



LAW amusements



Surreal law facts

The truth is always stranger than fiction.

Fish hooking a bad law

Samuel Mulford (1656-1725) was angry with England over its tax on whale oil, 50% of the catch. So angry that in 1716, the 70-year old New Yorker sailed for England to make his case directly to the British Government.

He landed in London and warned about pickpockets, he lined his pockets with fishhooks. Right away, he caught a pickpocket and had him arrested, with the news of the hook invention racing around London like wildfire. Almost instantly, pick pocketing ceased for fear of being hooked.

The British government asked him to attend their chamber and even King George I asked to meet this elderly and eccentric American.

When Mulford had his chance, he argued for the removal of the whale tax.

The whale tax was removed within a year and Samuel "Fishhook" Mulford returned to the American colonies as hero, having changed a taxation law by the power of a simple fishhook.

The best rent deal ever

Richmond, North Yorkshire is the Mother of all the Richmonds worldwide.

It also has the mother of all rent deals.

William the Conqueror rewarded his sympathizers by giving them land and his nephew Alan Rufus took the area near present-day Richmond. In 1071, Rufus started the construction of Richmond Castle on a hill above the Swale River. The town grew around the Castle and a tower was added in the 12th Century.

Since about 1136, the land upon which now stands much of the town-centre of Richmond has been perpetually leased (rented) from the British Crown for £29 (although instead of the modern word for rent, it was called a fee farm).

Mr. G. Coates, town clerk for the tenant, the Town of Richmond, adds:

"The fee farm was increased to £40... in 1268.

"During a recession in 1440 the inhabitants petitioned that they could not raise £40 and after setting up a commission to investigate King Henry VI issued a new charter reducing it to £12.

"For several centuries now the sum has been paid but refunded by the Crown, and used for charitable purposes."

Source: www.duhaime.org

LAW event

Ratify Rome Statute to fight crimes against humanity

THE International Criminal Court (ICC), governed by the Rome Statute, is a treaty-based international judicial body to try the crimes of very serious nature, including genocide, crimes against humanity, war crimes and aggression, to uphold human rights and democracy. Once the ICC is asked to try and adjudicate a certain crime against humanity by a member state, the ICC has the power of restitution, compensation and repatriation of victims of violence. The ICC lacks enforcement power and requires the cooperation of the state's power.

Its seat is at The Hague in the Netherlands. Although the Court's expenses are funded primarily by States Parties, it also receives voluntary contributions from governments, international organisations, individuals, corporations and other entities. The ICC also has strong protections for due process, procedural safeguards to protect it from abuse, and furthers victims' rights and gender justice under international law.

The ICC is a court of last resort. It will not act if a case is investigated or prosecuted by a national judicial system unless the national proceedings are not genuine, for example if formal proceedings were undertaken solely to shield a person from criminal responsibility. In addition, the ICC only tries those accused of the gravest crimes.

