



HUMAN RIGHTS investigation



LAW week



# Rohingyas outside camps: Absence of status makes them vulnerable

UDATTA BIKASH

BA NGLADESH has been hosting a large number of Rohingyas, a persecuted ethnic minority, who are Muslim, from the northern Rakhine State (formerly known as Arakan) of Myanmar. Historically, the Rohingya has been linked in terms of race, language and religion with native people in the greater Chittagong region.

There is no authentic data on how many Rohingyas are now in Bangladesh other than those who are in two official refugee camps in the district of Cox's Bazar. Some estimate predicts that their number is in between 100,000 and 300,000. In the two official refugee camps at Nayapara and Kutupalong there are now about 26,000 Rohingyas.

Recently, there has been a study on the Rohingyas staying outside the camps in Bangladesh with specific focus on their vulnerability to trafficking. The Dhaka-based South Asian Regional Office of the International Organisation for Migration (IOM) has commissioned the study. The study is interesting and deserves immediate attention of the authority concerned. The findings of the study have already been shared with relevant stakeholders including UN agencies.

The objective of the study is reportedly to understand the human trafficking situation in the Cox's Bazar with special focus on the displaced Rohingya population, and to explore the perception of the local community and expert-opinions with regard to designing anti-trafficking interventions.

The scope of the study includes collection of qualitative information, analyse dynamics of gender inequality, identify key factors and actors, identify vulnerable groups, overview of prevention, prosecution and protection situation, and recommending actions with regard to prevent trafficking.

Methodology includes Rapid Rural Appraisal (RRA), Focus Group Discussion (FGD), observation of the community situation, tea stall discussions, informal interview/meeting, and review of previous works.

The study area is Cox's Bazar Sadar, Ukhaia and Tekhnaf. In addition, Dhaka has been included to cover the NGOs and INGOs as well as other national level civil society and policy actors working in the anti-trafficking area.

For the study, a total of 105 (15 male and 90 female) Rohingya community members, 27 representatives of NGO/INGO/professional groups, six elected public representatives and three government officials including the TNO of Tekhnaf and Officer-in-Charge of Tekhnaf Police Station were interviewed.

The study came up with some interesting findings which deserves immediate intervention by the Government of Bangladesh and international community including the development partners and UN agencies.

The study observes that the Rohingyas outside the camps are subjected to gross violations of human rights. A significant number of them are victims of trafficking as well. This is contributed by the absence of a formal legal status for them in Bangladesh.

It observes that the Rohingya population outside the camps who have been without proper legal status are forced into a livelihood struggle which makes them vulnerable to trafficking, pushes a section of them towards criminal activities and motivates them to acquire the citizenship and/or social recognition as Bangladeshis through illegal means.

The outline of the study, which was available to the writer, mentions that this vulnerable situation of the Rohingyas is contributed by the following factors:

- Absence of an official recognition;
- Exclusion from government's development and basic services;
- Exclusion from emergency support;
- Exclusion from NGO interventions;
- Exclusion from legal protection;
- Certain organised groups use Bangladesh as destination and transit for smuggling/trafficking in persons to Middle



Eastern countries, Malaysia, Japan and Thailand. In addition there are some social vices in the Rohingya community: Chain of commercial sexual exploitation, fake marriage, fake proposal of work, abduction and allurements of migration to a third country, majority of girls and young women, prevalence of sexually transmitted infections (STI).

As mentioned, there exists no authentic statistics on the number of the Rohingyas living outside the camps. They are basically displaced population without registration and recognition as refugees. The people in Cox's Bazar have the perception that the number of these undocumented Rohingyas is increasing day by day, the study report mentions.

The study observes that majority of the Rohingyas in Bangladesh are displaced through a systematic process of ethnically targeted violence, discrimination and encroachment in the country of origin, Myanmar. However, there are new trends as well. Recently, there is an element of economic migration of the Rohingyas, the researcher points out. There is a continual process of entry, exit and amalgamation of Rohingya population with respect to Bangladesh as a destination and transit country.

In the study, absence of a formal recognition has been mentioned as one of the key factors responsible for undermining the human rights of the Rohingyas and making them more vulnerable to trafficking. However, the study does not come up with any number of trafficked victims. The Rohingyas living beyond the camps in most cases are forced to do so, in absence of a formal recognition of their status.

According to a reported agreement between the governments of Myanmar and Bangladesh, no Rohingya would be recognised as a refugee after the cut off date of May 1994. The UN Refugee Agency, UNHCR is also reportedly following this 'guideline' which is contrary to principle of international protection of refugees.

So, those of the undocumented Rohingyas who live outside the camps are subjected to acute economic exploitation and a very high level of livelihood insecurity. However, a section of the Rohingyas has left the official camps in pursuit of a better life outside, notes the study.

