

7TH MARCH SPEECH

and

Preamble of our Constitution



JUBAER AHMED

THE historic speech of the father of the nation, Bangabandhu Sheikh Mujibur Rahman on the 7th March, 1971 was placed in the fifth schedule of Bangladesh Constitution through fifteenth amendment. Thus this historically significant document formally became a part of our Constitution. Apart from its historic value, it is mostly significant for its use as a reliable tool to interpret the operative part of the Constitution, i.e. the preamble.

The preamble of Bangladesh Constitution reads as "We, the people of Bangladesh, having proclaimed our independence on the 26th day of March, 1971 and through a historic struggle for national liberation, established the independent, sovereign People's Republic of Bangladesh." The spirit of our Constitution derives from our historic "struggle for national liberation."

Therefore, the terms "historic struggle" and "national liberation" demands a clear understanding to realise the said constitutional spirit.

The "historic struggle" was vividly sketched in the 7th March speech. Bangabandhu said that "the history of the past twenty three years has been the history of a persecution of the people of Bengal, a history of the blood of the people of Bengal. This history of the past twenty three years has been one of the agonising cries of men and women." He remembered the glorious political movements of the people of Bengal as examples to

make the term more clear namely 1952's Language Movement, 1954's Election, 1958's Martial Law Proclamation, 1966's Six Points Movement, 1969's People's Uprising Movement, 1970's Election and Movement for Parliamentary Democracy. He concludes his speech with the words "The struggle this time is a struggle for emancipation." Therefore national liberation denotes emancipation of the people from all the misdeeds against which we had to struggle for a period of 23 years. Thus it bears a message that unless we succeed in ensuring the said "national liberation" our journey towards constitutionalism will be futile.

The high ideals of nationalism, socialism, democracy and secularism have been mentioned in the preamble as the fundamental principles of the Constitution. The 7th March speech provides with the best illustrations for better understanding of those ideals.

"Secularism" has been illustrated in this speech as religious harmony. He says, "... in our Bengal, everyone, be he Hindu or Muslim, Bangalee or non-Bangalee, is our brother. It is our responsibility to ensure their security." Bangabandhu further warns if we fail to do so our good name must be sullied.

"Nationalism" stands synonymous to unity in his speech when he warned oppressors saying, "You cannot keep seventy five million people in bondage." He taught us where to keep nationalism and said "Now that we have learnt to die, no power on earth can keep us in subjugation."

"Democracy" according to his

speech lies in popular sovereignty and is carried on by their will alone. He conveyed a simple message to the military rulers regarding democracy which is that "power must be transferred to the elected representatives of the people." The speech of 7th March for the first time hit the typical concept of democracy as majority's decision and gave it a new dimension by saying "despite our being in a majority, if anyone proposes anything that is legitimate and right, we would accept his proposal." Hence, the righteous minority got protected against the wrongful majority.

He meant "socialism" as the emancipation of the poor people. Even while calling for countrywide strike he was pretty conscious about their toils. He directed, "In order that the poor do not suffer, in order that my people do not go through pain, all other activities will continue, will not come within the ambit of the general strike from tomorrow. Rickshaws, horse carriages, trains and river vessels will ply. Employees will collect their salaries on the twenty-eighth." Thus, he made an example of pro-people (poor) state.

Recently the UNESCO has recognised this speech as the world's documentary heritage. Now it's our turn to understand our Constitution in the light of 7th March speech and implement its spirit to the fullest possible degree.

THE WRITER IS A LECTURER, DEPARTMENT OF LAW, NORTHERN UNIVERSITY BANGLADESH.

To adopt marine environment law



Over the years, as the countries are becoming more industrialised, they are facing huge amount of waste with a corresponding increase of hazardous waste. At the same time, environmental awareness has grown and legislation has been developed to control the handling of wastes in general and hazardous waste in particular.

In August 14, 2016, Shitakunda based ship breaking industry MS Janata Steel Corp. imported a ship (North Sea Producer/MT Producer) for wrecking. According to a Brussels-based international environmental agency (NGO Ship-breaking Platform), the ship is likely to be carrying a plenty of toxic wastes and it also contains dangerous quantities of radioactive materials. As per Bangladesh's Atomic Energy Center, Test resulted from some areas of the ship showed radiation

in excess of allowable limits. The vessel is also likely to contain large amounts of residues that are contaminated by naturally occurring radioactive material (NORM) and sulphur in addition to various other hazardous materials in its structure and tanks. Moreover, under the European Waste Shipment Regulation, the tanker's export from the UK for demolition in Bangladesh was illegal, thus NGO Ship breaking Platform calls on the UK Government to hold the Maersk owned North Sea Production Company responsible for illegal trafficking in hazardous waste.

The Basel Convention 1989 focuses on the regulation of transboundary movement of hazardous wastes to protect marine environment. In addition, it protected developing countries from importing such wastes that they are unable to manage in an

environmentally sound manner. As rightly claimed by DANWATCH, Bangladesh shipyards are not well equipped with any infrastructure that could safely remove and dispose of such toxic wastes.

