

LAW NEWS



# 2011 human rights reports

ON May 24, 2012, the Secretary submitted the 2011 Country Reports on Human Rights Practices (Human Rights Reports) to the United States Congress. The Human Rights Reports provide the facts underlying U.S. efforts to promote respect for human rights worldwide. They inform U.S. government policymaking and serve as a reference for other governments, international institutions, non-governmental organizations, scholars, interested citizens, and journalists. The Human Rights Reports assess each country's situation against universal human rights standards, during each calendar year, and each report stands on its own. Countries are not compared to each other or placed in any order other than alphabetically by region. This year, the Department modernized both the format of the reports and the online user interface.

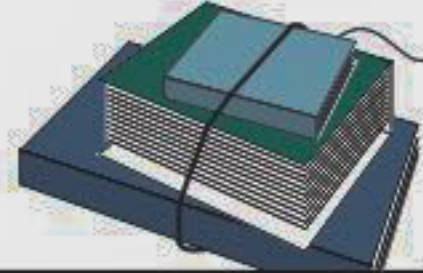
## Human Rights Around the World in 2011: Key Trends

The reports record the state of human rights throughout the world in 2011. It was a year of significant change in the Middle East and North Africa as citizens stood up and demanded universal rights, dignity, greater economic opportunity, and increased political participation. Those demonstrations sent aftershocks rumbling around the world.

Unfortunately, 2011 witnessed negative developments as well. A number of countries became less free as a result of flawed elections; restrictions on the universal rights to freedom of expression, assembly, or association, including on the Internet; moves to censor or intimidate the media; or attempts to control or curtail the activities of nongovernmental groups. Other disturbing trends include an increase in anti-Semitism, and continued persecution of other religious minorities, including Ahmadis, Baha'is, Tibetan Buddhists, Christians, Jews, and others. In many countries there was an increase in abuse, discrimination, and violence against members of racial and ethnic minorities; people with disabilities; and lesbian, gay, bisexual, and transgender (LGBT) people.

Source: US State Department.

