



Star LAW analysis

Seismic survey violates the existing environmental laws

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UNDER The Wild Life (Preservation) (Amendment) Act-1974 in 1996, part of the West Bhanugach Reserved Forest was declared "Lawachara National Park," which encompasses an area of 1250 hectares. The Lawachara National Park is located 60 km south of the Sylhet city in the Komalgonj Upajila of Moulvibazar District -- about 10 km away from the town of Srimangal.

Biological Diversity in the Lawachara National Park consists of 460 species and the Park also supports important population of rare species like Primate Gibbon and Capped Langur.

Few months ago, the Government has permitted US Company Chevron to conduct a 3D seismic survey in the Lawachara National Park. The survey of Chevron involves such kinds of experiments which will have long term adverse effects on the sensitive forest. The explosions, which are now being conducted in Lawachara as a part of Chevron's survey, leave the wildlife there in a hazardous position. Being frightened by the shakes generated by the explosions, wild animals are leaving the forest at an alarming rate. In such an incident a Primate Gibbon, in an attempt to flee, jumped onto the electric cable and surrendered to death on 7th May, 2008. Cracks appear in the walls of many houses in the area, that too due to explosions during seismic survey.

Regrettably, Chevron was permitted to conduct their survey when monsoon is knocking at the door. Monsoon is the time for reproduction of rare species of



plants, mushrooms and various species of wild life. The indigenous communities i.e. Mandi, Tripuri, Khasia along with tea garden workers and local people are mainly dependant on the natural resources of the forest. Indubitably, the reproduction will be seriously hampered by Chevron's survey. As a consequence the people dependant on such resources will have to suffer a lot. Chevron's survey prompted opposition from certain groups of environmentalists, environment specialists, journalists, travelers, indigenous communities and the local people.

Few days after Lawachara was declared a National Park, on 14th June of 1997 various parts of the forest were smashed up by the explosion of Magurchara gas-field as a result of the careless activities conducted by the US Company Occidental. Before the forest could repair the loss, another US Company Unicol constructed underground gas pipelines across the forest. During the installation of gas pipelines, the reproduction of various species was seriously hampered and the ecosystem of the forest became critically imbalanced. Now the question to

be asked is whether Chevron is going to be the next devastator of this beautiful forest?

Under the Wildlife (Preservation) (Amendment) Act, 1974, from 1980 several areas of Bangladesh are being declared as "Protected Areas" and presently there are 16 notified "Protected Areas" under the management of Forest Department, covering an area of 241,675 hectares under three categories -- National Parks, Wildlife Sanctuaries and Game Reserve. Under The Wild Life (preservation) (Amendment) Act of 1974 "National Parks" are areas of "out-

standing scenic and natural beauty" whose purpose is the "protection and preservation of scenery, flora and fauna in the natural state, to which access for public recreation, education and research may be allowed." Clearing up or breaking up land for any purpose is prohibited by Bangladesh Forest Act-1972 and commercial activities of any national or international organizations are also strictly prohibited in the national parks. Lawachara forest was recognized as a "National Park" in 1996. The survey of Chevron in Lawachara National Park involves experiments that infringe the existing laws of the country. Now it is the high time to declare Lawachara National Park an "Ecologically Critical Area" under Rule-3, Section-5 of the Environment Conservation Act-1995 to protect the wildlife, nature and the people from being extinct and to conserve the natural beauty.

Though Chevron assured that their survey would be carried out in accordance with the country's environmental rules and regulations, the methods employed by it, permitted by the Department of Forest, clearly violate many provisions of the existing environmental related laws of Bangladesh. Where there remains a probability of a significant environmental degradation and pollution by the activities of any organization, it is the duty of the Department of Environment to require that organization to conduct the Initial Environmental Examination (IEE) and the Environmental Impact Assessment (EIA) before the site clearance can be granted. These reports were not submitted before the commencement of the survey.

