



LAW amusements



Surreal law facts

The truth is always stranger than fiction.

The earl of lawlessness

Henry Earl, born on October 24, 1949, has been arrested more than 1,330 times (as of April 2009), mostly for vagrancy offences such as public intoxication and trespassing.

The Lexington, Kentucky man has spent the equivalent of 11 years in jail since 1992.

This is not just an amazing law fact.

In the United States of America, someone celebrates his lawlessness.

He has become an Internet celebrity with a website that tracks his whereabouts and latest offences and which solicits money for his "cause" (www.monkeygumbo.com).

Cheating, lying slag of a wife on eBay

In May 2008, Paul Osborn of Bletchley, England, tried to reinvent family law in reacting to his wife's suspected affair by offering her to the highest bidder on eBay.

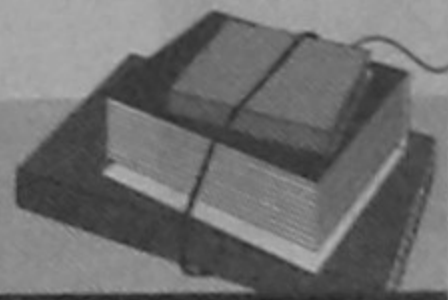
On the posting, he names his wife and set the starting bid at £0.01.

The lesson in law cost him a criminal harassment investigation by Thames Valley Police as his wife, Sharon Osborn, complained. But Mr. Osborn's actions while outrageous, and likely to cost him his marriage, are not likely criminal.

The eBay ad was later taken down.

Source: www.duhaime.org

LAW lexicon



Alteration - Changing or making different.

Alternative dispute resolution - Settling a dispute without a full, formal trial. Methods include mediation, conciliation, arbitration, and settlement, among others.

American Bar Association - A national association of lawyers whose primary purpose is improvement of lawyers and the administration of justice.

American Law Reports - A publication which reports cases from all United States jurisdictions by subject matter.

Amicus curiae - A friend of the court; a nonparty who interposes, with the permission of the court, and volunteers information upon some matter before the court.

Ancillary - A proceeding which is auxiliary or subordinate to another proceeding. In probate, a proceeding in a state where a decedent owned property but was not domiciled.

Source: Jurist International.

GOOD NEWS



Human rights activist returns home

AMNESTY International has welcomed the news that Aminatou Haidar, a Sahrawi human rights activist who has spent the past month on hunger strike in Lanzarote airport, has returned home and been reunited with her children. Aminatou Haidar said that she was allowed to fly back to Western Sahara on a private plane after being informed by a Spanish official that an agreement was reached between the Moroccan and Spanish authorities. Her passport was returned to her on arrival by the Moroccan authorities.

She told Amnesty International on 18 December that her return was "a victory for human rights and justice". Aminatou Haidar has been on hunger strike since 15 November after she was expelled from Western Sahara by the Moroccan authorities. She was admitted to hospital on 17 December morning as her health deteriorated. "We are delighted that Aminatou Haidar has finally been allowed home and obtained back her passport,"



said Philip Luther, Deputy Director of Amnesty International's Middle East and North Africa Programme.

"There must, however, be no conditions imposed on her as a result. She, and other Sahrawi human rights defenders, should be able to enjoy their right to freedom of expression without fear of retribution."

According to Morocco's official news agency, the activist was allowed to return following requests by "friend" countries to find a humanitarian solution. US Secretary of State Hillary Clinton welcomed Morocco's decision to allow Aminatou Haidar to return "on humanitarian grounds". Amnesty International has called for her unconditional return since she was stranded in Lanzarote airport.

Aminatou Haidar was detained at Laayoune airport in Western Sahara on 13 November when she returned from a month-long visit to other countries, including the USA, where she received the 2009 Civil Courage Prize, awarded annually "for steadfast resistance to evil at great personal risk."

