LAW AND COMMERCE

Strengthening the legal protections of **foreign investment**

As Bangladesh positions itself on the global investment map, it must ensure that the legal foundations are just as strong and inviting as the economic incentives. After all, capital does not just chase incentives— it chases certainty. And certainty comes from the legal framework.

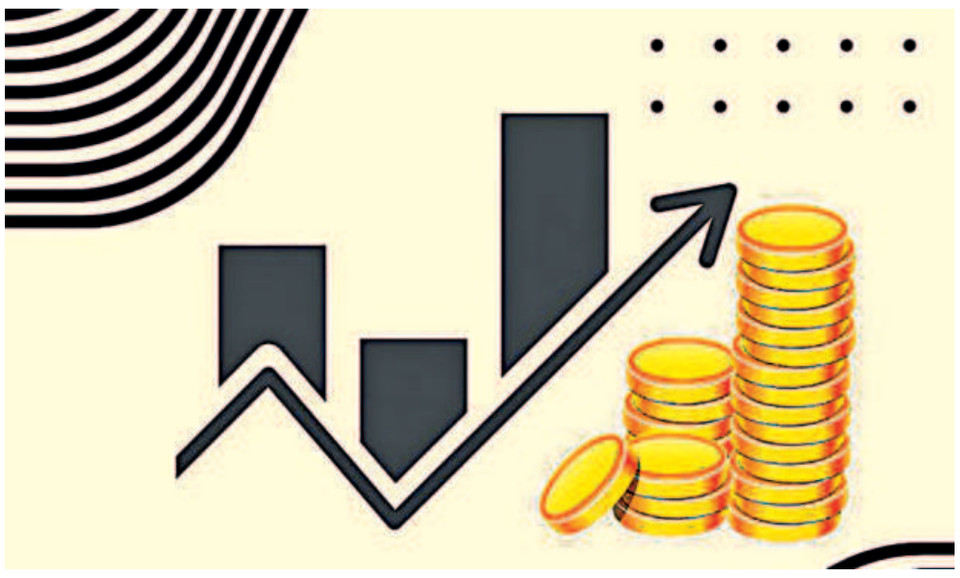
FORHAD AHMED

Promotion, protection, and dispute resolution are the three core structures of an international investment agreement (IIA). While investment facilitation, policy incentives, and infrastructure readiness dominate the headlines, it is essential to remember that legal certainty remains the bedrock of investors' confidence.

Foreign investors, particularly institutional or strategic ones, always look beyond short-term policy incentives. They want to know what would protect them if policies shift, or where they can go to seek remedies if disputes arise. These are not just hypothetical concerns. They are addressed by tangible legal frameworks— domestic investment laws and, more importantly, the IIAs *e.g.* bilateral investment treaties (BITs).

Bangladesh, so far, has signed 34 BITs with countries including the United States, the United Kingdom, Germany, China, and the Netherlands. Most of these treaties were signed during the 1980s and 1990s, reflecting Bangladesh's early integration into the global investment regime. These BITs typically promise investors protection against expropriation, guarantees of fair and equitable treatment, and access to Investor-State Dispute Settlement (ISDS) mechanisms such as ICSID or UNCITRAL arbitration.

However, many of these BITs have grown outdated. They lack clauses on sustainable development, responsible business conduct, and the host state's right to regulate in the public interest. Moreover, they do not appear to be publicly discussed or promoted as part of Bangladesh's overall investment narrative.



Tabular Breakdown of the status of Bangladesh's BITs

Status	Number of Bangladesh's BITs	Remarks
In Force	25	These BITs are currently legally binding and operational.
Signed (Not in Force)	7	Awaiting ratification or implementation.
Terminated	2	Treaties officially dismissed.
Total	34	Among these, 22 BITs were signed between 1980 and 200

SOURCE: **UNCTAD**

Additionally, Bangladesh's investment climate has already faced international legal scrutiny. A prime example is *Saipem S.P.A.* v *The People's Republic of Bangladesh* (ICSID Case No ARB/05/7), where the tribunal ruled that Bangladesh had indirectly expropriated the investor's rights through judicial interference. Although Bangladesh ultimately prevailed in other proceedings, the case set a precedent that judicial actions can trigger treaty-based liability.

Similarly, in the commercial arbitration involving *Chevron Bangladesh Block Twelve Ltd* and BAPEX, disputes emerged over gas-sharing agreements. While not a treaty-based dispute, it nevertheless signaled the complexities in contractual enforcement within the country. These experiences have shaped international perceptions of Bangladesh's legal reliability and dispute resolution landscape.

