



LAW amusements



Surreal law facts

The truth is always stranger than fiction.

The 24-hour marriage

Leave it to the monarchy to once again test the speed limits of the law.

In the annals of matrimonial and marriage law, one marriage stands out as a record-maker. Peter the Cruel (of Castille, now part of Spain) lived from 1334 to 1369. Also known as Pedro I, he was a tyrant but nonetheless quite creative when it came to pickup ruses.

In May 1354, at the age of 19, he fell head over heels with Dona Juana de Castro, sister of Fernando Perez de Castro. Though Pedro was already married to Blanche of Bourbon, he dismissed that as null and void, gathered two bishops to attest to this and to preside over the wedding, and proceeded to marry his new queen at the Church of Cuellar.

He consummated the marriage that night - we know this because Juana bore him a son. But the very day of his wedding, he received a very distressing courier - that an enemy army was poised to invade Castille and that Fernando, incensed at the trickery of his sister, had joined leagues with the enemy.

The next day, Pedro the Cruel disavowed his new marriage and left Juana never to see her again. A civil war ensued which was resolved only when Pedro agreed to honour his original marriage to Blanche.

After losing yet another civil war in 1369, Pedro was beheaded by his own brother.

The instant lawyer

Alexander Hamilton, the famous American revolutionary studied law for only three (3) months before being called to the bar in July of 1783.

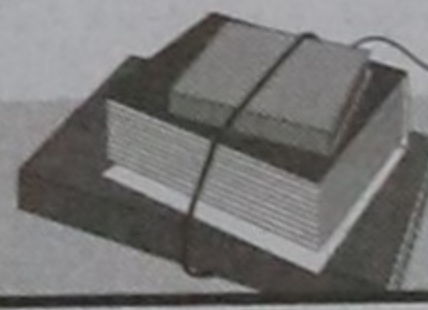
Born outside of the USA, in about 1757, he left college to join the fight against the British and became one of George Washington's officers.

Called he was and he was admitted after what must be the shortest legal education in record.

There must have been some hero worship in his admission test. Hamilton had been a hero of the War of Independence. Once certified as a lawyer, he was quick to accept a patronage appointment, named Receiver General for New York. In 1789, he was appointed Secretary of the Treasury for the United States of America. Leaving this position in 1795, he returned to his lucrative law practise only to die in July of 1804, in a duel he had provoked against the Vice-President of the United States, Aaron Burr.

Source: www.duhaime.org

LAW lexicon



Witness - One who personally sees or perceives a thing; one who testifies as to what he has seen, heard, or otherwise observed.

Words and Phrases Legally Defined - A set of books in dictionary form which lists judicial determinations of a word or phrase.

Worker's compensation - A state agency which handles claims of workers injured on their jobs.

Writ - A judicial order directing a person to do something.

Writ of certiorari - An order issued by the Supreme Court directing the lower court to transmit records for a case for which it will hear on appeal.

Writ of execution - An order of the court evidencing debt of one party to another and commanding the court officer to take property in satisfaction of the debt.

Writ of garnishment - An order of the court whereby property, money, or credits in the possession of another person may be seized and applied to pay a debtor's debt. It is used as an incident to or auxiliary of a judgment rendered in a principal action.

