

Extradition of the fugitives

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MOZAMMEL H. KHAN

At last, the final hearing of the Bangabandhu murder trial has begun, when seven of the twelve convicts are still at large. There were numerous statements from a number of concerned ministers that the fugitives would be brought back home to face the death penalty handed down to them by the court.

The latest among them was Home Minister Sahara Khatun who said that she would urge the International Police Organisation (Interpol) to track down the fugitives, and ask the foreign nations to extradite them. The whole process of extradition is very intricate, especially if the fugitives are hiding in a country of the western world.

It is believed that at least one fugitive is hiding in Canada. It was reported in the media that the Bangladesh High Commission in Canada, during the last BNP-Jamat government, helped one of the convicts by renewing his passport.

According to the Extradition Act 1999 of Canada: "A person may be extradited from Canada in accordance with this Act

and a relevant extradition agreement on the request of an extradition partner for the purpose of prosecuting the person or imposing a sentence on -- or enforcing a sentence imposed on -- the person" under certain criteria. It broadly involves three steps as follows:

The first step is the receipt by Canada of evidence from another state that the alleged conduct of the person sought, while that person was in the jurisdiction of the requesting country, would have been a crime if committed in Canada (dual criminality) and which could have been punishable by two or more years of incarceration.

Fortunately, since Bangladesh does not have any extradition treaty with Canada, it now has the ability to extradite on a case-by-case basis. However, in all cases, there must be an agreement between Canada and the receiving country, whether it be a treaty, a multilateral convention or a person-specific agreement. Following the receipt of this evidence, the minister of justice makes arrangements to have the individual arrested.

The second step is the extradition hearing, which occurs in front of a judge and in

public. At the extradition hearing, the judge must satisfy himself that the person before him is in fact the person identified by the requesting state. The role of the extradition judge is a modest one in holding, not a trial, but an expedited process designed to ensure prompt compliance with Canada's international obligations.

The above two steps must be carried out by the Bangladesh government through its High Commission in Ottawa.

The third step of the extradition process from Canada involves the minister of justice. This last process can be heavily political. The minister of justice has the discretion to not hand over the person, notwithstanding the result of the extradition hearing. Some of those grounds include:

The conduct in respect of which the request for extradition is made is punishable by death under the laws (since Canada does not allow capital punishment) that apply to the extradition partner;

The person was convicted in his absence and could not, on surrender, have the case reviewed.

If the minister of justice does not discharge the person, he/she is then surrendered to the other state and the extradition process is essentially complete. At this step, the constituents of this great democracy can play a vital role in influencing the decision of the minister. A case in this context was the refusal for asylum for the convict Mohiuddin Ahmed by the minister of justice when he was about to be deported (not extra-

ditioned) from the United States.

I wrote a piece for *The Daily Star* (June 24, 2007) describing how the Bangladeshi community in Canada, in spite of the High Commission's absolute indifference, played the pivotal role in influencing the minister's decision to refuse Mohiuddin's impending asylum to Canada. A similar piece was written by Shaugat Ali Sagor in the daily *Shamakal* at about the same time.

It was expected that the AL leaders would be aware of the initiatives and efforts behind the fugitives', especially Mohiuddin's, extradition to Bangladesh in June 2007. However, the news of Foreign Minister Dr. Dipu Moni's so-called private visit to Toronto on October 1-2, and the people she met, reflected her absolute indifference to or ignorance of how the monumental task was accomplished.

According to the press release issued by the Bangladesh High Commissioner in Canada, who was the host of the meeting in a local hotel, she met some opposition politicians, both federal and provincial. It was not clear what good would be served by meeting the opposition MPs. Our high commissioner could not even manage to arrange a meeting with any ruling party MP, let alone with a cabinet minister of importance, which could have helped the extradition of the fugitives.

The lone Bangladeshi who our high commissioner found appropriate to invite was a local political worker of the opposition liberal party, who incidentally is not an ideological ally of those who



On the run.

want to see the fugitives' return home.

I was an ardent advocate of the foreign minister vis-à-vis the bitter criticism of her lack of experience. Her actions or inactions during the last Toronto visit have weakened my assertions about her ability to accomplish the enormous tasks.

Most of all, many of my compatriots in Canada share my apprehensions whether her type of diplomacy would bear any fruits in terms of extradition of the fugitives hiding in Canada.

Dr. Mozammel H. Khan is the Convenor of the Canadian Committee for Human Rights and Democracy in Bangladesh.

Why Bangladesh should win the arbitration

The provisions of the UN Law of the Sea (1982) are in favour of Bangladesh's claim. On the other hand, by applying the principle of equidistance to mark maritime boundaries with Bangladesh, both India and Myanmar have knowingly violated the UNCLOS. It is, therefore, expected that Bangladesh has a case to win.

BADRUL IMAM

It is clear from the offshore acreage map of Bangladesh that the location of her deep-sea blocks 10 and 11 cannot be further away from her maritime boundary with Myanmar. Yet, Myanmar lodged a protest when Bangladesh initiated gas exploration activity in these blocks. India also protested. This has left Bangladesh with little option other than going for arbitration in the international court.

