

## Sigma Huda's case

Following the bail granted to her by the High Court on June 3 for the case she was convicted in, and the acquittal on the last remaining case on June 12, there were no barriers to her release. However, from the June 12-18, without providing any valid reasons, the jail authorities wrongfully detained her. From the day she was acquitted, they have been stalling her release.

KHUSHI KABIR

ADVOCATE Sigma Huda, a lawyer of international repute and a renowned human rights activist, appointed the UN Special Rapporteur for Trafficking in Persons in 2004, has been accused by the Anti-Corruption Commission of abetting her husband in five extortion cases and a sixth case where the couple was accused of illegally acquiring wealth disproportionate to their income.

Her husband, Barrister Nazmul Huda, a minister in the past government was arrested after the formation of the present caretaker government and is facing trial in several cases. On July 5, 2007, Sigma Huda surrendered of her own will to the Special Court of the Anti-Corruption Commission in order to be tried by the justice system, rather than abscond.

### The case

On March 21, 2007, the Dhanmondi Police Station filed a special case against Sigma Huda for allegedly abetting extortion. On July 5, 2007, charges were framed against her in the Special

Court set up by the Anti-Corruption Commission, following which she was taken into custody to be tried by the court. On August 27, 2007, the court delivered its verdict and convicted Sigma Huda for aiding and abetting extortion, sentencing her to three years' simple imprisonment.

Subsequent to the conviction, Sigma Huda's lawyers filed an appeal before the High Court and submitted a bail petition. On December 13, 2007, a High Court division bench granted Sigma Huda bail. Subsequently, on March 7, the Supreme Court under the then chief justice, rejected Sigma Huda's bail in a landmark judgement, stating that appellants convicted in graft cases under the Emergency Power Rules would not be granted bail pending appeal with the High Court unless the appellants meet stated criteria, thereby leaving provision for Mrs. Huda's lawyers to seek review. It may be noted here that Mrs. Huda meets all criteria. On June 3, Sigma Huda was finally granted three months' bail by the High Court. The government appealed to the

Appellate Division for cancellation of the bail. The appeal was dismissed by the Appellate Division on June 19.

On December 9, 2007, charges were framed against Mrs. Sigma Huda and her husband, in the second case to be tried against them in the Special Courts set up by the Anti-Corruption Commission and on April 3, the court delivered its verdict, whereby it acquitted Sigma Huda of illegally acquiring wealth disproportionate to her income or aiding her husband to do so.

The third case to be tried against Sigma Huda, an extortion case, was heard in the Chief Metropolitan Magistrate's Court. Sigma Huda was accused of abetting her husband in extorting a Maruti Suzuki car. No witness gave evidence against Sigma Huda or indicated her involvement in the case. On June 12, the court delivered its verdict in Mrs. Huda's favour, finding her innocent and acquitting her.

Mrs. Huda has been accused in three other cases for aiding and abetting extortion, but the High Court has granted bail and stayed proceedings against her till dis-

posal of all three cases.

Therefore, following the bail granted to her by the High Court on June 3 for the case she was convicted in, and the acquittal on the last remaining case on June 12, there were no barriers to her release. However, from the June 12-18, without providing any valid reasons, the jail authorities wrongfully detained her. From the day she was acquitted, they have been stalling her release.

June 12, being a Thursday, we were told the relevant papers had not yet been sent to court. The next two days, i.e. Friday and Saturday, was a weekend. On Sunday, we were informed by the jail authorities that they had yet to receive the bail bonds and relevant papers. On Monday, June 16 we found that all necessary papers had already been received and there was no reasons for not releasing Sigma Huda. In the evening when we were finally able to contact the DIG Prison, he informed that he was outside but would see to it that she would be released on his return. Later we were told that since it had become very late, she would be released the next day. This excuse was given even though there have been many instances of prisoners being released at very late hours.

Strangely, the next day, the 17th, the papers were sent to the High Court to verify that the court had actually given bail, despite the fact that the bail bond and relevant

papers were examined by relevant authorities, and officially sent to the jail. On getting a positive reply from the court regarding Sigma Huda's bail, they used delaying tactics by sending the papers for verification to the magistrate's court, where again they were given the same positive response regarding her release.

