



HUMAN RIGHTS monitor

LAND MINE MONITOR REPORT, 2004

# Winning the war against antipersonnel mines: Biggest challenges still ahead

SINCE the international treaty prohibiting antipersonnel landmines took effect five years ago, use of the weapon around the world has fallen dramatically, global funding for mine action programs has increased more than 80 percent, more than 1,100 square kilometers of land has been cleared, and the number of new mine victims each year has decreased markedly, according to a 1,300-page report by the International Campaign to Ban Landmines (ICBL) released on 18th November this year.

"The international norm established by the Mine Ban Treaty is rapidly taking firm hold around the world, especially in the heavily mine-contaminated countries where it matters the most," said ICBL Ambassador Jody Williams, who shared the 1997 Nobel Peace Prize with the ICBL. "Clearly we are succeeding in our struggle to eradicate this weapon. But even bigger challenges remain, to convince hold-out governments to come on board, to ensure effective implementation of and compliance with the treaty, to get mines out of the ground within the ten-year deadline, and to provide adequate assistance to landmine victims," said Ms. Williams.

There are 143 States Parties to the 1997 Mine Ban Treaty, which entered into force with unprecedented speed on 1 March 1999. An additional nine countries have signed but not yet ratified the treaty that prohibits the use, production, trade and stockpiling of antipersonnel mines, and requires clearance of mined areas within ten years. Since the last Landmine Monitor report, nine countries joined the treaty including Burundi and Sudan, which are both significantly mine-affected, and Belarus, Greece, Serbia and Montenegro, and Turkey, which are also mine-affected and combined have over ten million stockpiled antipersonnel mines to destroy.

The ICBL's Landmine Monitor Report 2004 cites compelling evidence of use of antipersonnel mines by four governments since May 2003: Georgia, Myanmar (Burma), Nepal, and Russia. In contrast, the first Landmine Monitor Report 1999 identified 15 governments using antipersonnel mines in the 1998/1999 reporting period.

"One of the greatest success stories of the Mine Ban Treaty is that sixty-five States Parties have completed the destruction of their stockpiles, collectively destroying more than 37 million antipersonnel mines, including four million mines in the last year," said Stephen Goose of Human Rights Watch, the Chief Editor of the Landmine Monitor initiative. Every State Party so far has met its treaty-mandated four-year deadline for stockpile destruction, except for Guinea and Turkmenistan, both of which have subsequently completed stockpile destruction.

"Compliance with the Mine Ban Treaty by States Parties has been very impressive, but not absolute or uniform," said Mr. Goose. Since the Mine Ban Treaty entered into force, the ICBL has consistently raised questions about how States Parties interpret and implement certain aspects of Articles 1, 2, and 3. In particular, the ICBL has expressed concerns regarding the issues of joint military operations with non-States Parties, the prohibition on assisting banned acts, foreign stockpiling and transit of antipersonnel mines, mines with sensitive fuzes and antihandling devices, and the permissible number of antipersonnel mines retained for training and development purposes. The ICBL has pointed out that some States Parties have diverged from the predominant legal interpretation and predominant State practice on these matters.

Forty-two countries remain outside of the Mine Ban Treaty, including China, Russia, and the United States, most of the Middle East, most of the former Soviet republics, and many Asian states. In February 2004, the United States abandoned its long-held goal of eventually eliminating all antipersonnel mines and joining the treaty.

Still, the power of the mine ban movement is reflected in the fact that a de facto global ban on the trade of antipersonnel mines has been in effect since the mid-1990s, with only a very low level of illicit trafficking and unacknowledged trade taking place. Moreover, of the more than 50 countries known to have produced antipersonnel mines, all but 15 have formally renounced production.

From 1999 to 2003, more than 1,100 square kilometers of land were cleared, resulting in the destruction of more than four million antipersonnel mines, nearly one million antivehicle mines, and many more millions of pieces of unexploded ordnance. "There is now consistent and reliable evidence to show that mine action is making a measurable difference in the lives of millions of people living in mine-affected countries," said Ms. Sara Sekkenes of Norwegian People's Aid, co-chair of the ICBL Mine Action Working Group, while cautioning that global mine action numbers should

not be regarded as precise. "Clearly tremendous progress has been made in the field of humanitarian mine action using the comprehensive framework provided by the Mine Ban Treaty," she added. The past five years have witnessed the initiation and expansion of many mine action programs, and ever-greater amounts of land being returned to communities for productive use.

