

Bangladesh - a South Asian Miracle

-says Times of India while presenting World Development Indicators

Times of India (TOI) in a recent article has mentioned that Bangladesh is a South Asian miracle, while portraying how India, Pakistan and Bangladesh have fared so far on living standards of people. The Indian daily presented the 14 World Development Indicators (WDIs) in the article named “*India vs Pakistan vs Bangladesh*”, while portraying the picture of the living standards of people in these three South Asian countries having the same lineage.



According to the article, Bangladesh has outshone India and Pakistan in **Seven World Development Indicators or WDIs** while India did it in six and Pakistan in the remaining one. Once one of the poorest regions of the Indian subcontinent, Bangladesh remained an economic basket case — wracked by poverty and famine. But things have started to change from 2006 when Bangladesh registered a faster growth than Pakistan, and since then, Bangladesh’s annual GDP growth has exceeded Pakistan’s by roughly 2.5 percentage points per year. And in 2019, Bangladesh’s growth rate surpassed India’s 6%. In Bangladesh, real GDP growth was estimated at 8.1% in 2019, up from 7.9% in 2018, according to a World Bank report.

Statistics show that Bangladesh is ahead of Pakistan in almost all respects and, in many cases, even ahead of India. It may be recalled that Bangladesh became independent much later than its two neighbors. The WDIs in which Bangladesh has outranked India and Pakistan are Gross Savings, Infant Mortality Rate, Safe Childhood, Primary School Enrollment, Fertility Rate, Life Expectancy and Military Expenditure. The WDIs in which India has outshone Bangladesh and Pakistan are GDP Per Capita, GDP, Ease of Doing Business, % Population Below Poverty Line, Literacy Rate and Access to Electricity. The only WDI, out of the 14, in which Pakistan has done better than India and Bangladesh is Air Pollution.

Bangladesh has a much better controlling infant mortality rate than the other two countries. While India has 29.9 deaths per 1,000 live births and Pakistan has 57.2 deaths per 1,000 live births, Bangladesh has reduced the infant mortality rate to 22.1 deaths per 1,000 live births. Bangladesh is also at the top in terms of a safe environment for children aged 5-14 years. While the literacy rate in India is 74.4% and slightly behind, Bangladesh has an average literacy rate of 73.9%, while Pakistan has the lowest literacy rate at 59.13%.

In terms of average life expectancy, Bangladesh is above India and Pakistan. The average life expectancy of the people of Bangladesh is 72.3 years. Bangladesh is also the top country in terms of gross savings GDP. Talking about Bangladesh, TOI stated, “Despite its violent and late start in 1971, Bangladesh outshines others on health, education and other social factors; it’s a South Asian miracle.”

Chamber Update

We take great pride and pleasure to announce that **A.S & Associates** has been awarded in "Two Categories" in the ASIALAW AWARDS 2020, held on 25th August -The categories are:

- 1. CLIENT SERVICE EXCELLENCE AWARDS - Bangladesh Firm of the Year**
- 2. LAWYER OF THE YEAR : BANGLADESH - Ferdaus Rahman**

Our heartiest Congratulations to Mr. Ferdaus Rahman, Partner, A.S & Associates; for being awarded as Bangladesh's Lawyer of the Year, in the Client Service Excellence category.



**CLIENT SERVICE
EXCELLENCE AWARDS
Bangladesh
Firm of the Year**

**LAWYER OF THE YEAR-
BANGLADESH
Ferdaus Rahman**

**Client service excellence awards are decided using objective data captured from client feedback during research process. In deciding the winners, each firm or practitioner was given an average score using the client surveys. The award went to the firm and lawyer with the highest average score.*



Legislative Updates

Legislation Updates of July, 2020

Primary Legislation:

Enactment of Bangladesh Bank (Amendment) Act 2020 in order to Re-fix the Age Limit of Bangladesh Bank's Governor

