



LAW interview

Protecting life and dignity of people

Finn Ruda is the current Head of Mission of the ICRC in Bangladesh. He is specialized in the promotion of International Humanitarian Law (IHL) and has worked with all sectors including armed and security forces, Regional and Inter Governmental organizations. He spoke to **Samaha M Karim** of The Daily Star. The excerpts of the discussion are produced below:

Samaha M Karim (SMK): What sort of humanitarian challenges does the ICRC support?

Finn Ruda (FR): The mission of the ICRC globally is to protect the life and dignity of people who are affected by conflict, war or situations of violence. This takes many different forms. It can be assistance in terms of food and non-food items to displaced population who had to leave their homes because of a given situation. It can be visit to person detained or restoration of family links, family members had gotten away from each other either because they were refugees or they had run away from conflict. It also assists national societies like the Bangladesh Red Crescent Society, with regards to their own functions.

SMK: How does ICRC protect human rights in Bangladesh?

FR: Bangladesh has signed and ratified, that means the parliament has adopted, the four Geneva Conventions which provides protection of civilians and protected persons against abuse by authority, security forces or police. We are trying to help Bangladesh to bring the international treaties into national law which will become standard orders for the Bangladesh police, Rapid Action Battalion (RAB) and the security forces in the way they conduct their operations. And also to help the Bangladesh lawyers and judges to have instruments with which they can then prosecute or bring people to justice.

SMK: So till date has there not been an instance when these laws were applied?

FR: It is clear that some of the Bangladesh legislation is not up-to-date. We are trying to assist

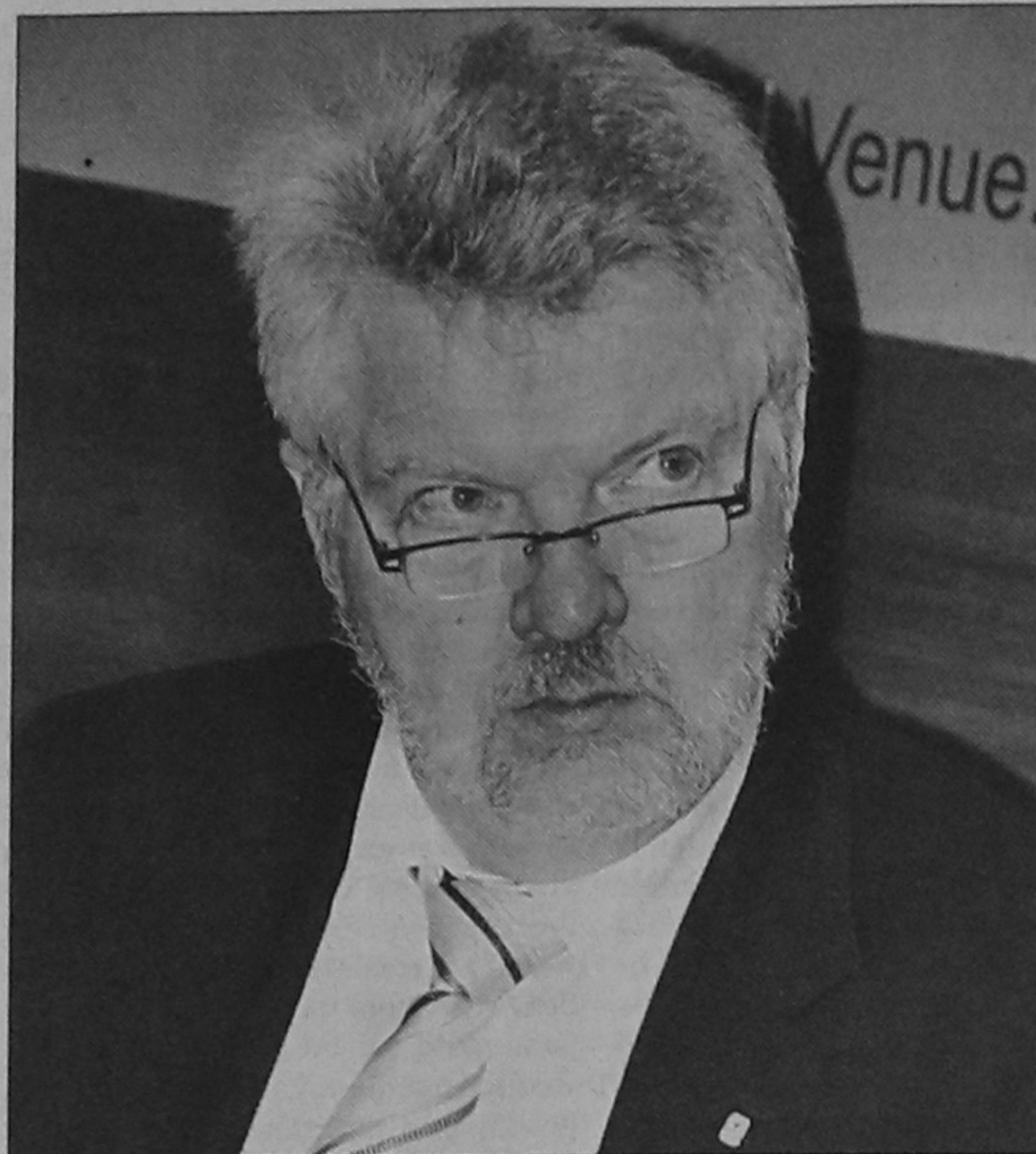
Bangladesh to bring the legislation up to the current date. For instance, the Geneva Convention Implementation Act 1936, we are trying to help the Bangladesh Government update this act so that it meets the international standard. The law protecting the Red Cross and Red Crescent emblem in Bangladesh is also an outdated edition. The Ottawa treaty has specific requirement for national legislation.

