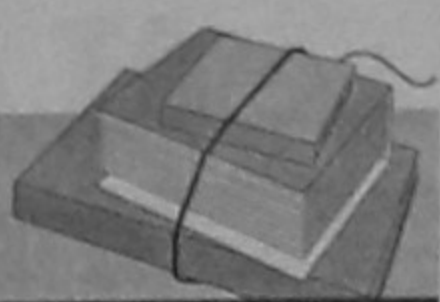


## LAW lexicon



## The Vocabulary of Inequality



To discriminate is to treat people unequally or unfairly because of some reason which they cannot help, or which is not relevant to the matter in hand. For instance, to pay two people differently for doing the same job simply because one is a woman, or black, or a Muslim, or speaks with a different accent. There are other sorts of unfair discrimination - because of your religion, disability, age, because you speak a different language, or because of your political opinions.

Discrimination because of race or skin color or where ancestry originates is called racism.

Discrimination because you are male or female (your gender) is called sexism.

Discrimination often happens because people make decisions about other people which are not based on genuine reasons, ie they are prejudiced. Usually they think the other person is automatically inferior because of their race, religion or gender etc. Stereotyping is to assume that all people from a certain group or societal segment possess the same characteristics. If you hear someone say, "All (group X people) are lazy" (or noisy, or untrustworthy), that's a stereotype.

The aim of the United Nations is to help all people, individually and as groups, to be valued equally and treated fairly. The UN has produced many declarations and conventions which set people's rights.

Article 1.3 of the UN Charter provides "... fundamental freedoms for all without distinction as to race, sex, language or religion".

All of the countries which are UN members must let their citizens know these rights and how to obtain them. Knowing your rights is one step towards overcoming discrimination.

Source: UNCyberschool

## LAW event



## Henry Dunant Memorial moot court competition in DU

The Faculty of Law, University of Dhaka takes pride of being center of excellence, where it encourages students to take part in moots in order to have a taste of practice in court procedure. Moot court is an activity peculiar to law schools in which participants take part in simulated court proceedings, starting with the drafting of briefs and participating in oral arguments before a bench of judges. It helps them in developing certain skills that every law student should possess, namely, art of persuasion, way of putting a case precisely and intelligibly, fluency and clear enunciation of principles of Law. Keeping that in mind, since 2005, the Faculty of Law, University of Dhaka has been successfully organizing National Henry Dunant Memorial Moot Court Competition every year in collaboration with the International Committee of the Red Cross (ICRC), specially to promote interest, study and research on International Humanitarian Law among the law students. In this consecutive process, the Faculty of Law, Dhaka University organized the 3rd National Henry Dunant Memorial Moot Court Competition on February 9, 2008. The competition is named in memory of Mr Henry Dunant, the co-founder of the ICRC.

The daylong competition was formally inaugurated by Professor Dr. Borhan Uddin Khan, Dean, Faculty of Law, University of Dhaka. Mr. Finn Ruda, Head of Bangladesh Mission, ICRC addressed the participants as the



special guest in the opening ceremony. Professor Dr. Taslima Monsoor, Chair, Department of Law, University of Dhaka, Mr. Benarji Chakka, Legal Officer, from ICRC, New Delhi and Mr. Nazmuzzaman Bhuiyan, Moderator, Dhaka University Moot Court Society (DUMCS) were present on the occasion.

On the basis of the criteria set by the ICRC for the eligibility of the participants in the Moot Court competition, students from four Public Universities namely, University of Dhaka, University of Chittagong, University of Rajshahi and Kushtia Islamic University participated in the competition. Each participating University nominated a team consisting of three student members, and a coach from the faculty of the University that they represent. Chittagong University and Dhaka University made their way to the final round and Dhaka University became the Champion. The eminent judges who were selected from the different categories such as academicians, Judges of the Supreme Court, Senior Advocates and the Judge Advocate General guided the teams. This time, this prestigious event was expanded by inviting representatives of the Law Faculties of four Private Universities namely, South-East University, Northern University, Stamford University and Eastern University as observers, who are going to participate in the 4th National Competition. The team of University of Dhaka consisted of Manjur Al Matin, Tapas Bandhu Das and ASM Sayem Ali Pathan. Kakon Dey, SM Kaiser Mosharraf Yusuf and Tafsir Matin constituted the team of University of Chittagong. Manzur Al Matin of Dhaka University received the best mooter's award and Tafsir Matin of Chittagong University received the best researcher's award. University of Chittagong was also awarded the Best Memorial Trophy.

The prize giving ceremony was graced by the presence of the eminent Judges of the Supreme Court, Mr. Justice Zubayer Rahman Chowdhury, Mr. Justice Md. Ashfaqul Islam and Mr. Justice Md. Miftahuddin Chowdhury, who distributed the prizes among the participants. Professor Dr. Borhan Uddin Khan in his closing speech warmly thanked the ICRC, Bangladesh Mission and ICRC, New Delhi for their cordial support in organizing such prolific event for the law students.