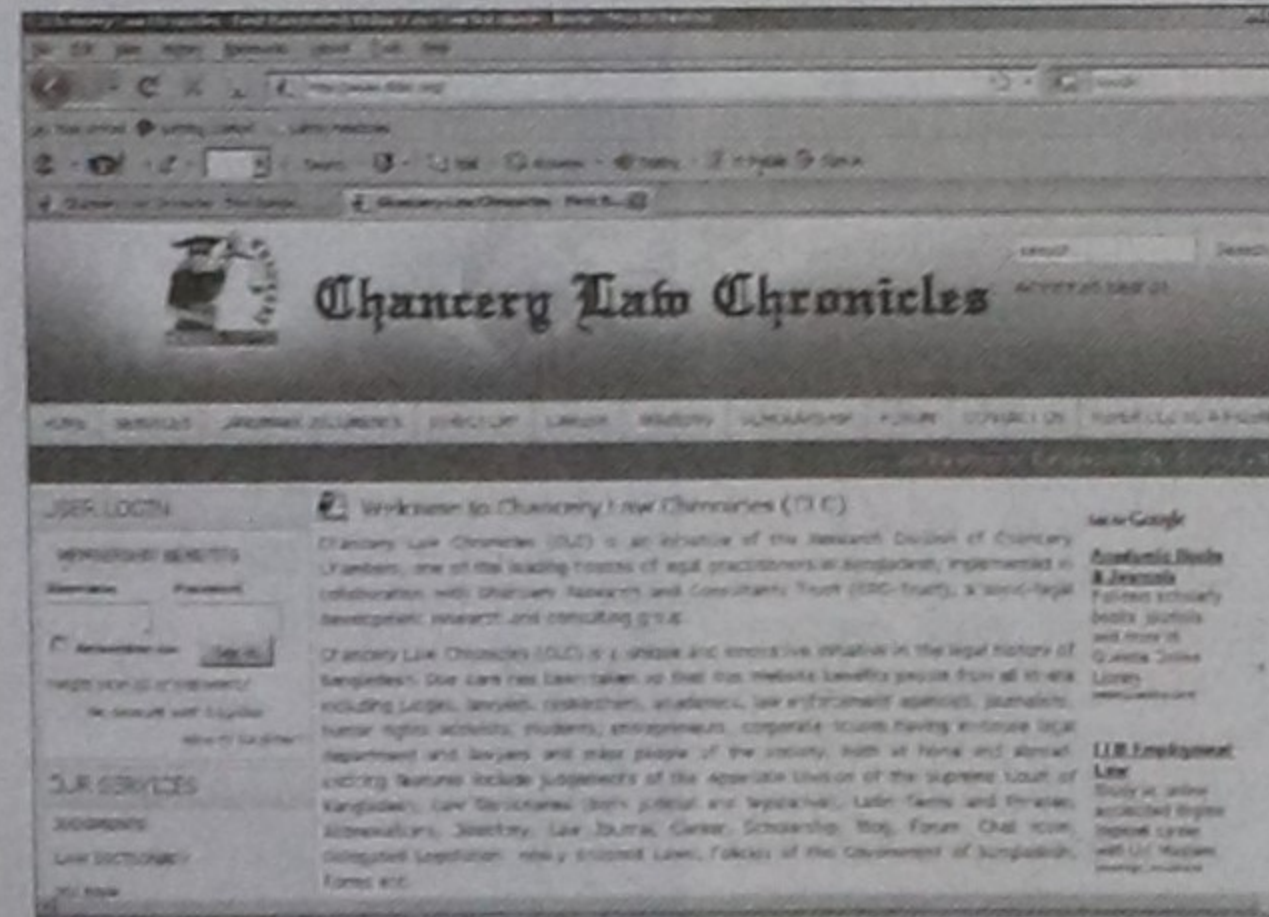
Zoning Commission - Local agencies with jurisdiction to regulate use of properties within their geographic area.

Source: Jurist International.

FOR YOUR information



Future legal encyclopedia of Bangladesh



HOSSAIN MD, NAZMUL KARIM

CHANCERY Research and Consultants (CRC-Trust), a socio-legal research organisation has developed the first ever search able inter-active Bangladeshi online case law database (www.clcbd.org). This is a unique and innovative initiative in the legal history of Bangladesh. Due care has been taken so that this Website benefits people from all strata including judges, lawyers, researchers, academics, law enforcement agencies, journalists, human rights activists, students, entrepreneurs, corporate houses having in-house legal department and lawyers and mass people of the society, both at home and abroad. Exciting features include judgments of the Appellate Division of the Supreme Court of Bangladesh, Law Dictionaries (both judicial and legislative), Latin Terms and Phrases, Abbreviations, Directory, Law Journal, Career, Scholarship, Blog, Forum, Chat room, Delegated Legislation, newly enacted Laws, Policies of the Government of Bangladesh, Forms etc.

The website already includes more than 2700 Judgments delivered by the Appellate Division of the Supreme Court of Bangladesh and as a continuous process the website is being regularly updated and developed which, will turn to be the Legal Encyclopedia of Bangladesh in the near future.

The writer is Marketing Executive of Chancery Research & Consultants-Trust.

