

NEWSLETTER

2024' Chapter 3

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Bangladesh Exports Exceed \$5 Billion
for Third Straight Month

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- Home textiles shipments see positive growth after 17 months

After a surge in inward remittances, Bangladesh has achieved another milestone as its export earnings surpassed the \$5 billion mark for three consecutive months.

The merchandise shipments hit \$5.19 billion in February, marking a notable 12.04% year-on-year growth, according to data recently published by the Export Promotion Bureau (EPB).

This rise contrasts sharply with February last year, when export earnings dipped to \$4.63 billion after three months of consistently exceeding the \$5 billion mark. The news of this upward trajectory in export earnings is not just a cause for celebration; it also holds substantial implications for Bangladesh's economic stability.

Industry insiders foresee that this boost will fortify the country's foreign exchange reserves and contribute to mitigating volatility in the dollar market. EPB data show apparel exports grew by about 14% to reach \$4.50 billion in February, a significant increase from \$3.95 billion a year ago. Knitwear exports saw approximately 15% growth, reaching \$2.4 billion compared to \$2.1 billion in the corresponding month of last year, while woven apparel shipment increased by about 12.83% to hit \$2.08 billion, up from \$1.84 billion.

EPB data say overall export earnings rose by over 3.71% to \$38.45 billion in the first eight months of this fiscal year, compared to \$37.07 billion in the corresponding period a year ago. For apparel exports, the growth was over 4.77%, compared to \$31.36 billion in the last fiscal year.



During November to January of the last fiscal year, Bangladesh achieved the same hat-trick record of over \$5 billion in export earnings. In January this year, merchandise exports reached \$5.72 billion, the highest in a single month so far. In December, the country earned \$5.31 billion. In November of the last fiscal year, the country's export earnings were \$5.09 billion, while in December and January, earnings were \$5.37 billion and \$5.14 billion, respectively, according to the EPB.

Among other major sectors, exports of home textile products posted a 9.9% year-on-year growth to \$84.61 million in February this year, compared to \$77 million a year ago. According to the EPB, the sector's earnings have been experiencing year-on-year negative growth since September 2022. Additionally, jute and jute goods, as well as engineering products, saw growth of 14.6% and 20.9%, respectively.

On the other hand, exports of leather products experienced a 14.8% year-on-year negative growth, amounting to \$14.8 million in February, while agriculture products exports also witnessed a 4.3% negative growth, totalling \$63.8 million.

Medical Negligence Laws in Bangladesh: An Overview



It is indeed an unfortunate matter that even in 2024, Bangladesh does not have a uniformed Statute that specially deals with health care related rights and obligations. There still, however, are some ways of seeking remedies if one suffers damages, loss or injuries due to negligence on part of medical care giver.

In Tort, liabilities for Medical Negligence can occur if there was a clear duty of care on part of the patient and the patient has suffered injuries (fetal or not) as a result of a violation of such duty.

There is also an option of making a claim for violation of consumer rights as the patients are paying for services as a consumer and therefore, “hospitals and clinics are fully responsible for maintenance this right”.

There can also be a claim for breach of contract as when a patient is taken under the guidance of a doctor or is admitted into a hospital, a binding contract takes place between the parties where monetary benefits are enjoyed in exchange of medical services. Failure to provide such services with satisfactory quality will lead to a violation of that contract.

Violation of contractual and service terms can also lead to temporary or permanent injunction under the Specific Relief Act, 1877.

The Bangladesh Medical and Dental Council Act, 2010 provides the medical practitioners with a guideline regarding their conducts and also lists out the consequences of failure to follow. This includes cancellation of license (s.23).

There can be criminal liabilities too in some cases. Penal Code's s.304 has provisions for up-to five years of imprisonment for causing death by negligence. Under ss.337-338, there are further provisions for punishment for negligence even if the victim is alive but hurt or grievously hurt. It is noteworthy that the threshold of burden of proof for criminal liabilities under negligence is higher than the one for Tort. That is why it is even though the option is there, it is not a very easy route to go for.

Tort, on the other hand, is for some reason was not a common choice amongst pleaders until very recently. Therefore, a lot about such proceedings are still open to interpretations for further clarity. Litigations for breach of contract and under consumer rights law are still available options but the remedy we can get from these cannot be proportional to the harm done.

What we need, therefore, is a specialized law exclusively for governing the area of medical negligence. The lack of sufficient attempts in enacting such law, in words of the Bangladesh Law Commission itself, is an indulgence towards the wrongdoings of reckless medical practitioners. The recent increase in the number of cases with alleged failure to take medical history of the patients into account before initiating the treatment, ultimately leading to deaths of not just adults but also children, only shows how right Law Commission's acknowledgment was. The Nation wonders, how many more deaths are required for this nation to have a unified law for Health care?

LEGISLATIVE UPDATES

Law Commissions Report on Previous Recommendations and the Draft for Health Care Act, 2017

At present time, nearly all countries around the world have their own health care laws. In Bangladesh however, even though we do have some mechanism to address this area of law, these laws are unfortunately scattered in pieces as part of different Statutes, Directives, Rules and Regulations. The Law Commission of Bangladesh, in its report dated 19th February 2024, has identified this lacking of one-unified piece of law in this regard, as well as the absence of any attempts in addressing this matter, as an act equivalent to giving indulgence to the existing problems of the health care system of this country.

The Commission in this report has highlighted the matters already proposed once earlier in 2017 (through the Draft for Health Care Act 2017; hereafter the Draft) as another attempt of attracting the attention of the Policy Makers of Bangladesh.

