

## LAW campaign

## COMMUNITY RADIO-- AN EFFECTIVE ADVOCACY TOOL

## Examining the operation policy

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**I**N terms of availability, immediacy and reaching ability, the role of radio as a means of communication is undeniable. Community Radio Stations (CRS) may be established and operated in the oral languages of these marginalised communities as well as their full participation and management ensured which will reflect their hopes and aspirations, knowledge, resource and culture and combine modern knowledge and technologies. Under these circumstances it is imperative for the marginalised communities and ethnic groups of our country to have their (own) Community Radio.

## Definition

A 'community' is considered to be a group of people who share common characteristics and / or interests such as sharing a single geographical location i.e. a specific town, village, or neighbourhood; sharing of economic and social life through trade, marketing, exchange of goods and services. Community Radio should be owned by a particular community, usually through a trust, foundation, or association. Its aim is to serve and benefit that community. It is, in effect, a form of public-service broadcasting, but it serves a community rather than the whole nation. It is a medium that gives a voice to the voiceless, serves as mouthpiece of the marginalised and is central to communication and democratic processes within societies. Community Radio is a broadcasting system established by the efforts of a specific community, operated by the community for the purpose of the community's welfare.

## Eligibility criteria for the establishment and operation of community radio station (CRS)

Internationally recognised and accepted fundamental principles of community radio will also be followed in Bangladesh. Government research institutions and development organisations, which satisfy the conditions listed below, shall be considered eligible to apply for Community Radio establishment and operation. It should be explicitly constituted as a 'non-profit' organisation. The institution/organisation should have a proven record of providing service on poverty alleviation or media & ICT sector to local community for at least five years. The organization should be a legal entity or registered from NGO Affairs Bureau. The community to be served by the CRS should be well specified and defined. The program contents should cover educational, social, gender, economic, environmental and cultural fields relevant to the needs of that particular community. It should not go beyond the community's cultural and historical heritage. Preference should be given to rural communities during the pilot phase. The focus must be for communities deprived of the reach of mainstream media outlets.

Individuals and partnership firms, political parties and their affiliate organisations including students' wings, trade unions, etc, organisations and companies both local and foreign where profits are distributed to the owners/shareholders, international NGOs and foreign channels and Government-banned organisations shall not be eligible to run a Community Radio.

## Licencing process

Government shall call for application from eligible organisations and institutions in



prescribed format to provide approval. The Ministry of Information shall form a regulatory committee and a technical sub-committee for the assessment of applications and selection of eligible applicants. Opinion shall be received from the Home Ministry on applicant Organisation or institutions selected by technical sub committee and regulatory committee. Before granting approval the Ministry of Information shall accept a "Probability of Attaining Frequency" report from Bangladesh Telecommunication Regulatory Commission (BTRC). Only one license shall be granted to any institution/organisation during the pilot broadcasting phase. The applicant shall set up CRS within 1 (one) year of receiving approval. Existing laws and regulations must be maintained for the importation and replacement of any radio equipment for this purpose. Associated organisations and institutions shall fulfil the conditions of BTRC in this regard. Broadcasting activities shall begin only after obtaining the final approval/licence. Initially licence will be provided for a two-year period starting from date of approval as an experimental project.

Proven record of community development work for at least five years in the area and a broad outline of the type of programme to be broadcast should be prepared and submitted to the licensing authority. Indication of the level of community's participation in management structure of the proposed station and its programme preparation and broadcasting shall be spelt out in writing. The criteria will also include the sources of funding for the Radio Station. If donor fund is obtained, necessary approval of the NGO Affairs Bureau as per existing law shall have to be obtained. Priority will be given to the applicants managed by and/or looking to serve the disadvantaged and backward sections of the population.

## License fee

Reasonable licence and spectrum fees have been fixed by the government considering the fact that Community Radio is a develop-

ment initiative and non-profit entity. Initially licence fee for each station has been decided to be Tk 20,000.00 [286 US \$] and seizable deposit is Tk 1,00,000 [1429 US \$].