Furthermore, with ISDS mechanisms embedded in many BITs, foreign investors often prefer destinations where they know disputes can be resolved at neutral international forums rather than relying solely on domestic courts. As Bangladesh aspires to become a regional manufacturing and logistics hub, especially in light of its LDC graduation, it is imperative to reform and modernise its investment treaties and legal infrastructure. As noted above, many of the existing BITs signed decades ago are outdated and lack sustainable development considerations or balanced dispute resolution frameworks.

Countries such as India, South Africa, and Morocco have adopted new Model BITs or investment laws that better align with contemporary global standards. Bangladesh, too, should consider adopting a Model BIT in order to recalibrate and negotiate the BITs accordingly, and invest in legal capacity building within BIDA and relevant ministries. Careful evaluations of existing laws including the Foreign Private Investment (Promotion and Protection) Act 1980 are necessary in order to modernise and standardise the procedures.

Legal certainty is not just a post-investment concern. It is, in fact, a pre-investment requisite. However, the presentations and agenda materials of the recently held investment summit in Bangladesh appeared not to address the legal aspects sufficiently. To make our investment pitch truly robust in the investment forums, the authority can dedicate a showcase session on legal aspects for investments. Moreover, the relevant authority may initiate expert consultation on revising existing BITs to align with the best global practices, enhance transparency by publishing all IIAs and dispute outcomes, establish a legal helpdesk or unit within the authority to guide foreign investors on legal matters. Therefore, the legal experts, international negotiators, and foreign investors should be able to discuss not just the "how" of investing in Bangladesh, but also the "under what legal terms" as well.

As Bangladesh positions itself on the global investment map, it must ensure that the legal foundations are just as strong and inviting as the economic incentives. After all, capital does not just chase incentives— it chases certainty. And certainty comes from the legal framework.

The writer is Lawyer and Researcher in International Investment Law.

LAW ADVOCACY

Need for a Doctors' Protection Act?

JOYDEEP CHOWDHURY

In Bangladesh violence against doctors has become quite a common phenomenon. The violent confrontations between doctors and patients or their attendants often stem from delays in treatment, adverse outcomes, or sheer frustration with an overstretched healthcare system. However, behind most incidents lie a deeper reality: public expectations collide with systemic failures, and doctors, stranded between institutional neglect and human despair, become the easy targets. While medical negligence is a reality, but violence can never be a solution to that. We need frameworks to manage grievances on both sides. Indeed, while we need laws to deal with medical negligence, we also need laws to protect the doctors from violence and threats of violence.

The public often sees doctors as authoritative, privileged, and well-positioned. Yet beneath that perception often lies a very different reality. Overburdened government hospitals, under-equipped facilities, and a critical lack of staff define the everyday realities for the public sector physicians in Bangladesh. A government doctor may face three times the recommended patient load and still be expected to deliver care that meets adequate standards. When outcomes disappoint, as they often will under such strained conditions, the blame falls solely on the doctors.

This blame often transforms into hostility. Verbal abuse has already become commonplace, and physical intimidation is no longer rare either. The culture that permits such acts sees violence not as a breakdown of civil norms but as an understandable outburst— one that medical professionals must tolerate as part of their noble profession and moral bindings. And yet, when these incidents occur, police are hesitant to intervene, hospital authorities look to avoid "unnecessary escalation," and doctors are advised to "let it go." The outcome is impunity and frustration, leading to systemic failure.

The legal architecture, meanwhile, remains indifferent. The Penal Code 1860 criminalises assault on public servants (section 353). However, this provision is unevenly applied to doctors, particularly those in private or semi-government institutions. Even where it does apply, enforcement is sporadic, and few cases proceed to court. In the absence of a targeted legal mechanism, doctors remain legally vulnerable— and are often left practically unsupported.

The Penal Code's general provisions were never tailored to the unique pressures and vulnerabilities of the medical service. Without a targeted statute, enforcement agencies lack clarity, institutions lack obligations, and victims lack avenues for swift recourse. This inadequacy does not merely leave doctors unprotected; it normalises their exposure to risk as an inevitable cost of their profession and also affects the structural fiduciary relationship that should exist between the patients and the physicians.

In light of the above, a new law can be helpful. But what should it look like? At its core, a Doctors' Protection Act should explicitly recognise all registered healthcare professionals— public and private—as protected under the law while on duty. It should criminalise threats, abuse, and physical harm with graded penalties. It should also mandate institutional safeguards and rapid police responses and provide for fast-track adjudication where necessary.