Some form of mine clearance was reported in 2003 and 2004 in a total of 65 countries, including the first humanitarian mine clearance operations in Armenia, Chile, Senegal, and Tajikistan. In 2003 alone, a combined total of more than 149 million square meters (149 square kilometers) of land was cleared, resulting in the destruction of at least 174,167 antipersonnel mines, 9,330 antivehicle mines, and 2.6 million items of unexploded ordnance (UXO).

According to Landmine Monitor Report 2004, 83 countries are mine-affected, including 52 States Parties to the Mine Ban Treaty. The Mine Ban Treaty requires States Parties to clear all mined areas within ten years of joining the treaty. States Parties that have declared completion of mine clearance since 1999 include Bulgaria (October 1999), Moldova (August 2000), Costa Rica (December 2002), Czech Republic (April 2003), Djibouti (January 2004), and, most recently, Honduras (June 2004).

However, in 2003 and 2004, no mine clearance or mine risk education activities were recorded in 13 States Parties. "Without sufficient and sustained resources, we fear that many States Parties will not meet their treaty obligation to remove emplaced mines within ten years," said Mr. Stan Brabant of Handicap International and Landmine Monitor Research Coordinator for mine risk education. "This is a critical time, and our goal of a mine-free world is within reach," he added.

Landmine Monitor has identified about US\$2.07 billion in donor mine action contributions from 1992-2003. Of that 12-year total, 65 percent (\$1.35 billion) was provided in the past five years (1999-2003), since the entry into force of the Mine Ban Treaty. For 2003, Landmine Monitor has identified \$339 million in mine action funding by more than 24 donors. This is an increase of \$25 million, or 8 percent, from 2002, and an increase of \$102 million, or 43 percent, from 2001. Major increases were registered in 2003 for the European Commission and the United States, as well as Canada and Sweden.

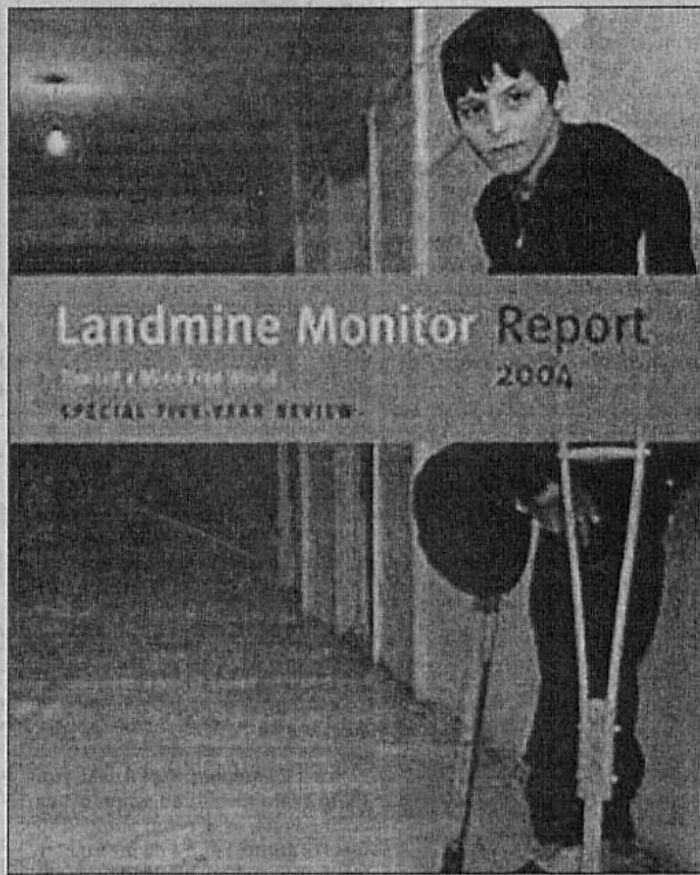
In 2003, Afghanistan (\$75 million) and Iraq (\$55 million) received 38 percent of global mine action funding. Meanwhile, an unusually large number of mine-affected countries experienced a decline in donor contributions to mine action in 2003. Mine action funding fell most severely in 2003 for Vietnam and Cambodia, but decreases were also experienced in Bosnia and Herzegovina, Eritrea, Somaliland, Laos, and Ethiopia. In 2003, several of the major donors provided significantly less mine action funding, including Japan, Austria, Italy, Australia, France, and the Netherlands.

