

LAW NEWS



# Rights activists call for effective HR mechanism

**T**HE Second Sub-Regional Workshop on Human Rights Mechanism in South Asia concluded with the calls for the South Asia Association for Regional Cooperation (SAARC) to establish an effective regional human rights mechanism, enhance civil society's participation in the SAARC process and address challenges faced by the region from the human rights based approach.

The two days regional workshop discussed human rights challenges faced by the region and the prospects and opportunities for the path towards the creation of South Asian Human Rights Mechanism for the promotion and protection of human rights within the framework of South Asian Association for Regional Cooperation (SAARC).

It concluded to establish an informal working group comprising of eminent human rights experts from South Asia to initiate dialogue and engagement with SAARC on the promotion and protection of human rights in South Asia.

The two day workshop was organized by the Asian Forum for Human Rights and Development (FORUM-ASIA) and Informal Sector Service Centre (INSEC) on 25-26 July 2011.

Speaking in the workshop Chairperson of FORUM-ASIA and INSEC, Mr. Subodh Raj Pyakurel stated that South Asia needs a strong human rights body to address the situation of gross human rights violations and abuses attributing to the culture of impunity. He further elaborated that the workshop has played significant role in bringing the prominent civil society leaders, academia, national human rights institutions (NHRIs) to work together towards the strong advocacy for the regional human rights mechanism in South Asia. Mr. Pyakurel reiterated the need for continuous engagement for the development of suitable human

rights mechanisms and institutions in South Asian countries.

Ms. Hina Jilani, former UN special Rapporteur of the Secretary-General on Human Rights Defenders and Chair of the South Asians for Human Rights (SAHR), delivering key note remarks expressed grave concern towards the deteriorating human rights situation due to anti-terrorism measures adopted in South Asian countries. She further pointed out the lack of rule of law in different countries of South Asian region.

Speaking in the workshop, Chairperson of the National Human Rights Commission of Bangladesh, Dr. Mizanur Rahman, stated that civil society organizations should collaborate and cooperate for the establishment of a regional human rights mechanism which can complement the role of the national human rights institutions (NHRIs). Similarly Mr. Gauri Pradhan, Commissioner of the National Human Rights Commission of Nepal shared the experiences for the protection and promotion of human rights and expressed the commitment of the National Human Rights Commission of Nepal to work with civil society organizations for the establishment of a regional human rights mechanism in South Asia. Justice J.S. Verma, former Chief Justice and Chairperson of the National Human Rights Commission of India stressed that judiciary in the SAARC should play vital role for the protection of human rights in adhering to justice and human dignity.

Mr. Miloon Kothari, former UN Special Rapporteur on the Right to Housing stressed that regional human rights mechanism could be a useful platform for South Asian countries to utilize the opportunities under the Universal Periodic Review (UPR) which is a new and unique monitoring mechanism of the members of UN

countries human rights mechanism.

Delivering key note remarks, former Assistant Secretary General of the UN Mr. Kul Chandra Gautam pointed out that despite the national human rights mechanism being the most important and effective mechanism for recognition and respect of human rights, the regional mechanism can complement the national mechanism, especially in addressing cross border issues.

Mr. Rafendi Djamin, Chairperson and Representative from Indonesia for the ASEAN Inter-Governmental Commission for Human Rights (AICHR) expressed that the vibrant civil society organizations of South Asia can constructively engage with the SAARC process for the advocacy of regional human rights mechanism as the civil society had played significant role in the establishment of the regional human rights body in the ASEAN. Speaking in the workshop, Ms. Jyoti Sanghera, Representative of the UN Office of the High Commissioner for Human Rights (OHCHR) in Nepal expressed that OHCHR will cooperate with the initiatives towards the regional human rights mechanism in South Asia.

The workshop was inaugurated by Constituent Assembly Chairman Mr. Subas Chandra Nemwang. The two-day workshop was attended by the prominent members of the civil society, human rights defenders, national human rights institutions and academicians from India, Maldives, Nepal, Pakistan, Bangladesh and Sri Lanka. The meeting was also attended by the Indonesian representative to the ASEAN Inter-Governmental Commission for Human Rights (AICHR), Rafendi Djamin, who also serves as the Chair of the AICHR and other regional organizations.

Source: Forum Asia, Press Release.