Some of Bangladesh's regional neighbours have already moved toward such reforms. In parts of India, attacks on doctors are treated as non-bailable offenses under states legislation. In Pakistan, provinces such as Sindh have introduced healthcare protection bills, and Sri Lanka has adopted administrative protocols and hospital-based security frameworks to reduce the risk of violence. Beyond South Asia, several countries have taken bolder legislative steps. In Australia, for instance, many states have made assaulting healthcare workers an aggravated offense with enhanced penalties. In the United Kingdom, under the Assaults on Emergency Workers (Offences) Act 2018, violence against healthcare staff triggers stricter sentencing. In the United States, numerous states classify attacks on healthcare providers as felonies, recognising their vital societal roles.

Legal reform, of course, is not a panacea. But it is an essential starting point. It can bridge the difference between expecting protection and actually receiving it. A well-drafted, narrowly tailored law can serve both symbolic and practical purposes. It can deter future violence through clear consequences and empower doctors to assert their rights without fear of reprisals.

The writer is Lecturer in Law, Sonargaon University (SU), Dhaka and Advocate, District and Sessions Judge Court, Dhaka.

LAW LETTER

Rights of our Women Workers

Women now make up around 42.7% of the formal workforce in Bangladesh, and all the morein the informal sector, according to Bangladesh Bureau of Statistics (BBS). In garments industries, which accounts for nearly 84% of Bangladesh's total exports, women represent about 55% of the workforce. Beyond clothing, women workers are also involved in informal domestic work, shrimp farms, and tea gardens, often with minimal legal protection.

Indeed, behind these encouraging statistics lie the harsher truth— women workers in our country face unsafe workplace condition. In fact, a 2022 study by the Bangladesh Institute of Labour Studies (BILS) reported that nearly 40% of female garment workers encounter some form of verbal, physical, or sexual harassment at work. Moreover, essential rights such as maternity leave are often denied, especially in smaller or subcontracted factories operating beyond the regulatory radar.

As Party to several ILO conventions, Convention on the Elimination of all forms of Discrimination against Women, and an array of other human rights instruments, Bangladesh is obligated to uphold inclusive labour protections, and it must be held accountable for not meeting these commitments.

Furthermore, wage inequality is pervasive across different parts of Bangladesh. For instance, in the Rangpur district, female agricultural workers were reported to receive only half the wages paid to male workers despite working the same hours: while men were paid 180-300 BDT per day, women workers received only 90-150 BDT, despite legislation mandating equal pay. The lack of female representation in trade unions further escalates the crisis. Interestingly, although the majority of workers across many industries

are women, they are still underrepresented in leadership positions, limiting their ability to advocate for safer workplaces and fairer wages.

Theoretically, Bangladesh's labour laws provide some protections. The Labour Act 2006, for instance, addresses important issues, such as workplace safety, maternity benefits, safeguards against wrongful termination, etc. Additionally, Bangladesh has ratified several important ILO conventions, such as Convention 111— Discrimination (Employment and Occupation) Convention 1958, and Convention 87— Freedom of Association and Protection of the Right to Organise Convention 1948. However, there is still a huge discrepancy between rights as they exist on paper and those that are exercised in practice.

Labour inspections are irregular, and enforcement measures are inadequate. Female workers in many factories, especially those in the informal sector, are not even aware of their legal rights. Even when they are, they are afraid of reprisals, which keeps them from speaking up. Moreover, complaints mechanisms at the workplace are mostly not discreet.

Fortunately, women-led workers' organisations have brought in important structural reforms over time. Led by former garment workers, groups like the National Garment Workers Federation (NGWF) have fought tirelessly for labour rights, fair wages, and safer working conditions. Thousands of garment workers, many of whom are women, regularly demonstrate for higher wages and better working conditions. Although many demands are still unfulfilled, their activism have resulted in several changes within the overall system.

In a promising development, the Labour Reform Commission of Bangladesh has recently submitted its report to the interim government, bringing new hope for women workers across the country. This report outlines extensive reform proposals aimed at improving the legal framework, including a specific focus on gender equality in the workplace. As party to ILO conventions, Convention on the Elimination of all forms of Discrimination against Women, and an array of other human rights instruments, Bangladesh is obligated to uphold inclusive labour protections, and it must be held accountable for not meeting these commitments.

Kohinoor Akter, *Law student, American International University–Bangladesh (AIUB).*