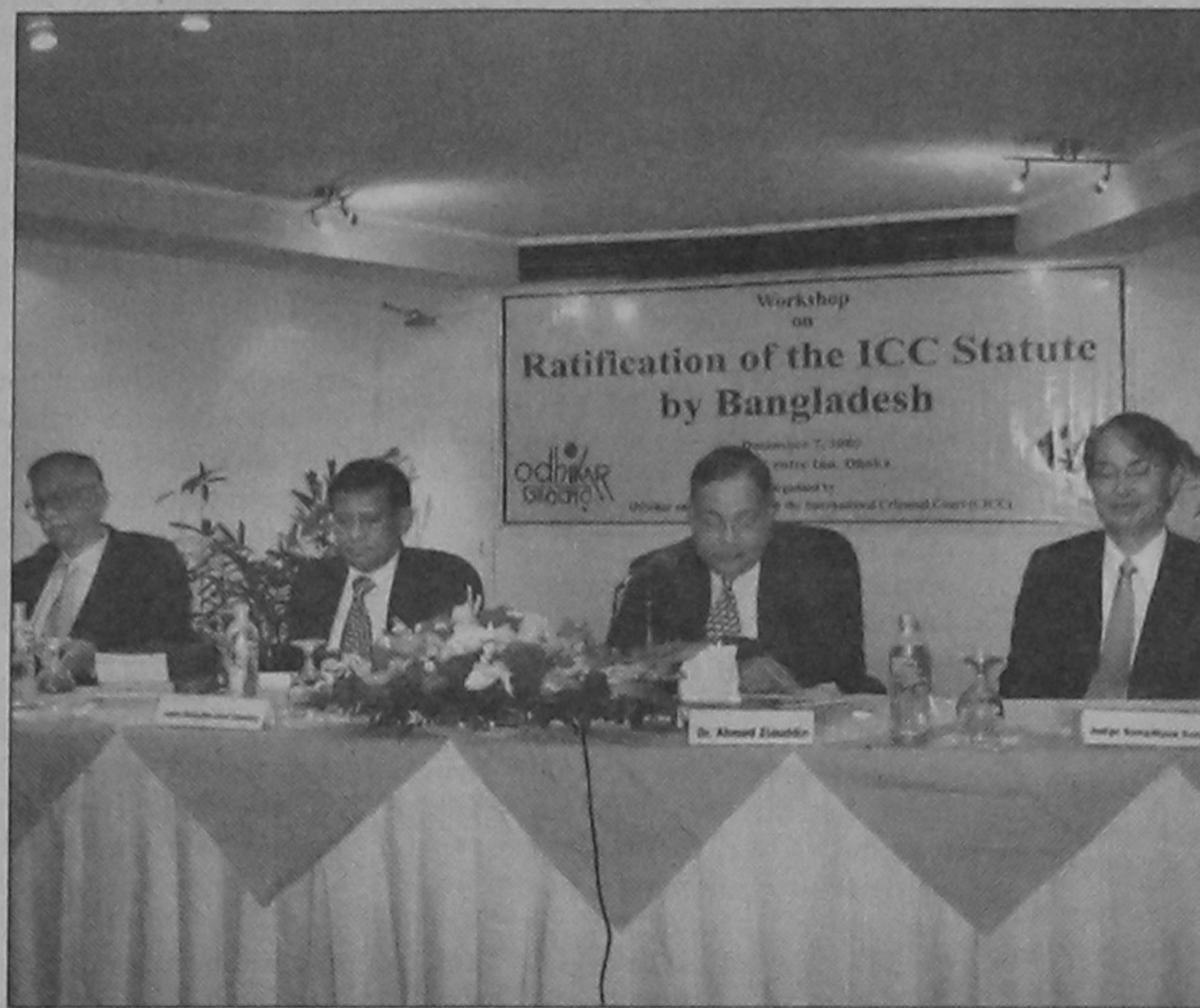
On December 7, 2009, a rights group Odhikar and the Coalition for the International Criminal Court (CICC) jointly organised a workshop on the 'Ratification of the Rome Statute by Bangladesh' at Brac Centre Inn in the city. The president of the International Criminal Court, Judge Sang-Hyun Song, Justice Golam Rabbani, Justice Shamsuddin Ahmed Chowdhury, Dr. Ahmed Ziauddin, Convener of Asian Network for the ICC, Mr Muhammad Zamir, Former Secretary of Ministry of Foreign Affairs and Ambassador among elite members of the judiciary and civil society were present on the occasion.

In his statement, ICC President Sang-Hyun Song said that he came on a mission to persuade Bangladesh to join the ICC within March 10, 2010 so that the country can join the Review Conference in May.

Justice Shamsuddin Ahmed Chowdhury said the ratification of the Rome Statute by Bangladesh will prevent those having ambition to grab the state power extra-constitutionally. During discussion, Dr Ahmed Ziauddin, convener of Asian Network for the ICC, said that the foreign minister expressed the government's commitment to ratification.

Dr Iftekharuzaman, executive director, Transparency International Bangladesh, said that ICC has not played its due role in Iraq, Afghanistan and Georgia. Law Commission Chairman Justice Md Abdur Rashid also spoke at the workshop.

Responding to the government's desire to bring the trial of war crimes committed during the war of liberation in 1971 under



the ICC jurisdiction, ICC President Song said that it was not possible under the present Rome Statute keeping with the basic criminal law principle of non-retroactivity. However, once the Rome Statute has been ratified, Bangladesh could propose an amendment in this regard as then Bangladesh would be an ICC member and would be able to participate in its Assembly where issues regarding amendments are often discussed.

