



HUMAN RIGHTS monitor



# Ending violence against refugee women is a top priority



**V**IOLENCE is a common thread in the lives of refugees and displaced people all over the world. War, torture and persecution provide the grim background to their plight, while displacement and exile often engender more violence. For women refugees, the situation can be even worse than it is for men, and UN High Commissioner for Refugees António Guterres said combatting violence against refugee women was one of his top priorities. Violence against women is closely connected to complex social conditions such as poverty, lack of education, gender inequality, child mortality, maternal ill-health and HIV/AIDS.

The United Nations Population Fund has found that violence kills as many women and girls between the ages of 15 and 44 as cancer; that worldwide, one in three women has been beaten, coerced into unwanted sexual relations, or abused; and that roughly 80 per cent of the 800,000 people trafficked across borders each year are women and girls. "Violence against women," the organizers of the 16 Days of Activism to Eliminate Violence Against Women say, "is a pandemic, one that transcends the bounds of geography, race, culture, class and religion." When families are dispersed, communities broken and social networks destroyed, women and girls are even more vulnerable to this pandemic.

Whether it is in large camps or in very poor urban areas, refugee women are especially at risk, a reality that UNHCR says it recognizes and is trying to address. "We know that they are constantly subject to violence, abuse and exploitation in many operations around the world," UN High Commissioner for Refugees António Guterres said in a message to all UNHCR staff on Friday. "Discussions with women and girls across all regions, be it Colombia, Darfur, Bangladesh, [the former Yugoslav Republic of] Macedonia or Pakistan unfortunately confirm that in addition to rape and sexual abuse, girls can be harassed and subject to violence as they go to school, collect firewood or go to work, as well as through traditional harmful practices and domestic violence." Four years ago, the UN refugee agency outlined its "Five Commitments to Refugee Women", which included developing strategies to end violence against women; individual registration of men and women; and participation in the distribution of food and other relief items.

UNHCR offices around the world are marking the 16 Days of Activism with activities and awareness-raising programmes. These are being organized in partnership with refugee communities, civil society, NGOs, governments and other UN agencies. Events include youth panel discussions on how to address gender violence in Nepal; a radio talk show in Sierra Leone; the launch of a booklet on elimination of violence in Croatia; and a television broadcast in Sri Lanka.

Source: www.unhcr.ch

LAW news



## 81 killed by landmines in Tipaimukh



The Hmar Students' Association claimed that 81 people have died of land mine blasts and booby traps "planted by Manipur based militants at Tipaimukh in Manipur in the past two years. Speaking at a press conference here at the Shillong Press Club, Immanuel Z Varte President of Shillong unit of HSA said "all the deaths occurred between September 2004 till January 2006". Tipaimukh is a sub-division of Churachandpur district of Manipur.

"This is an inhuman action of the militants an act of terror and is in total violation of human and civil rights", Varte added. The militants, consisting of the Manipur People's Liberation Front (MPLF) and the United National Liberation Front (UNLF), were the perpetrators of the heinous crime Varte said. Condemning the militants' violation, Varte said, the villagers are being displaced due to the continued violence. "The state machinery has failed to provide humanitarian aid to the villagers who have been displaced from the villages". Currently, the Indian army is conducting combing operations to flush out militants from Tipaimukh. This has also led to militants 'forcibly' taking shelter with villagers adding to their woes, Varte told the media. He appealed to the state machinery and authorities concerned to take corrective steps so as to alleviate the problems of the villagers at Tipaimukh.

Source: Newmail News Network

LAWeducation



# Copyright law in Bangladesh

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### Infringement of copyright

The owner of copyright work has the exclusive right to do certain acts in respect of the work. If any person does any of these acts without authority, s/he will be liable for the infringement of copyright. As per section 71 of the Copyright Act, 2000, copyright in a work is deemed to be infringed-

When any person without a license from the owner of the copyright, or the Registrar of the copyright, or in contravention of the conditions of a license granted or any conditions imposed by a competent authority under Act.

- Does anything, the exclusive right to do which is conferred upon the owner of the copyright, or

- Permits for profit any place to be used for communicating the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright.

When any person does any of the following acts, it will also be considered as infringement of copyright:

- makes for sale or hire, or sells or lets hire or by way of trade displays or offers for sale or hire any infringing copies of the work

- distributes, either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, any infringing copies of the work, or

- exhibits to public by way of trade any infringing copies of the work, or
- Imports into Bangladesh any infringing copies of the work.

