

RIGHTS corner



Rohingya refugees eye Myanmar elections

DESPITE restrictions on movement, marriage and education, Rohingya in Myanmar's northern Rakhine State have been given the right to vote in Myanmar's 7 November elections, and many of the over 200,000 Rohingya refugees in neighbouring Bangladesh see in this a semblance of hope.

"We didn't come to Bangladesh to make a life. We came here for justice," Shira Banu, an undocumented Rohingya who arrived in Bangladesh 15 years ago when the Burmese army seized her land, said.

"If the government in Burma removes the restrictions and if the Jathshanga [UN Refugee Agency, UNHCR] comes with us, then we would like to go home," the 50-year-old said.

"Our only hope is if Aung San Suu Kyi comes to power. Her father was a good leader so she will be too," said Banu.

IRIN interviewed over 20 Rohingya from the Cox's Bazar area who expressed similar opinions.

But the iconic Burmese Nobel laureate, whose party the National League for Democracy (NLD) won the last elections over two decades ago, has been under house arrest for 11 of the



past 16 years, and won't be participating in the elections. "Despite the violation of their human rights, the Rohingya [in Myanmar and Bangladesh] see this as their only shot at freedom and they want to take it," Chris Lewa, head of the Arakan Project, a human rights organization specializing in the Rohingya, told IRIN.

Some say the Rohingya vote is being vied for by others.

Monks

In 2007 the Rakhine Buddhist monks showed their opposition to the State Peace and Development Council (SDPC - the official name given to the junta) mainly in Sitwe, the capital of Rakhine State, and the regime is unsure whether the monks will support the military-backed Union Solidarity and Development Party (USDP), which would like to take over from the SDPC.

"The Rohingya were given the vote earlier this year by the regime to try and manipulate the ballot box by promising freedom and citizenship. However, few expect a shift in policy," said Fayas Amed, editor of the Kaladan Press, a Bangladesh-based e-magazine covering the Burmese elections.

In 2007 the SDPC introduced a new constitution which reserves a quarter of seats in both houses of parliament for officers, and effectively bars Aung San Suu Kyi from holding office.

Under an election law passed in early 2010, the Electoral Commission is chosen solely by Myanmar's military rulers. Those holding temporary registration cards, including the Rohingya, will be allowed to vote.

Lewa points out that the government move to give the Rohingya the vote, does not mean the community's lot will improve.

"You have to consider the Rakhine Buddhist population in Rakhine State too, who have already protested over the possibility of Muslim Rohingya being granted citizenship. So even if the government is willing to make some concessions, you will always have opposition [to the Rohingya] from them [the Rakhine State Buddhist population]," she said.

Hostility to Rohingya in Bangladesh

Meanwhile, the Rohingya face similar hostility in Bangladesh, too. Many locals compete for jobs with the refugees, who are often willing to work for less than Bangladeshis.

Others worry that armed extremist gangs are radicalizing the youth of this marginalized, leaderless community, and are suspicious of drug smuggling and an increase in petty crime - rumours which are fuelled by the local press, resulting in anti-Rohingya sentiment.

"We were tortured in Burma, we are tortured in Bangladesh. The locals snatch our firewood and beat us. I've got stitches on my head to prove it. They break our water jugs on the way back from the tube well and even rape us. We thought we'd come here to Bangladesh, a Muslim country, but we suffer the same abuse here," she said.

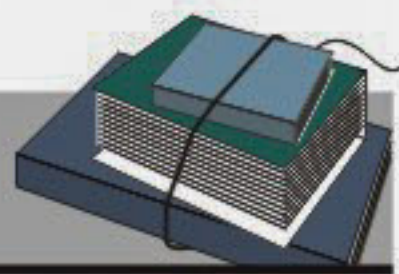
"If I'd known the situation was the same in Bangladesh I would never have come. Now I can't go back or the Nasaka [Burmese military] will imprison me," she said.

There are 28,000 documented Rohingya living in two government-run camps in the southeastern Bangladesh district of Cox's Bazar - remnants of a mass influx of this ethnic, linguistic and religious minority when 250,000 fled Myanmar in 1991.

Hundreds of thousands of others - fleeing from state-sponsored persecution - have arrived since. They live in Chittagong and Cox's Bazar districts, some in unofficial camps, but are undocumented and so have few rights.

Source: IRIN, the humanitarian news and analysis service of the UN Office for the Coordination of Humanitarian Affairs.

LAW lexicon



Federal Communications Commission (FCC) - A federal agency which regulates interstate and foreign communications by wire and radio.