While speaking at the workshop Sang-Hyun Song said, "The ICC has no room to intervene in war crimes committed in 1971". The judicial system and legal experts of Bangladesh are adequate with considerable competence and knowledge to deal with the war crimes of 1971, he said. If Bangladesh ratifies the Rome Statute, it would get technical assistance from the International Criminal Court in holding trial of the 1971 war crimes. The ICC can provide any training to the prosecutors involved in the trial proceedings of the war crimes and provide logistic support to Bangladesh.

The Rome Statute is a landmark in the history of international law. The entry into force of the ICC treaty on 1 July 2002 created the first permanent and independent judicial body that would prosecute crimes of the most serious nature -- genocide, crimes against humanity, war crimes and, once defined, the crime of aggression. The International Criminal Court now stands as the most important mechanism for human rights protection and justice for victims of the most grievous international crimes.

There are various factors given by Asian governments for non-ratification. One such misconception is that the ICC is an infringement on national sovereignty. To the contrary, the jurisdiction of the ICC will be complementary to national courts,

which means that the Court will only act when countries themselves are unable or unwilling to investigate or prosecute. The ICC itself does not have any enforcement power. It is entirely dependent on the will of the member state government or Security Council. The Rome Statute does not respect official immunities from prosecution, especially for the head of state; this provides a system of check and balance.

The reasons that for the slow ratifications in the Asia region are the very reasons why people campaign for the Rome Statute. National sovereignty must not be a cover for crimes and human rights abuses must be accounted for. Geopolitics is all the more reason why norms and standards must be put in place. There are ongoing processes in countries like Laos, Nepal, Indonesia, the Philippines, Vietnam and China. Asia is finally joining the world in marching toward universal ratification of the Rome treaty.

Prompt ratification will enable Bangladesh to participate in the Review Conference of the ICC, and thus engage in the process leading to the adoption of a definition for the crime of aggression and celebrate the advances in international law with other states parties. Moreover, as a State Party, Bangladesh will also be able to participate in judiciary and other elections at the Court.

If Bangladesh ratifies the Statute, it will enable the country to protect human rights and establish justice in this regard. Bangladesh signed the Statute in 1999. A total of 110 countries have ratified it so far. ICC was adopted in July 1998 by 120 countries and the Rome Statute came into force on July 1, 2002 with ratification by 60 countries.

From LawDesk.

HUMAN RIGHTS advocacy

Chevron shareholder resolution calls for greater transparency

INTERNATIONAL aid agency Oxfam America filed a shareholder resolution today with Chevron calling on the California-based oil company to adopt a comprehensive policy of publicly disclosing payments made to governments where the company operates.

The resolution, filed on International Human Rights Day, aims to promote the rights of citizens in oil-rich countries by providing them with vital information about revenues coming into their countries. Co-filers on this resolution include Newground Social Investment, Robert Brooke Zevin Associates, Inc., and likely several other Chevron shareholders.

In 2008, Chevron paid more than \$40 billion in taxes to governments around the world. Managed properly, oil revenues can contribute to economic growth and poverty reduction in countries where Chevron and other companies operate. However, history has shown that oil company payments to governments as well as government receipts are often kept secret, leading to embezzlement, corruption, and revenue misappropriation by host governments, which, in many cases, has prevented oil revenues from contributing to economic development in these countries.

"Natural resource revenues are too often squandered through corruption, internal conflict, and weak governance," said Raymond C. Offenheiser, president of Oxfam America. "Citizens of resource-rich developing countries need adequate information to hold their governments accountable for using natural resource revenues for essential services like health and education. Chevron should maintain its position as an industry leader on this issue by practicing the highest degree of disclosure of payments to host governments to help make this possible."

Chevron plays a leading role in the global Extractive Industries Transparency Initiative (EITI), a voluntary program designed to increase transparency of payments by oil, gas, and mining companies to governments where resources are extracted. EITI is recognized as an important step toward improving revenue transparency, but a voluntary initiative has limited effect and does not cover all countries where Chevron invests, including Angola, Chad, and Cambodia.

"While Chevron has endorsed the concept of revenue transparency with programs like EITI, it does not fully disclose payments to governments on a country-by-country basis. A policy of disclosing this information in all of Chevron's countries of operation will help ensure that the company's and the shareholders' investments contribute to increased economic development and political stability in developing nations," said Offenheiser. "We hope that other Chevron investors will join us in supporting this proposal."