## Technical structure

Each CRS will cover a range of 17 km. from its centre. Maximum limit for transmitter power could be 100 watts. The permitted power could be decided on the basis of the licensee's area of work and/or geographical dispersion of the target audience.

The permission holder shall ensure that nothing is included in the programme broadcast which offends decency, criticizes other countries or endangers the friendly relations of Bangladesh with other countries, attacks any religion, community or ethnic group or creates animosity between communities or tries to promote sectarian views which may lead to communal disharmony, contains anything obscene, defamatory or false information against person(s), groups or institutions or is partisan in nature, is likely to encourage or incite violence or contains anything against maintenance of law and order or which promotes anti-national feelings/attitudes, contains anything amounting to contempt of court, contains aspersions against the dignity of the State and, Government, encourages superstition, degrades women, children, human in disabilities, encourages the use of drugs including alcohol, narcotics and tobacco, stereotypes, vilifies or perpetuates hatred against anyone or any group, tries to exploit religious sentiments or susceptibilities, undermines religious views and beliefs of those belonging to any particular religion or religious denomination.

## Other terms &amp; conditions

Each licensed station will have a Management Committee with active and inclusive participation of the target community members. An advisory committee will be formed for each station with the participation of local level government representatives such as Upazila Nirbahi Officer (UNO), Additional Deputy Commissioner (where the station is located at a district headquarter), Police

officers of the level of Assistant Superintendent and appropriate level representatives from Agriculture, Fisheries, Livestock, Forests and Environment, Health, concerned Regional Director of local public radio station and NGOs working in the relevant field etc. The licensee will ensure capacity building for and within the community through training as required. The licence will be granted for an initial period of two years and it shall not be transferable. Based on performance of the licensee, it can be renewed for such periods as the government may decide.

Permission may be provided on pilot basis to share programmes among different CRS if the programmes consist of locally relevant content. Programmes of Bangladesh Betar (Radio) would be relayed or re-broadcast in the CRS as and when these are of national importance or of relevance to the people of the area. Special programmes such as address of the president, prime minister, national days celebrations, weather bulletin and community based programs have to be broadcast through community radio. The programme contents of the community radio will focus on agriculture, both adult and children education, gender, environment, social welfare, current market prices, rural and community development, baby care, maternity health care, family planning (radio bulletin), income generation etc.

Through participatory process a specific program should set its spotlight on local information, events and notifications, local culture, identity, and local language. The format, subject, presentation and language of programs must reflect the local culture. Local development news will be permitted. Nonetheless, any kind of political broadcasts will be strictly prohibited.

Advertisements related to development services will be permitted while community radio programme broadcasting is based on the following conditions. The commercials should be related to development services relevant and limited to the specified area. CRS will ensure that the sponsors of programmes do not influence the content or the style of individual programmes or the overall programming of the station and its code of conduct. Existing government regulations shall be followed for commercials.

The government or its authorised representative shall have the right to inspect or monitor the broadcast including other Community Radio Station set up facilities of the licensees and collect information in connection with public and community interests. The licensee should provide quarterly report to the Ministry of Information. The government will have the right to take over the entire CRS service and network possessed by the licensee or revoke/terminate/suspend/punish the license in the interest of national security or in the event of national emergency/war or low intensity conflict or in any similar type of situations. The government shall have the power to direct the licensee to broadcast any special message as may be considered desirable to meet any contingency arising out of natural emergency or public interest or natural disaster and the like.

The permission holders shall be required to submit their audited annual accounts and annual report to the government. The govt. may take initiatives to create a Community Radio Development Fund as supplement for the community broadcaster's own resources, capacity building, improvement in quality of technology, research & evaluation purpose, etc.

Tower established for community radio operation shall not be given for the use to private telephone operators. organisations/institutions establishing CRS shall arrange for overall security of the station with armed Ansars by its own funding and the in-charge of concerned police station shall submit a monthly report to the government stating if any anti-state broadcasting have been carried out.