Her Moroccan passport was then confiscated and she was detained in the airport overnight. She says that on 14 November Moroccan officials offered to release her if she would publicly acknowledge Morocco's "sovereignty" over Western Sahara. She refused to do so, and a few hours later she was put on a flight to Lanzarote in the Canary Islands.

Amnesty International wrote to UN Secretary-General Ban Ki-moon on 11 December, urging him to continue his efforts to obtain Aminatou Haidar's return to Western Sahara, unconditionally and without delay, and to ensure that her documents were returned to her.

The incorporation of a human rights component in the UN Mission's mandate, up for renewal in April 2010, would be an important step forward towards addressing human rights violations in Western Sahara.

Source: Amnesty International.

LAWS FOR everyday life

Celebrate new year without creating nuisance

31st December 2009 is just around the corner. It's a time to bring closure to old projects and begin the New Year with a celebration carrying with it hopes of a better tomorrow. People tend to get carried away sometimes causing others around them disturbance, annoyance and even distress. In legal terms this is known as public nuisance.

A public nuisance is an interference with the common right of the general public or an indefinite number of persons; an unreasonable interference with the health, safety, peace, or comfort of the community.

The following are provisions from national legislations with issues concerning public nuisance-

THE PENAL CODE, 1860

Chapter XIV

Of offences affecting the public health, safety, convenience, decency and morals

Public nuisance

Section 268: A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, dangers or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.

Continuance of nuisance after injunction to discontinue

Section 291: Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

THE CODE OF CRIMINAL PROCEDURE, 1898

Chapter X, Public nuisances

Magistrate may prohibit repetition or continuance of public nuisance

Section 143: A District Magistrate or any other Executive Magistrate empowered by the Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Penal Code or any special law.

THE PORTS ACT, 1908

Chapter III, Port-officials and their powers and duties

Removal of obstructions within limits of port

Section 10: (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable with fine which may extend to one hundred taka.

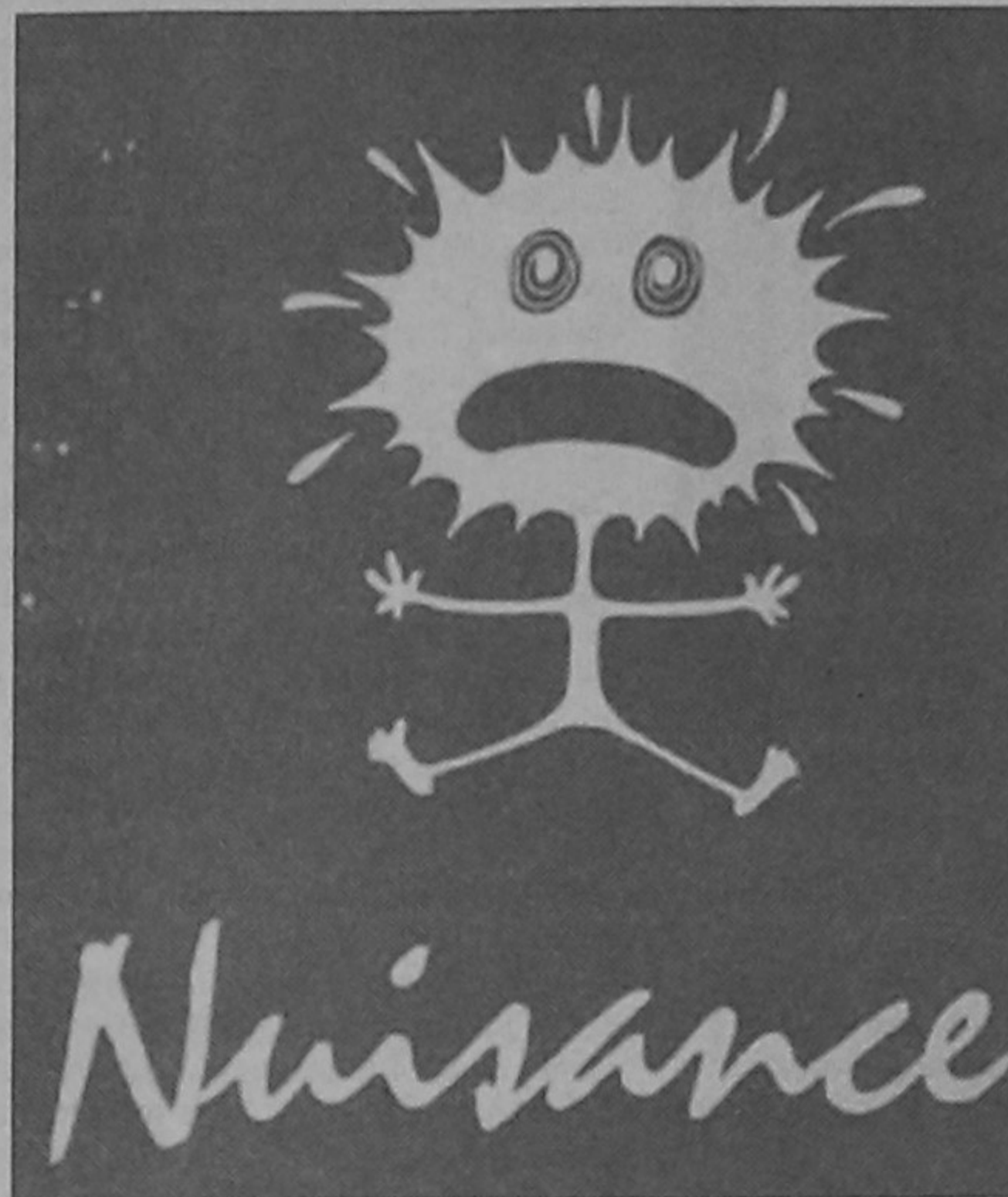
(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

