

RIGHTS INVESTIGATION



# Ensuring freedom of expression for children living in institution

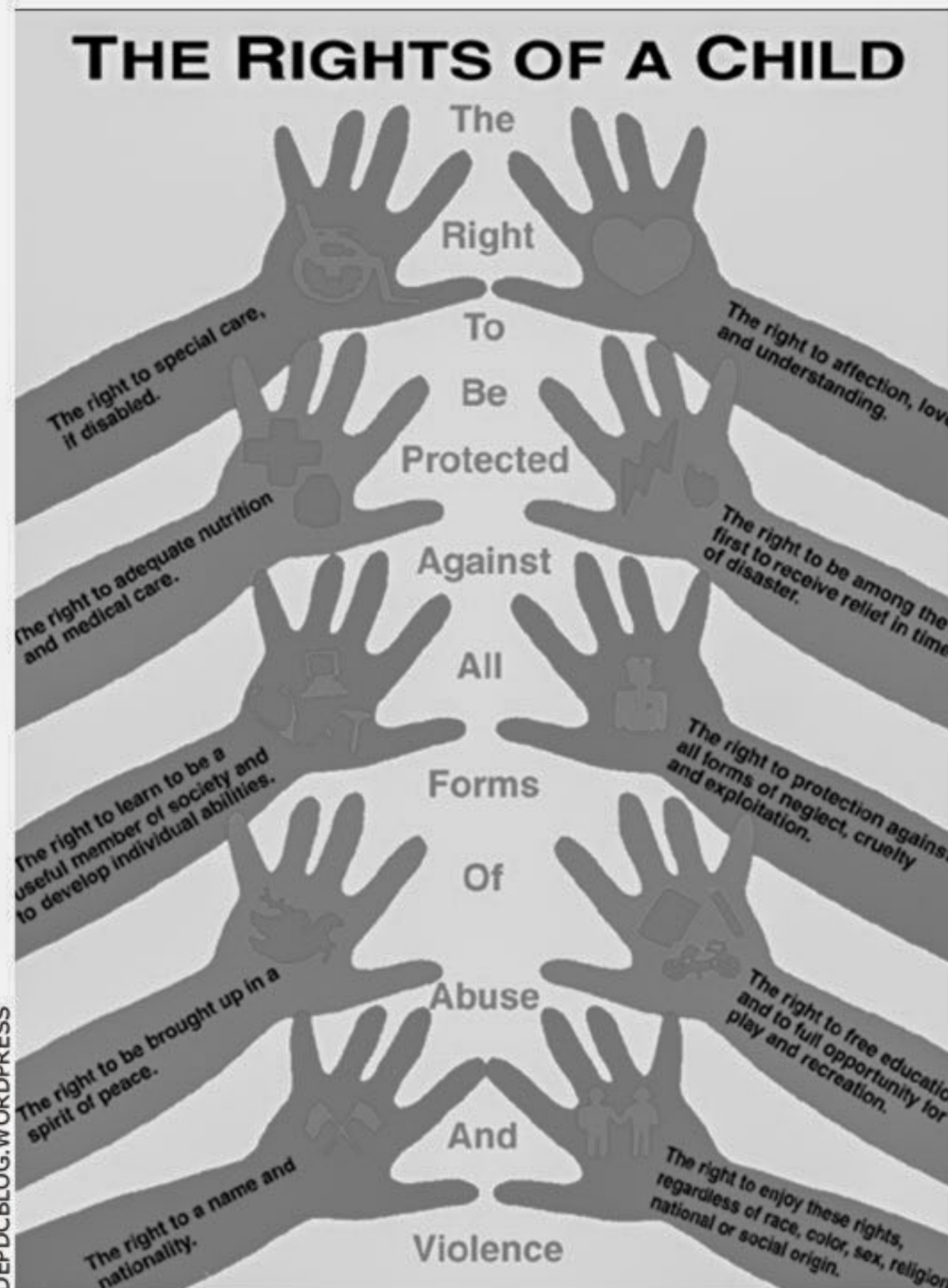
OLI MD. ABDULLAH CHOWDHURY

NO sooner had we attempted to recover from the horror carried out by a female madrasa teacher who allegedly burnt legs of 14 students as punishment, incident of a government-run orphanage in Sirajganj district was revealed. Authorities not only have expelled seven of its inmates on charges of what they called 'indiscipline and obstruction in government work'; Deputy Commissioner himself took part in disciplining children living in the institution.