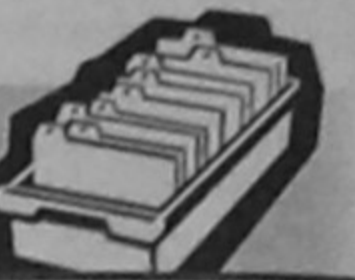
The survey also violates the provisions of the United Nation's Convention on Biological Diversity (CBD)-1992 which is dedicated to conserve biodiversity and sustainable use of the same.

To protect the natural beauties from destruction and to conserve the unique biodiversity, the Department of Forest has started a five-year project in 2003, called Nishorgo Support Project (NSP) with the aid of USAID. The project is working at five initial pilot sites. Lawachara National Park is one of those five sites. Though the program was started with an aim to conserve the biodiversity, silence of NSP about the survey of US company Chevron, which will have a great impact on the nature, is awfully puzzling. Is there any bias on the part of US aided NSP Project's authority? Another inexplicable thing is, whereas the Director General of the Department of Environment is empowered under the Environment Conservation Act-1995 to take necessary steps to prevent probable accidents, which may cause environmental degradation and pollution, how Chevron was permitted to carry out the survey by the same Department?

It is obvious that Chevron is not doing things in compliance with the existing laws of the country. To permit something that is potentially perilous to environment is not an act of prudence. Government must rethink their decision as soon as possible and make Chevron pay compensation required to restore environmental standard and to people who sustained loss due to their activity.

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FACT file



International efforts still failing child soldiers

DESPITE progress, efforts to end the recruitment and use of child soldiers are too little and too late for many children, according to the 2008 Child Soldiers Global Report, launched by the Coalition to Stop the Use of Child Soldiers. The report details how a near global consensus that children should not be used as soldiers and strenuous international efforts with the UN at the forefront to halt the phenomenon have failed to protect tens of thousands of children from war. When armed conflict exists, children will almost inevitably become involved as soldiers.

The report documents military recruitment legislation, policy and practice in more than 190 countries worldwide in conflict and in peacetime armies as well as child soldier use by non-state armed groups.

"The international community's commitment to ending the global scourge of child soldiering cannot be doubted, but existing efforts are falling short," said Dr Victoria Forbes Adam, Director of the Coalition. "Laws, policies and practices must now be translated into real change to keep children out of armed conflict once and for all."

There have been positive developments over the past four years. The Coalition's research shows that the number of armed conflicts in which children are involved is down from 27 in 2004 to 17 by the end of 2007. Tens of thousands of children have been released in that time from armies and armed groups as long-running conflicts in Sub-Saharan Africa and elsewhere have ended.

But the report shows that tens of thousands of children remain in the ranks of non-state armed groups in at least 24 different countries or territories. The record of governments is also little improved: children were deployed in armed conflicts by government forces in nine situations of armed conflict, down only one from the 10 such situations recorded when the last Global Report was published in 2004.

"Existing strategies have not had the desired impact. If further progress is to be made, it must be recognized that child soldiers are not only an issue for the child rights specialists, but should be on the agendas of all those involved in conflict prevention and resolution, peace-building and development," said Dr Forbes Adam.

Myanmar remained the most persistent government offender. Its armed forces, engaged in long-running counter-insurgency operations against a range of ethnic armed groups, still contained thousands of children, some as young as 11 years old. Children were also used by government forces in Chad, the Democratic Republic of the Congo, Somalia, Sudan, Uganda and Yemen. Palestinian children were used on several occasions as human shields by the Israeli defence forces, and a few British under-18s were deployed to Iraq up to mid-2005.

The failure of governments to adhere to their international obligations does not end there. In at least 14 countries children have been recruited into auxiliary forces linked to national armies, local civilian defence groups created to support counter-insurgency operations, or by illegal militias and armed groups used as proxies by national armies.

Children have also been used as spies. In some countries child soldiers



who have escaped, surrendered or been captured by government forces were locked up instead of receiving support to return to their families and communities. Burundi, Israel, and the US were among the countries where there were allegations of ill-treatment or torture of child detainees alleged to have been associated with armed groups.