Federal Deposit Insurance Corporation (FDIC) - An agency which insures deposits in banking institutions in the event of financial failure.

Federal Mediation and Conciliation Service - An agency which provides mediators to assist in labour-management disputes.

Federal Register - A daily publication which contains federal administrative rules and regulations.

Fee simple absolute - The most complete, unlimited form of ownership of real property.

Source: Jurist International.

LAW letter

On legal education and research

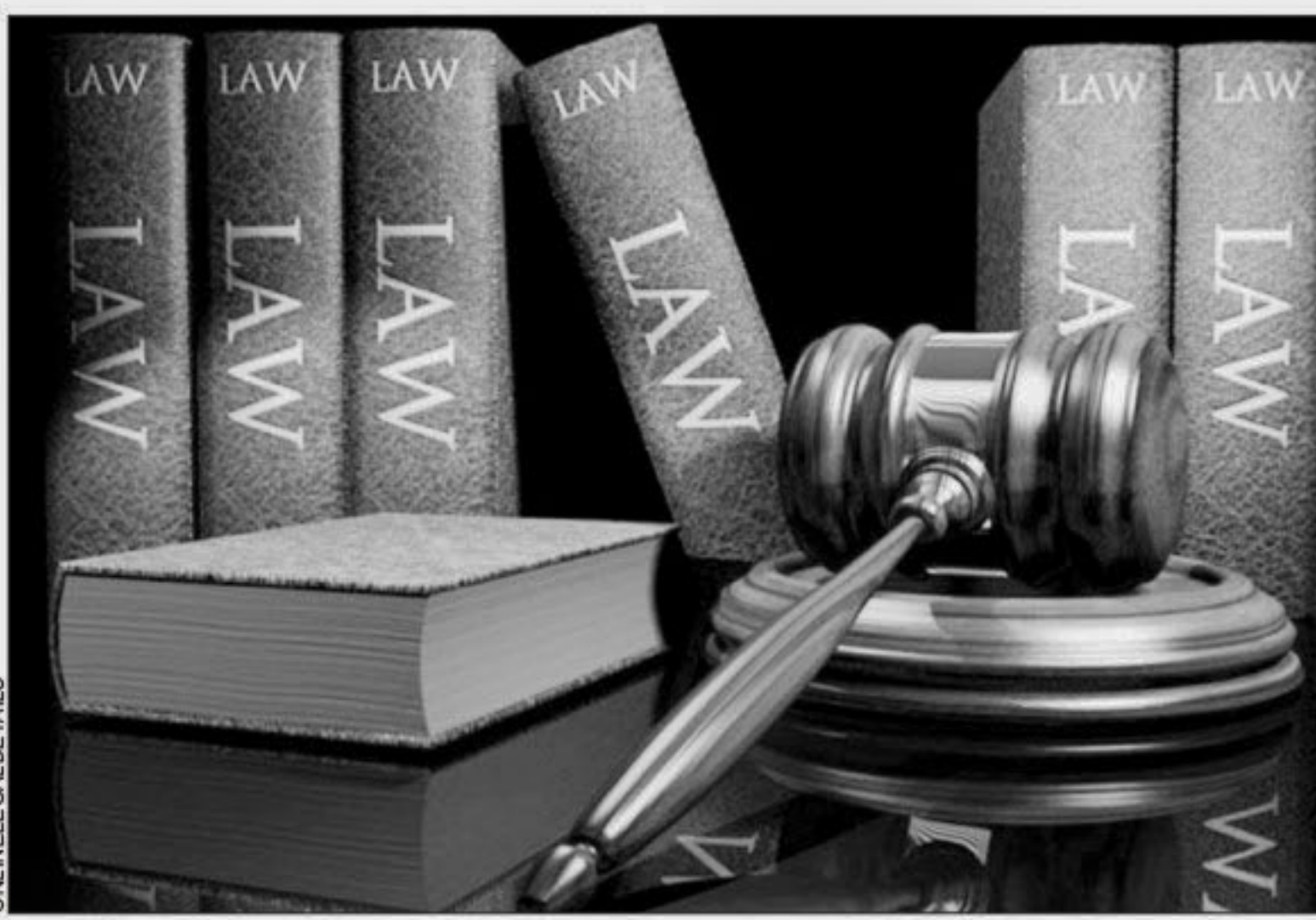
LEGAL education in Bangladesh has been facing a pity condition. Though we are producing a huge number of law graduates every year, however, majority of them are having under-qualified or non-qualified in terms of their legal knowledge, research, analytical, and presentation skills and competitiveness in a globalized legal profession.