LAW WEEK

## Rajuk asked to explain building safety rule

The High Court (HC) on July 28 summoned the chief of Rajdhani Unnayan Kartipakkha (Rajuk) to explain the building safety rules. The court asked Rajuk chief Md Nurul Huda and four police personnel to appear before it on August 3 to give their statements in connection with the death of a college student. The four police officials are Syed Ziauzzaman and Shahabuddin Khalifa, officers-in-charge of Sher-e-Bangla Nagar and Pallabi police stations, and Ajit Roy and Anser Ali, sub-inspectors of Pallabi police station. The court also asked Khaled Mohammad Jewel Mollah, managing director of Sagufta Group, its director Walid Mohammad Mollah and two contractors Sazzad Hossain and Md Osman Ali before it on the same day. The two OCs and contactor Osman Ali on July 28 appeared before the bench in compliance with its July 26 order. - *The Daily star online edition July 28 2011.*

## Koko's tax dodging case hearing deferred

A Dhaka court deferred the charge framing hearing against Arafat Rahman Koko, the youngest son of BNP Chairperson Khaleda Zia, till September 8 in a tax evasion case. Judge Mohammad Zohurul Haque of the Senior Special Judge's Court passed the order following a time petition, seeking adjournment of the hearing. Mahbub Uddin Khokon, Koko's lawyer, filed the adjournment petition as hearing on a rule remains pending with the High Court (HC). Following hearing of the writ petition, the HC issued a rule upon the government to explain why the proceedings of the case should not be declared illegal. The National Board of Revenue (NBR) on March 1 last year filed the case against Koko for evading income tax on his income of Tk 52.39 lakh for fiscal years from 2002-2003 to 2006-2007. - *The Daily star online edition July 28 2011.*

## 310 more indicted for BDR carnage

A trial court on July 27 framed charges against 310 more accused in the country's largest ever killing case filed in connection with the carnage at border guards' Pilkhana headquarters in February 2009. As many as 740 out of 850 accused have so far been charged with the gory mutiny. The court may indict the remaining 110 accused on August 10, paving the way for the start of trial of the case. In terms of the number of accused, this is the largest ever criminal case in the country's history. Arson, looting, dumping of bodies, burying bodies in mass graves and theft are the other charges brought against the accused. The judge read out specific charges against the accused and asked them whether they are guilty. All the accused claimed themselves innocent. Earlier on July 20, Judge Mohammad Zohurul Hoque of the Court of Metropolitan Sessions Judge framed charges against 430 accused. - *The Daily star July 28 2011.*

## Porimol files petition

Porimol Joydhor, the sacked teacher of Viqarunnisa Noon School and College, on July 27 filed a petition with a Dhaka court for withdrawing his confessional statement in the case filed against him for allegedly molesting a student. Porimol in his petition claimed the investigation officer (IO) of the case tortured him inhumanly to extract a confession. During the five-day custodial remand, the IO took him to a desolate place at Balur Math in the city's Bashundhara and pressed him for the statement, he said. The IO even threatened to kill him in 'crossfire', mentioned Porimol adding, the charge brought against him was false, fabricated and concocted and he was implicated in the case under a conspiracy to harass him. - *The Daily star July 28 2011.*

## HC acquits six in Newton Murder Case

The High Court on July 26 acquitted three condemned accused and commuted seven others' death sentence to life-term imprisonment in the sensational Dhaka City Corporation ward commissioner Saidur Rahman Newton murder case. The HC also acquitted three more accused who had earlier been sentenced to life in the same case. A trial court in 2006, sentenced 10 accused to death and six others to life imprisonment after a lengthy hearing of Newton killing case. Newton, the then commissioner of DCC ward No-8 (Mirpur), was gunned down by a gang near Rapa Plaza in the capital's Dhanmondi area on May 10, 2002. The HC bench of Justice Md Fazlur Rahman and Justice Bhabani Prasad Singha yesterday delivered the verdict after holding hearing for eight working days on the death reference and appeals filed by the accused against their convictions. - *The Daily star July 27 2011.*

## Tarique asked to appear in court on Aug 8

A Dhaka court on July 25 asked Tarique Rahman, senior vice-chairman of BNP, to appear before it on August 8 in a money laundering case. On failure to appear, charge will be framed against Tarique in his absence, said the court. Judge Mohammad Mozammel Hossain of the Senior Judge's Court-3 passed the order as the BNP leader did not appear before the court for a single day in the case. Earlier, two other courts issued arrest warrants against Tarique, elder son of BNP Chairperson Khaleda Zia, in connection with the August 21 grenade attack

LAW EVENT



## National Policy on ADR recommended

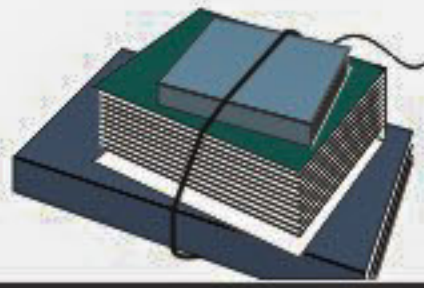
**T**HE speakers and discussants at a national seminar on the Alternative Dispute Resolution (ADR) have urged for a complete and comprehensive policy on ADR, necessary amendments in related laws, rules and procedures, and compulsory courses on ADR at law schools. They recommended for activating village courts through providing required training facilities and logistics as well.



