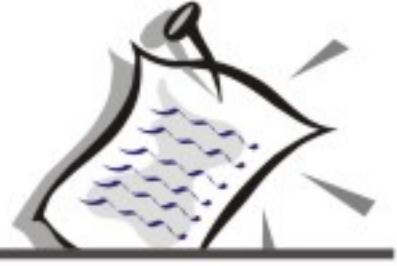


FOR YOUR INFORMATION



Reflection of UDHR in our Constitution

THE Universal Declaration of Human Rights (UDHR) has inspired numerous treaties, statutes, constitutional structures in creating human rights provisions all over the world since 1948. The Constitution of the People's Republic of Bangladesh could not escape the magic spell of UDHR like the other treaties and conventions around the world.

In Part III of our Constitution which states the fundamental rights of the nation, many provisions of UDHR has been adopted. In this writing, we will explore those articles of the Constitution which are based on the UDHR provisions.

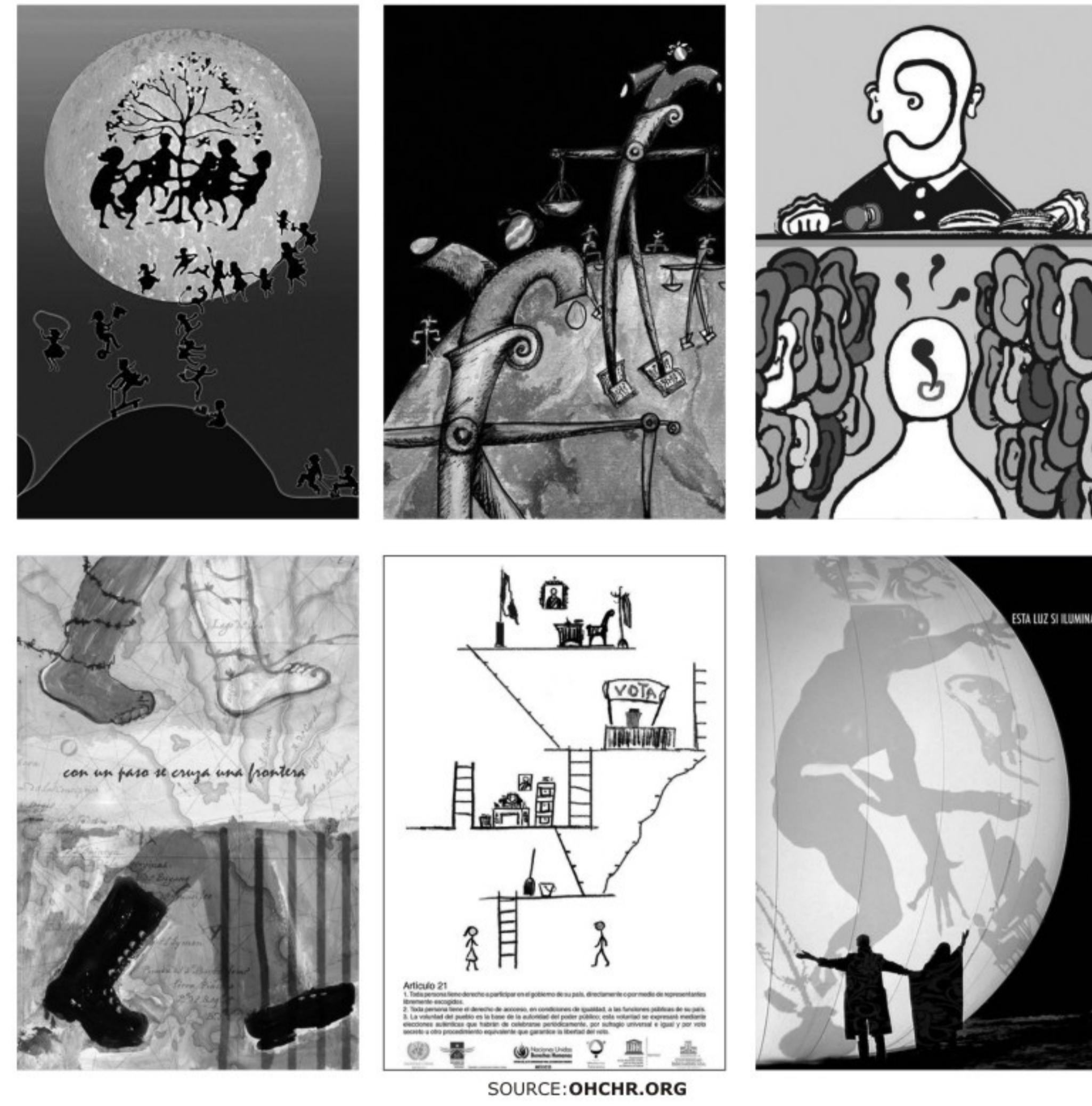
Article 27 of our Constitution provides for equality of citizens before the law and also provides for equal protection of law and Article 31 elaborates on the right to protection of law. This Article is similar to Article 7 of UDHR which states that, 'All are equal before the law and are entitled without any discrimination to equal protection of the law'.