Oxfam's proposal presents an opportunity for Chevron to take a leadership role as the US Congress contemplates legislation that would legally require all oil, gas, and mining companies registered with the Securities and Exchange Commission (SEC) to disclose payments made to host governments. This includes European companies, such as Shell and BP, as well as many companies in emerging markets such as China, India and Brazil. The Energy Security through Transparency Act of 2009 was introduced with bipartisan Senate support in September and is expected to be considered for a vote in 2010.

"This legislation hopes to address the lack of transparency in the oil, gas, and mining industry that often goes hand-in-hand with government corruption and violent conflict. The resulting instability poses a long-term threat to company investments and higher energy prices for consumers. By recognizing the value of transparency, Chevron can help elevate the industry and foster accountability in nations where secrecy has undermined development, democracy, and human rights," said Offenheiser.

Source: Oxfam America.

LAW news

Protect education in Naxalite conflict

Schools attacked by Maoist fighters and occupied by government security forces

THE ongoing conflict between Maoist insurgents and government forces is disrupting the education of tens of thousands of India's most marginalized children, Human Rights Watch said in a new report released December 9, 2009.

The 103-page report, "Sabotaged Schooling: Naxalite Attacks and Police Occupation of Schools in India's Bihar and Jharkhand States," details how the Maoists - known as Naxalites - a long-standing, pan-Indian armed militant movement, are targeting and blowing up state-run schools. At the same time, police and paramilitary forces are disrupting education for long periods by occupying schools as part of anti-Naxalite operations. The report is based on visits to 22 schools in Bihar and Jharkhand, and interviews with over 130 people, including 48 children, as well as with parents, educators, police, and local officials.

"The Maoists say they are fighting for India's poor, but their



attacks on schools deprive these children of the education they desperately need," said Bede Sheppard, researcher in the Children's Rights Division of Human Rights Watch and author of the report. "At the same time, long-term police occupation of schools puts these children right in the midst of danger and trauma, keeps them from their classrooms, and frightens them away."

The Maoists attack schools because they are often the only government buildings in the remote rural areas where the militants operate. Unattended schools are a high-visibility, "soft" target.

In the past month, through December 8, at least 14 schools in Jharkhand and 2 schools in Bihar have been bombed.

Attacking them garners media attention and increases fear and intimidation among local communities, Human Rights Watch found. The government's failure to repair the bombed schools promptly prolongs the negative impact of these attacks on children's education.

The government security forces - both police and paramilitary police - occupy school buildings as bases for anti-Naxalite operations, sometimes only for a few days but often for periods lasting several months, and even years. Sometimes the security forces occupy school buildings completely, while in other places they occupy parts of school buildings, with students trying to carry on their studies in the remaining space.

Naxalite attacks and school occupations by security forces place students unnecessarily at risk of harm, and lead many to drop out or cause interruptions to their studies. Girls appear especially likely to drop out following a partial occupation of a school due to perceived or experienced harassment by the security forces. Students also reported being upset by witnessing security forces beating suspects on school grounds. Often, schools are closed altogether and students may not be able to attend at all or are forced to move into inferior sites, to study outdoors or, for those able to reach them, to travel to schools further away.

"The Naxalite leadership should instruct their fighters to end all attacks on schools immediately," said Sheppard. "The government should also reconsider its practice of using schools for military operations, which frequently comes at the expense of children's education, creating further grievances for the Naxalites to exploit."

The right to education is guaranteed under India's constitution and laws, and in international human rights treaties to which India is party.

"Access to education for India's most marginalized children is an indispensable ingredient for India's development," said Sheppard. "Children in these areas are being deprived of this right for years as this conflict plays out."

Source: Human Rights Watch.

LAW week



Repeal criminal defamation against journalists

The Commonwealth Journalists Association (CJA) has welcomed the Bangladesh government decision to drop arrest warrant provision from the defamation law. But it urged Prime Minister Sheikh Hasina to repeal the provision for criminal defamation against journalists. "We welcome the government decision to drop relevant clauses in the defamation law that allows courts to issue arrest warrants against editors, publishers, reporters or writers," said CJA International President Hassan Shahriar in a statement. - The Daily Star, December 9, 2009.

