation on arrival, monitor working and living conditions of migrants. Efforts towards improving relationship with Middle-Eastern countries are needed for increasing the number of Bangladeshi migrants and protecting these workers from exploitation. Monitoring of the manpower exporting agencies has to be strengthened to prevent frauds and exploitation.

Given that the global economic outlook including that of the oil exporting countries for 2017 is not bright, unemployment may continue to be a concern. Even for the employed, the real income of migrant workers may decline further due to higher cost of living. In view of new realities in the global employment markets, Bangladesh has to review the issue of migration and remittances in a comprehensive manner which can contribute towards achieving sustainable development.

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