THE DHAKA METROPOLITAN POLICE ORDINANCE, 1976

Chapter IV, Powers and duties of police-officers

General duties of Police-officers

Section 15: It shall be the duty of every police-officer-



(a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors;

(b) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and the orders of his superiors, as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences within his view;

(c) to the best of his ability to prevent the commission of public nuisances;

(d) to apprehend without unreasonable delay all persons whom he is legally authorised to apprehend and for whose apprehension there is sufficient reason;

(e) to aid another police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;

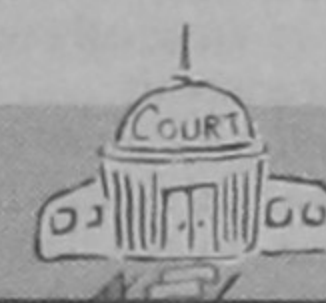
(f) to discharge such duties as are imposed upon him by any law for the time being in force.

In a nutshell, public nuisances arise in consequence of following particular trades by which the air is rendered offensive and noxious. These may include-

- Acts of public indecency
- Acts tending to a breach of the public peace, as for drawing a number of persons into a field for the purpose of pigeon-shooting
- The disturbance of the neighbourhood or keeping a disorderly house or a gaming house or a bawdy house or a dangerous animal, as a large bull-dog accustomed to bite people
- Exposing a person having a contagious disease, as the small-pox, in public and the like.

So now that you know that going overboard with the celebration causing other people discomfort is also against the law, lets celebrate new years without being a nuisance.

-LawDesk.



COURT corridor

Landmark ruling on racial and religious exclusion

European Court of Human Rights judgment says Bosnia's political ban on Jews, Roma Discriminatory

The ruling on December 23, 2009 by the European Court of Human Rights, that the exclusion of Jews and Roma from Bosnia's highest state offices is unlawful discrimination, is a major step toward ending racial and religious exclusion in Europe, the Benjamin N. Cardozo School of Law and Human Rights Watch said. Bosnia, along with the US and European states that continue to play a critical role in the country, should move swiftly to remove all discriminatory provisions from the country's constitution.

"The court's ruling is a major step forward in Europe's struggle against discrimination and ethnic conflict," said Sheri P. Rosenberg, co-counsel for the successful applicant Jakob Finci and a professor and director of the Human Rights Clinic at the Benjamin N. Cardozo School of Law. "This decision affirms that ethnic domination should have no role in a democracy."

