

NHRC should rethink its strategy as a rights defender



BISHAKHA DEVNATH

WHEN human rights are violated, the job of the National Human Rights Commission (NHRC) is to provide the victims with legal aid. It can even stand by the victims in courts. The rights body also has the authority to recommend compensations to the victims, or their families, and action against state agencies and individuals responsible for rights violations.

A close observation of how the commission has been functioning in the last one decade, however, suggests it has failed in two basic ways—to stand firm against the violators, and stand up for the victims. And this writer is of the view that it is its wrong actions that have led to the failures, not its lack of sufficient power, which it claims to be the case.

While laying out actions to be taken in favour of victims and against rights violators, the National Human Rights Protection Act 2009 defines what human rights are: someone's right to life, liberty, equality and dignity as enshrined in the constitution and the rights protected by international conventions that the state is a signatory of and are upheld by the country's courts.

The commission will decide if any of the above rights have been violated through investigation or inquiry. The act, however, has a clause that limits its authority to investigate allegations against disciplined forces—armed forces and other bodies including police. In such cases, the commission will call for reports from the government on the allegations. If it is not satisfied with the reports, it will recommend action. The government shall then inform

the commission in writing about the action taken in this regard within six months from the date of receipt of the recommendation, according to the act.

In April 2017, a helpless father in Rangamati, Binoy Kanti Chakma, made an allegation that his son had been killed in the custody of security personnel. The NHRC promptly launched an investigation to find out what had happened to him. A three-member inquiry team was set up, which gathered vital but inconsistent pieces of information from the scene and by talking to local people, police, doctors and the bereaved father. In the end, it left the matter unresolved and asked the defence ministry to investigate and solve it.

The move failed apparently because the commission didn't get enough cooperation from the relevant authorities during its investigation. And there was nothing it could do about it because it was not legally empowered to do the investigation in the first place.

Ironically, it did not take the steps that it was legally bound to do in ensuring the rights of Binoy Kanti's son Romel Chakma—the right to justice, as protected by the law even after his death.

The commission, a quasi-judicial body having the authority of a civil court, could have asked for reports from the government on the alleged murder of the indigenous boy. By examining the reports, it could have decided if there had been any human rights violation and accordingly taken the next course of actions like issuing show-cause notices and summon letters, hearing both parties and making recommendations for legal action and compensation for the family. It's important to point out that reports by the investigation bodies have to have explanatory notes on the particular allegations, corroborated by supporting documents and evidence, says barrister Abdul Halim, a supreme court lawyer.

Instead of doing all that is required by the law, however, the commission chose to do the investigation itself. As it failed to investigate properly, it simply left the matter unfinished and turned a blind eye to the sufferings of the victim's family. According to the investigation report available on the NHRC's website, doctors said Romel had died of either injury from a road accident or from physical torture. No case was lodged. The commission didn't find out why.

In another similar attempt, the commission investigated the alleged rape of an 18-year-old Marma girl and sexual assault



of her sister by members of security forces in January last year. It concluded that the incident was nothing but an attempt of sexual harassment of one of the sisters. But it did not recommend any action against those who made the attempt.

Chakma Rani Yan Yan and her volunteers were with the sisters at Rangamati Sadar Hospital for medical check-up in the second week of February 2018. The NHRC in its report said it had not found any evidence of physical assault on Yan Yan and her volunteers at the hospital when the sisters

were forcibly taken away in the presence of police and handed over to their parents. Since then, no one knows about their whereabouts.

From nurses and other witnesses, the commission learnt that a chaotic situation had arisen on the night the sisters were taken away. There were screams at the hospital but no one approached them out of fear. The commission, this time too, got its job done by recreating a blurry image of what could have happened. It did not search for the sisters to talk to them.

The legal backdrop for rights violations by non-disciplined forces is different. Regrettably, in this case too, the NHRC's performance is not satisfactory. Take the case of the sensational murder of a madrasa girl, Nusrat Jahan Rafi, who was set ablaze inside the institution.

The NHRC conducted an investigation but the outcome was quite confusing. Because, in the end, it suggested a fresh investigation by "the relevant authority" and called for a report on the findings. One may be prompted to ask, why did the commission do the investigation then?