MT Producer allowed into Bangladesh based on fake certificates stating that the tanker did not contain any hazardous materials. Moreover, as per Section 20 of Environment Conservation Act 1995 and Rule 18 of the Ship Breaking & Hazardous Management Rules 2011, each importer and exporter of hazardous wastes is bound to comply with the provisions of the Basel Convention 1989. Even though, Basel does not contain a system for ship recycling but this provision has been discussed in Hong Kong Convention 2009.

Bangladesh is not a party to this convention but still it is the third largest ship recycling country. In 2011, Bangladesh adopted the Ship

Breaking & Recycling Rules 2011, which discussed about ship recycling. Furthermore, Article 192 of UNCLOS 1982 confers a general obligation upon the member States to protect and preserve the marine environment. In addition, Article 194 of UNCLOS 1982 states about the measures to prevent, reduce and to control marine pollution. Thus, being a signatory, importing MT Producer is a complete violation of the Environment Conservation Act 1995, Basel Convention 1989 as well as UNCLOS 1982 to bring a toxic vessel for wrecking.

Moreover, Article 195 of UNCLOS 1982 states that the States shall not transfer directly/indirectly any damage or hazards from one area to another to prevent, reduce and control the marine pollution.

Thus, the act done by the Maersk owned North Sea Production Company is unlawful.

The violation is not only limited to the Environmental aspect. According to ILO requirements, the employer should have overarching responsibility for occupational health and safety. The Ship Breaking & Recycling Rules 2011 also contains provision for the worker's safety equipments by the Ship breaking yards. In the previously mentioned context, it is another violation of the Labor Law by threatening the life of the employees. Finally, it is submitted that Bangladesh should adopt a conclusive & comprehensive legal framework for the marine environment to prevent, reduce and control of marine pollution and safety of navigation as the country is entering into the era of blue economy.

Upal Aditya Oikya
LL.M in Maritime Law, BSMR
Maritime University, Bangladesh

Upal Aditya Oikya
LL.M in Maritime Law, BSMR
Maritime University, Bangladesh



LAW NEWS

Access to information to fight intolerance

THE United Nations is committed to strengthening tolerance among cultures and peoples since it lies at the core of the United Nations Charter, as well as the Universal Declaration of Human Rights. This is more important than ever in this era of rising and violent extremism and widening conflicts.

Tolerance recognises the universal human rights and fundamental freedoms of others.

openness should be fostered in children from home. Endeavours to build tolerance through education alone will not succeed unless they reach all age groups, and take place everywhere ranging from home to information highways.

Fighting intolerance requires access to information

Intolerance is most dangerous when exploited for political and territorial ambitions of an individual or groups of individuals. Hatemongers often begin by identifying the public's tolerance threshold. They then develop fallacious arguments, lie with statistics and manipulate public opinion with misinformation and prejudice. This can be curtailed by developing policies for press freedom, which allows the mass to differentiate between facts and opinions.

Fighting intolerance requires individual awareness

Intolerance in a society is the sum-total of the intolerance of its individual members. Bigotry, stereotyping, stigmatizing, insults and racial jokes are some of the common examples. Intolerance breeds intolerance by leaving



the past fifty years and emphasizes that States should draft new legislation when necessary to ensure equality of treatment and of opportunity for all.

Among others, discrimination and marginalisation are common forms of intolerance. Education for tolerance should aim at countering influences that lead to fear and exclusion of others, and should help young people develop capacities for independent judgement, critical thinking and ethical reasoning.

Laws alone can't tackle individual intolerance. It is very often rooted in ignorance and fear of the unknown, i.e. other cultures, nations, religions. Intolerance also comes from an exaggerated sense of self-worth and pride, whether personal, national or religious developed at an early age. Hence, greater efforts need to be made to teach children about tolerance and human rights, about other ways of life. Curiously and

the victims in pursuit of revenge. To fight intolerance, individuals should become aware of the link between their behavior and the vicious cycle of mistrust and violence that follows.

Fighting intolerance requires local solutions

Despite knowing that problems will become increasingly global, few realize that solutions to these problems are mainly local, even individual. When we confront an escalation of intolerance, we must not wait for formal intervention alone. We possess an enormous capacity to wield power by way of non-violent action. Confronting an issue in groups, organising grassroots network, showing solidarity with victims etc are all available to those of us who want to put an end to the cycle of intolerance.

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To celebrate World Human Rights Day 2017, LAW&OUR RIGHTS, The Daily Star is pleased to announce a legal write-up competition for all law enthusiasts.

The competition is open for anyone with legal and human rights knowledge.

The write-up should be based on any of the following themes:

- Minorities and Underdeveloped Human Rights Culture
- Human Rights in Cyber Space
- Human Rights Education
- Role of Youth and Human Rights

Guideline:

The length of each essay should not exceed 600 words.

Essays must be original in writing and sufficiently analyzed.

One individual can submit only one write-up.

Any plagiarised or already published write-up will not be considered for participation in this competition.

The best two essays will be published in Law and Our Rights special supplement of The Daily Star after reviewing by distinguished personnel of the legal arena.

The write-up must be submitted by December 2, 2017 at: dslawdesk@yahoo.co.uk