LAW event

Resolve maritime disputes with neighbours

TABASSUM MOKHDUMA

WITH the introduction of the Law of the Sea Convention in 1982, Bangladesh has got a unique opportunity to exploit a vast area beyond its coastal waters. The Convention provides a framework, detailed provisions and principles for demarcation of maritime boundaries and international cooperation on exploration of both living and non-living marine resources.

India and Myanmar, two bordering countries of Bangladesh, are demanding equidistance principle for demarcation, while Bangladesh is seeking to resolve disputes on the basis of equitable principle. Drawing maritime boundary on the basis of equidistance principle will result in annexation of much of our sea area by India and Myanmar. As a matter of fact, for a long time there lies an unsettled dispute between the three countries regarding the delimitation of the maritime boundaries.

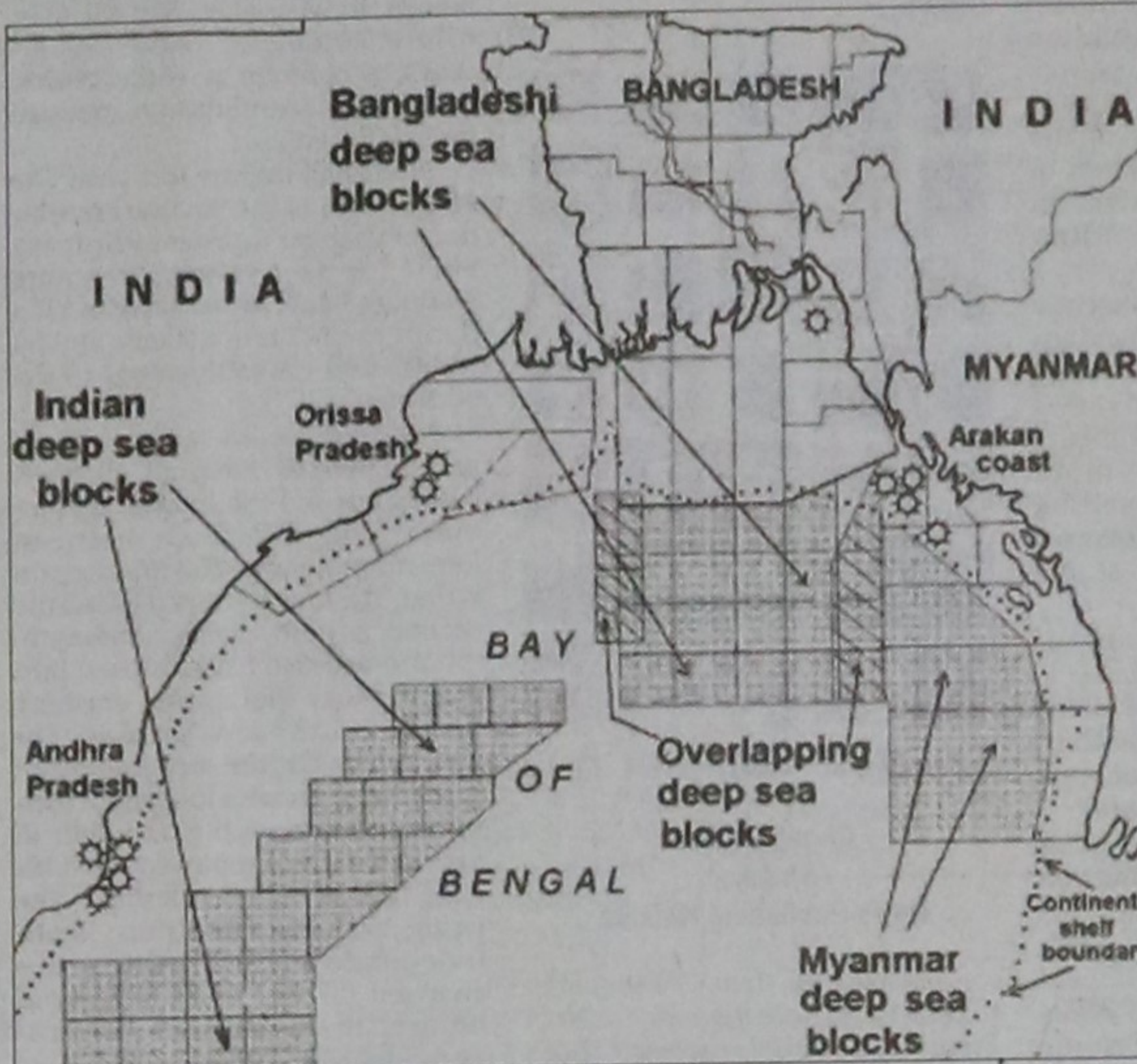
To look into the problem deeply and finding solution before it is too late, the Faculty of Law, University of Chittagong (CU) organized a seminar on October 6, 2009 titled "The Problem of Delimitation of Bangladesh Maritime Boundaries with India and Myanmar" at the auditorium of Social Science Faculty of CU.