SMK: How does the ICRC promote the humanitarian law in Bangladesh?

FR: The law is written for lawyers and it is written for governments to respect. In many ways we need to translate the text into concrete action. We stimulate trainings for universities in Bangladesh where students have to relate to the law using case studies from many different countries to see how the law functions in practice and in the form of Moot Courts.

Another way is when we support police training, we work mostly on Human Rights Law, International Human Rights Law (IHRL) in relation to professional policing which includes the rules and regulations concerning use of force and firearms, arrest and detention, interview and interrogation and who are specially protected persons and what specific systems need to be in place to ensure protection for women, minors and children. This is very practical and we have specialists on these who carry out the training sessions.

We help the armed forces with their manuals that they are in conformity with the law. We also help them in their training and exercises with scenarios to ensure that they get it correct. What weapons can be used, what ammu-



nitions can be used and so forth.

The state has a responsibility when they ratify a treaty and ensure that it is part of the national legislation. Sometimes that is not always the case. So we help them ensure that it become part of the national legislation. We help them with the drafting of legislation, manuals etc.

SMK: What role does ICRC play in repatriation of the displaced?

FR: We combine the work we are doing with the Bangladesh government, State, the law ministry, foreign affairs with activities that we carry out with police, security forces, with the army. For instance on August 24, 2009 ICRC supported the repatriation of 175 Bangladesh citizens from Andaman Islands. That took place in the Jessore border and the ICRC team was there to help the Bangladesh Red Crescent Society, with first aid support and also on the transport back. On August 23, 2009 a Bangladeshi citizen, who had been detained in Iraq, was handed over to ICRC. We provide something called the ICRC Travel Document, a service

and the situation was not one of conflict. So we try to provide our good services to get other organizations to provide assistance and help. The ICRC provided also some non-food items but what we did on top of this was that we verified their identity in order to get the repatriation into process.

There are foreigners sitting in the Bangladesh detention and their identities are not always very viable. Bangladesh Red Crescent Society try to trace relatives to get the original papers, ICRC then intervenes with the concerned authority, high commission and the embassy here, to facilitate the return of the person in detention from Bangladesh to the country of origin. So again it's a small file, in numbers it's small but in effect for each individual who is repatriated or reunited - it's a second life.

SMK: What is the relevance of the IHL in the context of Bangladesh?