The number of reported new mine casualties declined in the majority of mine-affected countries in 2003, and dropped significantly in some heavily mined countries such as Afghanistan, Bosnia and Herzegovina, Cambodia, Lebanon, and Sri Lanka. Landmine Monitor identified 8,065 new casualties caused by landmines and unexploded ordnance (UXO) in 2003, compared to 8,333 in 2002. However, many casualties go unreported and Landmine Monitor estimates there are now between 15,000 and 20,000 new casualties annually around the world, far fewer than the 26,000 per year estimated in the 1990s.

"The declining landmine casualty rate is heartening, but there are still an appalling number of people, especially children, killed and maimed by landmines every year in virtually every region of the world," said Ms. Sheree Bailey of Handicap International, Landmine Monitor's Victim Assistance Research Coordinator. "The stark reality is that there is an ever-growing number of mine survivors in the world and in the vast majority of mine-affected countries, neither the national governments nor international donors are doing nearly enough to provide for their needs," she added.

According to Landmine Monitor, in 2003, new landmine casualties were recorded in 65 countries. A total of 86 percent of reported new casualties were identified as civilians and 23 percent were children.

The major progress in the past five years in preventing antipersonnel mines from being laid and in clearing existing minefields has not been matched in the area of victim assistance. Landmine Monitor reports that while global mine action funding has increased greatly since 1999, identifiable resources for mine victim assistance have actually declined (US\$29.8 million in 1999 compared to US\$28.2 million in 2003). Resources for victim assistance as a percentage of total mine action funding have decreased



significantly and steadily from 14.9 percent in 1999 to 8.3 percent in 2003.

"In many mine-affected countries the assistance available to rehabilitate and reintegrate landmine survivors back into society remains desperately inadequate," said Ms. Bailey. "If governments are serious in their commitment to assist survivors, funding for healthcare and the disability sector must be significantly increased and sustained over the long-term," she added. Landmine Monitor identified only 35 countries receiving resources from other States for mine victim assistance programs in 2003, with the majority of resources being provided for physical rehabilitation programs.

Landmine Monitor estimates that there are somewhere between 300,000 and 400,000 mine survivors in at least 121 countries today. From 1999 to September 2004, Landmine Monitor recorded more than 42,500 new landmine and UXO casualties from incidents in at least 75 countries.

Landmine Monitor Report 2004: Toward a Mine-Free World is the sixth annual report by the ICBL. It contains information on landmine use, production, trade, stockpiling, demining, casualties and victim assistance in every country of the world. This year 1,300-page report is a special edition covering the past five years, in anticipation of the first five-year Review Conference for the Mine Ban Treaty. On Monday, 29 November, the ICBL will present the report to diplomats attending the review conference in Kenya, known as the Nairobi Summit on a Mine-Free World.

The Landmine Monitor initiative is coordinated by a "Core Group" of five ICBL organizations. Human Rights Watch is the lead organization and others include Handicap International, Kenya, Coalition Against Landmines, Mines Action Canada, and Norwegian Peoples' Aid. A total of 110 Landmine Monitor researchers in 93 countries systematically collected and analyzed information from a wide variety of sources for this comprehensive report. This unique civil society initiative constitutes the first time that non-governmental organizations have come together in a sustained, coordinated and systematic way to monitor and report on the implementation of an international disarmament or humanitarian law treaty.

Source: International Campaign to Ban Land Mines, ICBL

LAW week

Police, Rohingyas clash in Ukhiya

Over a hundred Rohingya refugees and law enforcers were injured in a violent clash at Kutupalong camp in Ukhiya upazila. Sources said the trouble erupted when police and ansars went to the camp to rescue a police officer, detained by some Rohingyas during his visit to the camp earlier in the morning. Camp-in-charge Mohammad Nurul Alam Chowdhury along with police officer Mohammad Wahid visited the camp to inspect its latest condition after the Eid vacation.

Police said the two noticed that over 100 refugees were holding a meeting on a hilltop against their repatriation to Myanmar. They requested them to refrain from holding such meetings, which is illegal as per law of the land. The irate refugees then held police officer Mohammad Wahid and beat him. The camp-in-charge somehow managed to escape. On information, police and ansars from nearby barracks rushed to the spot to rescue the police officer. They arrested nine Rohingya refugees including their leader Ishaque Master.