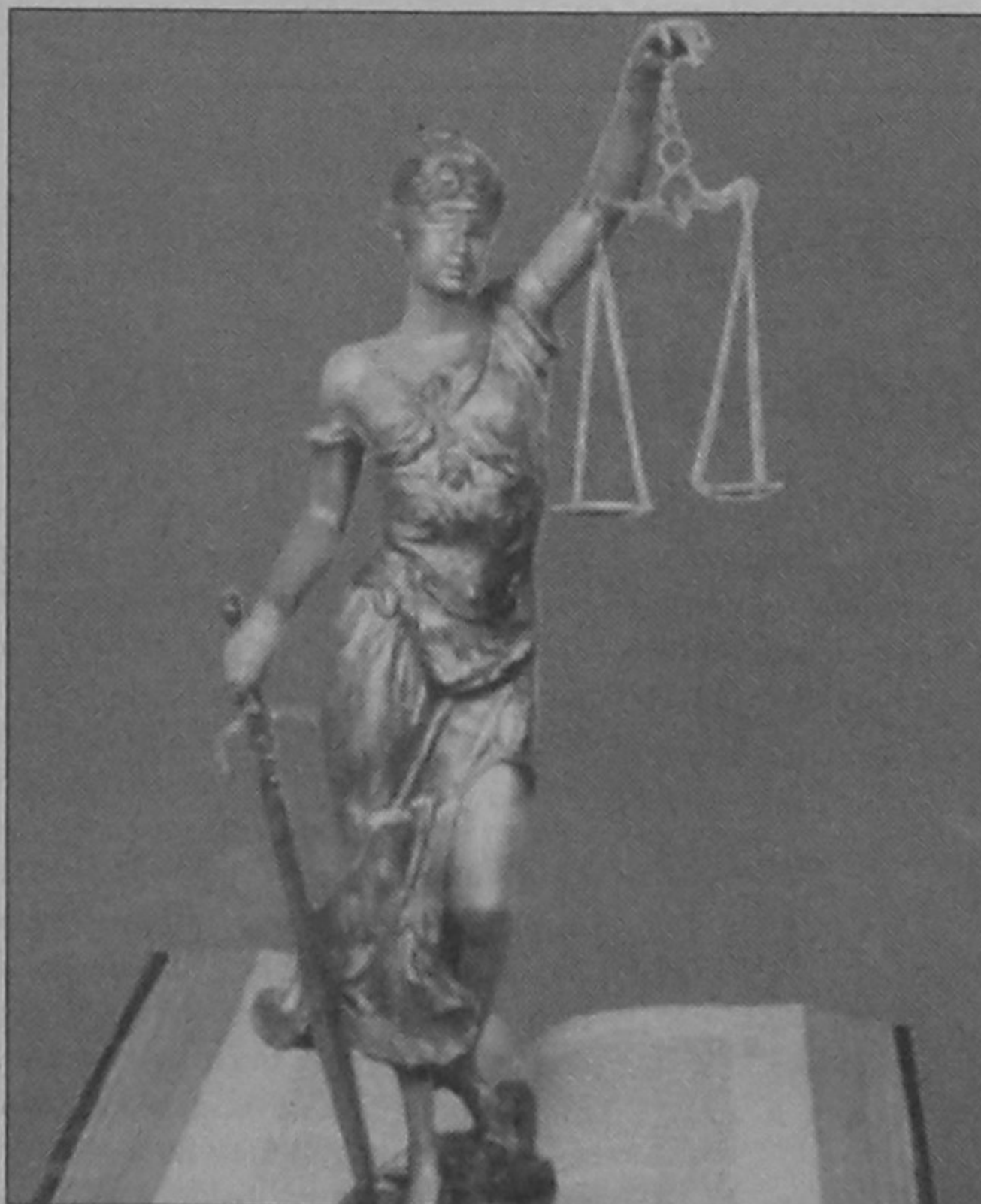
The court found, by 14 votes to 3 (16 votes to 1 with respect to the presidency), that the exclusion of Jews and Roma could not be justified. It stated that the "authorities must use all available means to combat racism, thereby reinforcing democracy's vision of a society in which diversity is not perceived as a threat but as a source of enrichment."