The frustrating situation has been better described as a "disastrous situation" by none other than the Chairman of the National Human Rights Commission and a renowned Law Professor Dr. Mizanur Rahman in a recent interview with me.

This downwards trend in legal education have been contributed by the obsolete and archaic curriculum, traditional teaching and examination methods, lack of practical and clinical aspects in the curriculum, huge gap in relations between teachers and students, teachers' engagement in out-side activities (other than own institutions), lack of interest, motivation, opportunity and skills for research and publications.

The scenario of legal research is at pity stage as well. A handful of law schools at public and private universities offer courses on legal research and writing. However, those also lack of standard and quality due to lack of resources (i.e., library materials, Internet facilities etc), skills and expertise of the respective faculty members. The private law colleges which are producing the majority of law graduates don't offer similar courses. That is why a great number of lawyers (and future judges) are coming from there with out skills in legal research and writing. These skills are taught at law schools even in countries like India and Nepal as well.

Our faculty members are coming back with education and degrees in the developed countries, however, they are not taking any initiative to introduce best practices out of their knowledge and learning.



The journals published by law schools at public universities (not regular in publication) do follow a principle of "limiting knowledge." For example, the Journal of the Faculty of Law at the University of Dhaka accepts articles only from their respective faculty members. This is also true for other public universities which hardly happens in the universities in other countries.

When a journal is supposed to explore and disseminate new knowledge on a given subject, how come it will probe its standard while there is no competitiveness in selecting and reviewing articles independently. Who will give a guaranty that only teachers could write "best articles"? This so-called journals are also not publicly available as I experienced.

Given my recent affiliation for a year a Hubert H. Humphrey Fellow at the University of Minnesota Law School and Human Rights Center in Minneapolis, U.S.A., I found that three of their journals are being edited and published by only students (appointed by the schools on a rotation basis) alongside two others by faculty members, and two more by jointly

by faculties and students. Those are coming out on a scheduled dates over the years incorporating articles selected on its originality, analysis, quality and contribution. They hardly bother about whether the author is a teacher or students, or a practicing lawyer. The same I found at the West Bengal National University of Juridical Sciences in Kolkata, India.

Here, our professional, research and training institutions are also lacking in terms of quality research and publications. The Bangladesh Bar Council and Law Commission neither have research and publication projects nor journals. The Bangladesh Institute of Law and International Affairs (BILLA) had its last issue of the biannual publication, Bangladesh Journal of Law in 2007. Though the Judicial Administration and Training Institute (JATI) has its own journal however, it lacks professionalism and quality in publishing a research journal.

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HUMAN RIGHTS monitor

Indonesia: Uphold Religious Freedom

Cease threats against Ahmadiyah Community to ban their religion

PRESIDENT Susilo Bambang Yudhoyono should uphold freedom of religion in Indonesia and repudiate statements by his religious affairs minister calling for the banning of the Ahmadiyah religion, Human Rights Watch said on November 3, 2010 in a letter to the Indonesian president.

Since August 2010, Religious Affairs Minister Ali Suryadharma has repeatedly called for the Ahmadiyah faith to be banned in Indonesia. President Yudhoyono has failed to repudiate those statements, leading many to believe that he supports such an action. In recent years Islamist militants have repeatedly attacked and burned Ahmadiyah homes and mosques. Anti-Ahmadiyah violence has increased since Yudhoyono announced a prohibition on teachings or public displays of the Ahmadiyah religion in June 2008.

"President Yudhoyono gave a nationwide speech about religious tolerance in the United States, but what will he tell visiting US President Barack Obama about the burned Ahmadiyah mosques in Indonesia?" said Phil Robertson, deputy Asia director at Human Rights Watch. "Yudhoyono should take clear steps to protect religious freedom, starting with loudly rejecting any ban on the Ahmadiyah, and ensuring that those responsible for attacks on Ahmadiyah homes and mosques are prosecuted."

The Setara Institute for Peace and Democracy, a human rights group in Jakarta, recorded 33 cases of attacks in 2009 against the Ahmadiyah community. In late July, municipal police and hundreds of people organized by militant Islamist groups forcibly tried to close an Ahmadiyah mosque in Manis Lor village. On October 1, mobs attacked the Ahmadiyah community in Cicalada, south of Jakarta, burning their mosque and several houses; a Quran inside the mosque was accidentally burned.

The Ahmadiyah identify themselves as Muslims but differ with other Muslims as to whether Muhammad was the "final" monotheist prophet. Consequently, some Muslims perceive the Ahmadiyah as heretics. Current Indonesian law facilitates discrimination against the Ahmadiyah. The June 2008 decree requires the Ahmadiyah to "stop spreading interpretations and activities that deviate from the principal teachings of Islam," including "spreading the belief that there is another prophet with his own teachings after Prophet Muhammad." Violations of the decree can result in prison sentences of up to five years. Human Rights Watch has consistently called for the government to rescind this decree, as it violates the right to freedom of religion.