When the news of arrest of Rohingyas spread, a horde of frenzied refugees attacked the nearby police and ansar barracks. On information, police reinforcements from Ukhiya Police Station joined in the fight. At one stage, the detained cop managed to flee. At least 85 refugees and 15 police and ansars were injured in the clash that continued for two hours. The two sides traded around 300 rounds of bullets. *UNB, November 19.*

EC plans no move to reform polls laws

The Election Commission (EC) has no plan to initiate a move to amend electoral laws in a bid to curb influence of black money and muscle power on the upcoming parliamentary polls. "We are not thinking about any reform programmes. The new chief election commissioner will be appointed in May next year, he might initiate such a move," said Election Commissioner M Munsef Ali. The EC itself however termed the existing electoral laws insufficient for holding fair elections and feels to reform them, a demand made by the mainstream opposition political parties to ensure that the next general elections are held free and fair.

The possibility of a move by the present EC to reform the electoral laws, however, is slim, as the government itself has no such plan at the moment. Such a move is likely to be taken by the next EC which will be composed in May 2005 after expiry of the tenure of incumbent chief election commissioner (CEC), sources at the EC said.

The five-year tenure of CEC MA Syed and Election Commissioner Safiur Rahman, who were appointed by the former Awami League government, expires in May and June next year. *The Daily Star, November 19.*

Judicial Service formed

The government issued a gazette notification on the Bangladesh Judicial Service heralding its formation in a crucial step towards separating the judiciary from the executive. Law Minister Moudud Ahmed recently said the separation of the judiciary in line with a 12-point directive of the Supreme Court will be complete by December, but it is likely to take much longer as the government has not taken a number of steps. The Office of Attorney General has already sought four more months to fully implement the directives, a plea the Supreme Court turned down and set October 29 to hear the matter. Of the 12-point court directives, the government is yet to finalise three sets of rules and amend the Criminal Procedure Code (CrPc).

The gazette notification now places about 800 judicial officers, including district judges, additional district judges, joint district judges, district and sessions judges and assistant judges, under the new judicial service in accordance with the court directives. Until now, their appointments were placed under the Public Service Commission (PSC). However, the Judicial Service will not function right away, as the government will have to put in place relevant rules and regulations to make it effective.

The Judicial Service Commission will begin the process of appointment of judges in the lower judiciary by placing advertisements in newspapers. The commission already recommended appointment of 50 assistant judges who were selected by the PSC through the 22nd Bangladesh Civil Service examinations. About 200 vacancies are there in the lower judiciary. The remaining three sets of rules and the amendment to the CrPc are still at draft stage, law ministry sources said. The three rules are the Bangladesh Judicial Service (Constitution, Recruitment, Suspension, Dismissal and Removal) Rules, the Bangladesh Judicial Service (Posting, Promotion, Leave, Control, Discipline and other Service Conditions) Rules, and the Bangladesh Judicial Service (Pay Commission) Rules. *The Daily Star, November 12.*

RIGHTS corner

## The rights of patients



Patients' rights can be seen as social rights and as individual rights. As social rights, they cover aspects such as the quality and accessibility of health care. As individual rights they relate to basic human and consumer rights.

Increasingly, consumers are being asked to take on more and more responsibility for their own health care. They are being encouraged to adopt healthy lifestyles that help to prevent many illnesses. They are becoming more active in the treatment of illness, rather than being the passive recipients of therapy. They are also being asked to burden more of the direct costs of health care, often paying fees for services, which previously were covered by government funds, or by purchasing the medicines they require.

With this increased responsibility, there must also be increased recognition of the rights of consumers of health care. Efforts are now underway in many countries to develop a more balanced partnership between health care providers - doctors, nurses, pharmacists and other health workers - and the people who use those services: the citizens, the consumers, the patients.

Part of improving the relationship between health care providers and users of the services has been the development of Charters for Patients' Rights. For patients, such charters provide a valuable instrument in their campaigns for greater equality and participation in the care of their health. For health workers, a charter serves as a guideline to assist in further strengthening professional codes of ethics and conduct.

