



LAW campaign



Muslim women debate for more rights

MUSLIM women politicians, business leaders, academics, cultural figures and activists are meeting in New York to try to improve women's rights. Organisers hope to use the event to launch the first international Islamic advisory council for women. Key to this, they say, is advocating greater rights for women while working within the Islamic legal framework. The 120 delegates include Baroness Uddin, the first Muslim woman to enter Britain's House of Lords. Also attending are Ingrid Mattson, the first woman president of the Islamic Society of North America, and Dr Massouda Jalal, a paediatrician and political activist in Afghanistan.

Organisers say the advisory council will eventually present recommendations to political and religious leaders on global issues of direct relevance and concern to women. "Women's rights often get debated in the press or they get debated among scholars who are not women," said Daisy Khan of the American Society for Muslim Advancement. "We feel there are many Muslim women who are coming of age who have the scholarly background to be able to step up to the plate to speak authoritatively about it."

Source: The New York Times.



LAW watch

NEPAL King committed abuse of rights

A new report by a government panel accuses King Gyanendra of Nepal and others in his administration of committing rights abuses during pro-democracy protests in April and urges that the king be punished. The protests forced the ouster of Gyanendra's government and the restoration of an elected Parliament that had been removed four years earlier. Since then, the interim government has handed a series of defeats to the king, including ending his control over the army. The report has not been formally released, but people

officials in the royal administration responsible for a violent crackdown on protesters last April, including senior police and army officials.

It is unclear how Nepal will pursue legal proceedings against the king, who for generations has been regarded as a human incarnation of a Hindu god. A member of the panel, who spoke on condition of anonymity because the report has yet to be made public, said the commission had urged the government to draft new regulations to try the king.

The Maoist rebels, who are expected to sign a peace agree-



familiar with its contents spoke to reporters about it. Gyanendra's ultimate test will come when the nation goes to the polls next year to elect a constituent assembly, which is expected to decide the fate of the monarchy. While some political parties favor a ceremonial role for the king, leftist parties, along with Maoist guerrillas, insist on the monarchy's abolition.

King Gyanendra did not accept an invitation from the government commission to respond to its findings. The panel also found 201

ment this week, have been taken to task recently as well. On Sunday, the United Nations issued a statement expressing concern about the Maoists' continued recruitment of children.

Speaking to reporters here in the Indian capital, where he had come for a speaking engagement, the Maoist chief, who goes by the name Prachanda, insisted that his group did not recruit children but that it sheltered and fed the children of rebels killed in the conflict.

Source: BBC.

LAW opinion

Confession in police remand

KHANDAKER FARZANA RAHMAN

REMAND and confession are most important phenomena in our police activities. In most of the cases this power of police has been questioned as persons apprehended on suspicion that they have committed crime or may indulge themselves in future in the commission of crime are being tortured by police in remand. However, police may arrest anybody without warrant on the basis of reasonable suspicion of committing an offence under section 54 of the Code of Criminal Procedure. Such person must be produced before the Magistrate within 24 hours from the arrest. In the police custody, the person is treated with brutality which is completely contrary to article 31 of our constitution. It provides that every person has the right to enjoy the protection of law and to be treated in accordance with law, and this is the inalienable right of every citizen, wherever he may be and of every other person in Bangladesh for the time being...

According to the annual report of Odhikar, 238 people were killed at the hand of law enforcers in 2004. Now-a-days, custodial violence is very common in Bangladesh.

Section 167(2) of Cr.P.C. prescribes that detention can be ordered in such custody for a term not exceeding 15 days. So the Magistrate has unrestricted power to make such order. Again the code itself mentions that the Session Judge can allow remand if it appears likely that further evidence may be obtained by a remand.

Theoretically, the police custody is believed to be a safe area. But the real picture of our country indicates the persons in custody of police were compelled to embrace physical torture.