The murder of Nusrat after she had brought charges of sexual assault against her madrasa principal led to a nationwide outcry. The commission rightly picked the case. What her family needed was support in its legal pursuit against the criminals as well as monetary assistance. The significant task in this case was to ensure transparency in every step of the legal procedure, and ensure that police, doctors and all others involved in the process play their due roles. Unfortunately, the commission hasn't done any of these, not only in Nusrat's case but also in other cases that it has so far dealt with. Its inaction or ineffective action resulted in public distrust in its ability to protect the country's citizens from human rights violations.

The commission was formed in 2010 following decades of advocacy from the

civil society and international bodies as a last resort for upholding the human rights of citizens. From a telephonic conversation with the current chairman Kazi Reazul Haque a couple of months ago, it seemed the commission's major success was the shifting of its office from a 4,000 square feet space to a 18,000 one, setting up of a childcare centre and another centre for interactions between elderly people and children.

While all these activities and the commission's advocacy of rights for transgender people are laudable, its failure to be vocal against human rights violations is disheartening. One may recall the case of Limon Hossain who was shot in the left leg by Rapid Action Battalion personnel in 2011. At the time, the nation appreciated it when the then NHRC chairman Mizanur Rahman publicly criticised Limon's human rights violation.

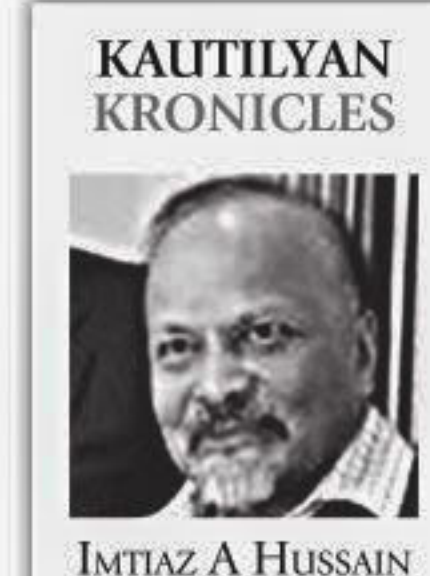
The legal battle of Limon, who lost the leg in amputation, against the accused Rab members is still on. In a recent interview, he said there had been hardly any effective follow-up on his case by the commission.

Kazi Reazul Haque's term ended on June 30 and the seven-member commission (one chairman, one full member and five honorary members) itself will be dissolved this August. The outgoing leadership may not have much time left to redesign the way of action but its failures until now as a human rights defender should point out to the new commission where to focus and how to navigate through the legal system to stay relevant and become effective.

After all, the commission's function is to shield all citizens (especially those who are most vulnerable) from rights violations, by exerting pressure on the government agencies to comply with its recommendations.

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A Giant Retreat for Mankind



IMTIAZ A HUSSAIN

REMEMBER those first words ever spoken from the moon? In the half-century since Neil Armstrong uttered them, the space race has invited many other countries—from the rich to the poor, from the developed to the developing—and

even attracted private-sector interest. From a Soviet Union-US duopoly, we see China's greater strides than the original competitors, and even India, the country hosting a bulk of the world's pauperised people, is etching in its fingerprints, footprints, and space-based future plans. Technological advances have opened windows for space tourism, while Mars no longer remains outside the realm of human adventurism.

Mankind's "giant leap"—that is, Armstrong's moon-landing on July 20, 1969 (which led to his auspicious October 27, 1969 Dhaka visit as part of the Giantstep-Apollo Presidential Goodwill Tour)—has been neutered, perhaps subordinated, by some giant "retreats." Many come to mind, so many more that sooner or later we will be asking ourselves whether we are progressing or regressing outside the space-race domain.

Climate change was not even an item when Armstrong's Apollo 11 took off on July 16, but every year now it headlines more casualties and damage than those before. Hiroshima and Nagasaki were the only automatic sites mentally flashing when atomic/nuclear disasters were discussed then; but today Three Mile Island (1979), Chernobyl (1986), and Fukushima (2011) join the list from bad radiation experiences. With no more than five possible nuclear powers then, our double-digit count now gives too many shady leaders access to the "button", making a nuclear showdown more probable than possible.