-Law Desk

## LAW opinion

## Democracy, the highest form of human rights

PROF. QUAZI FARUQUE AHMED

THE achievement of democracy being the highest form of human rights, is the ultimate consequence of struggles for it through ages. The boastful declaration, "The State? I am the State" made by Louis the 14th, seems to have relevance to Bangladesh context where difference between the state and government is not taken into consideration, or considered very little. Naturally this is a negation in both the letter and spirit of good governance. This is a reflection of the mindset of the ruling elites, no matter whether in power or outside it at the moment, but desperately craving for it.

To a student of political science, the state is a people organised for law within a definite territory. Again the concept of law itself has developed gradually through continuous practices and customs, made for man by man (i.e. for and by human beings irrespective of gender) for achievement of their aspirations within reasonable limit fixed from time to time. Law underwent many changes to reach this present shape and pattern, while the state, practically an 'idea' in human perception, does not change very often like periodical changes of government, or the mode of governance. However, it is very much true that as anthropological-national entity, Bangladesh has experienced several changes in the last couple of centuries. This is uncommon with other nations of the world. So to draw a parallel with Bangladesh and other peoples of the world will not be very much appropriate.

To go back to the establishment of human rights or the will of the people within the framework of the present state of Bangladesh, Professor Muzaffar Ahmad Chowdhury, the renowned political scientist popularly known as "Mac", taught his students in the classroom of Dhaka University, that democracy did not mean holding of election alone, nor was the rule of the majority only. In the absence of the willing consent of the minority or numerically minority opinion holders, rule of the majority cannot be termed as

democracy.

After removal of the civilian rule by imposing martial law, for the first time in the early part of the second decade of Pakistan, the military dictator Ayub Khan formed an Inquiry Commission on "The Failure of Democracy" under the Chairmanship of Justice Asiruddin. So far I recollect, in an interview with the Commission, the East Pakistan politician and former Chief Minister Ataur Rahman Khan challenged the very attitude of the dictatorial regime making it abundantly clear that democracy never failed in Pakistan. Rather it was never allowed to function. The most important point in his interview Ataur Rahman made was that the "the fear of being unseated" in the ruling circle, lacking popular support, contributed to the notion of the "failure of democracy" in the mindset of the ruling vested interests.

Tolerance is the cardinal essence and feature of democracy. The very statement "I may disapprove of what you say, but I shall defend to the death your right to say it" may not sound very pleasant nor practical, to many. This is very true that self-restraint and self-criticism is not found habitual with many. However, it is also unfair to equalize and put at par the "people" responsible for this and those who become victim of it.

My arena is particularly human development and education. I have experienced both the positive and negative aspects in this field for the last three decades. All the regimes irrespective of their political hue and colour, deceived and also repressed, both the education givers and the education receivers. However, this is true that the last four-party alliance government surpassed all in that. Admittedly, the present government has brought some apparent changes in the process of depoliticisation of education, at least by making some amendments in the fabricated history of Bangladesh liberation war in the text books. But the residues still there are pinching. But what is unfortunate, is decision on vital aspects of education are taken as before. In allocating fund and resources glaring disparity and



discrimination continues as before. The larger slice of resources is awarded depriving the vast majority living in the rural areas as before.

But I am not of the opinion that the authorities lack sincerity of purpose in regard to bringing positive reforms in the crisis-ridden education system. I have reasons to believe that there are good number of well-meaning, efficient people in the Education Ministry. Still, due to legacy of the past, time-constraint of the present government and a tendency of some people to do something extraordinary within a short span of time, and absence of interaction with the stakeholders may have contributed to all this.

In this connection, however, it is heartening to note that the Chief Adviser Dr. Fakhruddin Ahmed very recently has observed: "The emergence of a widening difference between urban and rural schools is a serious problem. Over the last several decades the problem has become worst... We have to find out the solution to the problem as soon as possible". He made this observation while inaugurat-

ing the 3-day conference on "Governance in Education: Accountability and Effectiveness" jointly organised by UNESCO, Ministry of Education, Ministry of Primary and Mass Education, in association with the BRAC University. Not only in education, in every sector, democracy, the highest form of human rights, should play its part to the maximum benefit of maximum people.

As a matter of fact, a non-partisan, pragmatic national approach with firm conviction in the rule of the majority protecting and preserving their genuine interests, confidence in the consultative and democratic practice accommodating opposing views, no matter major or minor, is the need of the day. Exception to this is neither desirable nor it will benefit anyone in the long run. We should not forget that democracy is the highest form of human rights both from the point of its ideal and practical content.