CU Vice Chancellor Professor Dr Abu Yusuf was present as the chief guest at the seminar chaired by Professor Mohammad Zakir Hossain, Dean of Faculty of Law, CU which was organised under a project financed by the University Grants Commission (UGC).

The keynote paper of the seminar was prepared jointly by Project Coordinator Professor Dr M Shah Alam, Member, Bangladesh Law Commission and former Dean of the faculty and Dr Abdullah Al Faruque, Chairman, Department of Law, CU while the findings of the research was presented by Dr Faruque and Commander Yadul Islam of Bangladesh Navy, a research student of the department.

CU Professor Emeritus Dr Jamal Nazrul Islam, Additional Secretary to Foreign Ministry Commodore M Khurshid Alam, Bangladesh Navy Commodore Commanding, Chittagong MM Rajib, Marine Fisheries Academy Commandant ATGM Sarkar, Hydrographic and Oceanographic Centre Director Commander MNG Muktadir, CU Institute of Marine Sciences and Fisheries Director Dr Mohammad Rashid-Un-Nabi also spoke at the seminar.

As the sea areas of Bangladesh are rich in hydrocarbon and mineral deposits, the speakers emphasised the need for bilateral negotiations for a maritime agreement for permanent solution to delimitation problems of the maritime boundaries of Bangladesh with India and Myanmar.



They urged that the maritime zones should clearly be established for protection, conservation and cogent exploitation of marine resources to speed up the country's economic development. They also observed that interim measures such as joint development agreements and judicial means of settlement could also serve as the way out to the maritime boundary delimitation problems.

Bangladesh, being a geographically disadvantaged country, is heavily dependent on the sea. But due to the conflicting claim by its neighbours, it could not realize its claims over various maritime zones. After independence, Bangladesh took a major initiative and designated its maritime zones through the Territorial Waters and Maritime Zones Act of 1974. Bangladesh showed interest in the preservation, exploration and exploitation of natural resources, and was the first South Asian country to enact a law for the purpose. But apart from enactment of this Act, the successive governments of Bangladesh did not take any significant steps for the resolution of problems of delimitation of its maritime zones. The issue of delimitation of maritime zones came into vanguard when on November 1, 2008 four drilling ships from Myanmar started exploration for oil and gas reserves within 50 nautical miles south west of St. Martins Island in Bangladesh. Myanmar's unilateral action to explore hydrocarbons in the disputed territorial waters is a clear violation of the Convention. Earlier Bangladesh raised objections when India and

Myanmar floated international tender for searching offshore in 2006 accusing them of overlapping Bangladesh territory.

In their presentation, Dr Abdullah and Commander Yadul said Bay of Bengal has huge living and non-living resources. They observed that India and Myanmar discovered 100 trillion cubic feet (TCF) and seven TCF gas respectively inside their respective water territories, while Bangladesh could not conduct exploration due to demarcation problems.

If the maritime boundaries are delimited under the Convention of 1982, they said that the total sea area of Bangladesh would be 2,07,000 square kilometres which is 1.4 times greater than its total land area. They also added that exploration of oil and gas is essential for ensuring the country's economic security as well as its overall development.

India and Myanmar have already filed their claims to the United Nations and Bangladesh has to file the claim by August 27, 2011 and a high-capacity committee is working on it.