The other findings of the study are: the average size of the Rohingya family is 5.19 persons, number of female and male per household is respectively 2.81 and 2.38, daily income per household is Taka 73.38, per-capita daily income is Taka 15.15, lack of livelihood options, and forest

policy for the Rohingya population living in Bangladesh, (ii) A form of legal status which will offer them a temporary stay and make them visible and accountable, (iii) Provision of emergency and developmental support on humanitarian ground, (iv) Specially designed awareness campaign targeting the Rohingya population and the hosting communities, (v) Sensitisation of the border security forces, police and the host community on the human rights of displaced people and refugees.

The study underscores the need of capacity building of the relevant government offices, law-enforcing agencies, border security forces, NGOs, community-based organisations, legal practitioners, locally elected bodies, religious and professional groups.

The study recommends that content of the awareness campaign should encompass the bigger issue of livelihood challenges and the rights of the displaced population and issue of safe migration, HIV and AIDS.

Initiatives should be taken to ensure alternative livelihood supports or livelihood means for the undocumented Rohingyas. The general capacity of the communities and agencies needs to be expanded in ensuring rights-based approach.

The study recommends that UN agencies, specifically IOM can bring in its capacity and experience to facilitate networking, awareness raising, community mobilisation and civil society consultation (both conceptual and referral) at different levels. The role should be focused on facilitation of capacity and coordination. The existing base of cooperation established by IOM with the government and NGOs can work as the initial base of this capacity facilitation and coordination process. It also underscores the need of inter-UN cooperation and coordination.

The study recommends for such a policy on the Rohingyas, which will ensure their existence in the local community with dignity and harmony before they have access to voluntary repatriation or resettlement to a third country. It further mentions that the policy should ensure that the concerns for the pull factors are adequately addressed. Along with the aim of resolving the issue of identity crisis and community level conflict, the issue of "refugee rights" and principle of "voluntary repatriation should be kept in focus in designing any policy framework. It emphasises for strict border control and law enforcement.

Here is a concern for this writer. As Bangladesh has no mechanism for receiving asylum applications and identifying those who are fleeing persecution and really in need of international protection as refugee, so strict border control might prevent a deserving one to enter into the country. However, if it is done on the basis of a well-designed system and legal framework, then it is all right.

The study recommends a dialogue among concerned governments, UN agencies and development partners to find a durable solution to the Rohingya problem in Bangladesh.

The writer is a researcher and practitioner specialising on legal and human rights issues.

RIGHTS corner

## The poor children in labour market

Today's children are the future of the country. But this slogan is not true in the life of the deprived poor children of the country. Lacs of children are now somehow forced to enter in to labour market instead of going school in their early childhood age. Although poverty is the main reason for child labour but there are so many reasons exists which insisted a child to earn his or her livelihood by physical labour. Inadequate income at family level is another cause that pressurized child to leave school. In this way lacs of children are being deprived of right to education. As a result child laborer is increasing day by day. Even though Govt. has initiated compulsory primary education but a large number of children cannot avail them to take this opportunity. Child labour is not disappearing from Bangladesh but is on the increase.



Child labour perform in many different capacities - as domestic workers, garage helpers, factory workers, porters in railway stations and markets, workers in small foundries -- many for little or no pay, and some of them in hazardous conditions. Many boys and girls who work do not have access to education and become trapped in low-skilled, low-pay work that further binds them into the cycle of poverty. The picture is especially bleak for children living in urban slums. Providing children with a quality education, life and income-generating skills is now seen as a means of increasing the options available to working children and their families. It will enable them to escape poverty and the need to work in hazardous or exploitative occupations.

The non implementation of labour laws regarding child labour, ignorance of the concerned authority, social discrimination and the overall socio-economic structure of the country is responsible for this situation. Most of the children are suffering from malnutrition, adequate food and unhygienic atmosphere surrounding their survival. Initiative need to be taken for an end to child labour.

Source: Shishu Prokash, an initiative of Mass Line Media Centre and UNICEF.

LAW campaign

# International Day in support of Victims of Torture

On 26 June 1987 the Convention against Torture came into force. It was an important step in the much-needed process of globalising human rights and acknowledging that torture, and all forms of inhuman or degrading treatment or punishment, are absolutely and universally illegal. In 1997, the United Nations General Assembly decided to mark this historic date and designated 26 June each year as International Day in Support of Victims of Torture.

This year's common theme of 26 June is the need for rehabilitation and the need for adequate and sustainable funding to the United Nations Voluntary Fund for Victims of Torture, UNVFVT. After the EU the Fund is the biggest donor to rehabilitation centres and programmes worldwide, but still, there are requests from centres and programmes for double the resources available. Therefore, the need to commit governments to support the Fund is urgent.