A ban against the Ahmadiyah would violate guarantees of freedom of religion in articles 28 and 29 of the Indonesian

constitution. Prohibiting the Ahmadiyah from practicing their religion also violates the International Covenant on Civil and Political Rights, ratified by Indonesia in February 2006, which protects the right to freedom of religion and to engage in religious practice "either individually or in community with others and in public or private." The treaty also protects the rights of minorities "to profess and practice their own religion."

"President Yudhoyono should order Minister Suryadharma to stop playing with fire with his demands to ban the Ahmadiyah," Robertson said. "Formalizing religious discrimination increases the vulnerability of Ahmadiyah and opens the door for further attacks and wider

Indonesia's Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pakem) recommended banning the Ahmadiyah faith. Moderate Muslim leaders, including former president Abdurrahman Wahid and civil rights activists, responded by rallying support for the Ahmadiyah and the principle of religious freedom.

More than 200 people signed a petition on May 10, 2008, saying the government should be protecting the Ahmadiyah from attack. The signatories included many Muslim scholars, Catholic priests, Protestant preachers, Confucianists, Buddhists, Hindus, poets, writers, and human rights campaigners. Yet the following month, the Religious Affairs and



communal violence. This is hardly the recipe for promoting Indonesia as a modern, rights-respecting state."

Background

The Ahmadiyah faith was founded in what is now Pakistan in 1889 by Mirza Gulam Ahmad. The Ahmadiyah community is banned in Pakistan and Saudi Arabia, and has come under attack in Bangladesh. There are approximately 200,000 Ahmadiyahs in Indonesia.

The Ahmadiyah have come under increasing attack since a July 2005 edict from Indonesia's Council of Ulemas, a senior body of Islamic clerics, saying the Ahmadiyahs were deviating from Quranic teaching regarding the final prophet. Following the edict, Islamist groups attacked the Ahmadiyah headquarters near Bogor, and assaults on Ahmadiyah members were also reported in Lombok Timur, Manis Lor, Tasikmalaya, Parung, Garut, Ciaruteun, and Sadasari. Attacks on the Ahmadiyah community continued in 2006, forcing hundreds of Ahmadiyahs to flee to a refugee camp in Lombok after mobs destroyed their homes and mosques. Some Ahmadiyahs asked for political asylum at consulates in Bali.

In December 2007, mobs attacked Ahmadiyah, their mosques, and their homes in Kuningan, West Java. On April 16, 2008,

Home Affairs ministries, and the Attorney General's Office, issued the discriminatory decree restricting the right of Ahmadiyah to publicly practice their faith.

The violence in Manis Lor, Kuningan regency, West Java, the largest Ahmadiyah community in Indonesia, followed an order by a local government official to close an Ahmadiyah mosque. On July 28 and 29, 2010, hundreds of protesters organized by militant Islamist groups forcibly tried to close the mosque. Minister Suryadharma responded by announcing that while the Indonesian government would not tolerate violence in religious disputes, the police would enforce the 2008 decree and warned that the Ahmadiyah "had better stop their activities."

On August 31, Suryadharma again blamed the Ahmadiyah instead of their attackers for the recent instances of anti-Ahmadiyah violence, saying that he believed that the incidents were consequences of the failure of the Ahmadiyah to adhere to the decree. He later added in news reports that, "To ban [the Ahmadiyah] is far better than to let them be. ... To outlaw them would mean that we are working hard to stop deviant acts from continuing."

Source: Human Rights Watch.

LAW week



SC sits Nov 29 for hearing

The Supreme Court adjourned till November 29 the hearing on Khaleda Zia's appeal that challenged the High Court's verdict regarding the government notice to vacate her cantonment home. A three-member SC bench, headed by Chief Justice ABM Khairul Haque, adjourned the hearing after Khaleda's lawyer TH Khan sought more time. The court did not stay the HC verdict that upheld the government notice to Khaleda asking her to vacate the house. The HC in that verdict on October 13 said the procedure through which the house was given to Khaleda was illegal. It asked the government to give Khaleda 30 days' time to vacate the house. -The Daily Star, November 11, 2010.