Final charge sheet by this month: Sahara

The final charge sheet in the BDR headquarters killings case would be received within this month, Home Minister Sahara Khatun said. Chairing a monitoring cell meeting on sensational cases at her ministry, the home minister said they reviewed the progresses in inquiry so far made in 10 cases, including the BDR headquarters killings case and the 10-truck arms haul case. The meeting accepted the death of Ganotantri Party leader Nurul Islam in fire at his house in the capital as a sensational case. - The Daily Star, December 9, 2009.

Bangladesh points at Bali mandate

Expressing concern over the slow progress in climate change negotiations, Bangladesh demanded a legally binding agreement implementing the Bali Action Plan. The Bangladesh delegation at a press briefing in Copenhagen said negotiations are being done by a handful of influential parties bypassing the most vulnerable countries (MVCs) and least developed countries (LDCs). The press briefing was jointly organised by the Bangladesh and Nepal delegations at the press conference room of Bella Centre, Copenhagen. - The Daily Star, December 8, 2009.

Newsmen to get defamation relief

The cabinet approved a draft bill to amend Code of Criminal Procedure, 1898 to drop the provision that allows courts to issue arrest warrants against editors, publishers, reporters or writers in connection with cases filed for defamation. According to the draft, they could only be summoned or they could be issued court notices. Chaired by Prime Minister Sheikh Hasina, the cabinet meeting also decided that from now on the government would not allow anyone to cut trees from any green coastal belts and places that have a tourism interest. - The Daily Star, December 8, 2009.

Infant mortality rate halved in 18 years

Infant mortality rate in Bangladesh halved in 18 years since 1990, reveals a global flagship report of Unicef released. The report titled "The State of the World's Children" was formally launched at a function at Cirdap auditorium in the capital in celebration of the 20th anniversary of Convention on the Rights of the Child (CRC). The report on impacts of the convention and the remaining challenges states that the infant mortality rate came down to 43 from 103 per 1,000 births by last year. The mortality rate of children below five also decreased from 149 to 54 per 1,000 within the period, the report mentioned. - The Daily Star, December 7, 2009.

Govt challenges HC orders

The government has begun challenging a High Court bench's recent orders granting bail to a good number of people convicted of serious offences. The attorney general's office filed petitions with the Supreme Court for permission to appeal against bail orders obtained by 18 people sentenced to life in prison. The move comes in response to concern that the "wholesale granting of bail" to the ones found guilty by trial courts of grievous crimes would leave an adverse impact on the society. Attorney General Mahubey Alam yesterday told The Daily Star his office had filed the petitions with the apex court to have the HC orders overturned. - The Daily Star, December 7, 2009.

Six BDR courts to run 50 trials

Six special courts of Bangladesh Rifles will hold 50 trials for the February 25-26 mutiny in as many BDR establishments across the country. The first of the trials began on November 24 at Rangamati sector headquarters. The second one will get underway tomorrow at Satkhira battalion headquarters. The special court-1 there will try some 55 soldiers from 7 Rifle Battalion at Nildumur under Khulna sector, said sources in the border force. "All six courts will be composed of three members each and headed by Director General Major General M Mainul Islam. As per the BDR law, they will try around seven thousand border guards on charges of mutiny at 50 rifles establishments," said an official involved in making arrangements for the trials. - The Daily Star, December 6, 2009.

Nat'l ID card bill faces changes

The parliamentary standing committee on the Ministry of Law, Justice and Parliamentary Affairs will make recommendations to amend the National ID card Registration Bill-2009. A standing committee source told BSS that in the bill the duration of imprisonment and amount of fine for making false statement regarding ID card and other irregularities would be reduced. The committee in principle has decided to amend section 14, 15, 16, 17 and 18 of the bill. The committee considers that the implementation of punishment recommended in the bill for making false statement and other irregularities is not realistic. - The Daily Star, December 6, 2009.

Another land commission for indigenous people mullied

The government is thinking about forming a separate land commission to settle land disputes of indigenous people who do not reside in the Chittagong Hill Tracts (CHT). Food and Disaster Management Minister Abdur Razzaque said the prime minister is considering the land commission. "Settling their land disputes was an election manifesto of Awami League. To implement it, either a separate land commission will be formed or the CHT Land Commission will be entrusted with additional responsibilities," he said. - The Daily Star, December 5, 2009.

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