They further said that Bangladesh needs to modify 1974 Act in order to make it consistent with the Convention of 1982 that provides legal framework and principles of maritime delimitation. Since all three countries have ratified the Convention, the problems of maritime delimitation should be resolved in accordance with the principles laid down in the Convention and customary international law.

The writer is a student of LLM, Department of Law, Chittagong University.

Turag grabbing goes unabated

The High Court directives and government's tough warnings against encroachment on the Turag go unheeded as land grabbers continue filling the river with earth. A petition was filed with the HC, seeking a directive on the government to take actions against Turag encroachers and stop illegal earth filling there. Advocate Manzill Murshid filed the petition on behalf of Human Rights and Peace for Bangladesh, a human rights organisation. - *The Daily Star, Oct 8, 2009.*

Confusion over HC's status quo order

The High Court (HC) directed Bangabandhu Sheikh Mujib Medical University (BSMMU) authorities and seven axed doctors to maintain status quo on the matter. The HC also issued a rule upon the authorities to explain within four weeks why cancellation of appointments of the seven doctors should not be declared illegal. The status quo will continue till hearing of the rule, the court said. - *The Daily Star, Oct 8, 2009.*

Faruque provoked all with monarchy story

The Supreme Court heard for the second day yesterday the Bangabandhu Sheikh Mujibur Rahman assassination case. Syed Faruque Rahman, a convict in Bangabandhu Sheikh Mujibur Rahman assassination case, said that he, on August 14, 1975, had excited his colleagues, saying that President Sheikh Mujibur Rahman would proclaim monarchy in the country on August 15, the democracy will be damaged and the country will go under the possession of India and therefore they should depose the government of Sheikh Mujib. - *The Daily Star, Sept 7, 2009.*

14 sugar traders get bail

The High Court granted anticipatory bail to 14 sugar traders from Jessore and Khulna in two cases filed on charges of illegally stocking sugar last month. The HC bench of Justice AFM Abdur Rahman and Justice Md Emdadul Haque Azad also issued separate rules upon the government to explain why the accused should not be given regular bail. The court issued the orders after the traders filed two petitions asking for bail. - *The Daily Star, Sept 7, 2009.*

Lawmakers' bid to be adviser dashed again

Parliament passed the local government (city corporations) bill rejecting a House body's recommendation for making MPs advisers to the city corporations from where they were elected. The House also did not accept recommendation of the parliamentary body for creating posts of two deputy mayors in each city corporation. The parliamentary standing committee on LGRD and cooperatives ministry in its scrutiny report on the bill made the recommendations. Earlier on September 14, parliament passed the local government (municipality) bill rejecting the same House body's recommendation for making MPs advisers to the municipalities in their constituencies. - *The Daily Star, Sept 6, 2009.*

SC starts to hear convicts' appeals

The Supreme Court started hearing the appeals of the five convicts, who challenged their death sentences in Bangabandhu Sheikh Mujibur Rahman assassination case. A five-member bench of the Appellate Division headed by Justice Md Tafazzal Islam concluded the first day's hearing on the appeals. The five convicts - dismissed army personnel Syed Farooq ur-Rahman, Sultan Shahrar Rashid Khan, Mohiuddin Ahmed, AKM Mohiuddin Ahmed, and Bazul Huda - who are in jail now, filed the appeals with the SC in October, 2007. - *The Daily Star, Sept 6, 2009.*

BNP, 5 other parties to get time till Jan 24

The main opposition BNP and five other political parties will have to submit their ratified constitutions to the Election Commission by January 24 next year to retain their registration with the EC as per a provision of a new bill placed in parliament. Law, Justice and Parliamentary Affairs Minister Shafiqe Ahmed placed the bill, set to be passed soon, seeking amendment to the Representation of People Order for extending the timeframe by another six months for submission of ratified constitutions of political parties to the commission. According to the existing provisions of the RPO, political parties were supposed to ratify the provisional changes in their constitutions by holding councils and submit the ratified charters to the EC by July 24 this year. - *The Daily Star, Sept 5, 2009.*