Mobile courts to punish stalkers

Mobile courts can now try stalkers on the spot by sentencing them to one-year imprisonment or fining or both. A gazette notification was issued to this effect yesterday empowering the executive magistrates to try stalkers. This has been done by incorporating Section 509 of the Penal Code into the rules of the Mobile Court Act 2009. The amendment has been brought about in a bid to strap up the alarming trend of stalking across the country. Earlier, home ministry sent a proposal, to include stalking in the mobile court law's scheduled offences, to law ministry for approval. -The Daily Star, November 11, 2010.

Compensation scheme okayed

The Executive Committee of the National Economic Council (Ecne) approved a Tk 191 crore project with a compensation package for rehabilitating the affected people of Barapukuria coal mine. Some 3,384 people will be given compensation under this package. The approval came from the Ecne meeting held at the NEC conference room with Ecne Chairperson and Prime Minister Sheikh Hasina in the chair. Ecne meeting sources said the affected people in the coalmine area will receive Tk 20 lakh per hectare of farmland and Tk 25 lakh per hectare of homeland. Even the landless people will receive Tk 2 lakh each. -The Daily Star, November 10, 2010.

35 jawans convicted

The Special Court-16 of Bangladesh Rifles sentenced 35 jawans of Bolipara camp of 10 Rifle Battalion in Bandarban to different terms in prison for their involvement in the mutiny on February 25-26 last year. In addition to jail terms, the court also fined each convict Tk 100. The convicts are to serve prison terms ranging from a minimum of six months to a maximum of seven years. Four BDR men were sentenced to seven years' term, while two to six years', eight to five years', one to four and half a years', four to four years', six to three years', four to two years', one to a year's and the remaining five to six months of imprisonment. -The Daily Star, November 10, 2010.

Developer warned about a year back

Rajdhani Unnayan Karttripakkha had served a deviation notice about a year ago to the developer of the seven-storey Asia Haider Tower in Kathalbagan of the capital that tilted and sank into the ground on Sunday night, but the developer had not responded to the notice. The tower tilted onto a 17-storey building next to it before sinking into the ground by about 10 feet. Despite receiving the Rajuk notice, the developer Asia Comtech Bangladesh constructed the faulty tower only 17 feet away from the next building. But according to the approved design, the building was supposed to be constructed 25 feet away from the next one, said Aminur Rahman, authorised officer 1 of Rajuk. The tilted building is among 5,000 such structures in the capital, identified by Rajuk as buildings in violation of rules, and risking the neighbourhoods. -The Daily Star, November 09, 2010.

All 30 BCL men now out on bail

Sharmeen of Pabna Speedy Trial Tribunal granted the bail after the accused appeared before the court and sought bail on the plea that other accused in the same case got bail. Twenty-one accused surrendered before the judicial magistrate's court on September 26 and another four on October 6. And police arrested five soon after the incident. The case was filed with Pabna Sadar Police Station immediately after the incident accusing 31 leaders and workers of ruling Awami League and the party backed organisations. More than 100 Jubo League and Chhatra League activists on September 17 attacked two exam centres during a recruitment test of class-III employees for the deputy commissioner's office. -The Daily Star, November 09, 2010.

Shipping Dept officials asked to explain

The High Court issued a rule upon two shipping department high officials to explain within two weeks why they should not be punished for issuing no objection certificates (NOC) for import of two toxic ships for scrapping, despite the court's stay order on such issuance. An HC bench of Justice Md Imman Ali and Justice Farid Ahmed issued the rule upon Shipping Department Director General (DG) Rear Admiral Bazlur Rahman and its Chief Chemist Mosharraf Ashraf following a contempt of court petition filed against them by Bangladesh Environmental Lawyers Association (Bela). The HC on March 5, 2009, through a ruling, prohibited import of any vessel tainted with "hazardous waste or contaminating hazardous materials, which has not been decontaminated at source". This year, ship breakers appealed against the order, but the Supreme Court upheld the HC order and asked the ship breakers to implement the directives. -The Daily Star, November 08, 2010.

Attorney gen appeals to SC for retrial

Attorney General Mahbubey Alam prayed to the Supreme Court for retrial of the jail killing case. He made the prayer before the Appellate Division of the SC during a hearing on a leave-to-appeal petition filed against the acquittal of Dafadar (dismissed) Marfat Ali Shah and Dafadar (dismissed) Abul Hashem Mridha by the High Court of the charges relating to the jail killing. He said trial of offences of association and participation in the killing was held, but the offence of hatching the conspiracy to kill four national leaders in jail was not tried. Shah Moazzem, Monzoor and Khairuzzaman were accused in the jail killing case, but were acquitted by the trial court on October 20, 2004, as the accusation against them of conspiracy was not proved. -The Daily Star, November 08, 2010.

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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: dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net