Although patients' rights are universal, their implementation and the specific content of their declarations are likely to vary from country to country. Some of the key issues that need to be addressed in any declaration of patients' rights include:

- the right to health care
- access to information
- choice
- participation and representation
- respect for human dignity and the right to humane care
- the right to confidentiality
- the right to redress for grievances

Source: Consumers International, UK.

READER'S queries

## Your Advocate

Q. I came to know that it is not illegal to have sex with an opposite sex person (man/woman), if both are above the age limits and are willing to have sex, according to the new Law. If they are arrested or accused no one can guarantee whether the girl/woman is ill-treated (physically) by the law makers themselves or not. Reason for asking this is, I wish to marry a girl, whom I love from past 4 years and we have informed our parents regarding this and there is a small objection. So we decided to wait till they agree. I'm 28 years old & she is 26. So if we wish to have physical relation before marriage, is it illegal according to the Indian Law?

I checked the web sites and found some information about "The Immoral Traffic Prevention Act, 1986 (IT) Act" as mentioned. Can I know if this Law is still continued or has changed?

Can I know the new Indian Law with regard to this?

Thanks & Regards,  
Neeraj, India.

Your Advocate: Not to speak of the new law that you have mentioned, sex between two consenting adults (sex against the order of nature excepted) was not also expressly barred in the old law either. Under Indian law homosexuality and other unnatural sex are made punishable. The question of arresting adults living together before marriage does not arise because power of arrest by police or other agencies must be conferred by law. If law does not make it an offence how police can arrest or ill-treat with anyone involved in such sexual relationship? So the question of ill-treatment by law enforcing agencies does not arise if a boy and a girl of legally permissible age choose to live together.

Now I revert to the question that has direct bearing upon your personal life. It is clear that you and your fiancée are of legally permissible age for marriage. The institution of marriage in our sub-continent has inter-linkage with personal laws, social values, customs etc. In our society marriage is the only access to sex. And sex before marriage is a taboo. Not to speak of law it is the tremendous social disapproval that heavily weighs against your wish. It largely depends upon how you look at the institution of marriage, society and social disapproval.

So far as the law is concerned, in the given circumstance I don't really find any illegality in your desire. More so, in these days of emerging culture of live-together people are likely to take it easy as well. But the fact is, law and life are not the same thing. Life unfolds in roots, branches, flowers and flavours not as much for the particular individual to enjoy and trash as for the posterity to take from it. As Socrates said, 'Society is anterior to individual,' individual must steer with a forward look in the best interest of the society. Is it not much wiser to take care before we shift from our age-old values that changes should be by design not by passion?

Lastly, the law you have quoted. This is a piece of legislation of Indian jurisdiction. I am sorry, I am not at the moment in the know of the latest position of the law. It is not difficult now - a days to know the position of a particular law of a country. You can better talk to a practicing lawyer in India. He/she can well help you out.

Your Advocate M. Mozammam Husain is a lawyer of the Supreme Court of Bangladesh. His professional interests include civil law, criminal law and constitutional law