Draft health policy draws criticism

The draft National Health Policy-2009 suggests 'user fee' to be given by the patients for getting health services from public hospitals, which the health experts describe as a blatant attempt to commercialise the health sector. The health experts strongly criticised the draft health policy saying that imposing the 'user fee' would deprive poor people of their health rights at public hospitals and ultimately force them to seek health services from the private sector. Public hospitals provide health services without making any profit. So, why does the policy suggest realising user fee, they ask. Health Minister Prof AFM Ruhul Haque, however, said the main purpose of health policy is to increase access to health services for people and shape up a sustainable quality service system to meet their demand. - *The Daily Star, Sept 5, 2009.*

Yes to new law, no to 'crossfire'

A special act should be enacted to improve the law and order in the country instead of killing people in the name of crossfire, speakers said at the BBC's Bangladesh Sanglap. However, Shipping Minister Shajahan Khan, one of the panellists at the dialogue, supported crossfire as a means of controlling criminals when all other efforts go in vain. The minister said no government wants any extra-judicial killing during its tenures but crossfire is a reality in our country. "We talk about human rights whenever a criminal is killed in a crossfire but what about the human rights of those who are killed by criminals," Shajahan questioned in defence of his claim. - *The Daily Star, Sept 4, 2009.*

Stop interfering in dev affair of UP

Union Parishad chairmen and members from across the country at a national convention demanded that lawmakers stop their interference in the development affairs of union parishads. They also demanded the government increase their budgetary allocation in order to strengthen the local government system. President of Bangladesh Union Parishad Forum Mabbubur Rahman Tulu said they had decided to wage a movement if the government keeps any provision in the proposed bill with a motive to directly control the union parishads. - *The Daily Star, Sept 4, 2009.*

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LAW news

UN report calls for widespread migration reforms

MIGRATION benefits the people who move, their host communities and those that stay behind, the United Nations' latest Human Development Report says, calling for wide-ranging reforms to maximize those gains and to protect the rights of migrants now estimated to be one out of every seven humans.

The annual report, written by independent experts and commissioned by the UN Development Programme (UNDP), proposes reforms to migration policies in source and destination countries that it says are politically feasible and will increase people's freedom and strengthen human development.

"Migration, both within and across borders, brings significant gains across the board, which could be further enhanced by better policies at home and abroad," said Jeni Klugman, the lead author of the report, which is focused on the theme of migration and released worldwide.

Nearly 1 billion people are migrants, according to the report, with the overwhelming majority 740 million moving internally within their own countries. Less than three out of every 10 transnational migrants move from a developing country to a rich one.

The report says the facts defy widely held beliefs about the economic impact of migrants, demonstrating instead that they typically enhance economic output in their new communities, give more than they take and have only a small effect on public finances.

Immigration tends to boost employment in host communities and helps lift rates of investment in new businesses, as well as deepen social diversity and increase the capacity for innovation.

Source countries also benefit through remittances, both cash and social, in the form of reductions in fertility, higher school enrolment rates and the empowerment of women. The exodus of highly skilled workers such as doctors, nurses and teachers is also more of a symptom than a cause of failing public systems in those States.

Migrants themselves can benefit enormously, with research indicating that people from the poorest nations enjoy a 15-fold increase in their incomes when they move to a developed country. School enrolment rates double and child mortality rates plunge.

While the report does not advocate for the wholesale liberalization of international migration, it points out that the populations of industrialized countries are ageing and these societies will increasingly need migrant workers, especially in low-skilled fields.

Existing entry channels for workers should therefore be widened, according to the report, while restrictions against internal migrants should be eased.



report stresses, will also reduce the appeal of illegal options and help to regularize the flow of people from one country to another.

In addition, it calls for destination communities to take steps to ensure that migrants have basic human rights, especially regarding access to health care and education, and do not have to endure widespread discrimination and xenophobia.

Source countries should also include migration as a specific component of their development strategies, while destination communities and migrants are being called on to work together more on solutions to their problems.

The report notes that polls show that residents of destination countries generally support further migration when jobs are available and value the economic, social and cultural gains that a more diverse population can bring.

But, warning that the current global economic crisis has induced some countries to pressure migrants to leave or to cut their intake of new arrivals, Ms. Klugman spoke out against "a protectionist backlash."

She added that people will continue to try to move anyway to reap the economic benefits, and that the record of certain countries indicates that liberalizing migration laws and policies actually work.

Source: UN News Centre.