The DIG Prison over telephone then informed us that he personally needed verification from the concerned magistrate. The next day on June 18, after having no further excuse to delay her release, the prison authorities sent the deputy jailor to the Appellate Division of the Supreme Court to get the chamber judge to review the decision which was not entertained. After 2.30 pm, the deputy jailor was informed by the office of the chief justice that the matter would be heard by the full bench of the Appellate Court the next day, June 19.

Finally, on the evening of June 18, at around 4 pm, we came to know that Sigma Huda has been charged and shown arrested in another new extortion case, where she is a co-accused, with her husband, of allegedly taking Tk 600,000 bribe, which is said to have been deposited in an account that has already been investigated and frozen by the Anti-Corruption Commission over one year ago, prior to the two trials conducted against the couple by the Special Courts. This case was hurriedly placed before the



court and within an hour warrant was issued. This was done just as the family of Sigma Huda along with her lawyers were preparing a contempt petition against the jail authorities for violation of court order regarding her release. The full bench of the Appellate Division of the Supreme Court on Thursday, June 19 upheld the High Court order in favour of Sigma Huda's bail.

It is therefore obvious that this new case has been filed with mala fide intentions of harassing

her and in order to keep her in jail in spite of bail upheld up to Appellate Division, possibly because of political affiliation of her husband, even though as a human rights activist and lawyer she has always taken an independent position. It may be mentioned that at present she is the only spouse as a co-accused still in jail. All others have been released.

Sigma Huda's health condition continues to be of serious concern. Apart from all the previous

ailments, where proper and full investigations have not been done as prescribed by the BSMMU doctors under whom she has been admitted, her backbone disease, her unstable angina, life threatening rhythm disturbance of her heart, other heart ailments, and severely fluctuating diabetes continue to be a health threat. She needs to be released immediately.

The writer is a well-known development worker, activist, and sister of Sigma Huda.

## A time to change and a time to create

It is now, at a time when the government is keen on reforms that it needs to address the plight of refugees and create a formal process to deal with them. The Rohingyas have been living in Bangladesh since the early 1990s, and there is little chance that they will be able to go back home soon. What looms ahead is yet another protracted refugee crisis.

NAVINE MURSHID

THE recent court ruling to provide citizenship to the Rohingyas provides an interesting twist to the stagnation that marred policy making regarding the "stranded Pakistanis." The

decision not only has political ramifications but also highlights the need for a consistent and coherent refugee policy.

The ruling came as a surprise, despite discussions about it for years. Was it a decision influenced

by the squalid conditions of the refugee camps? Or was it a realisation that we are dealing with a protracted crisis that needs to be solved? One can perhaps rule out the humanitarian aspect of this move. How can it take thirty-seven years to realise the difficulties they face as refugees?

It is also surprising that the courts now realise the protracted nature of the refugee crisis. It is difficult to make sense of the timing of this decision. What has changed in the present day?

Whatever may be the reason for such a court ruling, the ad-hoc nature of creating refugee policies is brought to light by this case. At present, Bangladesh is not a signatory to the 1951 Convention that sets out the rules and obligations with regard to refugee protection. Nor do any laws exist to handle issues of refugee acceptance and repatriation.

Given that Bangladesh is host to two foreign populations, namely the Burmese Rohingyas and the

Pakistani Biharis, it is quite surprising that there are no mandates on dealing with these populations. It is this lack of a legal framework to deal with refugee/migrant populations that makes arbitrary rule-making possible.

It is now, at a time when the government is keen on reforms that it needs to address the plight of refugees and create a formal process to deal with them. The Rohingyas have been living in Bangladesh since the early 1990s, and there is little chance that they will be able to go back home soon. What looms ahead is yet another protracted refugee crisis. Because the Rohingyas camps are far from the capital, isolated near the border with Myanmar, it is easy for the government to look away.

However, the reality is that in absence of any policy and help from UNHCR, the government authorities present there are making arbitrary rules. There are numerous reports of clashes between government forces and the refugees, as well as maltreatment of the refugees.

While the political environment is still pro-change, some rules and regulations need to be created with a focus on the problems refugees pose, irrespective of whether Bangladesh is a signatory to the 1951 Convention or not. A

brief examination of the problems and the solutions proposed are as follows.