In general it is the commercial exploitation of the work in any form by a person without authority that constitutes infringement.

### Essential ingredients of Infringement

Depending upon the nature of copyright work, infringement involves one or more of the following acts without the authorization of copyright owner:

1. Reproduction of the work in any material form;
2. Publication of the work;
3. Communication of the work to the public;
4. Performance of the work in public and
5. Making of adaptations and translations of the work and doing any of the above acts in relation to a substantial part of the work.

Infringement of copyright cannot be avoided by a mere difference in dimensions or inexact or indirect copying of the original work. Although in most of the cases, it is quite difficult to prove direct copying, it can be deduced by inference from the surrounding circumstances. For example, in case of infringement of literary works, the defendants' work containing the same error/mistake that occurred in the original work. Again, similarity in style, language, design and sequence may also constitute some evidence of copying. However, one of the safest tests is to determine whether or not there has been an infringement of copyright is to see whether a spectator or the viewer after having read or seen both the works is clearly of the opinion and gets an inimitable impression that the subsequent work appears to be a copy of the original.

### Exceptions to infringement

The Copyright Act provides certain exceptions to infringement. The object of these provisions is to enable the encouragement of private study and research and promotion of education. They provide defences in an action for infringement.

The exceptions as laid down in section-72, come under the following categories:

1. Fair dealing without commercial benefits.
2. Reproduction for use in academic discussion, review or criticism.
3. Reproduction for use in judicial proceedings and for use of members of the legislature,
4. Publication of short passages, restricted reproduction or perfor-

ments. Under the guise of a copyright the owner of a copyright cannot ask the court to close all the venues of research and scholarship and all frontiers of human knowledge.

### Suit for Infringement

Where different persons own the several rights conferred by a copyright in any work, the owner of any such right, to the extent of his/her right, may enforce that right by a civil or criminal proceeding. The following issues arise in a suit for infringement of copyright:

- a) Is the plaintiff entitled to file the suit?
- b) Whether copyright subsists in the original work or not;
- c) How far the act of defendant/s within the ambit of infringement;
- d) How far the defendant/s can



mance for educational purposes.

5. Making of records under license from Copyright Board on payment of royalty,

6. Playing of records or performance by a club or society for the benefit of the members of religious institutions,

7. Reproduction of an article on current economic, political, social or religious matters in newspapers, magazines etc,

8. Reproduction of a few copies for use in libraries or for research or private study,

9. Matters published in official gazettes including Act of Parliament (subject to certain conditions) or its translation,

10. Making of a drawing, engraving or photograph of an architectural work of art, or a sculpture kept in a public place,

11. Use of artistic work in a cinematography film,
12. Use of an artistic work (author not the owner of copyright) by the author of any mould, cast, sketch, plan, model, etc., made by him for the work,

13. Making of an object in three dimensions subject to certain condition, and

14. Reconstruction of a building in accordance with architectural drawings etc.

Therefore, copyright law does not prevent a person from taking what is useful from an original work and create new work with additions and improve-

claim exemption under the exceptions (laid down in the above)

- e) What remedies the plaintiff is entitled to, etc.

### Remedies against Infringement

There are three kinds of remedies against infringement of copyright, namely:

1. Civil remedies

Civil suits provide remedy for claiming compensation for infringement of copyright and loss of profits as well. The owner of the copyright can bring civil action in which reliefs such as Anton Pillar Order (Search Order) injunction, accounts and damages can be sought. A suit or other civil proceedings relating to infringement of copyright is to be filed in the Court of District Judge, within whose jurisdiction the plaintiff resides or carries on business or where the cause of action arose irrespective of the place of residence or place of business of the defendant

2. Criminal remedies

Criminal remedies provides for the imprisonment of the accused or imposition of fine or both, seizure of infringing copies etc. Criminal proceedings are available in order to punish the persons who have violated the copyright law. The infringement of copyright is a cognizable offence and is punishable with imprisonment for a period extending from six months to four years and a fine ranging from Tk. 50,000/- to Tk. 2,00,000/-. The Act also provides for

seizure of infringing copies and confiscation of all duplicating equipments used for manufacturing counterfeit copies. However, if the court is satisfied that infringement is committed without having an intention for profit or non-commercial purpose, the court may give lesser punishment, which may be imprisonment for less than six months and fine for less than 50, 000 taka. However, in case of piracy of computer programs, the amount of fine is extended by an amendment to the Copyright Act on May 18, 2005, which is now minimum Tk 1, 00000 and maximum Tk. 4, 00000, if it is committed for commercial purpose. However, in case of mere use of infringing copy or if the court is

satisfied that it is committed for non-commercial purpose, the court may impose lesser punishment and lesser fine as well.