The Protocol aims to prevent torture and other cruel, inhuman or degrading treatment or punishment by establishing a system of regular visits to all places of detention. These visits will be carried out by independent "national preventive mechanisms" which states parties undertake to establish or designate, and by a new international expert body, the Subcommittee for the Prevention of Torture (Subcommittee).

Regular and unrestricted visits to places of detention constitute an important part of an effective overall strategy to prevent torture and other ill-treatment. Visits by independent bodies not only have a deterrent effect but they also enable experts to examine at first hand the treatment of all persons deprived of their liberty and conditions of detention, to make recommendations for improvements

and to monitor their implementation. Visits also enable detainees to maintain invaluable contact with the outside world.

The Protocol is innovative in three ways. Firstly, it provides for a combination of national and international monitoring bodies that work in tandem.

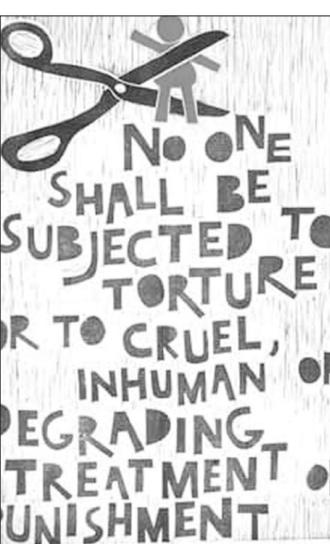
Secondly, unlike existing UN mechanisms the Subcommittee and national preventive mechanisms do not require an invitation to visit; states that ratify the Protocol must accept visits by these bodies without the need for prior consent and to work with them to implement their recommendations. Thirdly, the Subcommittee is mandated to advise and assist both States Parties and National Preventive Mechanisms.

The entry into force of the Protocol is particularly important at a time when the scourge of torture continues unabated. Some states are not only engaging or being complicit in torture or ill-treatment in practice but also trying to circumvent or weaken long-standing fundamental legal guarantees that protect the rights of all persons deprived of their liberty, from torture and ill-treatment.

Now that the Protocol has entered into force the Subcommittee will be established and states parties have one year within which to create or designate their national preventive mechanisms. Accordingly, states parties must give serious consideration to the implementation of the Protocol.

CINAT calls on all states parties to the UN Convention against Torture to ratify and implement its Protocol as a matter of urgency. Those states that have yet to ratify the UN Convention against Torture should do so and give priority to signing and ratifying the Protocol.

CINAT urges all states parties to the



Protocol to ensure that individuals elected as members of the Subcommittee possess the appropriate independence and expertise to enable the Subcommittee to fulfil its mandate and make a positive contribution to the protection of all detainees.

CINAT calls on all member states of the UN to ensure that sufficient resources are allocated to enable the Subcommittee to function effectively.

Source: The coalition of International NGOs against torture.

## BNP reformists' proposal aims at excluding Khaleda

The pro-reform BNP leaders unveiled a 15-point proposal including the one aiming to dislodge Khaleda Zia from the post of chairperson. At a press conference in the evening, Secretary General Abdul Mannan Bhuiyan read out the proposals prepared in consultation with some senior leaders and former lawmakers. He said absolute powers of the party chief must be curbed for the BNP to graduate to a democratic organisation. And the [BNP] constitution will have to be amended to make that happen. According to the proposals, the chairperson will be elected for three years instead of the existing two years.

No one will be allowed to hold the apex post for more than two terms. The proposed provision will be applicable also to those who already held the post for two terms or more than six years. If incorporated in the [BNP] constitution, it will mean an end to Khaleda's being at the helm for around 23 years on the trot. Also a former prime minister, she has welcomed the plans and said the national council will take decisions after examining those. The proposals say that no one of the party will be allowed to be the prime minister for third time. Besides, the same person shall not hold simultaneously the posts of chairperson and the premier. - *The Daily Star, June 26.*

## Rajuk comes under anti-graft hatchet

The military backed caretaker government recently kicked-off the first ever crackdown against institutionalised corruption in government agencies as part of its ongoing massive anti-corruption drive being carried out country-wide since February against high profile corruption suspects. Two decades old Rajdhani Unnayan Kartipakkha (Rajuk) is the first target of the drive against institutionalised corruption introduced as the second phase of the ongoing anti-graft campaign in an effort to bring necessary reforms to the government agency for making it a service oriented vibrant organisation. Other government organisations, known as corrupted, will also be brought under the purge, but the Task Forces against Egregious Crimes and Corruption are giving priority to training their guns first on service oriented government agencies. A government official said the public works department and organisations under the power sector are the next to undergo "thorough" investigations, and the drive will advance gradually to get all the known corrupt government organisations reformed. The task force investigators already started digging into the corruption allegations against the public works department. - *The Daily Star, June 26.*