Similarly, a marijuana "high" set the limit then, yet today cocaine, yaba, and yet-unknown derivatives make us look like zombies. And if hijacking airplanes was about as dramatic an action as "terrorists" could

execute then, 9/11 and ISIS suicide-bombers have also altered perceptions, expectations, brutality, and casualties dramatically.

The list goes on. When added, any raw score tipping the scales against those "giant leaps" for mankind rightly elevates fear.

How one wishes the above narration said it all. Alas, the arguably biggest nightmare remains unlisted. It is not only capable of

we endear the most, wherefrom to split leaves us as outcasts or ostracised. Their common feature, individualism, demands attention beforehand.

Seen as the unbridled characteristic of the European Reformation, individualism drove the conversion of the Medieval faith-based subscription into material-enhancement by the 14th-century Renaissance. Our appetite

of the world. Yet—and this is the crunch—the shift to nuclear families, single-parent households, and simply go-it-alone outfits rank among the fastest growing social units. Beginning in post-World War II developed countries, they now invade developing countries.

The first of those principles, practices, or sought outcomes is, of course, democracy. Its underlying trait, to privately cast one's ballot, brutally hits collective cultural practices randomly. In a society riddled by a patron-client or man-servant social structure, as many developing countries still have, that voter gets an "escape" option from stratified suffocation in bad times. A Sudra or Scheduled Caste Indian, for instance, could renege on loyalty to the Brahmin to ventilate a grievance. Democracy outside the Anglo-Saxon countries struggles precisely because of this rendezvous between modern society and an implacable collective cultural trait. Though it may be the most cherished of all governmental forms, it must come to terms with society's cultural bedrock: where to yield, where to stubbornly hold, must be patiently worked out by more than the precepts of democracy or the electoral calendar. Threatening old anchors with new ones was the unfolding Twentieth Century story spilling over into the Twenty-first.

Turning to the second of those principles, practices, or sought outcomes—also the product of the English Enlightenment, especially as it collided with another secular social development (the industrial revolution)—is the advent of mass-production and inevitable free-trade demands (typically by the "stronger" countries against "lesser" others). From 19th-century liberalism to 20th-century neo-liberalism, we have seen countries both modern and traditional finding no alternative but to eliminate barriers, yes, even those state-sanctified barriers established by the Treat of Westphalia as sovereign rights and territorial sovereignty (like the European Union).

Like democracy, liberalism (and more blatantly neo-liberalism) exposes our "jungle" survival-of-the-fittest instinct best. Since democracy equalises the playing field

for "haves" and "have-nots," resorting to pre-election monetary incentives helped the "haves" to reassert themselves. Aristotle foresaw another danger, "mobocracy": the electorate could become the "mob," voting in a mobster. His "mobocracy" may be entering its golden age in the 21st century. Likewise for neo-liberalism: under equal opportunities, the larger companies can gobble all else, including the government, but adroitly leaving the legitimacy-guarantor government out.

With both democracy and neo-liberalism as 21st century mandates (more country commitments now than ever before), we may be witnessing how the individual-collective cultural mismatch may be playing out: more democratic "crises" now than ever before, snaring even the most mature of them all, the Anglo-Saxon countries; and likewise, with neo-liberalism, from which every country seeks one "exemption" or another, with the flag-bearing country itself, the United States, now preaching "America first."

Even "America first" can only wilt under other secular forces. With the Internet, we have learned how to "turn off" the outside world; Facebook enhances our capabilities to "like" and "unlike," helping us cultivate like-minded yet unknown people globally, instead of just in our family, school, class, or neighbourhood; and from WhatsApp, we can beam whatever we want, still to the largest audience available, only this time far, far bigger than the family, school, class, or neighbourhood group. If we tweak these technologies and wreak whatever damage, or bestow whatever blessing we like, to whomever we want, wherever, whenever, anarchy will become our constant companion, from both the spontaneous but unorganised good and the deliberate bad.