3. Administrative remedies

Administrative remedies consist of moving to the Registrar of copyrights to ban the import of infringing copies into Bangladesh, when the infringement is by way of such importation and the delivery of the confiscated infringing copies to the owner of the copyright.

### Concluding Remarks

The Copyright Act, 2000 of Bangladesh is a comprehensive law, the prime object of which is 'thou shall not steal'. This law is drafted in tune with international system of protection i.e., fully compatible with the provisions of the Berne convention and TRIPS Agreement as well. Now as per the present law, Bangladesh has one of the most modern copyright protection laws in the world. But unless or until this law is not implemented properly, this will become a mere paper tiger. That is why proper and effective implementation of the copyright law is a must. It is expected that in line with the changes of copyright law, Government of Bangladesh will take proper steps and effective measures to streamline and strengthen the process of administration and enforcement system of copyright.

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LAWweek



## Separation of judiciary Govt to seek 4 more months

The government will appeal to the Supreme Court (SC) for the 22nd time on February 1 to extend the deadline for separation of the judiciary by four more months, Law Minister Moudud Ahmed said. Addressing a press conference at the Secretariat, he said, "It's a practical problem to replace 600 administrative cadres by the same number of judicial magistrates, and we need some time to work it out." The SC on October 20 last year rejected the 21st appeal, expressing disgust at the government's doing 'nothing' to address the issue. A six-member full bench of the SC, headed by Chief Justice Syed JR Mudassir Husain, set February 1, 2006 as the date for hearing on two cases regarding separation of the judiciary. Of the cases, one deals with contempt charges against nine bureaucrats while the other one deals with a petition for bringing contempt proceedings against the government for not separating the judiciary as per the SC verdict. The law minister said he is hopeful that the government will succeed in separating the judiciary within the four-month time frame [if granted]. *The Daily Star, January 30.*

### Bail cancellation

## Show cause notice issued against Barisal magistrate

A Barisal court issued a show cause notice to a magistrate and policeman for violating higher court order over bail cancellation. The District and Sessions Judge's Court also asked First Class Magistrate Gopal Chandra Das of Barisal Cognisance Court No. 1 and Assistant Sub-inspector Abdul Hamid to reply within February 2 why contempt charge would not be brought against them. In the order, Judge Md Shafiuddin said the two not only failed to execute the higher court order of bail cancellation but their attitudes are also objectionable, autocratic and against the interest of the public. They have to explain why legal and departmental actions should not be taken against them and why the matter should not be forwarded to the Supreme Court for further action, the judge said. *The Daily star, January 30.*

## Law on financial reporting by corporate bodies

Consultants have been selected to formulate the Financial Reporting Act and the Financial Reporting Council, an independent regulatory body, to regulate accounting practices in the corporate sector, World Bank officials said. "The regulatory capacity relating to financial reporting by regulated entities will be strengthened for three agencies -- Bangladesh Bank (BB), Securities and Exchange Commission (SEC) and Insurance Department," said a WB statement. Strengthening of the auditing and accounting practices in Bangladesh is one of the major components of the Economic Management and Technical Assistance Project (EMTAP) launched by WB in 2004. *BD News, Dhaka, January 30.*

## Ramna blast accused recruited as police SI

An accused in the Ramna Batmuli bomb blast case has been recruited as a sub-inspector (SI) of police and is scheduled to be sworn in next month. Mizanur Rahman Swadhin, an alleged militant and accused in the blast case, is receiving the six-month training at Sardah Police Academy in Rajshahi. He is likely to get posting after the ceremonial march past of police training completion scheduled to be held on February 22. He was arrested at a mosque's mess owned by Abdus Sabur at Matuail in Demra, Dhaka on April 14, 2001 in connection with the case. Swadhin, son of Abdul Hamid of Bhetchki village in Mathbaria upazila, Pirojpur, was a student of geography department at Suhrawardi College in Dhaka and an adherent of the college unit Jatayatadai Chhatra Dal. A team of Detective Branch of police had visited his house along with him following allegations that his cousin Jasim was killed while hurling bombs at Ramna. *The Daily Star, January 31.*