Article 28 of the Constitution provides for protection from discrimination which lies at the heart of UDHR.

Article 29 of the Constitution states that, there shall be equal opportunity for all citizens in respect of employment. This provision is quite similar to Article 23 of UDHR.

Article 32 of our Constitution provides for the protection of right to life and personal liberty. Same provision can be found in Article 3 of UDHR.

Article 33 of our Constitution ensures safeguards as to arrest and detention which is like Article 9 of UDHR:



'No one shall be subjected to arbitrary arrest, detention or exile'.

Article 34 of the Constitution prohibits all forms of forced labour and Article 4 of UDHR provides that, 'No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms'. Article 4 of UDHR has been further elaborated in Article 8(3)

(a) of ICCPR (which enhanced the achievements of UDHR), 'No one shall be required to perform forced or compulsory labour'.

Article 35 of the Constitution provides for protection in respect of trial and punishment which extends to a defendant's right to be tried publicly and by an independent and impartial court or tribunal. This provision is covered by Article 10 of the UDHR. Another matter is covered by article 35(5) of the Constitution whereby, 'No person shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment'. Article 5 of UDHR has the same proviso.

Article 36 of our Constitution and Article 13 of UDHR provides for freedom of movement. Article 37 and Article 38 of the Constitution ensures freedom of assembly and association both of which are contained within Article 20 of UDHR.

Article 39 of our Constitution guarantees freedom of thought and conscience and of speech which is also guaranteed by Article 18 of UDHR.

Article 43 ensures protection of home and correspondence which is also mentioned in Article 12 of UDHR.

Thus it can be said that the fundamental rights given to the nation by our Constitution is that of international standard and we expect nothing but the proper implementation of the Rights guaranteed by our Constitution.

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-Compiled by Law Desk.



YOUR ADVOCATE

This week Your Advocate is Barrister Omar Khan Joy, Advocate, Supreme Court of Bangladesh. He is the head of the chambers of a renowned law firm, namely, 'Legal Counsel', which has expertise mainly in commercial law, corporate law, family law, employment and labor law, land law, banking law, constitutional law, criminal law, IPR and in conducting litigations before courts of different hierarchies. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.



THEWOODLANDSPROBATE

Query
I have a roadside property within Chittagong City Corporation area, Chittagong. Out of which 12 decimal of land were said to be acquired for CCC some years back for drain & road alignment. I was not compensated for acquisition.

Further to that, later when I placed a slab over the drain to approach my newly constructed commercial building I had to take CCC Mayor's permission against a fee of Tk.250000/- (Two lac fifty thousand) only.

Being curious, it is only very recently I found out through investigation at the relevant LADC office that my aforesaid land was never officially acquired and they (LADC office) have no record of acquisition of my land.

As such my query is (1) can I take physical possession of my land as per my deed of purchase and khatian? (2) can I rightfully reclaim the amount of Tk.250000/- taken from me unjustly for placing slab over the drain on my land?

Mohammed Ali
43, East Madarbari
Chittagong

Response
I would like to thank you very much for your queries. From the fact it appears that your problem is concerning the acquisition of immovable property. In relation to your first query, you should check in the survey whether the disputed property is recorded under your name in the recent survey. If your name is in the survey, you may apply to the District Commissioner for the possession of your property. On the contrary, it may be necessary to file a case for rectification of the survey if the same is already recorded in the name of CCC along with an application to the DC.

However, as drain and alignment have already been built on your property, it may not be practically viable to recover physical possession thereof. In that case, you may be awarded compensation by the concerned authority. This will mean that they will now formally acquire the portion of your property as per law and by way of paying necessary compensation.

Concerning your second query, you may apply simultaneously to the City Corporation explaining the facts in detail for the refunding of the aforementioned fee you had to pay for procuring the Mayor's consent.

In both the cases, if the authorities do not reply to your applications or the responses are negative, it may be possible to approach the Hon'ble High Court Division by invoking the Writ jurisdiction.

I hope that the aforesaid opinion will help you to take appropriate step towards a solution of your problem.

For detailed query contact: omar@legalcounselbd.com.