Even if a group of inmates of the orphanage err, they are entitled to lawful treatment. It has been stated in Article 31 of the constitution, "To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law". However, children had little relief available for them in the orphanage.

Bangladesh is one of the earliest signatories of the UN Convention on the Rights of the Child (CRC) and committed to provide children deprived of family care adequate protection. "A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State" - said in Article 20(1) of the CRC. There are apparent violation of the rights of children living at orphanage and other similar settings and few of the incidents were addressed.

Children have the right to express their views



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regarding the matters affecting them. It has been stated in Article 12 of the CRC, "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child". In lieu of weighting their views, Deputy Commissioner and others attempted to silence children inclined to express their views in the government-run orphanage in Sirajganj.

In order to silence the protest, authority handed over a total of 7 juveniles to police. However, imprisonment should only be considered at the last stage even if there is a complaint against juveniles. It has been said in the Article 37(b), "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time".

The Children Act of 1974 also provides several alternatives other than imprisonment. First, the police must grant bail as of right if the offence is bailable, as described in Schedule II of the Code of Criminal Procedure. In case of a non-bailable offence, the police under section 48 of the Children Act may release the child on bail, if sufficient security is forthcoming, unless this would bring him into association with any reputed criminal, or expose him to moral danger, or where his release would defeat the ends of justice. If the child is not released on bail, the police shall cause him to be detained in a remand home or a place of safety until he can be brought before a Court.

Bangladesh Legal Aid Services Trust (BLAST) among others has written a letter to National Human Rights Commission (NHRC) requesting them to investigate the incident occurred in the government-run orphanage in Sirajganj district. Several incidents took place in other orphanages where authorities dealt with children harshly when they opened up their mouths. Unless perpetrators are brought to book, children living in those institutions would continue to suffer.

The writer is a human rights worker.

LAW WEEK

## Destiny Group chairman granted bail

A Dhaka court on May 17 granted bail to three persons, including Destiny-2000 Ltd Chairman and Boishakhi Media Ltd Managing Director Rafiqul Amin, in connection with a fraud case. The two others accused are Irfan Ahmed Sunny and Sayed Sajjad Hossain, two directors of Boishakhi Media, a concern of Destiny Group. Metropolitan Magistrate Mohammad Saifur Rahman granted the bail upon a bond of Tk 10,000 with two guarantors after the trio surrendered before the court seeking bail. On May 14, MNH Bulu, chairman of BNS Group of Companies, filed the fraud case for not returning shares of Boishakhi Television to him. -The Daily Star May 18 2012.

## Shafik Rehman faces court May 22

The High Court on May 16 summoned journalist Shafik Rehman to appear before it on May 22 for receiving a plot on the proposed 60-feet-wide road under Begunbari-Hatirjheel project in the capital "illegally and improperly." During hearing on a suo moto rule, the court asked former BNP state ministers--Ziaul Haque Zia and Kamrul Islam--to submit separate reports before it by May 22 mentioning their and their family members' total number of plots in Dhaka and the way of getting the plots. The HC also asked deputy secretary (development) of the Public Works Department (PWD) to submit a list of plot holders at the project to it by May 22. Ziaul Haque and his son Joy and Kamrul Islam will have to appear in the court on the day. -The Daily Star May 17 2012.