## Cabinet okays tele-tapping

The cabinet approved Bangladesh Telecommunications (Amendment) Act 2006, providing for control on the use of mobile phone as a measure to break crime networks. A meeting of the cabinet held in the conference room of the Prime Minister's Office with Prime Minister Khaleda Zia in the chair, gave the approval for amending the law with the phone-control provision. In the wake of violent crimes across the country, particularly serial bombings by Islamist militants, the government has taken the move to check such syndicated criminal acts. The president recently promulgated an ordinance with a provision for tapping phones to check "the misuse of mobile phone for committing criminal act". *UNB, Dhaka, January 31.*

## ACC to file 45 graft cases in a week

The Anti-Corruption Commission will file charge sheets in 45 corruption cases within a week, ACC Chairman Justice Sultan Hossain Khan said amid criticism that the commission is not functioning effectively. "I would resign if I fail to make the commission effective and curb corruption," he told newsmen after a meeting of the ACC members and consultants with the finance minister, the Asian Development Bank and high government officials. Finance and Planning Minister M Saifur Rahman however observed the commission is not working and has not been effective at all. He said the commission could not help fight corruption as was expected. The minister told the meeting that he would talk to the prime minister soon to discuss all the issues relating to the commission and find solution to its problems to make it functional, meeting sources said. *The Daily Star, January 31.*

LAWevent



# United Nations commemorates holocaust victims

**T**HE United Nations Department of Public Information observed the first universal Day of Commemoration in memory of the victims of the Holocaust under the theme "Remembrance and Beyond" at United Nations Headquarters on 27 January.

Shashi Tharoor, United Nations Under-Secretary-General for Communications and Public Information introduced a programme that began with a message from Secretary-General Kofi Annan. This first observance marked a major step in a broader programme of outreach on the Holocaust and the United Nations by the Department of Public Information, and was designed to encourage remembrance of and education about the Holocaust, in order to help to prevent future acts of genocide. United Nations staff members, delegations of Member States, non-governmental organizations, media representatives, educational institutions and hundreds of survivors of the Holocaust attended the 27 January commemorative event.

Auschwitz - Sixty-one years after the liberation of the Nazi death camp of Auschwitz, the grimmest symbol of the murder of six million Jews in World War II, ceremonies across Europe marked the first international Holocaust Remembrance Day. They

came amid a storm provoked by an Iranian plan to stage a conference questioning the Holocaust, which

Iranian President Mahmoud Ahmadinejad had described as a "myth". At the site of the Auschwitz-

Birkenau camp in southern Poland, the largest built by the Nazis, Polish Prime Minister Kazimierz



Marcinkiewicz presided over ceremonies attended by camp survivors and the Jewish community. Marcinkiewicz said it was impossible to be indifferent to the horrors of the Holocaust. He said: "The Nazis' Auschwitz camp is the biggest cemetery in Europe that has no tombs. It's all the more important to preserve the memory of what happened here ... as a warning for a world still full of hate and aggression." Historians estimated about 1.1 million men, women and children, most of them Jews from Germany and Nazi-occupied countries, died at Auschwitz-Birkenau between 1940 and 1945. Earlier during a visit to Switzerland, United Nations chief Kofi Annan denounced those who denied the mass murders committed by German dictator Adolf Hitler's Nazi regime. Last November, the UN general assembly declared January 27 its official memorial day for the Holocaust - the systematic slaughter by the Nazis of mainland Europe's

Jews, as well as other groups, during World War II.

Meanwhile, Poland's powerful Roman Catholic Church called on believers to light candles in their windows in memory of those who perished in the Holocaust. In Estonia, invaded by German troops in 1941, the government issued a statement expressing regret that some Estonians collaborated with the Nazi occupiers in perpetrating crimes against humanity as policemen or camp guards. The statement said: "There is no justification whatsoever for the participation of any person in those shameful and morally condemnable acts."

In Lithuania, the ambassadors of Britain, Germany, Poland, Russia, the United States and other officials gathered at a memorial at Paneriai, close to Vilnius, to listen to prayers.

Source: United Nations Information Service.

### Corresponding with the Law Desk

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