FR: The relevance of IHL in Bangladesh, if you look at it in terms of application in Bangladesh, there is no current situation that cause for the applicability of the IHL. There are certain thresholds in the law that requires to be reached for the law to be applicable. It is not there, so one could say it's not important, but remember that Bangladesh is second biggest troop country to UN Peace Keeping and Peace Enforcement Mission which means that the ability to understand and try the law needs to be there. Bangladesh is a young nation. 38 years old, born in conflict and many citizens in Bangladesh still can refer to the applicability of the law in their survival, that they were repatriated or the ICRC protected them during and after the liberation war 1971 etc. That's why the responsibility to implement the law and to ensure the implementation so that the Commanders of the army, Para military or the legal advisers know what the law is about and that has to take place in peacetime. Because when conflict occurs it's very difficult to stop and talk about the law. We utilize peace to ensure that the instruments are in place because it's much more difficult when the going gets tough in a situation of conflict.

Samaha M Karim is working with Law Desk, The Daily Star.

LAW amusements



Surreal law facts

The truth is always stranger than fiction.

7-Year-Old, Occupation: Executioner

While we're talking about France, we have to mention the cute little boy, Charles Jean Baptiste Sanson.

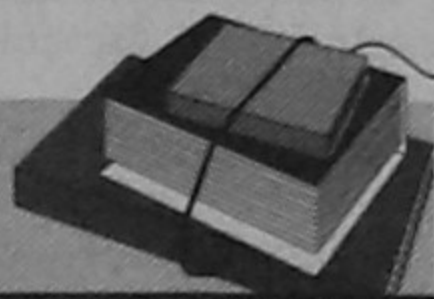
The little boy's father was none other than the chief executioner of Paris, from 1699 to his death in 1726. But his eldest son, little Charles Jean Baptiste Sanson had been born in about 1719 so he was too young to assume this hereditary office. The child had to solemnly watch every beheading conducted by his deputy (François Prudhomme) until he turned 20, at which time he was of age and could wield the official axe of France in the name of his father and of the Royaume! There were, after all, a constant stream of heretics and the highway robbers to dispose of.

Many of the executions were more torture than anything else, the French particularly fond of the wheel, which slowly broke the convict's back, and the torture bed to encourage confessions. Other duties including severing body parts such as the hands of thieves.

Charles served as executioner of Paris until 1754 when a stroke prevented him from doing his job. He gave the office to his son Charles-Henri, who was only 15 at the time. Charles-Baptiste died in 1778 but his son was the executioner during the French Revolution and that new invention, the guillotine, which he used on Louis XVI, Robespierre and Danton.

Source: www.duhaime.org.

LAW lexicon



Trust - A legal device used to manage real or personal property, established by one person (grantor or settlor) for the benefit of another (beneficiary).

Trust agreement or declaration - The legal document that sets up a living trust. Testamentary trusts are set up in a will.

Trustee - The person or institution that manages the property put in trust.

Truth in lending - Statutes which provide that precise and meaningful cost of credit information be provided to the credit customer.

Unconscionability - An absence of meaningful choice on the part of one of the parties to a contract, and contract terms which are unreasonably favourable to the other party.

Undue influence - Whatever destroys free will and causes a person to do something he would not do if left to himself.

Unfair labour practice - Actions by the employer which interfere with, restrain, coerce, or threaten employees with respect to their rights.

Unjust enrichment, doctrine of - The principle that one person should not be permitted to unjustly enrich himself at the expense of another, but should be required to make restitution for the property or benefit received.

Source: Jurist International

FACT file

Remembering those who disappeared

SUNDAY 30 August marks the 26th International Day of the Disappeared. Every year, Amnesty International, along with other NGOs, families associations and grassroots groups, remembers the disappeared and demands justice for victims of enforced disappearances through activities and events.

Governments use enforced disappearance as a tool of repression to silence dissent and eliminate political opposition, as well as to persecute ethnic, religious and political groups.

More than 3,000 ethnic Albanians were the victims of enforced disappearances during the armed conflict in Kosovo in 1999. These were at the hands of the Serbian police, paramilitary and military forces. More than 800 Serbs, Roma and others were abducted by armed ethnic Albanian groups. Some 1,900 families in Kosovo and Serbia are still waiting to find out what happened to their relatives.

