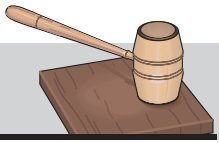




LAW watch



Iraqis protest Oil Law

Hundreds of Iraqis, led by the Iraqi Federation of Oil Unions (IFOU), took to the streets of Basra to demand that the Iraqi Parliament reject the proposed Oil Law. Simultaneous demonstrations took place in Amara and Nassiryya. Local governate officials made statements in support of the demonstration and, along with the governor of Basra, have committed to sending letters to the Minister of Oil supporting the Union's demands.

Hassan Juma'a Awad al Assadi, President of the IFOU, charges that the pro-



posed Oil Law surrenders Iraq's economic sovereignty to multinational oil companies: "We will lose control over Iraqi oil. Therefore, the social progress in Iraq will be curtailed substantially, because the oil companies want huge profits; they are not concerned about the environment, wages, or living conditions..." The IFOU calls for immediate and complete withdrawal of all foreign forces from Iraq. The union represents 26,000 members in 10 state oil and gas companies across four governorates in the south of Iraq.

The Union was moved to public protest after initiating a strike on June 4, 2007 over a range of workplace issues and in opposition to the proposed Oil Law. IFOU leaders have said their members are prepared to strike again in defense of their nationalized oil industry. Iraq's oil has been in the public sector since the 1970s. The call to demonstrate was also sparked by increased pressure by the Bush Administration on the Iraqi Parliament to pass the Oil Law which would open two thirds of Iraq's oil to foreign control through contracts that could last as long as 30 years. Adoption of the law is one the benchmarks imposed on Iraq by the U.S. as a condition of continued reconstruction aid and support for the Maliki government.

Unions, other organizations and individuals around the world are calling on their elected representatives to demand that the U.S. government stop pressuring the Iraqis to pass the Oil Law. In the U.S., the labor and anti-war movements are calling on members of Congress who say they're against the war to drop the Oil Law benchmark and cease all U.S. pressure on the Iraqis to transform their oil industry for the benefit of multinational oil corporations. The activists will also focus on the International Oil Companies who have helped draft that Oil Law, have applied their own pressure on the Iraqis to pass the law, and seek to now profit from the invasion and occupation of Iraq.

Demands from the Iraqi Federation of Oil Unions to Parliament include to:

- 1) Reject the proposed oil law
- 2) Expel the current Oil Minister
- 3) Abolish the recently announced hike in oil and gas prices in Iraq and
- 4) Pass a law to establish labor rights and legalise trade unions.

Source: Global Policy Forum.

RIGHTS monitor



SAUDI ARABIA

Appeal for domestic worker on death row

The Saudi Court of Appeals should recognise that a foreign worker on death row was a child at the time of her alleged crime, when a baby died in her care, Human Rights Watch said today. The court should also review the fairness of the original investigation into Rizana Nafeek, a Sri Lankan domestic worker, and her trial.

Last month, a Shari'a court in Dawadmi, Saudi Arabia, sentenced to death Nafeek, 19, ruling that she had murdered an infant in her care in 2005. Nafeek filed an appeal last week. International law prohibits the death penalty for crimes committed before the age of 18. "This case raises many troubling questions about the treatment of children and foreigners in Saudi Arabia's criminal justice system," said Nisha Varia, senior researcher in the Women's Rights Division of Human Rights Watch. They urged the appeals court to consider evidence verifying Nafeek's age was 17 at the time of the incident, review her access to lawyers and translators during the interrogation and trial, and examine the conditions under which she made a confession.

Nafeek had been employed in Saudi Arabia for two weeks as a domestic worker when her employers' 4-month-old baby died while entrusted to her care. Human Rights Watch has obtained a copy of Nafeek's birth certificate, which shows her year of birth as 1988, although her passport lists it as 1982. Human Rights Watch's research in Saudi Arabia and Sri Lanka in late 2006 found that migrant workers are often unfamiliar with immigration regulations, and labor recruiters routinely falsify workers' passports in order to meet age requirements for jobs abroad.