Bangladesh has indeed gone for arbitration under the United Nations Convention on the Law of the Sea (UNCLOS) for the resolution of the dispute. Bangladesh alleges that both the neighbours have extended their respective maritime boundaries into her offshore areas, depriving her legitimate right to the sea.

However, Bangladesh has been a little late in doing so because it has been some years now that Myanmar and India started exploration works inside Bangladesh sea. They faced no problems because of the "no response" attitude of Bangladesh until recently.

Now that Bangladesh faces opposition to its plans of exploring in her offshore blocks, she understands that it is not only her economic future but also her sovereignty that are being challenged. As for the present, the people of Bangladesh are

asking, can we win the case?

Bangladesh marked 10 shallow and 20 deep-sea blocks in her offshore area while inviting IOCs to bid for acreage for oil and gas exploration in 2008. The deep-sea blocks are numbered from 9 to 28 (see acreage map). Myanmar declared 10 deep-sea blocks (AD1 to AD10) off her Arakan coast. It can be seen in the map that Myanmar blocks AD7, AD8, AD9 and AD10 enter Bangladesh deep-sea area and overlap with Bangladesh blocks 13, 17, 18, 22, 23, 27 and 28.

Bangladesh had to interrupt a contingent of gas exploration workers and facilities of Daewoo company working for Myanmar inside Bangladesh deep sea block 13 in November 2008. Bangladesh had to show up its naval force to effectively stop the intruders exploring there and leave the place. Myanmar, however, said that the team put the work program on hold temporarily.

The reason why Myanmar and India are showing excessive interest in the offshore area is the recent big discoveries of gas in the Bay of Bengal on either side of the Bay, and the optimism of further prospects according to studies by geoscientist (*Daily Star*, October 16, Point-counterpoint).

Under this circumstance, how India and Myanmar could draw their respective maritime boundaries with Bangladesh and claim offshore areas belonging to

Bangladesh (see map) are very surprising. If Bangladesh does not contest the claim, a large portion of her offshore area will be lost.

According to the United Nation

Convention of Law of Sea (UNCLOS), 1982, "a coastal country is entitled to claim 200 nautical miles of the sea as her Exclusive Economic Zone (EEZ)." This is referred to as the Equidistance Principle.

However, if the coast of one country is concave or recessive with respect to the other, the application of the equidistance method would draw the line of boundary inwards in the direction of concavity, thus disproportionately reducing legitimate sea area of one country at the expense of other.

This is exactly what happens to Bangladesh when neighbouring countries use equidistance principle for maritime boundary limitation. In such a case, therefore, according to UNCLOS (Article 74), "equidistance principle is not applicable and the boundary lines in question are to be drawn by agreement between the parties on the basis of international law in order to achieve equitable solution [...] taking into account the configuration of the coast, the length of the coast and other relevant factors." This is referred to as Equitable Principle. Both India and Myanmar, signatories of the UNCLOS, are aware of the above principle and are legally bound to obey.

But both India and Myanmar used the Equitable Principle while drawing their maritime boundaries with Bangladesh. If Bangladesh accepts these boundaries, she will lose significant offshore areas from her share and will be deprived of her legitimate right. The above move by India and Myanmar actually violates the UNCLOS.

An analogous dispute was registered in 1967, with one country, Germany, in the middle (like Bangladesh in the present context), and two countries, Netherlands and Denmark on either sides (like India and Myanmar in the present context), contesting for their share of the North Sea.

All the three countries are bordered by the petroliferous North Sea, and planned to exploit their oil and gas resources. Germany disagreed on the maritime

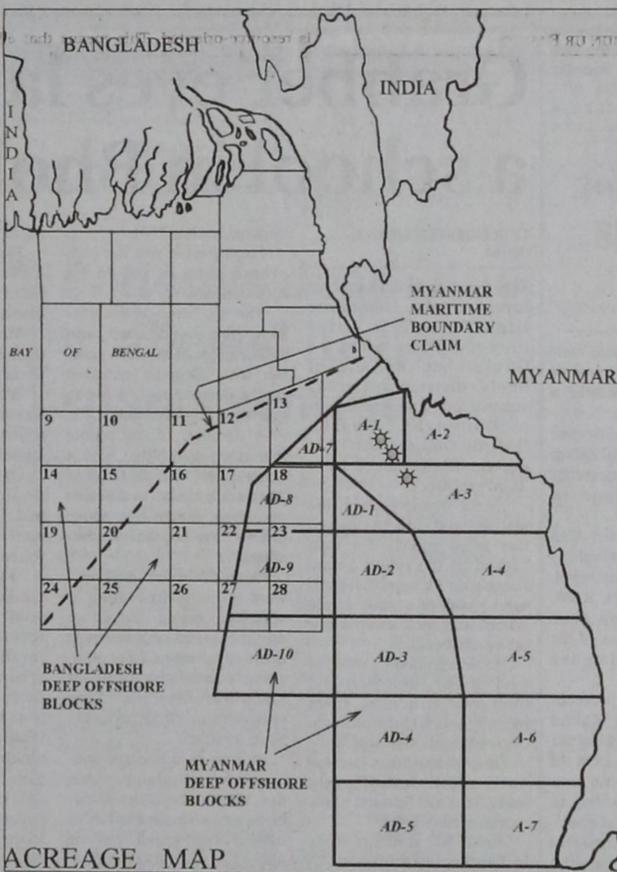
boundaries drawn by Denmark and Netherlands because they were drawn on the principle of equidistance. Germany reckoned that such a criterion would very considerably reduce what she considered to be her fair share of the sea.