Enforced disappearances often take place in connection with counter-insurgency or counter-terrorism operations. Chechnya, which tried to secede from the Russian Federation in 1991, has since been ravaged by two armed conflicts and a counter-terror operation. Both Russian federal forces and Chechen law enforcement officials have been implicated in enforced disappearances, which run into the thousands.

In the Philippines, over 1,600 people have disappeared since the 1970s, mostly during counter-insurgency operations against left-leaning or secessionist groups.

James Balao, an Indigenous Peoples' rights activist and researcher, disappeared in September 2008, while driving to visit his family in La Trinidad, Benguet province.

He was stopped and bundled into a white van by armed and uniformed men claiming to be police officers. Eyewitnesses signed affidavits describing his capture and are now in hiding in fear of being persecuted.

The families and friends of those who disappear are left in an anguish of uncertainty, unable to grieve and go on with their lives. Chief Ebrima Manneh, a Gambian journalist, was arrested in July 2006 for trying to publish a BBC article critical of the Gambian government. His whereabouts remain unknown despite a landmark ruling by a West African regional court ordering the Gambian government to



release him and pay damages. Ebrima Manneh's mother says she finds it hard to enjoy anything because her son is constantly on her mind. The family told Amnesty International that they felt increasingly isolated because other people were afraid to associate with them. They also face hardship because the depended on Ebrima Manneh's salary.

To combat enforced disappearance, in 2006 the UN General Assembly adopted the International Convention for the Protection of All Persons from Enforced Disappearance. Once entered into force, the Convention will be an effective way to help prevent enforced disappearances, establish the truth about this crime, punish the perpetrators and provide reparations to the victims and their families.

The Convention's definition of enforced disappearance is:

"The arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons, or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

The Convention addresses the violations linked to an enforced disappearance and the problems facing those who try to investigate and hold perpetrators to account. It also recognizes the families'

rights to know the truth about the fate of a disappeared person and to obtain reparations.

The Convention obliges states to protect witnesses and to hold any person involved in an enforced disappearance criminally responsible. It also requires states to institute stringent safeguards for people deprived of their liberty; to search for the disappeared person and, if they have died, to locate, respect and return the remains.

The Convention also requires states to prosecute alleged perpetrators present in their territory, regardless of where they may have committed the crime, unless they decide to extradite them to another state or surrender them to an international criminal court.

A Committee on Enforced Disappearances will oversee the Convention's implementation and will review complaints from individuals and states.

The Convention is now only a few ratifications away from entering into force. Amnesty International calls on all governments that have not done so already to ratify the Convention as soon as possible. Ratification will send a powerful signal that enforced disappearances will not be tolerated and will give those searching for their loved ones a much needed new tool.

Source: Amnesty International

LAW week



List Dhaka canal grabbers in month

A parliamentary committee gave one more month to the Department of Land Record and Survey to come up with an accurate elaborate list of individuals and organisations who encroached upon 43 canals in the capital. It also asked the land ministry to complete within the next two months, the task of freeing the rivers in and around the capital from encroachment, and to restore their navigability. The previous deadline for submitting the list was August 8, which had been set at a committee meeting on July 8 this year. - *The Daily Star, Sept 03, 2009.*

Extended primary education to be free

The National Education Policy Formulation Committee has suggested extension of free primary education up to class VIII and secondary education up to class XII. The committee submitted its final report on National Education Policy 2009 seeking to educate all irrespective of their religion, gender, socio-economic condition and geographical location. Even indigenous people and physically disabled children will be brought under the programme, the new education policy said. The policy also recommends modernisation of Madrasa education, uniform curriculum in primary and secondary levels for students of all mediums and formation of a permanent education commission. - *The Daily Star, Sept 03, 2009.*

Matin sued for Tk 25cr compensation

A Tk 25 crore damage suit was filed with a Dhaka court against former shipping adviser Maj Gen (retd) MA Matin, a former shipping secretary, and Chittagong Port Authority (CPA). The former secretary, Sheikh AK Motahar Hossain, is now a member of the Privatisation Commission. Mohammad Shahadat Hossain, a businessman, filed the suit with the First Joint District Judge's Court of Dhaka, claiming Tk 25 crore in compensation. Judge KM Imrul Kayes asked the defendants appear before the court on October 14 with their written statements. - *The Daily Star, Sept 02, 2009.*