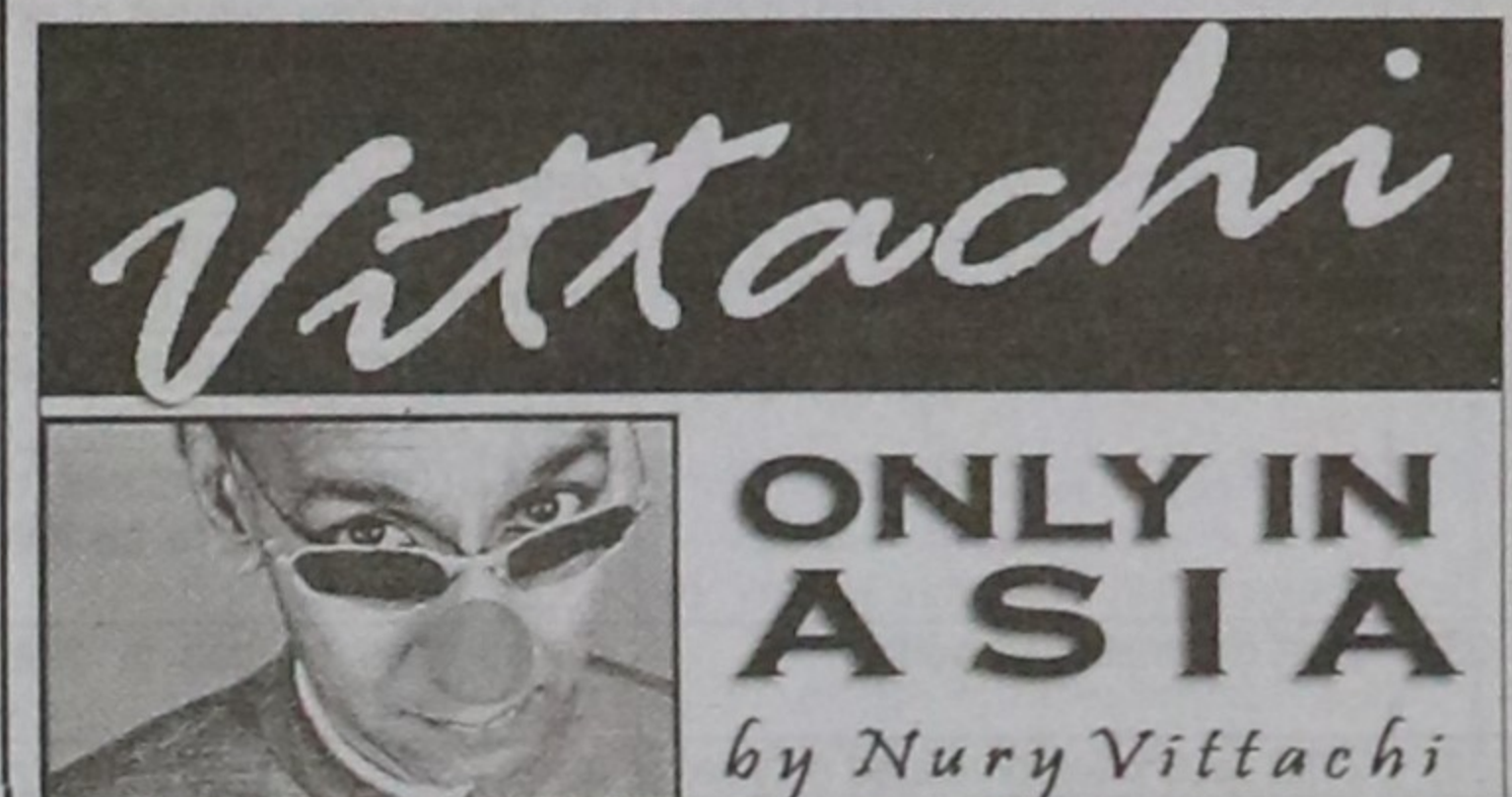
- Long stay is one of the major factors that induce host-initiated repression and, hence, a credible time-line needs to be drawn before refugees enter the borders. For proper implementation, the time frames would need to be agreed upon with neighbouring countries with a credible body, such as the UN, overseeing the agreement. Developing regional initiatives and ties to deal with such issues amicably would also work.
- In order to prevent attacks between the sending country and refugee camps, as in the case of Rohingyas, the optimum location of refugee camps needs to be identified. Refugee camps that are situated near the border are not only easy targets of the sending country, but are also susceptible to militarisation.
- Bangladesh is a poor country and does not have the necessary military capability to quash militarisation, if it occurs. Using inconsistent repressive tactics, given Bangladesh's resource constraint, is likely to be counter-productive, more so when refugees have high cohesion

and are able to garner weapons. As a result, refugee policies need to include measures to prevent militarisation from developing in the first place.