Saudi Arabia is a state party to the Convention on the Rights of the Child (CRC), which expressly prohibits the death penalty or life sentences without parole for offenses committed before the accused turned 18. Nevertheless, Saudi law gives judges wide discretion to treat children as adults in criminal cases, and courts have imposed death sentences on children as young as 13. Individuals charged with a capital offense rarely have access to lawyers during interrogation and trial, and often do not even receive a copy of the verdict.

"By imposing the death sentence on Nafeek, who was 17 when the baby in her care died, Saudi Arabia flouts clear and specific human rights obligations," said Varia.

Human Rights Watch also urged the government of Sri Lanka to provide stronger protections to its workers abroad. There are approximately 8 million migrant workers in Saudi Arabia, including 400,000 to 500,000 workers from Sri Lanka. Those facing criminal charges often have poor access to translators, legal assistance, and information about their cases. Nafeek, first arrested in 2005, did not have access to legal counsel until after the court sentenced her to death in 2007.

Sri Lankan embassies have begun to provide support services for migrant workers who have either faced workplace abuse or been accused of crimes, but these remain grossly inadequate compared to the demand. The Sri Lankan government should ensure provision of timely legal aid to its nationals facing criminal complaints, and legal aid, shelter and other assistance to nationals who have suffered abuse. The government of Saudi Arabia should provide legal assistance free of charge to criminal defendants who cannot afford to hire a lawyer. Human Rights Watch opposes the death penalty in all circumstances because of its inherent cruelty and its finality. Given the possibility of mistakes in any criminal justice system, innocent persons may be executed. In 2007, Saudi Arabia has executed more than 100 persons.

Source: Human Rights Watch.

HUMAN RIGHTS advocacy



GUARDIANSHIP AND CUSTODIAN ACT

Amendments needed in the interest of mothers

IFFAT ZARIN

Sultana Yasmin, a 24-year-old pretty working woman, always hurries back home after office hours. She is hardly seen spending any light moment with anybody. She is always gloomy and depressed.

"I rarely have any spare time to spend with colleagues and friends. I'm always worried about my seven-year-old boy thinking what he is doing back at home," says Sultana, once a witty girl who has gradually withdrawn herself from everything.

What happened to Sultana? Why has she become so unsociable all of a sudden? These are the questions her neighbours and colleagues ask each other everyday.

Sultana was married off to Mozammel Haque, 34, an officer of a private firm, when she passed her HSC examination. Her family members arranged the marriage in a little bit haste and did not bother to properly enquire about Mozammel's education and family backgrounds.

After the marriage, Sultana came to know her hubby was an addict. Frustrated, one day Sultana left her husband with her baby boy and ultimately got separated. And this is how began her hard life. She had to work really hard to bring up the boy and complete her Master's degree. And then she managed a job in a private firm.

As Sultana began thinking 'the ordeal is over, her ex-husband started brewing a new trouble. Now he wants his son back. When Sultana asked the man how he could get the boy back although he had done nothing for him, Mozammel said, "I'm the boy's legal guardian."

When Bangladesh was under British rule, a law was enacted in 1890 barring women from enjoying the equal rights to the custody and property of their own children. Over the years, there have been extensive changes in the Guardianship and Custodian Act in Britain itself and now a British child is identified as per his or her mother's name.

Unfortunately, there has been no amendment to the law in Bangladesh since its enactment 117 years ago, meaning the women here are being deprived of the very rights they are entitled to. Custody means the power or right to supervise an individual along with his or her property, who is unable to look after him/herself such as minors (under the age of 18) and mentally imbalanced ones. In most cases, the fight between divorced husbands and wives are over the custody of their children.

According to section 6 of the Guardianship and Custodian Act, if there is a question regarding the custody of a minor it has to be considered as per one's family law. There are three types of custody in the Muslim family law -- custody of children, custody of children's property and custody of children's marriage.

In Muslim family law, the father is the natural legal guardian of children. The mother cannot be the guardian. But, a mother can have her sons with her until they reach seven while she can have her daughters till their puberty, which is called 'hijana' (only responsibility). If the mother gets remarried, she will be deprived of the priority of her right, hijana.

As per this law, though the mother is not the real guardian, she can apply for the custody of the children if



she feels that the real guardian cannot perform the responsibility. In that case, even the mother gets the custody it will only be 'hijana' and she will only get the right to take care of them. She will have no right to their property whatsoever.