## Monitoring of broadcasting

Every month a copy of CD containing the recordings of broadcast programmes of CRS will be provided to the local authority prescribed by the government. The advisory committee will provide suggestions based on the strengths and weaknesses of the CRS broadcasting. The advisory committee will encourage the participation of upazila level government officials in the community radio programmes. The advisory committee will encourage producing development advertisements / government advertisements through community radio. The committee will provide necessary counseling service to improve the quality of programmes. Central Monitoring Committee formed by Ministry of Information shall supervise the overall operation related to Community Radio and shall inform the Ministry on a regular basis.

## Strength of the policy

The present government certainly deserves appreciation for approving a separate and exclusive Community Radio Installation, Broadcast and Operation Policy -- 2008, which will accelerate democratic process and development of the unheard and marginalised people. Moreover, broadcasting local development news and advertisements related to development services along with other 'infotainment' programmes is permitted through community radio. The acceptance of the internationally recognised and accepted fundamental principles of community radio in Bangladesh is positively observed. The most significant aspect of the policy is that all community radio stations will be owned and run by the proper representatives of the concerned community as an advisory committee and another management committee are mandatory with the real participation of the community people.

## Policy constraint

Considering the perspective of the non-profit development organisations working in rural and at grassroots level, the amount of the seizable deposit worth BDT 1,00,000 seems to be a huge burden to them. If not free, the deposit could be reduced remarkably so that the rural development organisations could come ahead to install CRS pacing with time. Alternately, the licensing authority can ask a bank guarantee of a certain amount of money as seizable deposit preserved in the account of the intended applicant organisation. There is another involvement of a large amount of money for frequency fee to be paid to BTRC. Considering all these practical difficulties, the broadcasting equipment to be imported could be exempted from tax at least for the two years of piloting period. It will promote and facilitate the expedition of community radio in the country.

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## LAW week

## Demand for women's equal rights logical, says CJ

Chief Justice M Ruhul Amin yesterday said the demand for equal rights for women in every aspect of life is logical. "Women are about a half of the total population. Hence, their demand for equal rights is logical. Referring to a part of the country's constitution that guarantees equal rights for women, the chief justice said without establishing women's rights Bangladesh will never become a well educated democratic state.

He urged the country's judges to play their roles in courts on various gender issues with compassion towards the women. Justice Fazlul Karim also laid emphasis on the sympathy of judges when dealing with cases filed by women seeking justice. - UNB, April 12, 2008.

## CID arrests 'grenade thrower' in August 21 carnage

The Criminal Investigation Department (CID) yesterday arrested a person suspected of throwing grenades in the August 21 blasts at an Awami League (AL) rally in 2004.

CID sources said the arrestee, Arif Hasan Sumon, had also carried bombs used in the Ramna blasts on April 14, 2001. He was nabbed in a swoop at his house at Ali and Noor Real Estate Housing in the capital's Mohammadpur area yesterday evening, they added.

The law enforcers launched a massive hunt for Sumon after his name had come in the confessional statements of detained Harkatul Jihad Al Islami (Huji) boss Mufti Abdul Hannan, Moulana Abu Zafar alias Abu Sayeed and Huji Dhaka city unit general secretary Moulana Abu Taher. Seeking not to be named, a CID official close to the blast investigations told The Daily Star last night that Sumon is a nephew of Taher. - The Daily Star, April 13, 2008.

## 11,000 sued for violence in Dhaka, Ctg

Two separate cases were filed yesterday against around 11,000 unidentified Islamist activists for Friday's violence and vandalism in the Baitul Mukarram area in the capital and Hathazari Police Station in Chittagong. Out of the accused, only 17 Islamists were identified and arrested for their involvement in the violence in Dhaka. As they were produced before a Dhaka court yesterday, the court ordered to send them to Dhaka Central Jail custody. However, no one has yet been arrested in connection with the Chittagong case. Meanwhile, one of the agitating Islamist organisations, Islami Shashontantra Andolon (ISA), yesterday issued a five-day ultimatum to the government, asking it to scrap the Women Development Policy 2008 and remove Women and Children Affairs Adviser Rasheda K Chowdhury within "a day or two". - The Daily Star, April 13, 2008.