First and foremost, the army can be used to demilitarise refugees as they enter the country. Border patrols can be strengthened to ensure that weapons are not transferred. Security check-points can be set up along the border. Other steps could also include separating the real refugees from rebels and combatants when they first arrive, and making communication between them close to impossible. Since the influx of Rohingyas seems to be almost an ongoing phenomenon, Bangladesh will gain from some policy adjustments.

Given its location, resources, and capability, Bangladesh, is in a position to create sound refugee policies that will prevent long-term encampment of refugees, militarisation of those camps, and consequently, avert potential conflict behaviour within its borders.

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## Kindly prove to the court you are alive, your Honour

A dramatic controversy is raging in the corridors of international justice. We all know judge and jury have to be present at trials. But do they have to be physically present? Do they have to be awake? And -- here's the cruncher -- do they have to be alive?

These are important issues, particularly since many judges are, to use the recognised medical term, "drooling old codgers."

I was alerted to this topic by reader Harsha Wikramasinghe, who told me about a trial which has just been cancelled in Australia. When the hearing started, court officials were delighted that jury members were taking copious notes. But then they noticed they were writing vertically. It turned out they'd lost interest in the case and had been doing Sudoku. The trial was abandoned.

However, in a similar case in the same country, a different conclusion was reached. A judge named Dodd fell asleep during the arguments, but woke up in time to sentence the men in the dock to prison sentences. The case continued, but the men afterwards complained that it was not their fault that their fates bored the judge.

Senior judges considered the issues and concluded that the law required judges to be physically present -- but they didn't have to be mentally there. Legal expert Robert Moles summed up the finding as good news for judges: "They are entitled to some quality sleep time."

Some lawyers sneakily interrupt judges' beauty sleep. In Ontario, Canada, Judge Ayres Cuoto fell asleep during a 2001 trial. Lawyer Kim Schofield found a copy of The Criminal Code, a 2,136-page hardback, and dropped it onto the desk. "His honour was visibly stirred from his slumber," she said afterwards.

In Asia, courts are sleepy places with occasionally bursts of drama for which we wake each other. For example, there's one case in my diaries, which really should appear in any listing of the world's most important

criminal cases. A furious man stormed into a Sri Lanka courtroom holding a bag of excrement. He flung it at the judge. But he aimed too high. The substance hit the ceiling fan. You can imagine the mess. This defendant illustrated the truth in a widely used adage ("the s\*\*\* hit the fan") that had surely never before been scientifically tested.

But what about death? Having been a court reporter, I can testify many judges sit with their eyes closed, unbreathing, for hours on end. It is impossible to tell whether they are awake, asleep or deceased. I remember shaking hands with one judge and I'm sure I could feel rigor mortis in his arm.

Although the Australian finding says judges are only required to be physically present, consider the incident that took place in the US city of Denver in July last year. Judge Frank G. Henderson died right there on his bench in the middle of a hearing.

The case was halted. (I wonder how people left the room, since no one is allowed to stand up and leave before the judge does? Is everyone still there?)

If they had followed the findings in the Australian case, lawyers could have just pointed out that Judge Henderson was still physically present, and carried on regardless. They would probably have enjoyed having fewer interruptions from the bench.

And the jury, of course, could have finished their Sudokus.

Fall asleep reading our columnist's website: [www.vittachi.com](http://www.vittachi.com).



"Well, unless you think you need me, I think I'll turn in."

## Time for a global town-hall meeting?

You don't have to believe that America is the dominant global powerhouse that it was just a few decades ago to expect that it could still be the pivotal leader in shaping the global environment for itself and for others. However, being a leader is impossible without followers, and a leader can't have followers without understanding what they're thinking and what they require in order to cooperate. Americans need to know which of the candidates better recognises this reality.