"Given government obligations to protect children from involvement in armed conflict, there can be no excuse for the armed forces of any country unlawfully using children for military purposes or for committing other human rights violations against them," said Dr Forbes Adam.

Children have also been used in combat by armed groups in at least 19 countries or territories. These children, some 12 years old or even younger, were exposed to death, injury and psychological trauma. In Afghanistan, Iraq, the Occupied Palestinian Territory and Pakistan teenagers were used in suicide attacks.

"Armed groups pose the greatest challenge," said Dr Forbes Adam. "International laws have had limited impact in deterring child soldier use by armed groups. Many groups attach little value to international standards and the need to build fighting strength overrides other considerations. This reality must be confronted and new strategies developed."

The Coalition's report also highlights that years of accumulated best practice on releasing children from fighting forces and assisting their rehabilitation and reintegration is being overlooked by those involved in designing and implementing disarmament, demobilization and reintegration (DDR) programs. Sustained funding for the long-term support of former child soldiers is also rarely available. In the Democratic Republic of the Congo, for example, delayed, unpredictable and short-term funding, combined with poor planning and mismanagement of the DDR program, meant that some 14,000 former child soldiers were excluded from reintegration support.

Those who lose out most are girls. The existence of girls in fighting forces, in combat and non-combat roles and as victims of sexual slavery, rape and other forms of sexual violence, is well known. Yet the overwhelming majority of girls soldiers are not identified by and do not register in official DDR programs. In Liberia, where the DDR program ended in late 2004, only just over a quarter of the 11,000 girls known to have been associated with fighting forces registered in the official DDR program. Here, as elsewhere, thousands of girls returned to their communities informally with their complex medical, psychosocial and economic needs unmet.

"Tens of thousands of children particularly girls are effectively rendered invisible during the demobilization and reintegration process," said Dr Forbes Adam. "It is not that their needs and vulnerabilities are unrecognized: it is simply a failure to apply lessons learned that is failing these children and their futures."

Progress towards a global standard prohibiting the military recruitment or use in hostilities of children is hampered by continued recruitment of under-18s into peacetime armies. At least 63 governments including the UK and the USA - allow voluntary recruitment of under-18s, despite the age of adulthood being set at 18 in many countries. Young recruits considered too young to vote or buy alcohol are subjected to military discipline, hazardous activity and are vulnerable to abuse. Active targeting of children, often from deprived backgrounds, raises questions on the depth of these governments' commitment to child protection and whether such recruitment can be genuinely voluntary.

"2012 will mark the tenth anniversary of the enactment of the international treaty on child soldiers," concluded Dr Forbes Adam. "Over the next four years the international community must make good on its pledge to end the use of children in armed conflict."

Source: The Coalition to Stop the Use of Child Soldiers.

LAW vision

SAY 'NO' TO CORRUPTION

Laws relating to trade union needs amendment

ABU NOMAN MD. ATAHAH ALI AND ZAFRIN ANDALEEB

THE ability to form a trade union by the labour is a constitutional right according to the Constitution of the People's Republic of Bangladesh under the 'right to association' in Article 38. In the last 36 years of independence of Bangladesh we have formed many trade unions for different industries and establishments. From the beginning, it has been an open secret that the trade union leaders are mostly corrupt. This frustrates the main objectives of the trade union exceedingly. Recently this picture has been highlighted because the present government has taken some innovative activ-

ities to eradicate corruption from Bangladesh as well as from the trade unions. The main objective of the trade union is to do welfare to the ordinary labour through the collective bargaining agent. The failure to implement the objective is of great concern as the labour are the foundation of civilisation and it is unfair to deprive them of their privileges.