Army Act not applicable, says Dr Kamal

Amici curiae Dr Kamal Hossain and Barrister M Amir-Ul Islam said the offences committed during the BDR mutiny cannot be tried under the military law since this law is not applicable to BDR personnel. Section 2 of the Bangladesh Army Act 1952 defines who are subject to the act and "BDR personnel do not fall within the definition", Kamal told the Supreme Court. Barrister Amir said a combined law should be enacted to try the BDR mutineers as different offences including killing, looting and torture took place during the February 25-26 carnage at the Pilkhana headquarters. - *The Daily Star, Sept 02, 2009.*

Special drives leave a lot to be desired

Special drives of Dhaka Metropolitan Police (DMP) and Bangladesh Road Transport Authority (BRTA) along with the communications ministry's 'coordinating' move to curb traffic jam in the capital, produced nothing tangible yet for frustrated commuters. Official sources said there is no coordination between BRTA and DMP, although officially the agencies are working together for ensuring smooth traffic in the capital and for banishing old and unfit vehicles from the roads. - *The Daily Star, Sept 01, 2009.*

IGP suggests spl policing in southwest

Inspector General of Police (IGP) Nur Mohammad spelt out 'special policing' in outlaw-infested southwestern region to maintain law and order. "The deterioration of law and order in the southwestern region is nothing new as it has been going on like this since long. So, it is difficult to control the situation without special policing," the IGP told reporters at a press briefing after a meeting on law and order situation with the high-ups in the police. - *The Daily Star, Sept 01, 2009.*

Govt escaped legal disaster

Sending of two district judges into forced retirement was illegal as the government took the disciplinary action against them without consulting with the Supreme Court, according to several verdicts of the Appellate Division. In a surprise move on July 30, the government sent Abdul Gafur, district and sessions judge in Dhaka, and Mohammad Shahjahan, women and children repression prevention tribunal judge in Gazipur, into retirement for their involvement in a demonstration at the secretariat on July 27. - *The Daily Star, Aug 31, 2009.*

Suranjit fires back

The chief of parliamentary standing committee on law, Suranjit Sengupta, rebutted the claim of state minister for law that the committee had not decided to summon Prime Minister's Adviser HT Imam. "The committee on Thursday unanimously decided to ask HT Imam and the secretaries of law and establishment ministries to appear before it to explain their actions of sending two judges to retirement," Suranjit said in a media conference at Jatiya Sangsad Bhaban. - *The Daily Star, Aug 31, 2009.*

Govt has no right to try war criminals

The present government has no authority to hold the trial of 1971 war criminals, BNP lawmaker Salauddin Quader Chowdhury said. "This government may have the power to hold the trial of war criminals but it doesn't have the authority to do so," Salauddin said at BBC Bangladesh Sanglap at Bangabandhu International Convention Centre. The BNP leader said the trial of war criminals is a very serious issue but it has been used for political gains. - *The Daily Star, Aug 30, 2009.*

Grabbers feast on Kuakata beach

With land prices rocketing in Kuakata, a gang of land grabbers has embarked on grabbing the beach defying court orders. These individuals have already occupied acres of the beach area, officially earmarked as khas land, and hung large signboards claiming ownership of demarcated 'plots'. Grabbing of this natural beach is happening so fast that by the time the administration in Patuakhali learns about it, the organised gangs 'procure enough documents' to fend off any action, local people said. - *The Daily Star, Aug 30, 2009.*

Info commission waits for office space, rules

The government has neither framed any rules nor set up an office for the Information Commission formed two months ago, which is delaying enforcement of the Right to Information Act, 2009 and depriving citizens of information. Failing to get an office, the commission recently started working temporarily at the National Institute of Mass Communications without any office staff or logistics support. "We could not start working in full swing mainly due to not having an office," said Chief Information Commissioner M Azizur Rahman. - *The Daily Star, Aug 29, 2009.*

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