## BDR, BSF deal to combat cross-border crimes

India and Bangladesh yesterday signed an agreement to make joint efforts to tackle cross-border crimes like arms smuggling and trafficking of women and children by sharing timely and actionable information. "The agreement will help to end any suspicion and distrust prevailing on ground level," Bangladesh Rifles (BDR) Director General Maj Gen Shakil Ahmed told reporters after signing the agreement with the DG of the Indian Border Security Forces (BSF) A K Mitra. The BDR and BSF wrapped up their biennial five-day conference in New Delhi agreeing to jointly deal with trafficking of women and children, smuggling of arms and counterfeited currency through sharing information by sector commanders. Mitra said the agreement would help both BSF and BDR to expedite decisions. - The Daily Star, April 13, 2008.

## Women policy not anti-Islam

Law and Religious Affairs Adviser AF Hassan Arif reiterated yesterday that the recently announced national women development policy does not contain anything that goes against the rules and spirit of Islam. Any vagueness in the policy, if found, will be cleared to prevent any misunderstanding, he told reporters at the Secretariat. The adviser's statement came in the wake of violent demonstrations by Islamist activists in Dhaka and Chittagong demanding scrapping of the policy. "I don't see anything in the women development policy which is contradictory (to Islam). Still, it is now being looked into whether there is any such thing in it," Hassan Arif, also a legal expert, said. Asked whether there is any vagueness, he said, "I don't see any. They [review committee members] can say if there is any." - The Daily Star, April 14, 2008.

## 299 foreign prisoners languish in jails

At least 299 prisoners of foreign nationality are stuck in different jails of the country due to diplomatic and bureaucratic tangles, even though their jail terms expired. Inspector General of Prisons (IG-Prisons) Brig Gen Zakir Hassan told The Daily Star, "We have been trying to repatriate them. The home ministry and the foreign ministry have also been contacting embassies and high commissions concerned." Among the prisoners of foreign nationality 162 Indian citizens, 128 Myanmar, two Tanzanian, two Nepali, one Pakistani, one Filipino, one Saudi Arabian, one Kenyan and a Hungarian are in jail even though their jail terms have expired. Of them, eight Indian and two Myanmar prisoners are women. - The Daily Star, April 14, 2008.

## ACC sues ex-adviser Justice Fazlul Haque

Anti-Corruption Commission (ACC) yesterday filed a case against former adviser to caretaker government Justice Fazlul Haque on charges of amassing assets illegally and concealing wealth information. First against any former or incumbent caretaker government's adviser, the graft case was filed with Ramna Police Station.

According to the first information report (FIR), Justice Haque in his wealth statement to the ACC held back information about moveable and immovable property worth around Tk 97.37 lakh. Those assets do not match up with his known sources of income. - The Daily Star, April 14, 2008.

## Jamaat ex-MP Shahjahan, Faisal Morshed Khan get jail terms

Former Jamaat-e-Islami lawmaker Shahjahan Chowdhury was yesterday handed down 10 years' imprisonment for corruption while Faisal Morshed Khan, former foreign minister M Morshed Khan's son, seven years for aiding and abetting Shahjahan. The Special Court-2 of Judge Amar Kumar Roy delivered the verdict in the illegal wealth accumulation and concealment case filed by the Anti-Corruption Commission (ACC) on July 1 last year. Alleged militant patron Shahjahan Chowdhury's name was on the first list of 50 high-profile graft suspects made public by the ACC on February 18.

The court sentenced the former Satkania lawmaker and a member of Jamaat's Majlis-e-Shura (the highest policy making body of the party) to seven years' imprisonment for amassing wealth beyond his known sources of income and three years for concealing information in his wealth statement that he had submitted to the ACC.

However, Shahjahan would have to serve seven years in jail altogether as the court ordered the sentences to be effective concurrently. - The Daily Star, April 14, 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

## LAW lexicon

**Charge to the jury** - The judge's instructions to the jury concerning the law that applies to the facts of the case on trial.