In Chapter 13 of the Bangladesh Labour Act, 2006 different provisions have been incorporated from section 175 to 208 relating to trade union, registration of trade unions, rights of the president of trade union, unfair labour practice, CBA, etc. However, no express right of the general workers, which they can get by trade

union, has been laid down in the Act. Some privileges and immunities are given to registered trade unions and its officers under section 197 and section 198 the Act of 2006 from imposing any penalty and filing any civil suit.

The real scenario of trade unions in Bangladesh

The trade unions of Bangladesh are ineffective in the application of their objectives. The leaders of the trade unions are corrupt, making it impossible for the trade union leaders to do some welfare for the general labour. This is due to the fact that almost all the CBA leaders have an open secret understanding with the owners of the establishments, which lead them to the uninterrupted corruption

and irregularity. The CBA leaders seldom see the interests of the labour. The monthly subscription given by the labour are not used for the their welfare. It is just used for the personal purpose of the leaders of the trade unions. Due to pressures from the trade union leaders, the workers are working hard, but they are not getting remuneration accordingly.

Reasons for corruption in trade unions

- The labour of Bangladesh are mostly illiterate. It makes them insecure and weak to fight against the corruption and ill practices.
- Most of the labour of Bangladesh do not know that, specifically for them, there is a law in Bangladesh named Bangladesh Labour Act, 2006. For the ignorance of trade union laws they cannot fight against the violation of their rights.
- Section 187 of the Bangladesh Labour Act, 2006 provides "no President, General Secretary, or Treasurer of any trade union shall be transferred from one district to another without his consent". This section is a great weapon, which is manipulated by trade union leaders. By abusing this provision trade union leaders have the opportunity to stay in the same establishment and be connected with the local politics.
- In the third world countries most of the labour are so poor even they cannot live their lives hand to mouth. CBA leaders give them job in an industry requesting the owners with their influential powers. Usually, the labour gets the job by the CBA and never dares to speak against the leaders though he does many violation of trade union right of the labour.

- The owners always want the labour to work hard and gain profit. So, they use the trade union leaders as a weapon. When the labour gets heavy workload but does not get the expected remunerations, they usually go to the trade union leaders for the assurance of justice. In this situation the CBA leaders never speak on behalf of the labour as by then they have already taken the bribe from the owners to not fight for the labourright.
- The Bangladesh Labour Act provides that the inspectors will have the right to inspect the trade union activities, but inspectors seldom go to do it. Even if they go, the trade union leaders bribe them so that they never speak against the irregularities of the trade union.
- Lack of experienced and educated leaders among the labour is another reason of malpractice and corruption.

Recommendations

- A healthy democracy should be established in our country so that the labour can enjoy their fundamental rights to form any trade union. The mentality of the owners of the establishments should be changed.
- The Section 187 of the Bangladesh Labour Act, 2006 should be amended. The law can be amended to the effect that if any trade union leader is proved corrupted or many allegations are made against him for corruption, he can be suspended for a particular period of time or he can be transferred to any other backward district as a punishment.
- The law relating to trade union should be amended with provisions concerning the empowerment and welfare of the general labour. Suppose the trade

- union can help the family of a labour who faces any great problem, a cooperative society can be created for this purpose.
- The politics of the trade union leaders should be forbidden for certain period by amending the Constitution. The trade unions should not have any relations with any political party as there will always be an influence of the political ideology over the labour of trade unions and they will start to work to fulfil the political goal rather than to work for the benefit of the labour.
- The labour should be given a fair chance and should be given proper knowledge about their rights and fighting corruption related matters.
- The trade union leaders' corruption should be dealt with seriously. If one incident of corruption is properly taken care of then a sense of awareness will be created among all other leaders and workers.
- A special provision should be added in the Act for the penalty of the inspectors if they are convicted for the bribery from the industry owners.
- Corruption in registration of trade unions should be prevented by making the whole process of registration as a transparent one and by mentioning the powers and functions of the Registrar.
- The leadership of trade unions should be given to qualified, experienced, dedicated and committed leaders who are more likely to work for the labour as opposed to their own gain.
- Finally all the leaders and owners should change the wicked mentality.

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