"The European Court has made it clear that race-based exclusion from political office, such as that suffered by Jews and Roma in Bosnia, has no place in Europe," said Clive Baldwin, senior legal advisor at Human Rights Watch, who was co-counsel for Finci from his previous employment with Minority Rights Group International. "The US, EU and the other states who still play a major role in Bosnia, should ensure the ruling is put into immediate effect by backing a change in the constitution."

The ruling was issued by the Grand Chamber of the Court in the case of Sejdic & Finci v. Bosnia and Herzegovina, and concerned the exclusion from the Bosnian presidency and the upper house of parliament of a Bosnian Jew and a Bosnian Roma. The Bosnian Constitution, drafted by negotiators during peace talks in Dayton, Ohio in 1995, restricts the highest offices of state - the upper house of parliament and the presidency - to members of Bosnia's three main ethnic and religious groups - the Serbs, Croats and Bosniaks (Bosnian Muslims).

Members of smaller groups (such as the Jewish and Roma communities), those from ethnically mixed backgrounds and those who do not wish to declare themselves members of the three main groups are banned from running for office. Despite the extensive involvement of the international community, in particular the US and the European Union, in the governing of Bosnia since 1995, these discriminatory provisions in the constitution have never been amended.

This ruling is the first under the recent Protocol 12 to the



European Convention on Human Rights, which prohibits discrimination in all rights "set forth by law," a much wider scope than previously existed under the convention.

Jakob Finci, the successful applicant, was born in a transit camp during World War II after his parents, Bosnian Jews, had been deported from the Bosnian capital, Sarajevo. Returning to Bosnia after the war, he has had a distinguished career in public life and is now Bosnian ambassador to Switzerland. But his ethnicity and religion prevented him from the possibility of seeking election to the highest offices of state.

"I am delighted that the European Court has recognized the wrong that was done in the Constitution 14 years ago," Finci said. "The Bosnian politicians need to right the wrongs in the Constitution quickly."

Bosnia's next presidential and parliamentary elections are due in October 2010. Constitutional reform has been under discussion in Bosnia since 2005 but so far has not produced any change.

Source: Human Rights Watch Press release

LAW week



Other Aug 15 killings pushed into oblivion

Criminal Investigation Department in 2002 gave final report in Sheikh Fazlul Haque Moni murder case and had it dismissed in secrecy, ignoring the legal bindings. Two more cases that were filed aside from Bangabandhu murder case for the August 15 killings in 1975 were treated no better either during the BNP-Jamaat-led alliance rule in 2001-2006. Of them, proceedings in Abdur Rab Serniabat murder case have been stayed by the High Court since 2002. The first additional metropolitan sessions judge's court framed charges against 18 persons in the case towards the end of the previous AL rule in 2001. - *The Daily Star, December 24, 2009.*

Justice for poor

The newly appointed Chief Justice, Md Tafazzul Islam, said he would try the best in his brief stint to ensure justice for all especially the poor. "Our goal is to make the poor happy by ensuring justice. Establishment of justice and the rule of law is necessary to uphold democracy in the country," he said. He made the remarks while talking to *The Daily Star* after swearing in as the chief justice. Justice Tafazzul will go into retirement on February 7 next year. - *The Daily Star, December 24, 2009.*

No bail for tree plundering

Prime Minister Sheikh Hasina asked authorities concerned to draft a new law with stringent provisions for taking action against people responsible for rampant tree felling. The prime minister instructed them to include a non-bailable section there so that offenders cannot get bail from courts in cases filed in connection with tree felling, according to sources at the Prime Minister's Office. She also suggested that a provision be kept for awarding punishment not only against the offenders but also the people who buy or use those trees. - *The Daily Star, December 23, 2009.*