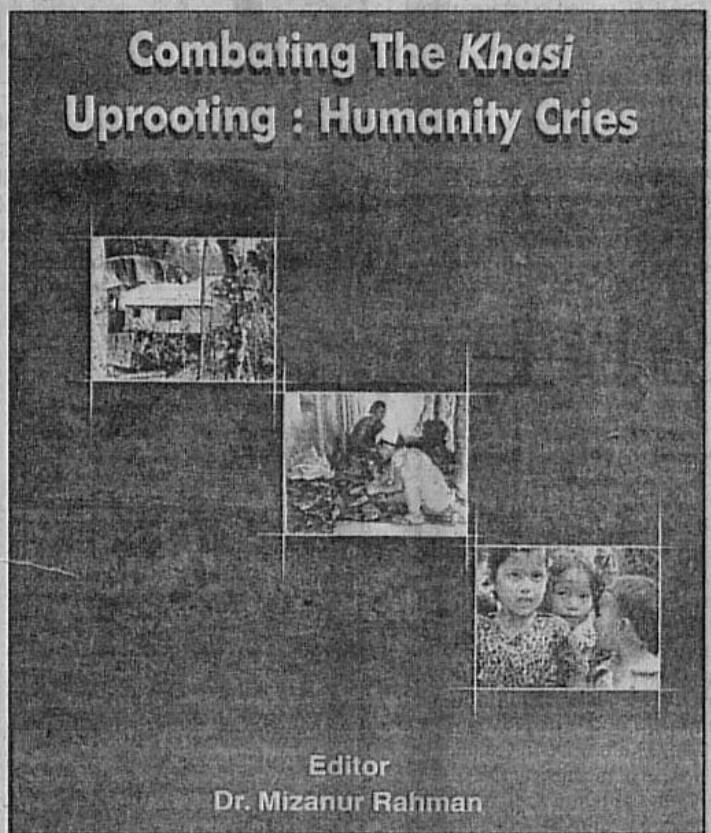
Star LAW book review

## Combating the khasi uprooting: humanity cries

SULTAN MAHMUD RIFON

'Combating the Khasi Uprooting: Humanity Cries' is published by Empowerment through Law of the Common People (ELCOP) and edited by Professor Dr. Mizanur Rahman.

Contact Address: 333/1, Shegun Bagicha (2nd Floor), Dhaka, Bangladesh.



'Combating the Khasi Uprooting: Humanity Cries' is a collective research effort undertaken by a group of anti-generic law students of the three leading public universities in the country: the Dhaka University, the Rajshahi University and the Chittagong University. These student-researchers shared a deep sense of commitment towards protection of rights of the minorities of the country. They have for the first time tried to analyse the deprivation and alienation of the Khasis from a politico-economic perspective. Authors have tried to find answers to issues like why the Khasis are Khasis, what

makes them indigenous, how have they been divorced from traditional land rights, what makes them feel aliens on their own land? etc. etc.

It contains 8 chapters including the introduction and the conclusion. The introductory chapter is followed in Chapter 2 by an ethno-sociological profile of the Khasi. The chapter traces the historical origin of the Khasi and discusses why this community should be treated as an indigenous community entitled to various specific rights and safeguards. Geographical mapping of the Khasi, especially identification of the main centres of their concentration substantially enriches this chapter.

Disintegration, subordination and marginalization of the Khasi community comprise the central theme of chapter 3. In this chapter the political history of the region inhabited by the Khasi is measured alongside their gradual loss of power and economic independence. The authors provided sufficient evidence and arguments to conclude that 'numeric inadequacy, strong sense of ethnic identity, monopoly domination, disempowerment and violence' are the main causes for marginalization of the Khasi people.

How the various factors accounting for disintegration and dispersion of the Khasi community are at work in the everyday life of the community is depicted in the next chapter on the 'present socio-economic structure of the Khasi community'. The analysis however, goes far beyond mere narration of the socio-economic life of the community and touches upon delicate political life of the community including various aspects of traditional communal governance. This chapter also reminds us about the growing disparity between the theory and practice of constitutional rights and freedoms enjoyed (?) by the Khasis as citizens of Bangladesh.

The above theme is further elaborated on the basis of field experience in chapter 5 dealing with 'Political subordination of the Khasi community'. It shows how traditional i.e. more common means of exerting pressure are put alongside 'innovative' means to compel the Khasi to remain subservient to dominant economic and political interests and ideology.

Chapter 6 concentrates basically on the social life of the Khasi community and illustrates how changes in the economic and political structure of the community have changed the inner life of the community members, including its religious belief.

The succeeding chapter is essentially the logical conclusion of the whole research. If the Khasi continue to live the life they are compelled to live today, if all the factors remain in their respective places playing their respective due roles, and if the state i.e. the Peoples' Republic of Bangladesh does not intervene to protect the 'indigeneness' of the community and promote its rights and freedoms, what impact would it have on the Khasi? The title of chapter 7 is an unfortunate reminder of what lies ahead: dissolution of the ethnic and subordination of the Khasi to dominant culture.

This however, is commensurate neither with the Proclamation of Independence of the Peoples' Republic of Bangladesh nor with the constitutional rights and guarantees. Therefore, in the concluding chapter the authors make recommendations for positive actions to be taken primarily by the government of Bangladesh. These recommendations speak for a comprehensive programme of action to protect the Khasi as an indigenous community. It is not mere protection of their economic interests, but protection of their socio-political life, ideology, way of life etc. A human rights response cannot be otherwise.

Corresponding with the Law Desk

Please send your mails, queries, and opinions to: Law Desk, The Daily Star, 19 Karwan Bazar, Dhaka-1215; telephone 8124944, 8124955; fax 8125155; email <slawdesk@yahoo.co.uk, lawdesk@thedailystar.net