The writer is Chairman, Initiative for Human Development (IHD) and Secretary General, Bangladesh Federation of Teachers' Associations (BFTA).

## HUMAN RIGHTS advocacy



## SLAVERY IN OUR TIMES

## An actress learns human trafficking doesn't just happen 'over there.'

EMMA THOMPSON

WHEN I was growing up in London, I walked past a massage parlor on the way to school every day. If my friends and I ever gave a thought to what went on behind its doors, we saw it as a bit of a giggle; it existed in a world away from our own.

Fast-forward 30 years to 2006, when I first met 19-year-old Elena through my work with the Helen Bamber Foundation, a U.K. charity that helps abuse victims. Elena's story was all too common but had a huge impact on me.

An intelligent girl with ambitions, Elena had been enticed to London from Moldova with a promise of a good job and a bright future. Once in the U.K., however, her passport was taken from her and she was kept in solitary confinement to break her will. She was warned that her family in Moldova would suffer harm unless she did what she was told. And then she was put to work as a sex slave, servicing a procession of men in the most appalling circumstances.

What made her story so personal for me was where she'd been imprisoned: the same massage parlor I'd once treated as a joke. It underlined an awful truth: that human trafficking is not just a problem for other communities or other people. It exists on our own doorsteps, and our lack of action shames us all.

It's hard to put an accurate figure on the full scale of this misery. But the International Labor Organization estimates that there are at least 2.5 million forced laborers who are victims of human trafficking at any one time. Their plight can be seen as the hidden side of globalization: a sickening business worth more than \$30 billion a year.

It is a crime that scars every region and almost every country. Some 120 nations are routinely plundered by traffickers for their human raw materials, and more than 130 countries are known as destinations for their victims.

Like Elena, these victims may end up in the sex trade. Many others find themselves condemned as slave laborers, forced to work in domestic service, in hazardous factories or at grim sites like the cocoa plantations of West Africa. Thousands more, many just children, become unwilling conscripts in bitter wars. Nearly all suffer physical or sexual abuse, creating mental and physical scars they carry for the rest of their lives.

To help people understand their plight, a powerful and disturbing exhibition has been put

together. Called "Journey," the exhibit is based on the testimony of Elena and other girls like her. It has had a searing impact on all who have seen it. But "Journey" also contains a message of hope. It reveals as I have learned from Elena and other survivors the extraordinary resilience of the human spirit. It shows how, with support and care, these courageous women can rebuild their lives.

The exhibit traveled from London to Vienna early last month for an extraordinary international gathering of 1,400 experts, legislators, law-



enforcement officers, business leaders and campaigners, all determined to help stamp out this evil trade. And it should be coming to the United States soon.

A unique initiative of six organizations under the rubric of the U.N. Global Initiative to Fight Human Trafficking, the Vienna Forum highlighted how little is being done to fight the problem internationally. U.S. State Department figures show that in 2004 (the last year for which numbers are available), there were only about 3,000 successful convictions of criminals worldwide for related offenses. With more than 80 women being smuggled into Britain alone each week for the sex trade, this lack of action should make us all very angry.

I passionately hope the Vienna Forum and UN.GIFT manage to persuade countries to step up their enforcement efforts. But I left Vienna more certain than ever that, while leadership at the top is crucial, each of us must also step up to the mark.

Much as we need international organizations, national governments, the police and courts to bring traffickers to justice, we must all examine how we behave. The solutions lie in all our hands. Businesses must ask searching questions about their suppliers and not let themselves be fobbed



off with convenient answers. As consumers, we need to think about what we buy, where it comes from and under what conditions it's made. Everyone can make a difference. If we explain to our own kids how children are forced to work as slaves in cocoa plantations, for example, they will press us to buy Fair Trade chocolate.

Above all, we have to keep our eyes open and not be afraid of letting our voices be heard. This is not a problem happening somewhere else. It is on all our own doorsteps.

Source: Newsweek

## LAW week



## Make 'crossfire', torture in police custody punishable offence

Participants at a consultative meeting on the proposed police reform ordinance in Cox's Bazar yesterday said 'crossfire' and inhuman torture in police custody should be made punishable offence. About a hundred people drawn from different sections of the society took part in the meeting, presided over by Deputy Inspector General (DIG) of Police at Chittagong Range AKM Shahidul Haq. The meeting was part of similar meetings across the country which aim at assimilating popular views into the proposed reforms.

Most of the participants viewed that 'crossfire' is against the existing laws and religion also does not permit this. They held that the political party in power would tend to take advantage of 'crossfire' if the practice is not made a punishable offence. Similarly, torture of the accused on remand in a bid to extract confessional statement as desired by the police should also be made punishable offence. The participants also suggested revoking Section 54 of Criminal Procedure Code (CrPC). They said detention under the Special Powers Act violates the basic rights of the people guaranteed by the constitution.