Failing to negotiate among themselves, they placed the matter in the international court for settlement. The court declared its verdict on February 20, 1969, which stated: "The application of the method of delimitation based on equidistance principle was not obligatory between the parties [...] Delimitation is to be effected by agreement in accordance with equitable principles, taking into account all the relevant circumstances [...] including general configuration of the coast of the parties, physical and geological structure..."

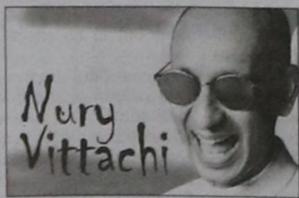
From the above discussion, it appears that Bangladesh has rightly taken the maritime boundary dispute with India and Myanmar to court for international arbitration. The provisions of the UN Law of the Sea (1982) are in favour of Bangladesh's claim. On the other hand, by applying the principle of equidistance to mark maritime boundaries with Bangladesh, both India and Myanmar have knowingly violated the UNCLOS. It is, therefore, expected that Bangladesh has a case to win.

However, it may be noted that in the intriguing arena of international diplomacy, politics and military moves, a justifiable and equitable stand is not always upheld. In the stage of world theater, powerful parties tend to write the last chapter of the play. We expect Bangladesh to go for the case with enough drive so as to overcome any conspiracy that would aim at depriving her of her rightful claim.

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Passport photo madness



WATCH out! The world craziness index is zooming up. Last week we reported that a black man, Paul Ashman, had his passport photo rejected by the UK authorities because it was "too dark."

This week we can reveal that a white guy, Christian Fardel, had his photo rejected by the Caribbean authorities because it was "too white." Maybe Mr. Ashman and Mr. Fardel can send their photographs to each others' passport controls? At least they'd be the expected

colours.

What does this prove? It shows the world has officially gone mad. A torrent of bizarre tales from readers followed a recent column about silly new regulations for passport photos, including one rule that says glasses must be balanced on the tip of the nose.

That's just the start of it. To fit into the official templates, travellers have to distort their faces, sometimes even using software to move their eyes and ears around. (I recommend Photoshop rather than do-it-yourself surgery with power tools.)

And even when the face is made to fit, photos are rejected and applicants told to try again in different clothes. An applicant for a Chinese visa was told to come back in a blue coat. Your humble narrator was told to change his shirt.

But the most tragic cases come from people whose photos are rejected

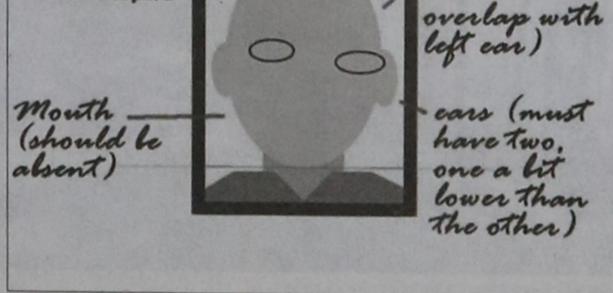
despite the fact that they can't help what they look like. Reader Rika Nauck shared the sad story of a photographer friend who worked for days in his studio using a template to get a photo that the authorities would accept. "He has a rather long face -- try to change that," she said.

Reader Angela Sias reported that a relative had a visa photo rejected because it looked like she had one eye bigger than the other.

But she does! They made her take a new picture in which both eyes were opened as wide as possible. "She looked like she was being strangled," Angela said. (At passport control, family members have to strangle her to temporarily achieve the same look.)

Some authorities have forbidden not just smiles, but all human expressions, accepting only entirely vacant looks. (Actually, that something I can man-

NOTE: ONLY pictures which fit this template will be accepted



age.) "I look like a drug addict in desperate need of a shot," said Rika.

The result of all this is that people end up with pictures that look nothing like

them. Erich, a reader from Guangzhou, said: "At least I know that if I am ever on the run, all I need to do is smile a lot and no-one will ever be able to recognize me as I make my escape over international borders."

The best tale came from one man who accidentally took his wife's passport on a business trip instead of his own. The photo was so awful that he sailed through check-in and immigration control without anyone noticing. Can anyone explain to me how this shows improved security?

If my passport photo gets rejected again, I'm going to the dog-shelter to get micro-chipped. My wife can then take me on the plane in an oversized dog basket. It's probably more comfortable than economy anyway. Woof! Woof!

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