## HC for probe into 'land grab'

The High Court on May 16 ordered the cabinet secretary to set up a high-powered committee to investigate the allegation of grabbing land of Govt Bangla College against Awami League lawmaker Aslamul Haque. The two-member probe body headed by director general of Department of Land Record and Surveys has been asked to conduct the inquiry and submit a report to the court by June 15. National daily Bangladesh Pratidin on May 5 reported that Aslamul, lawmaker from Dhaka-14 constituency, was in possession of four bighas of land of Govt Bangla College in the capital's Mirpur. -The Daily Star May 17 2012.

## Opposition top shots in jail

BNP acting secretary general Mirza Fakhrul Islam Alamgir and 32 other high-profile opposition leaders ended up in jail after a Dhaka court on May 16 rejected their bail prayers in connection with an arson case. BNP standing committee members Khandker Mosharraf Hossain, MK Anwar, ASM Brig Gen (ret'd) Hannan Shah, Mirza Abbas, Goyeshwar Chandra and former DCC mayor Sadeque Hossain Khoka were among the leaders sent to jail. They had surrendered to the court and sought bail. Earlier, on April 29, police filed a case under the Explosive Substances Act with Shahbagh Police Station and an arson case with Tejgaon Police Station against the opposition leaders after crackers went off inside the Bangladesh Secretariat and a bus was torched near the Prime Minister's Office during hartal hours. -The Daily Star May 17 2012.

## Power supply officials face contempt rule

The High Court (HC) on May 15 issued a contempt of court rule against the managing director of Dhaka Power Distribution Company (DPDC) and its two directors for not ensuring uninterrupted power supply at Dhaka District Judge's Court premises. The court also summoned the managing director and two directors (operation and engineering) of DPDC before it on May 22 to explain why they have not complied with the order. In the rule, the court also asked the trio why they should not be punished for the contempt of court. The HC bench of Justice AHM Shamsuddin Choudhury Manik and Justice Jahangir Hossain Selim issued the rule after Manzill Murshid moved the petition on behalf of Human Rights and Peace for Bangladesh (HRPB). -The Daily Star May 16 2012.

## HC for action against errant 3-wheelers

The High Court (HC) on May 14 asked the government to explain in three weeks why it should not be directed to take action against "private" CNG-run three-wheelers illegally operating on a commercial basis in and around the capital. Issuing a suo moto rule, the HC asked the concerned authorities to explain why they should not be directed to cancel their registrations. The court also asked the commissioner of Dhaka Metropolitan Police (DMP) to explain why he should not be directed to run a mobile court to identify such anomalies and enforce the relevant laws. The HC bench of Justice Mohammad Bazlur Rahman and Justice Md Habibul Gani came up with the rule following a report published in The Daily Star on May 13, titled "Private yet up for hiring". -The Daily Star May 15 2012.

LAW EVENT



## Roundtable on

# Writing wrong against women Journalist

FREEDOM of expression means that every individual has the right to hold opinions and to express them without fear; it includes the right to seek, receive and impart information and ideas of all kinds through any medium of choices regardless of frontiers and state boundaries. To commemorate the World Press Freedom day 2012 and to launch the findings on writing wrongs against women journalists in Bangladesh, ARTICLE 19, the Global Campaign for Free Expression organised a round table discussion.

Discrimination against women and gender specific forms of attack is a constant in the workplace and this affects negatively on the freedom of expression of women in the Bangladesh media, said Tahmina Rahman, director ARTICLE 19 Bangladesh and South Asia while presenting key note paper.

Another highest form of discrimination complained of has been of gender stereotyping, this includes flip-pant comments, negative attitudes to their work and ability that undermines their capacity to undertake difficult and challenging assignments, she added.

Hasanul Haque Inu, MP and Chairman Parliamentary Standing Committee for the Ministry of Post and Telecommunication said that women faces serious problems in working institution including sexual harassment and wage board problem which makes them more vulnerable. To ensure secure workplace not only the concerned institution but also the state has responsibility to take the issue into account.

He urged to make a campaign about the killing of journalists and demand justice which are being ignored constantly.