They lauded the government move to reform the age-old police law and called for making the police force friendly to the people. -UNB, March 10, 2008

## Upazila Parishad Act

The council of advisers yesterday finalised the proposed amendment to the Upazila Parishad Act to revoke power of parliament members over the parishads and empower the Election Commission (EC) to announce schedules for holding polls to the parishads.

President Iajuddin Ahmed will promulgate an ordinance in a couple of days amending the Upazila Parishad Act 1998 to this effect, sources said. "Once the law is amended, the upazila parishads after being formed through elections will be able to function independently, free from interference of lawmakers," an adviser to the caretaker government told The Daily Star last night. And the EC will have the authority again to fix timeframe for holding polls to upazila parishads, a crucial tier of the local government system, which has been victim of partisan politics. Section 25 of the existing law empowers lawmakers to become advisers to upazila parishads binding it to accept their suggestions. -The Daily Star, March 11, 2008

## Govt won't pass any anti-Islam law

The caretaker government has not passed any "law" regarding inheritance, Law Adviser AF Hassan Ariff yesterday said, adding that the National Women Development Policy, 2008 has been misinterpreted. During a view exchange meeting with the Ulema (Islamic scholars) at Islamic Foundation in Baitul Mukarram, the adviser also said that the government has no plan to enact any law that goes against the rules and spirit of Islam.

"No such 'law' has been passed about inheritance and there is no question of enacting such a law," Hassan Ariff, also adviser to the religious affairs ministry, said adding "it is really regretful as a situation of misunderstanding is created over a matter that does not exist at all." The adviser held lack of communication for the wrong representation of the policy and stressed the need for enacting Right to Information Act to avoid any such confusion over government decision in future.

At the meeting, the Ulema urged the Muslims of the country not to act on any rumours or speech that is given by 'people or the media who usually talk against the spirit of Islam.'

The meeting was convened as rumours spread that the latest women development policy contains statement on inheritance law that opposes Islam. Hassan Ariff told the meeting that the responsibility of the present caretaker government is to hold election and there was not even any discussion among the advisers to pass any law regarding inheritance.

Acting Khatib of the Baitul Mukarram National Mosque Mufti Mohammad Nur Uddin observed that no human being has the power to formulate rules or laws that contradict the Quran and the Sunnah. "There is no question of ensuring equal rights to women on inheritance, but they should be ensured their due rights," he told the meeting. -The Daily Star, March 12, 2008

## Trial of war criminals a must to establish justice

The demand for trying war criminals has become a national issue and the government must make its response, speakers at a roundtable yesterday said. They said the trial of war criminals is required to establish justice in the society. Mentioning that representatives of the anti-liberation war element Jamaat-e-Islami have penetrated different organs of the government as well as the armed forces, speakers observed that the government has turned its back on its earlier stance regarding the trial of war criminals. The speakers—liberation war heroes, eminent educationists, university teachers, human rights activists, writers, poets, cultural activists, journalists—urged all to socially boycott the anti-liberation war elements and war criminals. They said their demand for bringing the war criminals to book is not an act of vengeance but an effort to ensure justice in society.

They said that at least a token trial of war criminals should be held. Prof Kabir Chowdhury raised questions about the sincerity of the caretaker government in bringing the war criminals to book. "There is nothing more important than trying the war criminals," the veteran educationist said. He urged the government to form special tribunals under International Crimes (Tribunals) Act, 1973 and start the process of trial of war criminals. Making reference to the South African truth and reconciliation commission, Kabir said those who are talking about establishing truth and reconciliation commission and forgive the war criminals through the commission are not right. "How the question of forgiving the war criminals through the truth commission can come up when they (war criminals) do not admit their crimes," Kabir said. -The Daily Star, March 12, 2008.

## 3 ordinances by this month to empower local govt

The government is going to promulgate ordinances on local government commission, city corporations and pourashavas by the end of this month aiming to grant more power to the local government bodies. An inter-ministerial directive presided by Local Government and Rural Development (LGRD) Adviser Anwarul Iqbal yesterday finalised the drafts of Local Government Commission Ordinance 2008, City Corporation Ordinance 2008 and Pourashava Ordinance 2008. "We have finalised the drafts of the ordinances and will send those to the advisory council after March 21 when the chief adviser returns," Anwarul Iqbal said. He was addressing a press briefing after the meeting at the conference room of Local Government Division.

In the meantime, the drafts would be sent to the law ministry, so that the ministry's task could be done fast when the advisory council forwards the drafts to it for vetting, the LGRD adviser said. Once the ordinances are promulgated, the Election Commission (EC) can declare schedules of the local government elections, he added. -The Daily Star, March 12, 2008.

## 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