In case of the custody of children's property, the Muslim family law in Bangladesh recognises three types of custody -- legal guardian, guardian determined by court and virtual guardian.

In case of a minor's property, the following people are recognised as guardians. A. Father; B. An executor nominated by him through a will; C. Grandfather; D. An executor nominated by him through a will.

A virtual guardian is that person who willingly takes the physical responsibility of the children and their property with no right to buy or sell the property both moveable and immovable ones. The mother, paternal uncle, brother and father-in-law can be the virtual guardians.

The Guardianship and Custodian Act, enacted by the British rulers, has been applied for 115 years without any amendment. It is applied in determining custody, supervision and dependency of children of all religions.

But the Bangladesh Constitution in its articles 26, 27, 28 and 29, especially article 27, clearly says all the citizens are equal in the eyes of law and everyone is entitled to equal rights.

Section 5 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979 by the UN General Assembly, states that the issue of recognition of identical responsibilities of both men and women in raising children and their development will have to be included in the family education properly considering motherhood as a social work keeping in mind 'the interests of children are the

main things'.

Salma Jabin, an official of Ain O Salish Kendra, an NGO, says, "Among all the laws that are discriminatory to women, the Custody Act is the worst. How come a mother who carries the child in her womb for 10 months and makes him/her a complete person facing various odds, is not the guardian of the child? Nothing can be more painful than this."

Jabin says, "Today's women are miles ahead as the law was enacted in 1890. Nowadays, women are showing success by dint of their merits. They are capable enough to take decision about anything. Unfortunately, we're walking back in an era of globalisation."

Dr Taslima Mansur, the chair of Dhaka University's Law Faculty, says, "There has been no amendment to the law yet simply because of chauvinist attitude. When a father enjoys all the rights, a mother is allowed to rear the children. Amendments to the law have been essential."

Advocate Maksuda Akhter of Bangladesh Mahila Parishad says in the laws of Bangladesh women hardly have any right to guardianship of their kids. "There is no harm in ensuring this right, this is not a big deal."

Mosharraf Hossain, director of Bangladesh Children's Rights Forum, says, "The provision of equal right for the women relating to children's custody should be in the law so that a mother can be the guardian of children's physique and property in absence of their father."

Advocate Elina Khan, executive director of Human Rights Implementation Organisation, says, the country's policymakers will have to come forward to change the law, or else, the women will continue to suffer.

-News Network

RIGHTS corner



A ray of hope for physically challenged children

ZAM KHAIRUZZAMAN

'Children who learn together, learn to live together' -- this moto is becoming true in the life of the children (students) of Magurdanga Government Primary School in Keshabpur upazila, Jessore. Uzzal, a visually and hearing impaired little boy, is the youngest child of a poor fish trader at Magurdanga village in Keshabpur



upazila who is also a student of the school. They have no cultivable land. As Uzzal has a problem in eye and ear, his parents remained depressed most of the time. But despite his poor physical condition, they got Uzzal admitted to Class 1 in the school. He was weak in all subjects and there was none to help him in his studies. He did not fare well in examination. However, last year, a meeting was held

on the school premises. Dhaka Ahsania Mission (DAM) organised the meeting as they have an on going program for the deprived children to make learning joyful, particularly to the dull students. Uzzal's parents also attended the meeting. They narrated the hopeless situation of their child. Thereafter, Uzzal got the opportunity to get himself admitted in 'Sopan' classes, which is being conducted by

after school hours, according to convenience.

At Sopan, teachers taught dull children with love and care. They never rebuked them. Examinations were held every month. The boy learnt many things with the help of DAM innovated educational implements. Every month, his parents attended meetings where they discussed their child's progress. Finally, Uzzal secured pretty good marks in Bangla, English and Mathematics.

Earlier, he hated to go to school. But now, he enjoys schooling. Despite being physically impaired, Uzzal has taken a determination to do much better in the coming days.

Like Uzzal, hundreds of disadvantaged children have been improved through the CLAP or Bikash project. The project is now being implemented in 11 unions of three upazilas in three districts since 2005, said DAM deputy executive director M Ehsanur Rahman. Around 20, 778 children are being benefitted under the project, he said.