Former detective official testifies against Tarique, Mamun

A prosecution witness told a court on December 8 that the Tk 20.41 crore which BNP Senior Vice-President Tarique Rahman and business partner Giasuddin Al Mamun laundered to a Singapore bank was extorted from a construction firm. Mir Alimuzzaman, the then inspector of the Detective Branch of police, disclosed the information while testifying before the Special Judges' Court-3. Khadija Islam, chairman of Nirman Construction Limited, was forced to pay the money, the detective told the court. Judge Mohammad Mozammel Hossain adjourned the day's hearing fixing January 3 for cross examination of the witness by the defence lawyers. - *The Daily Star online edition December 8, 2011.*

Mirsarai trucker gets 5-yr jail

A Chittagong court on December 8 handed five-year imprisonment to the truck driver responsible for the road accident that killed 44, mostly school students, in Mirsarai of Chittagong. Mofizur Rahman, the truck driver, is now in police custody. He was arrested on July 21, 10 days after the tragic accident, at Batna village in Barisal. Magistrate Farida Yasmin of Senior Judicial Magistrate Court of Chittagong announced the verdict in a crowded courtroom almost five months after the accident. The court handed Mofizur three years' imprisonment and a fine of Tk 10,000 for killing the people by reckless driving. The trucker will have to serve six months more in jail if he fails to pay the fine, the court added. - *The Daily Star online edition December 8, 2011.*

Sayedee helped violate women

A freedom fighter told the International Crimes Tribunal on December 8 that Jamaat leader Delawar Hossain Sayeede had assisted Pakistani army in violating women and converting 50 to 60 Hindu people to Islam in Pirojpur during the 1971 Liberation War. Unable to accept the insult, some "converts" of Parer Haat area in Pirojpur fled to India. Ruhul Amin Nabin said while testifying before the ICT in connection with charges of crimes against humanity Sayeede is now facing. Second prosecution witness Nabin informed the tribunal that some Hindu people who fled to India returned to Bangladesh after independence and were following their own religion, Hinduism. On conclusion of his deposition, the ICT fixed December 11 for cross-examination of first witness Mahabubul Alam Hawlader and Nabin by the defence. - *The Daily Star online edition December 8, 2011.*

HC banned advertisement

The High Court on December 7 banned advertisement of unauthorised housing projects in print and electronic media. The HC bench of Justice AHM Shamsuddin Chowdhury Manik and Justice Jahangir Hossain Salim also directed the government to take immediate legal actions against the publicity, earth filling and other activities of the projects. The directives came in response to a petition filed by Bangladesh Environmental Lawyers Association (Bela), Bangladesh Poribesh Andolon, and Paribesh Banchao Andolan on June 16 this year. The Real Estate and Housing Association of Bangladesh (Rehab) was then holding a fair in the capital promoting a good number of projects that were earlier declared illegal by the court. The petition said a number of housing companies that were sponsoring the fair have unauthorised projects. - *The Daily Star December 8, 2011.*

DU 'Ga' unit fresh test Dec 20

A fresh admission test of Dhaka University 'Ga' unit for 2011-2012 academic sessions will be held on December 20. The DU authorities took the decision in accordance with the direction of the Supreme Court to hold the test by December 21. In the direction, the SC stayed the High Court's December 1 verdict which directed the DU authorities to re-evaluate the answer sheets. It issued an order barring Prof Jamal Uddin, the dean of Faculty of Business Studies, from being involved in the admission test process. However, the apex court upheld the HC order that directed the DU authorities to investigate into the anomalies in the question paper of the earlier tests and ordered to identify the people responsible for the anomalies. - *The Daily Star December 8, 2011.*

HC asks govt to explain fuel price hike

The High Court on issued a rule upon the government, asking it to explain in four weeks why its latest move raising fuel prices should not be declared illegal. The rule came following a writ petition filed by three lawyers -- Redwan Ahmed Runjib, Chowdhury Redwan-e-Khuda and Shoyeb Uddin Khan -- challenging the government's decision made on November 10 to increase the prices of fuel by Tk 5 per litre. Secretary to the power and energy ministry, chairmen of Bangladesh Energy Regulatory Commission and Petrobangla have been made respondent to the rule. The lawyers filed the petition as public interest litigation on November 29 saying that the government increased the fuel price on November 10 violating the rules of Energy Regulatory Commission Act-2003.

After holding hearing on the petition, the HC bench of Justice Mirza Hussain Haider and Justice Md Khurshid Alam Sarker issued the rule. - *The Daily Star December 8, 2011.*

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:



A celebration event organized by NHRC, Bangladesh will be held at the TSC auditorium of Dhaka University, one of the favorite places loved by youth at 10am on 10 December 2011. Law Minister Barrister Shafique Ahmed will attend the event as Chief Guest, while UN Resident Coordinator in Bangladesh Neal Walker and H.E Ambassador Anneli Lindahl Kenny, Ambassador of Sweden, will be the Guests of Honor. NHRC Chairman Prof. Dr. Mizanur Rahman will preside over the event.

Source: NHRC press release.