Section 24 of the Evidence Act states that a confession made by any accused is irrelevant in criminal proceedings if it appears to the court as has been caused by an inducement, influence, and force in making a person confess. Apart from the Act, Cr.P.C. has provided a stringent impediment against involuntary confession. The threat or promise having refer-



ence to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him. Thus, the Evidence Act does not permit the use of any inducement, influence, and force in making a person confess. Apart from the Act, Cr.P.C. has provided a stringent impediment against involuntary confession. The Magistrate recording statement

or confession under section 164 in course of investigation before the commencement of inquiry and trial will ensure that no person accused shall be subjected to torture or cruel or inhuman treatment. The confession by the accused must be made voluntarily and willingly. Such confession must not be made whilst he is in the custody of police officer unless it is made in the immediate presence of a Magistrate. But if there is a great doubt on the voluntary character of the confession, the confession is clearly unable to be admissible in evidence.

Abuse of power under sec-

tion 54 and 167 by the police and Magistrate has been elaborately discussed by the High Court Division in BLAST vs Bangladesh 55DLR 363. In this case the Court has given 15 directives to the government and suggested that interrogation may be made while the accused is in jail custody, if interrogation is at all necessary, but not in police custody and no torture or inhuman treatment is allowed during this period.

In a democratic state, the confession in police remand is placed within the purview of sense of humanity. So the laws in Bangladesh should be reformed in compliance with the need of time for securing the investigation in the police remand. However the following initiatives would be adopted:

The person arrested will be made aware of the right to have someone informed of his arrest as soon as he is put under arrest or detention.

The person arrested should at his request be medically examined by a trained doctor.

The person arrested may be permitted to meet his lawyer during interrogation though not throughout the interrogation.

The human rights organisations should arrange more discussion, workshops, seminars to focus the issue in a meaningful way for the purpose of creating awareness among grassroots level people.

Finally, stopping illegal arrest and inhuman treatment in the police remand was a matter of time only if the government wished. However the government has a legal obligation and wide scope to implement such directives given by HCD. More than three years have passed since the judgment was pronounced by the High Court, but the government implemented none of the directives given in the judgment. So it is mandatory for the government to secure justice for an arrested person aiming at restoring and maintaining a safe police custody curbing illegality and inhumanity.

The writer is studying in LL.B (Honours) 4th year University of Dhaka.

LAW news



U.N. Leader urges for biotech safeguards

Secretary General Kofi Annan of the United Nations warned that the potential for danger from the rapidly growing biotechnology industry was increasing exponentially and urged creating global safeguards. Mr. Annan, in a speech in this Swiss university town, warned of "catastrophic" results if recent advances in biotechnology, including gene manipulation and work with viruses, fell into the wrong hands.

"As biological research expands, and technologies become increasingly accessible, this potential for accidental or intentional harm grows exponentially," he said, according to the text of his speech. "Even novices working in small laboratories will be able to carry out gene manipulation."

In May, Mr. Annan called for a global forum on biological terrorism, saying current treaties were too weak and governmental and commercial initiatives too scattered.

Mr. Annan likened the current consensus-building phase over rules for life sciences to the debate over nuclear technology in the 1950s that preceded the creation of the International Atomic Energy Agency and the Nuclear Nonproliferation Treaty.

"We lack an international system of safeguards to manage those risks," he said. "Scientists may do their best to follow rules for responsible conduct of research. But efforts to harmonize these rules on a global level are outpaced by the galloping advance of science itself."

Source: Reuters



Investment in proven strategies needed to end vaw

Every year on 25 November, advocates around the world jointly raise their voices to denounce violence against women as what it is: the most pervasive and shameful human rights violation. But the International Day for the Elimination of Violence against Women also provides an opportunity to reflect on progress made. And there is encouraging news: by now, 89 states have adopted legislative provisions that address domestic violence, including 60 states with specific domestic violence laws. This is a clear increase in comparison to 2003, when only 45 countries had specific laws on domestic violence. The other ray of hope is that funding for initiatives to end violence against women is on the increase. The UN Trust

Fund to End Violence against Women, which is managed by UNIFEM, could disburse \$3.5 million this year -- almost twice the amount that we had at our disposal last year and close to four times more than in 2004.

Source: UNIFEM.