From the family to the state, institutions have weakened, and boundaries have evaporated. Whims have taken over. We could face nastier residues than any nuclear bomb, climate-change threat, or drug damage.

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With the Internet, we have learned how to "turn off" the outside world. PHOTO: REUTERS

inflicting the most damage, but it also has no colour, race, nationality, issue-centric or weapons-of-mass-destruction tags. As a silent behaviour innocuously conducted without brooking any imaginable adversary, it entails how we have retreated from the family, band, tribe, group, nationality, or country into our own selves. The last time such individualisation happened on this scale, producing the same anomie, was in the "jungle" we once came from. Our inward-turn has gone on, albeit glacially, for too long for us to reverse the trends now, though reversing it we must. At stake are two of our most cherished goals, embedded in principles

was evident in how city-states turned into nation-states by the mid-17th century (by way of the Treaty of Westphalia). One consequence was the English Enlightenment itself making individualism an exclusive property of Anglo-Saxon culture (its sinews best illustrated in Max Weber's "Protestant Work Ethic"). Contrasting this were the family-knitted collective cultures, not only dotting the European continent, but also broader clans and groupies (like tribes) of all sorts outside Europe, the latter still existing in inter-generational families or extensive clans living in the same household, or in close proximity to each other, across a large part

QUOTABLE Quote

OSCAR WILDE
(1854-1900)
Irish poet and playwright

"I can stand brute force, but brute reason is quite unbearable. There is something unfair about its use. It is hitting below the intellect."

CROSSWORD BY THOMAS JOSEPH

ACROSS

- 1 Pathfinder launcher
- 5 Frightens
- 11 Final, for one
- 12 Puget Sound city
- 13 Faux pas
- 14 Collar
- 15 - Aviv
- 16 Apple or pear
- 17 Prepares the hook
- 19 Spinning toy
- 22 UV stopper
- 24 T-shirt choice
- 26 Reddish horse
- 27 Staff member
- 28 Poker payments
- 30 Garth Brooks's birthplace
- 31 Guitarist Paul
- 32 Song bit
- 34 Channel marker
- 35 Feedbag bit
- 38 Settled a debt
- 41 Matching
- 42 Without delay
- 43 School near Windsor
- 44 Fez feature
- 45 Invites

DOWN

- 1 Egg setting
- 2 Car bar
- 3 Regatta vessels
- 4 Band blaster
- 5 Kick off
- 6 Loving touch
- 7 Land unit
- 8 Fish eggs
- 9 Print units
- 10 Plopped down
- 16 Even score
- 18 Last of the Stuarts
- 19 Some formalwear
- 20 Carmaker
- 21 "Not guilty," for one
- 22 Spoken
- 23 Region
- 25 Halekataka setting
- 29 Floodgate
- 30 Attempt
- 33 Alpine trill
- 34 Outlaws
- 36 In a frenzy
- 37 Addition column
- 38 Mob pariah
- 39 LAX guess
- 40 Not neg.
- 41 Dolphin's home

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BEETLE BAILEY by Mort Walker

HE! WHOATE MY PIZZA?!

DON'T GIVE ME THAT INNOCENT LOOK, OTTO

HE DOESN'T GET IT. THIS IS MY GUILTY LOOK

12-20

BABY BLUES by Kirkman & Scott

WUHANG! BANG! BAMITY BONK! BAM! BIDDA-BAM! HAMMIE HAS BEEN DRUMMING ON THAT POT ALL DAY!

BANGITY-BANG-BANG! BAPI CLANG! KLANG! DONK!

MAYBE WE SHOULD DO SOMETHING ABOUT IT

I DON'T THINK IT'S CONSIDERED GOOD PARENTING TO PUT A CONTRACT OUT ON YOUR KID

I'M TALKING ABOUT BUYING HIM SOME REAL DRUMS!

7-24

YESTERDAY'S ANSWERS

P H E W J A B B A
A E S O P O G R E S
W A T E R W H E E L S
E T A I A N W I E
D E T E C T B E E T
R E N E E A D D S
T Y R E S
P O S E B U I L T
R U E R E I N E S T
O T T A D O E E E
W A T E R S P O R T S
A G E N T S A P R E S T
R E E D S O D E S