Mr. Justice Md. Muzammel Hossain, Honourable Chief Justice of Bangladesh has underscored the necessity of ADR system to ensure justice for the people. He addressed as the Chief Guest at the Valedictory Session of the training programme on 22 July at JATI. The programme was jointly organized by the South Asian Institute of Advanced Legal and Human Rights Studies (SAILS), Bangladesh Legal Aid and Services Trust (BLAST), The Loyola Law School Centre For Conflict Resolution, Los Angeles, and JATI of the Ministry of Law, Justice and Parliamentary Affairs, Government of the People's Republic of Bangladesh.

Source: Press Release.

LAW LEXICON



**Limited Jurisdiction** - Refers to courts that are limited in the types of criminal and civil cases they may hear. For example, traffic violations generally are heard by limited jurisdiction courts.

**Lis pendens** - A pending suit.

**Litigant** - A party to a lawsuit.

**Litigation** - A lawsuit; a legal action, including all proceedings therein.

**Living trust** - A trust set up and in effect during the lifetime of the grantor. (Also called inter vivos trust.)

**Loose-leaf services** - Loose-leaf replacement pages provided by a publisher in areas of the law where changes occur at a rapid rate.

**Magistrate** - Judicial officer exercising some of the functions of a judge. It also refers in a general way to a judge.

**Malfeasance** - The commission of an unlawful act.

**Malicious prosecution** - An action instituted with intention of injuring the defendant and without probable cause, and which terminates in favor of the person prosecuted.

**Malpractice** - Any professional misconduct.

Source: Jurist International.



YOUR ADVOCATE

*This week Your Advocate is Barrister Tanjib-ul Alam Advocate, Supreme Court of Bangladesh. He is the head of the chamber of a renowned law firm, namely, 'Tanjib-ul Alam and Associates', which has expertise mainly in commercial law, corporate law, admiralty, employment and labor law, land law, banking law, constitutional law, telecom law, energy law, Alternative Dispute Resolution, Intellectual Property Rights and in conducting litigations before courts of different hierarchies.*

Query

The people of Shaheenbag-Nakhalpara want to know that the Govt. have decided to construct a 26 kilometer long Elevated Expressway with ramps at different places to facilitate entry and exit to and from the existing Railway track from Airport to Shanir Akhra, near Jatrabari. For this project notices have been served in the name of RS porcha holders. Now the interesting thing is that RS holders in most of the cases are no longer the owner of the lands now divided in innumerable smaller plots. No notices have been served to the present occupants who are the actual owner of the plots on which they are living with their family making tinshed houses to multistried as per respective capabilities. The residents of these plots are going to be homeless seeking your kind advice and legal instructions as to how they can proceed to get the due compensation in the case they were not served with any notices.

**Alhajj Abdul Mannan Howlader**  
444/1, Shahinbag, Tejgaon, Dhaka-1215.

Response

The laws relating to acquisition of property is provided in the Acquisition and Requisition of Properties Ordinance, 1982 and the Rules made thereunder. Since the Government's record of ownership to the property is directly co-related

to the latest survey carried out by the Ministry of Land, the only safe method for the Government to comply with the notice requirement under the law is to send the notice of acquisition to the owners whose name is appearing in their record. That is the reason



why the Government has sent the notice of acquisition to the RS Porcha Holders. Although a new legislation has been passed for the purpose of acquisition of property under the development scheme of Dhaka Elevated Expressway, the general principle of acquisition of property is equally applicable in case of the acquisition of your property.

Though the Government has issued the notice to the RS Record holders, it does not necessarily mean that the current owners will be deprived of the compensation for the acquisition of their land. However, in order to secure receipt of compensation each of the land owner will have to submit their demands with supporting evidence. Once the DC office is satisfied that although a particular person is named in the RS Record, due to change of ownership the new person becomes entitled to the compensation, the award will be given in the name of the new person i.e. the current owner of the property.

The Deputy Commissioner rejects an application for compensation as the owner of the property, you will have to take legal recourse against the order of the Deputy Commissioner.

For detailed query contact: info@tanjibalam.com

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: Law Desk, The Daily Star 64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel: