



LAWweek



Polls by end of 2008- Reiterates CA

Chief Adviser (CA) Fakhruddin Ahmed said the general election will be held by the end of 2008 in accordance with the timetable set by the Election Commission. The CA stated this when visiting former US ambassador to Bangladesh William B Milam called on him at his office. During the meeting, they held candid discussion on the reform measures being undertaken by the present caretaker government for ensuring a level playing field prior to holding the next general election, according to an official. The CA told the former US ambassador that the government is doing everything in a transparent manner as per law of the land. He elaborated on institutional, legal and policy reforms undertaken in various sectors, especially in administrative, electoral and anti-corruption areas. Milam, senior policy scholar at the Woodrow Wilson International Centre for Scholars in Washington, lauded the reform measures taken by the caretaker government. The CA said the present government is directly accountable to the people and taking into account the views and opinions of the grassroots people as well as the media on a day-to-day basis. He said the armed forces are also assisting the government in specific areas like maintaining law and order and drive against corruption as per the country's legal provisions. Milam was accompanied by Chairman of the US-based America-Bangladesh Advisory Council Shabbir Ahmed Chowdhury. -Unb, Dhaka, May 29.

Forest boss held with tucked away Tk 1cr

Chief Conservator of Forests (CCF) Osman Gani was arrested at his Uttara house with Tk 1 crore in cash that he had hidden at some unusual places in his house. A joint team of Anti-Corruption Commission, army, Rab and police raided Osman's Bonobithi house at Sector 8 at around 11:00am and found the money, in several currencies, hidden inside a rice drum in the kitchen and inside a pillow kept in the balcony, among other places. The joint team also recovered two passports of the Forest Department head during the nine-hour raid. Syed Nazrul Islam, officer-in-charge (OC) of Uttara Police Station, told The Daily Star that the joint forces had the information that the CCF had a lot of money hidden at his house. They have been keeping an eye on him for the last couple of days, he added. The joint forces conducted a thorough search of the house and seized Tk 92.9 lakh, US\$1,300 and Indonesian rupees 3,000. When the law enforcers asked Osman about the money, he was silent for some time and then passed out. The OC also said that they have information that Osman has a locker in the Dhanmondi branch of Standard Chartered Bank and they would take him there to check the locker. -The Daily Star, May 30.

HC sets hearing dates in Aug for 2 graft cases against Hasina

The High Court (HC) set August 1 and 7 for hearing on Awami League (AL) President Sheikh Hasina's petitions for quashing two graft cases against her regarding the purchase of MiG-29 fighters and a frigate. The decision followed a sudden move by the military-backed interim government to revive the years-old cases against the former premier. Deputy Attorney General Golam Mohammad Chowdhury on Monday petitioned an HC bench for the hearing dates. Earlier in 2003, the HC stayed proceedings of the cases in response to her appeals. The now defunct Bureau of Anti-Corruption filed a case for irregularities in the MiG-29 purchase against Hasina and four others with the Tejgaon Police Station on December 11, 2001. The following year it filed another graft case against her and five others with the same police station. The second case relates to frigate purchase. During her stint as the prime minister between 1996 and 2001, the government procured eight MiG-29 fighters from Russia for the air force and a frigate from South Korea for the navy. In the first information reports, the complainant alleged that the government had to incur a loss of Tk 447 crore in the buying of frigate and Tk 700 crore in eight MiG-29s. In 2003, charges were pressed against Hasina and others in the two cases and charge sheets were submitted before the court. The HC on May 16 set July 25 to hear the AL chief's petition for cancelling the proceedings in the four-and-a-half-year old Meghnaghat Power plant graft case against her. -The Daily Star, May 30.

Bashundhara deposits Tk 77cr 'ill-gotten money' to govt exchequer

Bashundhara Group, the country's one of the largest conglomerates, deposited Tk 77 crore to the government exchequer allegedly earned through illegal means. "This is illegally earned money and they (Bashundhara Group) were compelled to deposit to the exchequer," a source said. Earlier, seven businessmen deposited Tk 270 crore illegal money with the government through several pay orders in local currency for the first time in the country's history, banking sources said. In the face of the government's anti-corruption drive conducted by the joint forces, these businessmen had to deposit the amount, which the central bank termed "non-tax revenue." Army Chief General Moeen U Ahmed in a recent meeting with the editors of different media said the government's initiative to retrieve illegally earned money from corrupt people will continue. He said the process is underway to get back another Tk 824 crore. Earlier, the Anti-Corruption Commission asked Bashundhara Group Chairman Ahmed Akbar Sobhan to submit his wealth statement suspecting him as a corrupt businessman. But, Sobhan did not comply and went into hiding. -The Daily Star, May 30.

Ershad's graft case resumes

Trial of a graft case filed 16 years back against former president and Jatiya Party Chairman HM Ershad and five others began at a Dhaka court yesterday. Judge Malik Abdullah Al Amin of the Special Court for Dhaka Division recorded statement of the complainant Golam Mortuza, an official of now defunct Bureau of Anti-Corruption, of the case and fixed June 18 for next hearing. The proceeding of the case was stayed for a long time due to a High Court order though charges were framed on July 7, 1992. Ershad and AKM Mosharraf Hossain, former chairman of Bangladesh Shilpa Bank, abusing power and through corruption, directed the authorities concerned to remit Tk 35 lakh loan taken by M/S Three Star Poultry Farm Limited on September 4, 1979. Later, a graft case was filed with Motijheel Police Station against Ershad, Mosharraf, Managing Director Jahangir Kabir, Directors Firoz Kabir and Borhan Uddin and Jahangir's wife Nurunnahar Shelly. Of them, Jahangir and his wife Shelly are still at large while others are now on bail. The investigation officer pressed charges against Ershad and five others on November 6, 1991. -The Daily Star, May 31, 2007

CHT land body to be activated

The government is going to activate the Chittagong Hill Tracts (CHT) Land Commissions to resolve land related disputes between indigenous communities and Bangla speaking settlers of the region. The CHT Land Commission was made to resolve land related disputes between the two communities but the commission remained inactive since its formation more than three years ago. The decision was made yesterday at a meeting of CHT Advisory Council held after more than six years. Since the formation of the council, only two meetings were held during the last Awami League government. No meeting of the council were held during the four-party alliance government. Foreign and CHT Affairs Adviser Itekar Ahmed Chowdhury chaired the meeting held at the auditorium of CHT affairs ministry. Chairman of CHT Regional Council Jyotirindra Bodhipriya Larma, circle chiefs of Chakma, Bomang and Mong, and chairman and members of Khagrachhari, Bandarban and Rangamati district council were present at the meeting. -The Daily Star, June 01, 2007.

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HUMAN RIGHTSadvocacy

RIGHT TO FREEDOM OF CULTURAL EXPRESSION

A platform for protecting and promoting cultural diversity

FARAH ASHRAF

FOR the first time in history, cultural diversity is established as an immutable human right. The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted in Paris on 20 October 2005, entered into force on March 18 this year, guaranteeing that all forms of cultural expression remain outside the norms and negotiations of organisations regulating trade, with a view to protecting and promoting cultural diversity.

The call for international instruments focusing cultural diversity was experienced at the end of the 20th century with the accelerating process of globalisation. The most broadly accepted definition of culture is indeed that adopted at the Mexico City MONDIACULT World Conference in 1982 which reaffirmed that, in its broadest sense, culture can now be regarded as "the set of distinctive spiritual, material, intellectual, and emotional features of society or a social group. In addition to art and literature, it encompasses lifestyles, basic human rights, value systems, traditions, and beliefs."

In the 1970's and 1980's the emphasis of UNESCO's work on cultural relations was on "culture and development" and on "the protection of cultural heritage". The purpose was to ensure the promotion of cultural identity within the framework of a global development policy, which was then being encouraged by the international community. During this period culture was defined and considered in UNESCO's work as a traditional "arts and literature". But, following the 1982 World Conference on Cultural Policies in Mexico, it was established that "in its widest sense, culture may be said to be the whole complex of distinctive spiritual, material, intellectual and emotional features that characterise a society and social group. It includes not only the arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs".

According to the Universal Declaration on Cultural Diversity, cultural diversity 'is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind'. It refers to the 'manifold ways in which the cultures of social groups and societies find expression'. According to this definition, the conservation of cultural diversity thus implies maintaining and developing existing cultures while ensuring openness to other cultures. Its obligatory provisions exclusively comprise: diversity of cultural expression, that is diversity in the creation, as well as the production, distribution, communication,

exhibition and sale of cultural content, whatever its medium or form, existing or to be invented.

The first part of the Convention contains Objectives (Article 1) and Guiding Principles (Article 2). More precisely, Article 1 lists nine objectives concerning protection and promotion, development of cultural policies, the link between culture and development and "interculturality"; meanwhile, Article 2 establishes various guiding principles, particularly the principle of respect for human rights and fundamental freedoms (provided in paragraph 1). According to Article 3, the Convention "shall apply to the policies and measures adopted by the parties related to the protection and promotion of the diversity of cultural expressions". Article 4 provides a definition for the term "cultural content": which is identified as referring to "symbolic meaning, the artistic dimension, and cultural values that originate from express cultural identities", "cultural expressions", "cultural activities goods and services", "cultural industries", "cultural policies" and "interculturality".

The Convention identifies that "cultural diversity forms a common heritage of humanity" and considers that "the protection and promotion of the diversity of cultural expressions presuppose the recognition of equal dignity of and respect for all cultures." Furthermore, the Convention recognises that "cultural activities, goods and services have both an economic and a cultural nature, because they convey identities, values and meanings, and must therefore not be treated as solely having commercial value."



The Convention also reaffirms the rights of sovereign states to "maintain, adopt and implement policies and measures that they deem appropriate for the protection and promotion of the diversity of cultural expressions on their territory." This is considered to be essential to facilitate all countries, and in particular developing countries, to contribute in a more balanced form of globalisation and to gain from the diversity of their cultural expressions in order to ensure ongoing development. Nevertheless, there is a duty for the Parties to support developing countries in the promotion and protection of the diversity of their cultural expressions.

The Convention vigilantly evades to outline all trade-restrictive measures that are presently being used by States. It confines itself to refer to protective measures that reserve a certain space for domestic goods and services or require certain domestic content. Moreover, the provisions refer to domestic support measures. These policies and measures reserve a certain space for domestic cultural goods and services within the national territory; guarantee independent cultural industries' effective access to the means of producing, disseminating and distributing cultural goods and services; or promote the free exchange and circulation of ideas, cultural expressions and cultural goods and services. The independent experts declared that 'protection' should not be seen as a way for States to protect themselves from foreign cultural expressions, but rather should be interpreted in an optimistic way, ensuring that all cultural expressions can exist next to each other.



Celebrating Our Cultures...we all smile in the same language.

The convention also addresses the rights of individuals by obligating states parties to ensure all individuals within their States opportunities to create and disseminate cultural expressions and goods and services as well as to have access to the cultural expressions, goods and services. Those rights are guaranteed in particular by the recognition of the legal and social status of artists and creators, and by enforcing their intellectual property rights. This convention also addresses the issue of rights and obligations specific to States to take measures in support of cultural diversity within the limits of respect for basic human rights.

The guarantee of human rights and fundamental freedoms, including freedom of expression, information and communication, is recognized as a precondition for the protection and promotion of cultural diversity. To avoid any misinterpretation, it is explicitly stated "no one may invoke the provisions of this Convention in order to infringe human rights and fundamental freedoms as enshrined in the Universal Declaration of Human Rights or guaranteed by international law or to limit the scope thereof." Freedom of expression and information and the free flow of ideas are also explicitly mentioned in the Preamble (Recitals 11 and 12).

The obligations of States at the national level concern the creation of an environment that promotes individuals and social groups to produce cultural expressions and ensures adequate remuneration of their work through intellectual property protection. They also recommend States to educate their population on the importance of cultural diversity, encourage civil society participation and adopt cultural policies in a transparent way. An important obligation to protect vulnerable forms of cultural expressions is included in the present articles 8 and 15 of the Convention. The State parties can be required by the Intergovernmental Committee to take appropriate measures if some cultural expressions are deemed to be vulnerable to or threatened by the possibility of extinction or serious restriction.

In fact, any State party can inform such threats to vulnerable cultural expressions to the Intergovernmental Committee. This obligation at the national level is balanced by the duty to pay proper attention to vulnerable forms of

cultural expression in the international cooperation of the State parties.

At the international level, States have the obligation to promote international cooperation for the creation of conditions favorable to the promotion of cultural diversity and to give due account to culture in their development policies. Additionally, developed State parties should make an effort to facilitate cultural exchanges with developing countries by granting preferential treatment to their artists, cultural goods and services.

The convention attempts to address the peaceful coexistence of different cultures and encourages developing and least developed countries to develop and implement policies to support them in this endeavour. That cultural goods and services from developing and least developed countries face complexity in penetrating developed country markets is recognised through the convention's encouragement to balance and openness. The convention also recognises that the situation in developing and least developed countries necessitates maximum flexibility in the domestic implementation of laws and regulations. It has the aim to strengthen international cooperation and harmony aimed at facilitating developing and least developed countries to protect and promote cultural diversity and maintain cultural industries on their national territory and throughout the world.

Bangladesh has recently decided to ratify the Convention on Cultural Expressions, which aspire to promote cooperation for the development and strengthening of resources and capacities of our country in the preservation and promotion of cultural diversity. But for this potential to be accomplished, states must not only ratify the Convention but also actively pursue its purpose of preserving and promoting cultural diversity in the future.

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LAWcampaign



Demand for Blue Helmets International Day of UN Peacekeepers

The fifth annual International Day of United Nations Peacekeepers be marked on 29 May at the Organization's Headquarters in New York, as well as on peacekeeping missions and UN offices around the world. This year's commemorative ceremonies come at a time when the services of UN peacekeepers are in greater demand than ever. There are currently more than 100,000 peacekeepers from 115 countries serving in 18 operations on four continents, with additional deployments on the horizon.

"We hope this occasion will serve as a reminder of the invaluable work of our blue helmets who each day risk their lives trying to bring peace to conflict-torn societies," said Jean-Marie Guéhenno, Under-Secretary-General for Peacekeeping Operations. "It should also underscore the importance of strengthening UN peacekeeping, with its solid record of promoting a return to stability, to foster even greater gains

in the future, for the sake of the innocent victims whose lives have been ravaged by war."

At United Nations Headquarters in New York, Secretary-General Ban Ki-moon will oversee a solemn wreath-laying ceremony in honor of the more than 100 peacekeeping personnel who lost their lives whether through attacks, illnesses or accidents in 2006 in the service of peace. Mr. Ban, who took office in January, has proposed an ambitious reform and restructuring plan for the UN's peacekeeping department aimed at strengthening the capacity of the Organisation to meet growing demands, and has already visited several peacekeeping missions in Africa and the Middle East.

Also as part of the commemoration ceremonies, on 30 May, Dag Hammarskjöld medals will be awarded posthumously to the military, police and civilian personnel who lost their lives last year

serving in UN peacekeeping operations. The medals will be received by representatives of the respective Permanent Missions to be forwarded on to the next of kin. In a separate ceremony, Under Secretary-General Guehenno will award peacekeeping medals to the military and police officers currently serving in the Department of Peacekeeping Operations at Headquarters.

While the Dag Hammarskjöld medals pay tribute to the sacrifice of those who died, the greatest monument to their contribution is a set of United Nations peacekeeping successes in 2006. These included helping the Democratic Republic of the Congo hold its first elections in 40 years; helping solidify peace and ensure justice in West Africa by transferring indicted war criminal and former Liberian President Charles Taylor to face charges for crimes committed in Sierra Leone; helping implement a major peace agreement in southern Sudan; and supporting elections and helping to establish the rule of law in Haiti by working with the national police to curb gang violence.

The year also saw a major European reengagement in UN peacekeeping as countries from the continent stepped forward to bolster the UN peacekeeping force in Lebanon, including by providing the UN's first major naval force, to support a ceasefire in southern Lebanon following last summer's conflict between Israel and Hizbollah.

In 2006, the UN undertook a series of efforts to increase the number of women serving in peacekeeping operations, including setting the stage for this year's deployment of the first-ever all-female peacekeeping contingent: India's formed police unit with

more than 100 female officers now stationed in Liberia.

Of the more than 100 countries that provide uniformed peacekeepers to the United Nations, the largest contributors remain Pakistan, India and Bangladesh, which together provide more than 40 per cent of all blue berets. The cost of financing peacekeeping operations more than \$5 billion per annum -- is borne mainly by the European Union countries, Japan and the United States.

UN Peacekeepers Day was established in 2002 by a the General Assembly resolution designating 29 May the date in 1948 when the first UN peacekeeping mission, the United Nations Truce Supervision Organization (UNTSO), began operations in Palestine to pay tribute to all men and women who have served and continue to serve in United Nations peacekeeping operations for their high level of professionalism, dedication and courage, and to honor the memory of those who have lost their lives in the cause of peace.

UN peacekeeping, built on almost 60 years of experience in the field, is widely acknowledged to be an indispensable tool for the international community in tackling the difficult issues of inter-State and, increasingly, intra-State conflicts. UN peacekeeping's legitimacy and universality are unique, derived from its character as a collective security effort undertaken on behalf of a global organization comprising 192 Member States.

Source: United Nations

RIGHTScorner



Right to a healthy environment



The Right to a Healthy Environment requires a healthy human habitat, including clean water, air, and soil that are free from toxins or hazards that threaten human health. The human contribution to environmental degradation has long been recognized by international environmental law. The environmental justice and international human rights movements are increasingly applying a rights-based strategy to confront global environmental devastation, environmental racism, and to protect ecological habitats and the planet for future generations. The most developed human rights standard-setting in this area involves the right to water. As with every human right, the right to a healthy environment entails the following obligations:

- Respect the obligation to respect requires governments to refrain from interfering directly or indirectly with the enjoyment of the right to a healthy environment
- Protect the obligation to protect requires governments to prevent third parties, such as corporations, from interfering in any way with the enjoyment of the right to a healthy environment
- Fulfill the obligation to fulfill requires governments to adopt the necessary measures to achieve the full realization of the right to a healthy environment

Source: Centre for Economic and Social Rights