Bangladesh Bank (amendment) Act 2020 has been passed to amend Bangladesh Bank order 1972. The amendment has been made to re-fix the valid age limit to hold the office of the Governor of Bangladesh Bank. Following the amendment the valid age limit to hold the office of the Governor of Bangladesh Bank is Sixty Seven years in the place of Sixty Five years. The official gazette publication of the said amendment can be found in the following link: http://www.dpp.gov.bd/upload_file/gazettes/36277_17441.pdf

Secondary Legislations:

1. Amendment to the Appointment of Civil Intelligence Officers & Staffs of Directorate General of Forces Intelligence Rules, 2016

The Rules for appointment of Civil Intelligence Officers and Staff of the Directorate General of Defense Intelligence 2016 has been amended in accordance with the provisions of Article 140 (2) of the Constitution. The amendments made concerns the Maximum age limit for direct recruitment, Recruitment procedure, Required Qualifications for discrete positions. The named amendment of the rules is available in the following link: http://www.dpp.gov.bd/upload_file/gazettes/36464_51373.pdf

2. Issuance of Financial Management and Audit Unit Employee Recruitment Rules 2020

With the powers conferred on Section 59 of the Public Service Act 2018, the Government has enacted the Financial Management and Audit Unit Employee Recruitment Rules 2020. Here are the employment procedures, general terms of employment, leave, allowances, job description, general conduct and disciplinary leave and other benefits has been described. The Regulation can be found in the following link: The rule can be found in the following link: http://www.dpp.gov.bd/upload_file/gazettes/36264_52996.pdf

3. Issuance of Bangladesh Bridge Authority Employee Employment Regulations 2020

Bangladesh Bridge Authority has issued Bangladesh Bridge Authority Employee Employment Regulations 2020 in exercising the power conferred under Section 38 of the Bangladesh Bridge Authority Act 2016. Here the employment procedures, general terms of employment, leave, allowances, job description, general conduct and disciplinary leave and other benefits has been described. The Regulation can be found in the following link: http://www.dpp.gov.bd/upload_file/gazettes/36296_40676.pdf



Legislative Updates

4. Issuance of Order Governing the Distribution of Allowance for Heroic Freedom Fighters

In exercising the power conferred under section 3 of Bangladesh Freedom Fighter Welfare Trust Act 2018, the government has issued The Distribution of Heroic Freedom Fighter Honorary Allowance Order 2020, which concerns eligibility and disqualification for receipt of honorary allowance, application of honorary allowance, application verification selection committee procedure method of payment and allocation of allowance, distribution of honorary allowance electronically, withdrawal of honorary allowance by nominee, disposal of accounts. The said order can be found in the following link : http://www.dpp.gov.bd/upload_file/gazettes/36408_71991.pdf

5. Issuance of Narayanganj City Corporation Employee Service Rules 2020

Narayanganj City Corporation Employees Employment Rules 2020 has been formulated under Section 66 of Local Government (City Corporation) Act 2009. This concerns recruitment procedure, general terms of employment, holiday, allowance, job description, general behavior and discipline, retirement and other benefits of the employees. The rules can be found in the following link: http://www.dpp.gov.bd/upload_file/gazettes/36425_52985.pdf

In Other News

Ten More Economic Zones, Approved

Bangladesh Economic Zones Authority (BEZA) has approved setting up 10 more economic zones, taking the tally of such areas to 101, out of which work on 28 are currently underway.

The approval came at a virtual meeting of the BEZA Governing Board on August 20, with its Chairperson, Prime Minister Sheikh Hasina, in the chair through videoconferencing.

The new zones are :

- Nawabganj Economic Zone, Nawabganj;
- Tangail Economic Zone, Bhuapur;
- Sapahar Economic Zone, Sapahar, Naogaon;
- Dinajpur Economic Zone, Dinajpur Sadar;
- Noakhali Economic Zone, Companiganj;
- Sandwip Economic Zone, Chattogramme;
- Sunamganj Economic Zone, Chhatak,
- Sunamganj; Pabna Economic Zone, Bera, Pabna;
- Charmegha Economic Zone, Hijla, Barisal;
- Manikganj Economic Zone, Shibalaya, Manikganj.

BEZA officials said now they would conduct feasibility studies and start acquiring necessary land for setting up the zones.