In the report it has been pointed out that the proposed Draft consisted of four principal parts –

- Rights and Obligations of individuals as well as institutions that work for providing health care to the citizens;
- Responsibilities on part of the Govt. in ensuring improved quality in health care;
- Formation of National Health Commission for monitoring health care related matters; and
- Formation of Tribunal for resolution of health care related disputes with an aim to address any negligence and any loss incurred due to such negligence on part of health care providers.

Sixty Five (65) sections, in total, were proposed to address the above mentioned four topics through a Draft containing 14 (fourteen) different chapters. Chapter-2 sets out the Rights and Obligations on part of those who are the receivers of these the Health Care Services.

It proposed that access to having free medical prescription followed by a check-up, free medications (subject to availability in storage), and free (or at an approved rate) prescribed diet at any relevant Govt. Medical Facilities should be made available as of rights. It further proposed to ensure protection of right for access to service for medically required operations, health-check-ups and tests too at those relevant Govt. Medical Facilities.

There are proposed guidelines on the above mentioned matters for non-govt. medical facilities too. The Law Commission also sought to impose requirement for performing of mortality audit, clinical audit, and morbidity audit on a mandatory basis in chapter-2 of that Draft. Apart from obligations on parts of the service providers, chapter-2 also sets out a list of responsibilities on part of those who are there to take/seek these services. The feature of this shared responsibility of this Draft appears to have crafted a check-and-balance system.

Chapter-3 sets out the rights of the Service Providers such as having access to full case history and the right to share the same with third parties if required for the sake of treatment. The Chapter imposes some obligations on them too; such as, obligation to thorough analysis of case history before proceeding to treat.

Apart from these:

- Chapter-4 deals with responsibilities on part of govt. and non-govt. hospitals, clinics, diagnostic centers etc
- Chapter-5 proposes to make record keeping mandatory
- Chapters-6&8 details out the responsibilities on part of the Govt., Medical Council and the Dental Council.

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In the Draft, the proposal for formation of a National Health Commission is made with the aim having it work as a Quasi-Judicial Body as part of its monitoring duties. Apart from relief under Civil and Tortious claims, there are provisions for criminal proceedings too in chapter-13.

SUMMARY OF SIGNIFICANT PROPOSED SECTIONS WITH SHARED RESPONSIBILITIES BETWEEN SERVICE RECEIVERS AND PROVIDERS

Chapter-2 of Draft of Health Care Act 2017 (Rights and Obligations of the Health Care Service Receiver)		Chapter-3 of Draft of Health Care Act 2017 (Rights and Obligations of the Health Care Service Provider)	
s. 5	<ul style="list-style-type: none"> Ensures right to free medical prescription, free medications (subject to availability), prescribed diet for free (or at least at an approved rate), and access to service for medically required operations, health-check-ups and tests at all relevant Govt. Medical Facilities. Provides guidelines for non-govt. medical facilities are also provided, including on matter such as patient-doctor confidentiality. 	s.11	Right to access to information regarding the complaint disease as well as right to share those info to third parties for the purpose of providing the required treatment with, or in certain cases, without written consent.
s.7	Mandatorily requires performance of mortality audit, clinical audit, and morbidity audit	s.12	A clear list of responsibilities of Service Providers with regards to patient handling, including thorough analysis of "all" required info regarding the patient.
s.9	States the obligations and responsibilities of the service receiver.	s.13	A clear list of responsibilities of nurses and other medical staffs.
		s.14	A clear list of responsibilities on part of the hospital

In conclusion, the Commission stressed on the necessity of having this draft enacted with great importance and acknowledged that proper execution of Rule of Law cannot be ensured without taking right to health care of citizens seriously.

CASE UPDATE

**BLAST v. Ministry of Education, Government of the People's Republic of Bangladesh;
No.13478 of 2023**

Fact:

On 25 September 25 2023, the Provost of Begum Fazilatunnesa Mujib Hall of Jagannath University (JU) issued a notice directing married and pregnant female students to vacate the hall as per Rule 17 of the Terms of Residence and Accommodation and Conduct and Discipline Rules 2021, stating that married and pregnant female students will not get residential seats.

On 27 September 2023, a Legal Notice was sent to JU authorities as well as other Universities by a group of lawyers and women-rights activists expressing concern over the ongoing practice of gender discrimination against married or pregnant students with respect to their exclusion from residential halls. No satisfactory response to the notice lead the matter to be taken to National Human Rights Commission seeking its intervention to review the matter and to consult with stakeholders.

Finally, challenging the validity of such rule, it is now pending before the Honourable High Court awaiting final decision.

Issue:

Whether Rule 17 of the Terms of Residence and Accommodation and Conduct and Discipline Rules 2021 is in violation of Constitutional rights.

Held:

Even though the matter is yet to be finally decided, following steps have already been taken by the Honorable High Court considering the urgency of the matter -

i. The Court has stayed the operation of the notice published by JU;

ii. On 31 October 2023, the Hon'ble High Court issued a Rule Nisi upon the Vice Chancellor, Registrar, Proctor, and Provost, Begum Fazilatunnesa Mujib Hall, Jagannath University to show cause as to why the notice issued by the Provost directing all married and pregnant female students in the university to vacate the hall of residence should not be declared to be without lawful authority and discriminatory;

iii. Court further issued a direction on the Ministry of Education and the University Grants Commission to file a detailed report before the Court by 7 February 2024 on any prevailing rules and regulations applied in Universities furthering discrimination on the grounds of gender, marital status and health status and ensuring equality before law and equal right to education for women and men.

In giving these directions, the Court took into account the fact that equal access to education is a fundamental right for all citizens, including women, irrespective of their marital status or motherhood.



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