JEFFREY GARTEN

RECENTLY the Pew Global Attitudes Project released another survey in its series on foreign attitudes about the US. Despite slight improvement in its image, the United States is still seen by people in most countries in a highly unfavourable light.

But the fact remains that such polls are too vague for most US citizens, and there is a better way to get a handle on outsiders' perspective. US Republican presidential candidate Senator John McCain challenged his Democratic rival, Senator Barack Obama, to participate in a series of 10 town-hall debates before the November 4 election. Although Obama did not agree on the details, Americans would benefit from at least a few specific debates.

If the US role in an ever-globalising world is to be fully aired, one of the meetings should feature questions from Europe, Asia, Latin America and elsewhere. In other words, there should be a global-town hall meeting.

This idea first struck me during spring 2004 when I hosted the

mayor of Beijing during a visit to Yale University. At that time he suggested to a group of faculty that the world had so much at stake in the election between George Bush and John Kerry that 10% of the votes should be reserved for an international audience.

It was a startling thought from a very nationalistic Chinese official who said that although China didn't want to be led by the US, the world in which the Middle Kingdom operates would be shaped in great part by the next US president.

Of course, the mayor knew there is no chance that anyone but US citizens would cast votes, but he went on to explain that Americans should know what's on the mind of the 95% of the world's population that lives outside the US, all greatly affected by what the country does or fails to do.

Right now, the candidates raise few global issues in anything other than a pure American context. And even the subjects that do come up -- whether and when we should leave Iraq or whether we should talk to adversaries like Iran -- represent a sliver of the full dimension of US

global involvements.

In making judgments about the candidates, Americans would be much better informed if they knew more about the wide range of issues that the rest of the world considers important insofar as the US can have an influence on them.

Equally critical, if Americans could watch the two candidates respond to the concerns of a broader international audience, the voters could make a finer judgment about each nominee's possible approach to an array of international challenges, largely overlooked during the heat of short-term electoral politics.

A question from abroad might go as follows: "For decades the US has preached the doctrine of free commerce across borders and benefited enormously from it. Washington always loudly asserted that the job dislocations that come with such globalisation should be addressed with domestic policies that do not impede the free movement of goods and money. Yet today, the US is pulling back from its traditional global engagement by balking at new trade deals, pushing away foreign investment and slowing immigration, and

could even cause the world to follow this protectionist direction in its own self-defense. What's your view on these trends and your plans to deal with them?"

Another general question could be: "At a time when the world is deeply concerned with economic and social issues, such as economic growth, education and poverty, the US has militarised its global engagement, using its armed forces as the leading edge of its foreign policy and a major instrument in rebuilding failed states. Would this be your policy, and if not, what would you do to change the emphasis?"

Someone outside the US might well ask the candidates what the increased interdependence with the rest of the world means for US policy when it comes to the country's sovereignty or strategy in international institutions. They could ask for a few examples including US financial policy and its intentions with respect to climate change.

From Asia, we might expect, "Ten years ago, the US was an overwhelming influence in the region, politically, economically and culturally, but today China has at least equal status and gaining more ground fast. Are you comfortable with this reversal and, if not, what are your plans to address America's decline in the world's most vibrant region?"

From Latin America, we could hear something like this: "After 20 years of a war on drugs that has

made no appreciable dent on coca or cocaine production, nor the growth of powerful and massively armed criminal syndicates, what are you going to do to reduce demand for illegal narcotics in the US and otherwise develop a more effective anti-drug strategy for the Americas?"

A citizen from the Middle East might ask, "We are neither democratic nor economically developed, but eventually we'd like to be both. But rather than follow the American obsession with free elections, for which we are not remotely ready, we would like to follow the paths of South Korea, Taiwan and now China and achieve steady growth that is broadly spread before turning to true democratic political reforms. What's wrong with that?"

A possibility from Europe: "America is obsessed with challenges from the Middle East and China, but without its European partners, the US alone has little leverage in either arena, let alone on other pressing questions like climate change, currency stability or Russia's worst authoritarian instincts. How do you envision the US-European relationship at a time when so many of the links that used to exist during the Cold War seem to have disappeared?"

Because neither of the two candidates has covered these kinds of issues in any depth, Americans would likely be fascinated with the questions and riveted by the answers. For two men who aspire

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