**Chief judge** - Presiding or administrative judge in a court.

**Chattel** - An article of personal property.

**Child** - Offspring of parentage; progeny.

**Chronological** - Arranged in the order in which events happened; according to date.

**Circumstantial evidence** - All evidence except eyewitness testimony. One example is physical evidence, such as fingerprints, from which an inference can be drawn.

**Citation** - A writ or order issued by a court commanding the person named therein to appear at the time and place named; also the written reference to legal authorities, precedents, reported cases, etc., in briefs or other legal documents.

**Citators** - A set of books which provides the subsequent history of reported decisions through a form of abbreviations or words.

**Civil** - Relating to private rights and remedies sought by civil actions as contrasted with criminal proceedings.

**Civil action** - An action brought to enforce or protect private rights.

**Civil law** - Law based on a series of written codes or laws.

**Civil procedure** - The rules and process by which a civil case is tried and appealed, including the preparations for trial, the rules of evidence and trial conduct, and the procedure for pursuing appeals.

**Claim** - A debt owing by a debtor to another person or business. In probate parlance, the term used for debts of the decedent and a procedure that must be followed by a creditor to obtain payment from his estate.

**Class action** - A lawsuit brought by one or more persons on behalf of a larger group.

Source: Jurist International.

## LAW news

## UK deportation policy questioned by court

The UK government's policy of "deportation with assurances" was called into question on Wednesday by decisions of the Court of Appeal of England and Wales in two key cases. The cases are that of Abu Qatada, a Jordanian national, and that of two Libyan nationals, referred to for the purposes of legal proceedings in the UK as "DD" and "AS".

The UK has been seeking for some years to deport a number of individuals whom it alleges pose a threat to national security. It has acknowledged that these individuals could not ordinarily be deported, because of the real risk of grave human rights violations that they would face in the countries to which they are to be returned.

The UK government has therefore sought, in each of these cases, so-called 'diplomatic assurances' from the countries to which these individuals are to be returned that the individual will be treated in accordance with international human rights standards. These promises are unenforceable in any court of law.

Amnesty International has long argued that the UK government's policy of 'deportation with assurances' undermines the absolute prohibition of torture. In particular, the policy is not compatible with the obligation, under international law, not to send individuals to countries where they face a real risk of grave human rights violations, including torture or other ill-treatment.

In both of today's cases, although on different grounds, the Court of Appeal ruled that the UK could not lawfully proceed with the deportations.

In the cases of "DD" and "AS", the Court of Appeal upheld the decision of the Special Immigration Appeals Commission (SIAC), the court of first instance in these cases, that the



assurances obtained from Libya by the UK in the form of a "Memorandum of Understanding" were not sufficient to protect them from a real risk of torture or other ill-treatment if they were to be returned to Libya and that they could not, therefore, be deported.

The Court of Appeal ruled, in Abu Qatada's case, that the SIAC was entitled to find that so-called diplomatic assurances can sometimes be

relied on to protect people against a real risk of very serious violations of their human rights, including the risk of being tortured and the risk of being subjected to a flagrantly unfair trial.

Amnesty International has voiced concern about this part of the decision. The organization argues that the unfair procedures the SIAC follows, which include the use of secret material in secret sessions of the court, makes it extremely hard to mount an effective challenge in the SIAC to the use of these assurances.

"If the Court of Appeal is unwilling to question the SIAC's findings on the reliability of these assurances, there is real doubt over whether there is any genuine route open to the individuals who face deportation on the strength of such assurances to challenge their use," the organization said.

The Court of Appeal recognized, however, that the trial that Abu Qatada would face on his return to Jordan would amount to a flagrant violation of the right to a fair trial, and that the assurances given in his case offered no protection against that. The trial would be flagrantly unfair because it would very probably allow evidence that had been obtained by torture to be used against him. It therefore ruled that his deportation could not go ahead.

In the light of today's decisions, Amnesty International has called on the UK government to abandon its dangerous and discredited policy of relying on unenforceable promises to get around its obligations not to send people to countries where they will face a real risk of grave human rights violations.

Source: Amnesty International.