Tobacco use on rise despite law

Use of tobacco among adults has increased to 43.3 percent this year than that of 37 percent in 2004 in spite of massive campaign and enactment of law, revealed Global Adult Tobacco Survey Bangladesh Report - 2009. World Health Organisation (WHO) conducted the study in association with the health and family welfare ministry with the technical support of US Centres for Disease Control and Prevention (CDC). The study was conducted on 11,200 households. It also found that tobacco consumption is higher among males than females and more prevalent in rural areas. - *The Daily Star, December 23, 2009.*

ETP found inactive

A mobile court of the Department of Environment in a drive in Tongi and Konabari found the effluent treatment plant (ETP) of an industry inoperative and another running without any ETP. The team led by Jamshed Ahmad, director of DoE, Dhaka division, initiated filing cases against the industries that are discharging untreated industrial wastes into the water bodies in Tongi and Konabari and Testing Institution (BSTI). The team fined the Orbit Processing Mills Ltd Tk 80,000 for manufacturing products without the approval of BSTI. - *The Daily Star, December 22, 2009.*

BNP may have to amend charter to comply with RPO

The BNP may have to amend its constitution again to make the provision on its foreign chapters comply with the Representation of the People Order (RPO). Though its December 8 national council approved a set of changes to its charter including the provisional ones made to meet the criteria for registration with the EC last year, the provision on foreign chapters still does not conform to the RPO. The RPO says a political party shall not be qualified for registration if its constitution provides for setting up or operating any office, branch or committee outside the territory of Bangladesh. - *The Daily Star, December 22, 2009.*

SC slams the way killers treated

The Supreme Court in its full judgement of Bangabandhu murder case vehemently criticised the moves by subsequent governments after the assassination of Sheikh Mujibur Rahman for barring trial of the heinous crime and rather promoting the killers to higher or diplomatic posts. The apex court termed the killing of Bangabandhu Sheikh Mujibur Rahman and most of his family members a great crime against humanity, mankind and civilisation. "A murderer is always a murderer and a terrorist is always a terrorist and is enemy to mankind and humanity and an offender in the eye of the law. To protect and shelter such killers is a great crime, a great sin and sin spares none," said Justice Md Abdul Aziz of the five-member SC bench, which dealt the historic criminal case, in his portion of the 412-page judgement. - *The Daily Star, December 21, 2009.*

Cop 'embarks on' ominous act

A resident of Mohanagar Residential Area in the city's West Rampura alleged that the officer-in-charge (OC) of Rampura Police Station took a bribe of Tk 1.70 lakh from him by threatening to implicate him in false cases. The complainant Altaf Hossain, an expatriate worker in Japan, lodged the complaint with the office of inspector general of police. Altaf in his complaint said over the last one and a half months OC Ali Ahmed Hasmi realised the money in four phases. Altaf said he had recorded all his conversations with the OC on his cell phone and a copy of which on a compact disc (CD) was sent to The Daily Star office. - *The Daily Star, December 21, 2009.*

Time for new border

Outgoing Indian High Commissioner Pinak Ranjan Chakravarty has emphasised redrawing of Indo-Bangladesh border to comprehensively address all the old issues on land boundary and enclaves to remove sufferings of people of the two countries. In an exclusive interview with *The Daily Star*, he said the people who live in the enclaves have to cross international border every day for cultivation and they need to follow the official formalities as well as clearance from the BDR and BSE. Though the people are allowed to cross the border for cultivation, but this everyday problem can be resolved through exchange of enclaves, which would require redrawing the international border in a small way, he opined. - *The Daily Star, December 20, 2009.*

Dear reader,

You may send us your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those. Please send your mails, queries, and opinions to: LawDesk, The Daily Star 19 Karwan Bazar, Dhaka-1215; telephone: 8124944, 8124955, fax: 8125155; email: ds1awdesk@yahoo.co.uk, lawdesk@thedailystar.net