The Prime Minister has asked BEZA to promote small entrepreneurs, particularly the young generation, alongside attracting foreign investment

CASE LAW UPDATE

The State Vs. Ministry of Law, Justice and Parliamentary Affairs, Government of Bangladesh (Suo-Moto Rule 7/2019)

This Suo-Moto Rule was issued by a High Court bench of Supreme Court of Bangladesh presided by Mr. Justice Sheikh Hassan Arif and Mr. Md. Mahmud Hassan Talukder, calling upon the concerned Ministries and departments of the government, Rapid Action Battalion (RAB) and the executive magistrates concerned to show cause as to why the trials, conviction, sentences and detention of the said 121 children, or any other children, by the Mobile Courts in Bangladesh, should not be declared to be without lawful authority and are of no legal effect.

It was come to the knowledge of the court that the children allegedly committed different offences and at the time of commission of the said offences, they were reportedly spotted by different Mobile Courts led by the executive magistrates. Accordingly, the different Mobile Courts conducted trials instantly, passed the orders of conviction and sentence upon them for different terms and detained them in Child Development Centers (CDC) at Tongi, Gazipur and Pooler Hat, Jessore.

Order of the High Court Division:

The Court held that the Mobile Courts did not have any jurisdiction to conduct trial of the said mobile court cases. Accordingly, the convictions and sentences imposed by the said Mobile Courts are declared to be nullity as being void ab-initio and without any lawful authority.

Reasoning

1. Some of the convicted children were even below the age of 12, who, according to Section 83 of the Penal Code, cannot commit

an offence if they are found to have insufficient maturity of understanding to judge the nature and consequences of their conducts. There is nothing in the records of the said mobile court cases to suggest that the executive magistrates concerned have ever tried to understand that the said accused, below the age of 12, did have mental maturity to judge the consequences of their conducts.

2. Section 6 of the Mobile Court Act, 2009 provides that the accused may be convicted instantly on the basis of confession. Unlike the procedures provided by Sections 164 and 364 of the Code of Criminal Procedure, no safeguard has been provided for recording such confession. There is nothing in the records of the concerned cases that the said children were given any chance to engage any lawyers, the reason being that the provisions of Mobile Court Act does not allow an accused to engage any lawyer of his choice to defend himself. Therefore, it is a clear violation of fundamental right guaranteed under Article 33 of the Constitution. The very nature of the trial conducted by the said Mobile Courts under Section 7 of the said Act further suggests that there was no scope for public trial in respect of the said children, which was guaranteed in their favour under Article 35 of the Constitution.

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3. Immediately after arrest of a child coming in conflict with law, it is incumbent upon the 'Child Affairs Police Officer' of the police station concerned to inform the parents of the child as well as probation officer. His/her age has to be determined by following specific procedure. Even any statement of the child (not the confessional statement) can only be taken in presence of the parents and probation officer. Specific provision has been made to take recourse to 'diversion', namely to resolve the case without even forwarding the same to the Children Court. It has further been provided that if the diversion cannot be done, the child may be released on bail by the police (in both bailable and non-bailable offences) even before producing him/her to the Court. Special procedures have also been provided for the said senior most Judges of the District when the child is produced before them. The concerned Judge even cannot sit in the formal Court to conduct a trial of the child accused and he has been asked to conduct such trial in informal attire. Admittedly, none of the above procedures were followed by the executive magistrates in these cases.
4. The Court did not find anything in the Mobile Court Act, 2009 which has empowered the executive magistrates to conduct trial of a child accused. Rather, the Children Act, 2013, being the subsequent special law, the provisions of the same will override in case of any

conflict of it with the Mobile Court Act, 2009. Therefore, when the said Children Act, 2013 has provided special procedure for dealing with and trial of the children under the age of 18, Mobile Court Act cannot confer jurisdiction on the executive magistrates even to deal with the said children, not to speak of conducting their trial.