Bikash organises camp, parenting, child development centre or shishu bikash kendra-SBK and pre-school interventions, said Dipak Roy, senior field manager of DAM regional office at Keshabpur.

Camp is a community based learning programme designed to meet special learning needs of third graders to fifth graders. Parenting is a child rearing practice for mothers and would be mothers. SBK is organised to create home-based early learning opportunity for children of 3 to 5 years. Pre-School is an intervention for children's school preparedness, he said.

Education is a human right, enshrined in the Convention on the Rights of the Child. The Convention on

the Rights of the Child says that all children have the right to a good primary education and should have equal access to secondary education (Article 28). The right to education is a fundamental human right. Every individual, irrespective of race, gender, nationality, ethnic or social origin, religion or political preference, age or disability, is entitled to a free elementary education. This right is explicitly stated in the United Nations' Universal Declaration of Human Rights (UDHR), adopted in 1948:

When young people are educated, they are likely to be more aware of their other rights and better able to make sure those rights are respected. Education gives young people choices. When those who are educated go on to have children of their own, they will know how to make sure those children are safe, healthy and happy -- not least by making sure they get an education too. Educated children are better qualified to help bring positive change to their communities and nations.

Ensuring access to education is a precondition for full realisation of the right to education. Without access, it is not possible to guarantee the right to education. Apparently, quality of education is the other side of coin.

Bangladesh is still facing severe deficiencies in the quality of education. The Bangladesh Education Commission Report of the Government of Bangladesh declared in 1974 that "Considering local need in primary schools, pre-primary classes could be established with financial and managerial help of the local community." Thus the authorities concerned should come forward to bring ray of hope in the deprived children's life.

The writer is a Sub-Editor of The Daily Star.

LAW week



Rehabilitation of displaced people

New pricing policy for acquired land

The government is formulating a national policy for compensating people displaced due to land acquisition through assessing their total asset losses by "full market value" instead of just considering the average market price of the land and an additional amount. As per law, the additional amount is 50 percent of the average market price of the land acquired by the government. A proposed policy, which will bring changes in the Acquisition and Requisition of Immovable Property Ordinance, 1982, now recommends "joint verification" of the assets of the persons affected. "All project related asset losses will be compensated at full market value which is equivalent to the replacement value for the acquired assets," says the draft of the proposed policy. The proposed policy on involuntary resettlement, the first at the national level, is expected to minimise the problems of the people displaced by development work and riverbank erosion. "The main objective of the proposed policy is to safeguard the rights of the project affected households/persons...to minimise the impacts of displacement on them and ensure that their lives are restored, or improved," Joint Secretary of the land ministry Pius D Costa told The Daily Star. - The Daily Star, July 29.

Moral values needed for curbing graft

Chief Justice Mohammad Ruhul Amin said society and its components will have to be educated on ethics and moral values as law alone is not sufficient to bring down corruption at a tolerable level. He made the observation at a seminar titled "Rule of Law to Establish a Corruption Free Society". The monthly Legal Aid organised the discussion at the CIRDAP auditorium. "My view is that along with addressing the corrupt person upon due enforcement of law, let there be social abhorrence and disapproval of corruption, and private as well as community disassociation of the corrupts," said chief of the country's apex court. Editor of Monthly Legal Aid Khawja Golam Murshed presided over the inaugural session that was attended among others by Japanese Ambassador in Dhaka Masayuki Inoue, Country Director of the Asian Development Bank Hua Du, Chargé d'Affaires of the European Commission delegation Françoise Collet, Resident Legal Adviser of the US Embassy Nancy Langston, and former attorney general AF Hassan Arif. - The Daily Star, July 29.

Probe finds massive graft at BSMU

A probe committee report submitted, identified a huge number of corruption incidents and irregularities in Bangabandhu Sheikh Mujib Medical University (BSMMU) while the committee members and many of the teaching staff have expressed doubt about the proper implementation of the recommendations. The seven-member probe committee that was formed on May 6 to investigate corruption in recruitment and procurement since the inception of the university found the involvement of the current administrative officials including Vice Chancellor Prof Tahir. The 250-page report made some 80 recommendations, especially suggesting measures against the incidents of malpractice. The recommendations might be diluted if placed before the Syndicate, as several Syndicate members are out to serve the interest of the administrative officials who were found involved in corruption, they said, adding that even the report may not be sent intact to the health ministry. - The Daily Star, July 31.