LAW week

Tarique files defamation suits against Hasina, Jalil, Quader

BNP Senior Joint Secretary General Tarique Rahman filed three separate defamation suits against Awami League (AL) President Sheikh Hasina, General Secretary Abdul Jalil and Joint General Secretary Obaidul Quader, accusing them of conducting "malicious campaign" against him. After hearing the petitioner, Metropolitan Magistrate AJM Abdullah Hel Baqui, ordered judicial inquiry into all the three cases without taking the matter into direct cognisance. Enraged by the order, more than 200 BNP-backed lawyers tried to create pressure on the magistrate to issue summons upon the AL president and her two close aides, but the magistrate stuck to his order despite the chaotic situation created by them that lasted for nearly half an hour. In the complaint against Sheikh Hasina, Tarique mentioned that she (Hasina) told a public meeting at Paltan Maidan on November 3, "The son of 4-party alliance chief drives Tk 2 crore car, wears suit worth lakh taka and squanders thousands of crore taka in gambling abroad," and "A syndicate of 2 lakh and 86 thousand crore taka is being run at Hawa Bhaban."

In the charge against Obaidul Quader, the complainant said he (Quader) at a press briefing on November 4 said "The New York Stock Exchange has awarded Tarique Rahman with a medal. How much taka is needed to get it, what is the source of this money, people want to know." Quader also said "people want to know what Tarique Rahman carried in 435 suitcases and bags on his trip to Saudi Arabia for performing the Umrah? Why and how the Malaysian government has confiscated the money of Tarique?" The petitioner said that all these widely published and telecast statements of the AL leaders, are false and baseless aiming to undermine his political image. -- *The Daily Star, November 20.*

EC secretariat made off-limits to journalists

In a sudden move, the Election Commission (EC) banned journalists from entering its secretariat that is preparing to conduct the next parliamentary elections. A large number of journalists, who regularly visit the EC Secretariat to collect information about the preparatory work for the next election, were barred from entering the main building of the secretariat. Neither the EC nor any senior EC Secretariat official, however, clarified the reasons for the ban. Security personnel at the EC Secretariat told reporters that the authorities directed them not to allow any journalist to enter the secretariat. The ban on the media-unprecedented in the history of the EC--was imposed at a time when the next parliamentary election is nearing and all eyes are set on the activities of the EC and its secretariat. Last week, the EC banned journalists from entering the EC Secretariat for a few hours. Last year, the chief election commissioner (CEC) also imposed a restriction on the then two election commissioners' talking to the media as the two had been strongly opposing CEC MA Aziz's unilateral move for preparing a fresh voter list. The EC and its secretariat have been criticising the media for the last few months as different newspapers and television channels ran reports on various irregularities in the process of preparing the voter list. Latest, they reported alleged irregularities in the printing process of the updated voter list. Aziz also accused the media on several occasions of "tarnishing the image of the EC". -- *The Daily Star, November 20.*

Writ petition filed against Iajuddin

A writ petition was filed in the High Court (HC) to issue a rule to the President and Chief Adviser (CA) of the caretaker government Iajuddin Ahmed to show cause under what authority he is holding the office of the CA. Adnan Anwar, a businessman and nephew of late president

Ziaur Rahman, filed the writ stating that President Iajuddin did not comply with all the provisions of the constitution before assuming the office of the CA. The respondents are the chief adviser, the president, and secretaries of Law and Establishment ministries. "President Iajuddin without exhausting the mandatory provisions of the article 58 C (3) (4) and (5) of the constitution has assumed the functions of Chief Adviser violating the oath of office which he took to protect and defend," the petition reads. "And therefore he is required to show under what authority he is holding the office without appointing or firm offers to appoint other person/persons mentioned in the said article and as such his appointment is without lawful authority and is of no legal effect." The petitioner also asked the HC bench to verify "... whether the Chief Adviser is legally holding the office as it is apparent that his appointment as the Chief Adviser has violated not only the constitutional provisions but also his neutrality having been elected by a political party whose shadow looms large on his horizon." Explaining the political turmoil centring the appointment of CA and the constitutional provisions on appointing CA, the petitioner said the President did not follow all the provisions before assuming the office. -- *Prothom Alo, November 21.*