## Forest plunderers start to tell of their wealth

Detained forest officials being quizzed by investigators have confessed amassing huge wealth through corruption and also provided information about their patronisers and modes of corrupt practices, sources said. Divisional Forest Officer (DFO) of Sylhet Lasker Maksudur Rahman accumulated wealth worth about Tk 6 crore and Conservator of Forest (CF), Dhaka Division, Ali Kabir Haider around Tk 50 lakh and CF of Khulna Division Mizanur Rahman owns huge landed property in Dhaka and has bank accounts in some foreign countries, they were quoted to have said during confessions while on remand. In Khulna, Mizanur Rahman admitted that he was trying to flee the country fearing crackdown on corrupt forest officials following the arrest of Chief Conservator of Forest Osman Gani. He fell unconscious during interrogation on Monday night, sources said. - *The Daily Star, June 27.*

## Govt may allow parties to hold councils despite ban on politics

The caretaker government may consider allowing political parties to hold their council sessions despite the ban on politics. "If the political parties want to hold their councils, they can seek government permission, and then the government will consider if the ban on indoor politics can be lifted," said Communications Adviser Maj Gen (ret'd) MA Manin. Law Adviser Maulin Hossain also emphasised that the government will consider the matter. He, however, said he thinks that the political parties will not seek the government's permission soon. The two advisers were talking to reporters regarding the caretaker government's standpoint about the ongoing reform initiatives in major political parties. Hailing the BNP's reform proposals, Manin said, "They have initiated reforms under pressure of the current situation, not for our pressure." - *The Daily Star, June 27.*

## Manju jailed for 5yrs for possessing liquor

A Dhaka court sentenced Jatiya Party (Manju) Chairman Anwar Hossain Manju to five years' simple imprisonment and fined Tk 10,000 for possessing 21 bottles of contraband liquor at his Dhanmondi residence. Judge Sayed Javed Mansur of the Metropolitan Special Tribunal-9 handed down the sentence in Manju's absence at a packed courtroom. This is the first time a former lawmaker, also an ex-communications minister, was convicted for possessing unlicensed liquors and wine at his residence. The judge also fined Manju Tk 10,000 and if he failed to pay the fine he will have to serve six-month more simple imprisonment in jail. The punishment will be effective from the day of his arrest or surrender, the judge said. Before delivery of the verdict, Manju's lawyers submitted a petition seeking adjournment of the judgement and recall of seven prosecution witnesses, as they could not cross them in Manju's absence. Moreover, Manju is now abroad for his treatment. The prosecution opposed it and prayed for delivery of the verdict. - *The Daily Star, June 27.*

## Rawshan revolts to oust Ershad

Rawshan Ershad, senior presidium member of Jatiya Party (JP), in a dramatic development proclaimed herself as the acting chief and unveiled plans for intra-party reforms apparently seeking to dethrone former president HM Ershad. The same day in a press conference to pre-empt her wife's move, JP Chairman Ershad described Rawshan's activities as anti-organisational and said she might get the axe for those. Later, Rawshan announced 13 proposals for radical changes in the party at a press conference at her Gulshan residence. There she also introduced Presidium Member Golam Moshih as "the new secretary general" replacing the incumbent, Ruhul Amin Hawlader. Her proposals came just a day after the pro-reform leaders of the BNP rolled out theirs that too seem designed to boot out the current head of the party. Meanwhile, the pro-reform group within Awami League plans to place their proposals to the AL central working committee as soon as the ban on indoor politics is lifted. The proposals would seek to set up a collective leadership. - *Prothom Alo, June 27.*

## Dhaka, Delhi to share security info

Bangladesh and India will share security information regarding cross-border crimes and look to accelerate resolutions on border and water-resources sharing. The two-day foreign secretary-level talks between the two neighbours concluded here yesterday with the resolutions. Both sides took advantage of improved political relations to discuss long-standing irritants such as demarcating 6.5km borderland, combating cross-border terrorism, greater access for Bangladeshi goods in India and improved road-rail connectivity. Wrapping up the first foreign secretary-level talks in two years, Bangladesh Acting Foreign Secretary Tuhid Hossain and Indian Foreign Secretary Shivshankar Menon issued a joint statement at a press conference at state guesthouse Padma. In the statement, the two sides agreed to work together and "clear the table of remaining issues".

Menon described Bangladesh as a "priority" for India and said although it is in India's interest for Bangladesh to be "peaceful, democratic and stable", "ultimately, it's the people of Bangladesh who will decide their future." - *The Daily Star, June 27.*

## 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; e mail dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net