HR bodies ask govt not to shut down jute mills

An alliance of 17 human rights organisations urged the government to withdraw its decision to shut down four jute mills and axe 18,000 workers. The coalition, Sramik Nirapatta Forum (SNF), in a statement also viewed that the government did not take any practical decision to save the jute industry. It said the government ignored the recommendations of various quarters including the SNF to set up a national commission comprising experts from the public and private sectors and allocate Tk 300 crore for revitalising the jute sector. The SNF urged the government to check corruption and mismanagement during sale and purchase of jute. The alliance also urged the government to ensure that its allocation of Tk 200 crore for purchasing jute could reach to the mills' authorities in due time. The SNF recommendations also include installation of gas generators in the mills for uninterrupted production and ensuring diversified uses of jute. - The Daily Star, July 31.

Voter list

EC proposes to amend law to avoid clash with SC directive

Just days before the commencement of the field level work of preparing the voter list with photographs, the Election Commission (EC) is now searching for options to avoid a conflict with a Supreme Court (SC) directive regarding the electoral roll. The SC in the last one year declared null and void two voter lists, which had been prepared without complying with electoral laws and court directives. The present EC decided to prepare a voter list with photographs afresh but the SC had asked the main election office several times to update the voter list prepared in 2000. Amid such a situation the current EC, which was reconstituted on February 4, is now re-examining the existing electoral rolls ordinance and the court directives regarding the voter list, although it had decided to start the field level work in early August. Sources said the EC in the last two days held hectic meetings to review the proposals for amending the Electoral Rolls Ordinance 1982, which had been approved in principle by the council of advisers to the caretaker government on July 21. - The Daily Star, July 31.

CA for body to ensure admin transparency

Chief Adviser Fakhruddin Ahmed asked the authorities concerned to make public administration more dynamic, transparent, accountable and pro-people through necessary upgrading to deliver government services to the people. He also asked for constituting a committee headed by the establishment secretary to determine what to do to ensure transparency of the public administration. The chief adviser gave the direction in a meeting of the Advisory Committee on Public Administration Reform and Good Governance at his office, which observed that reform of the public administration should continue. The meeting, chaired by the chief adviser, elaborately discussed and gave approval in principle to implementation of some interim recommendations of the ATM Shamsul Huq Commission, known as Public Administrative Reform Commission (PARC). The PARC worked from 1997 to June 2001 preparing a report with interim, short and long-term recommendations for restructuring the outmoded system of administration. - Unb, Dhaka, July 31.

SC stays Hasina's bail order till Aug 14

The Supreme Court (SC) today stayed the delivery of the judgement till August 14 on the government appeal filed against the High Court (HC) order granting bail to detained Awami league (AL) chief Sheikh Hasina in an extortion case. The SC stayed the judgement for disposal of the ruling upon the government to explain why the approval of the case under the emergency powers rules would not be declared illegal. It also directed to dispose the rules by August 14. The full bench of the Appellate Division headed by Chief Justice Mohammad Ruhul Amin passed the ruling. On July 31, the government filed the appeal with the SC challenging a HC order granting ad interim bail to Hasina in Tk 2.99 crore extortion case and also directing the government not to hold trial of the case under the emergency power rules. On July 30, the HC, following a writ petition filed on behalf of Hasina, granted bail to Hasina. It also stayed the inclusion of the extortion case under the emergency powers rules and issued rule upon the government to explain why the approval of the case under the emergency powers rules would not be declared illegal. The rule is returnable with two weeks. Earlier on June 13, Managing Director of Eastcoast Trading Pvt Ltd Azam J Chowdhury charged Hasina and Sheikh Fazlul Karim Selim with extorting Tk 2.99 crore from him for the work of Siddhirganj Power Plant in Narayanganj. On July 24, Gulshan police indicted Hasina together with her sister Sheikh Rehana and cousin AL Presidium Member Sheikh Fazlul Karim Selim, the prime accused. - The Daily Star, August 02, 2007 (online edition).

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 dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net