Shah Husian Imam, Acting Editor, The Daily star recommended to introduce gender balance in the recruitment policy of working institution.

There is no alternative of professionalism and ethical journalism in terms of describing a fact, said Dr. Mizanur Rahman, Chairman National Human Rights Commission while addressing as chief guest.

Gender based discrimination is a serious issue in Bangladesh over which NHRC is working in accordance with its mandate, Dr. Rahman added.

-From Law Desk.

## International Day Against HOMOPHOBIA

### UN calls for repeal of discriminatory laws

MARKING International Day against Homophobia and Transphobia, senior United Nations officials drew attention to laws around the world which discriminate against lesbian, gay, bisexual and transgender (LGBT) people, and called for equality and the repeal of such laws. "When I raise these issues, some complain that I'm pushing for 'new rights' or 'special rights' for lesbian, gay, bisexual and transgender people. But there is nothing new or special about the right to life and security of person, the right to freedom from discrimination," said the UN High Commissioner for Human Rights, Navi Pillay, in a statement. "These and other rights are universal... enshrined in international law but denied to many of our fellow human beings simply because of their sexual orientation or gender identity," she added.

While not an officially observed UN day, the majority of which have been established by the UN General Assembly or designated by UN specialized agencies, the International Day against Homophobia, observed on 17 May, has become an important day for millions of people around the world to pause and remember the victims of homophobic violence and discrimination, and to make the case for genuine equality for LGBT people.

According to the Office of High Commissioner for Human Rights (OHCHR), close to 80 countries, territories and areas still have laws that criminalize same-sex relations between consenting adults.

"We cannot let these abuses stand. We know what needs to be done," Ms. Pillay said. "States must repeal discriminatory laws and ban discriminatory practices: punish violence and hatred... not love."

In connection with the Day, a UN spokesperson said Secretary-General Ban Ki-moon has called on States to tackle violence against LGBT people, decriminalize consensual same-sex relationships, ban discrimination and educate the public and he "supports the High Commissioner's message: 'We are all human and we all deserve the same rights.'"

The spokesperson said Mr. Ban is distressed by the fact that LGBT people are discriminated against in the labour market, in schools and in healthcare, and are even abused and disowned by their own families. "He is outraged that they are singled out for physi-

cal attack, even murder," the spokesperson said. "And he has called for a repeal of laws, now on the books in 76 countries, that criminalize loving relationships between people of the same sex."

In March, the UN chief told the Geneva-based Human Rights Council that he had not grown up talking about these issues, but had learned to speak up "because lives are at stake." In 2010, he lauded the "courageous" decision by President Bingu wa Mutharika of Malawi to pardon a gay couple who had been sentenced to 14 years in prison, and, more recently, he stressed the need to ensure the rights of LGBT people during a visit to Zambia.

The head of UNAIDS, the lead United Nations agency dealing with the global HIV/AIDS response, said the laws are serious barriers to an effective AIDS response and are driving LGBT people underground where they cannot access life-saving services.

"A society's value should not be based on money or power. It must be measured by the way it values people, regardless of their sexual orientation or social status. A prosperous society is one that ensures inclusiveness and respects all people," said UNAIDS' Executive Director, Michel Sidibé. "To our gay, lesbian, bisexual and transgender friends, UNAIDS stands with you." Mr. Sidibé's comments were echoed by Helen Clark, the Administrator of the UN Development Programme (UNDP), which supports initiatives that promote understanding of the negative impact of homophobia and transphobia, and reduce human rights violations. "As we commemorate IDAHO [International Day against Homophobia and Transphobia], be assured that UNDP will continue to work to empower all individuals to fulfil their potential," Ms. Clark said in a statement. "Only by including and empowering all can we truly have resilient nations and sustainable human development."

She added that UNDP experts have been working with governments and civil society organizations around the globe to monitor rights violations against LGBT people, document their impact on access to HIV prevention, counselling, treatment and care, and support rights-based responses for LGBT.

Source: UN.ORG.

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