Iajuddin takes another tough job as head of law, order body

The caretaker government (CG) formed an advisory committee to improve law and order situation by initiating necessary measures particularly for recovering illegal arms ahead of the parliamentary election. Surprisingly enough, President and Chief Adviser (CA) to the Caretaker Government Prof Iajuddin Ahmed himself has taken the job of chief of the advisory committee, which would decide on the next course of action to improve the law and order situation. The two other members of the committee are Adviser Lt Gen (ret'd) Hasan Mashud Chowdhury and Adviser M Azizul Haque. Iajuddin, now in charge of at least 10 ministries and divisions including the home and establishment ministries, is also the head of the advisory committee on administrative affairs. During the last CG in 2001, the then CA was in charge of the home ministry while an adviser was made the head of the committee on law and order. The committee was formed the day the advisers were sworn in. During the last CG, an adviser was made head of the administrative affairs committee as well. The current council of advisers to the CG formed the advisory committee on law and order affairs 20 days after the advisers were sworn on October 31. Replying to a query whether army personnel would be deployed in the drive to recover illegal arms, the information adviser said it would depend on the circumstances. -- *The Daily Star, November 21.*

CG won't cancel any more contractual appointments

The caretaker government will not cancel further contractual appointments of government officials except a few chief engineers working in different sectors. "The possibility of cancelling more contracts is very thin as most of the remaining contractually appointed officials are technicians and have no influence on holding the general election," Establishment Secretary AFM Solaiman Chowdhury told reporters at his office. Different political parties, especially the Awami League, have long been demanding cancellation of more than 200 contractual appointments. The caretaker government has so far cancelled the contracts of 46 officials. The establishment ministry, however, reinstated eight officials soon after cancelling their contracts on their plea that the cancellation process was not followed "rightly". According to the rule, the ministry has to issue a notification three months before cancelling the contract of any officer at the Bangladesh

Telecommunications Regulatory Commission or the Securities and Exchange Commission, Solaiman said. The establishment ministry is also considering promotion of officers at various levels who are eligible but were deprived of due promotion during the tenure of the immediate past BNP-led four-party government. -- *The Daily Star, November 22.*

Accountable leadership vital for ensuring rights

Accountability and transparency of the political leadership of Bangladesh should be ensured for establishing human rights in the country, British Minister of State for Trade and Investment Ian McCartney said. The international community may write to the political parties asking if their electoral promises, particularly on the human rights issues and the international treaties signed by the country, are implemented or not, he said. The British minister, whose portfolio also includes human rights in the Foreign and Commonwealth Office, was speaking at a Human Rights Focus Group Discussion on "Violence, vulnerable groups and the future of human rights in Bangladesh." British High Commissioner Anwar Choudhury moderated the discussion that took place at his residence. The UK minister's visit to Bangladesh, part of a South Asian tour including India, Pakistan and Sri Lanka, is aimed at discussing the prospects of and obstacles to economic, democratic and human development of the country. McCartney also met the President and Chief of the Caretaker Government Iajuddin Ahmed yesterday and was scheduled to meet the business community of the country. -- *The Daily Star, November 23.*

Aziz agrees to go on 90-day leave but doesn't say when

Chief Election Commissioner (CEC) MA Aziz informed the president verbally that he will take a three-month leave of absence in response to the presidential initiative to resolve the political deadlock centring the popular demand for reconstitution of the Election Commission (EC). Even President/ Chief Adviser Iajuddin Ahmed in his midnight address to the nation did not mention when Aziz will go on leave. The CEC chief has also set a condition that he will stay in the country under full security protection from the government, Iajuddin revealed in his address. Ending a three-day long suspense, an emergency meeting of the council of advisers to the caretaker government (CG) last night confirmed the CEC's verbal communication and it also decided that the president will appoint two more election commissioners. But the president did not inform the council when the appointments will be made. He however told the advisers that they will be informed in due time, according to sources. If things go the way they seem to be going, the next general election will be held for the first time under an EC headed by an acting CEC and with the highest number of election commissioners in the history of the commission. -- *The Daily Star, November 23.*

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