5. According to the provisions under Sections 44 and 45 of the Narcotics Control Act 2018, the offences under the said Act are triable by the Special Tribunals established by the government, and the Judges of the rank of additional district judge shall be the judge of the said Tribunals. Therefore, apparently, the offences created by this Narcotics Act are not triable either by the judicial magistrates or by the metropolitan magistrates. Thus, in view of the clear provisions under subsections (1) and (2) of Section 6 of the Mobile Court Act, 2009, the mobile courts cannot have any jurisdiction to take cognizance and conduct trial of the said offences under Narcotics Act. Section 52 provides that the provisions of the Children Act will apply to the accused child under the said Narcotics Act. Almost in the same breath, Section 57 provides that notwithstanding anything contrary in the said Narcotics Act, the offences under the Narcotics Act may be tried by operating Mobile Courts. Therefore, by virtue of the Mobile Courts Act, 2009 itself, jurisdiction of the mobile courts led by the executive magistrates is simply ousted in so far as those offences are concerned.

Bangladesh Makes Progress in Attaining Sustainable Development Goals



Bangladesh has made noteworthy progress in a good number of indicators under the Sustainable Development Goals (SDGs). These indicators include reducing the number of people living below the upper and lower poverty lines, lowering the percentage of under-nourished population and stunted children, reducing maternal mortality ratio, increasing adult literacy rate, and increasing access to safely managed drinking water and improved sanitation facilities. The progress was revealed at the launching of the Sustainable Development Goals Bangladesh Progress Report 2020, recently at the capital. This was the 2nd SDGs progress report after the first one was launched back in 2018.

On SDG 1 to end poverty, the proportion of population in Bangladesh living below the national upper poverty line has declined to 20.5 percent in 2019 down from 24.3 percent in 2016 while the population below the lower poverty line has also declined to 10.5 percent.

On SDG 2 to end hunger, Bangladesh has made remarkable progress in reducing the percentage of stunted children under-5 years by almost half from 60 percent in 1996-97 to 28 percent in 2019.

On SDG 3 which is healthy lives and well-being, the maternal mortality ratio has persistently dropped and the number of births attended by skilled health personnel has remarkably improved. A continuous decrease has been observed in Under-5-Mortality-Rate or U5MR during 1995-2019 from 128 to 28. The nation is in line in achieving the 2020 milestone for U5MR. Besides, the incidence of malaria has dropped down to 1.6 per 1,000 population in 2019 from 4.3 in 2015. Adolescent birth rate per 1,000 women in 15-19 age group has significantly declined from 144 in 1999 to 83 in 2019.

On SDG 4 for inclusive and equitable quality education, the adult literacy rate in Bangladesh has increased significantly from around 53.5 percent in 2005 to 73.9 percent in 2018. The progress report also showed that the nation has stayed ahead of its South Asian neighbors for the 5th time consecutively, indicating significantly better performance in promoting women empowerment.

On SDG 6 for ensuring clean water and sanitation, the report indicates that in 2019, the proportion of population using safely managed drinking water services stood at 47.9 percent at the national level and 98.5 percent of household members using improved sources of drinking water. In 2019, 84.6 percent of household members using improved sanitation facilities and 74.8 percent households reported practicing a hand-washing facility with soap and water resources.

On SDG 10 for reducing inequalities, the report said that income inequality is much higher than consumption inequality and income inequality has increased while consumption inequality has remained relatively stable over time.

The report also mentioned that according to recent data, more than 92 percent of people have access to electricity and the proportion of population with access to clean fuels and technology increased to 19 percent in 2019 from 7.24 percent in 2000.

The report also highlighted that Bangladesh's upward shift in the average annual growth rate of real GDP per capita to 6.91 percent in FY2018-19 from 5.1 percent in the baseline FY2014-15 is noteworthy.

However, there are significant uncertainties over the growth prospects due to the recent outbreak of Novel Coronavirus (Covid-19) pandemic. The report mentioned that higher unemployment rate of women, persons aged 15-29 years, informality in job market, skills demand and supply mismatch, child labour and problems involving migration of workers need to be tackled in due time.

The report also said achieving the SDGs will critically depend on the availability of resources including external resources. International community will have to extend their adequate and timely support to Bangladesh in trade and private sector development, identifying and removing barriers to investment, preventing tax avoidance and evasion.