LAW BOOK REVIEW

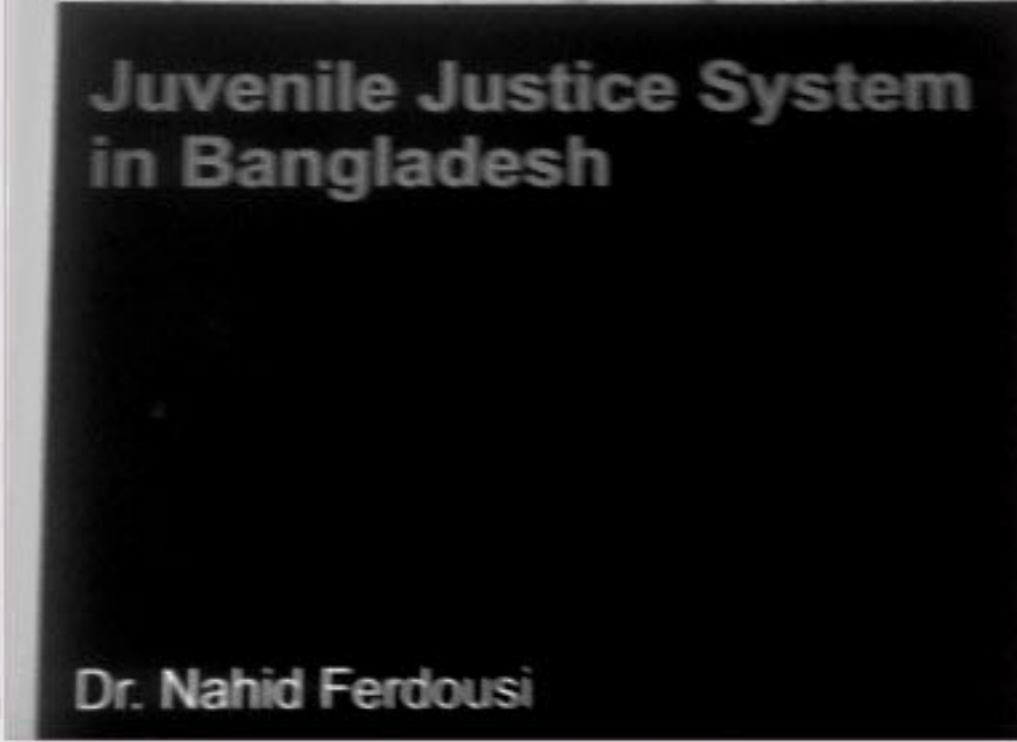


# Cross examining juvenile justice system

NOOR JAHAN PUNAM

THIS book has been written by Dr Nahid Ferdousi pursuant to the outcome of a PhD thesis on the Juvenile Justice system of Bangladesh. The book provides for an analytical study on current juvenile justice system. The analysis focused on juvenile justice system from a historical perspective and the existing laws have also been considered. The book concentrates on the genre and genesis of juvenile offences. It highlights bravely on the attitude of concerned agencies towards the juvenile offenders. The writer explained the judicial system with the help of numerous landmark judgments. The available correctional services have also been discussed along with the constraints faced in availing them. Finally, the writer suggested various ways how a child friendly environment can be created within the justice of Bangladesh.

In this book, the writer has critically analysed all the national policies and laws that we have at present along with international legal instruments and role of ordinary and juvenile courts with regard to its strengths and weaknesses for achieving the objectives of care, protection and rehabilitation of



Juvenile justice system in Bangladesh  
Dr. Nahid Ferdousi

juvenile offenders. Within the book the writer has highlighted the matters discussed within via various charts and statistics which would be invaluable for any person researching on this area. The recent picture of the juvenile justice system has been painted in this book by the brilliant presentation and writing skill of the writer.

The first chapter has been devoted to the background story of juvenile justice system in Bangladesh whereby the problems

within the system has been laid out and a huge part of it has discussed the definition of a child.

The second chapter has focused on the legal history of juvenile justice system in Bangladesh and it has also considered the situation of juvenile justice during the Pakistan period.

Third chapter has taken into account the legal instruments relating to juvenile justice in Bangladesh. Chapter 4 is related to the genre and genesis of juvenile delinquency in Bangladesh and chapter 5 is on the institutional setup of dealing with juvenile delinquency. The sixth chapter considers the role of judiciary in facilitating access to juvenile justice. The seventh chapter talks about the constraints of the juvenile justice system and the last chapter concludes the book with suggestions on how a child friendly justice system can be brought about.

The book would be very helpful for academicians, NGOs, members of the judiciary, policy makers, researchers, lawyers as well as students. The book has been written in a reader friendly language as such even a lay reader can gather knowledge from this book if he/she so wishes.

The writer is working with Law Desk, The Daily Star.



## 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.*

Query

One of my closest younger cousins was molested by one of her teachers and the man has been teasing her about various sexual matters. I was wondering if such molestations and teasing acts fall within any of the laws in Bangladesh and whether there is any redress that can be sought at all. Further I wish to know what protection my cousin would get under the law if she wishes to pursue the case because she is only 13 years old.

Nusrat Tamanna  
Rangpur



Response

Thank you very much for your query. I understand that your cousin is a 13 years old girl and has been sexually molested by her teacher. It is a matter of serious concern that such sexual harassment has been increased in the recent past. But, it also gives us some hope that people are taking it very seriously and many victims are now coming forward to protest against and even to prosecute the offenders. The government and the general people have taken such matters with utmost importance. Despite the same, unfortunate incidents like your cousin's continue to take place. We all need to be very vigilant, vocal, active and be resistant against any such activity. Sexual molestations and teasing of child certainly constitute offences under the laws of Bangladesh and are considered as heinous crimes socially.

Under section 354 of the Penal Code 1860, a person who assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punishable with maximum two years imprisonment and/or fine.

Note that the term 'woman' has been defined by the Penal Code 1860 in Section 10 as denoting "a female human being of any age". Therefore, your sister will very well be covered by this section and so can seek redress under the same.

Note also that criminal force is defined in the Penal Code to include the use of such force that will cause injury, fear or annoyance to the person to whom the force is used. Such using of force can be done with intention or even with the knowledge that the use of force is likely to be cause of injury, fear or annoyance to the victim.

So, for example, if someone intentionally pulls up a woman's veil, s/he has intentionally used force to her, and if s/he does so without her consent intending or knowing it to be likely that he may thereby injure,

frighten or annoy her, s/he has used criminal force to her.

Moreover, assault is defined to include making any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person. Note, however, that mere words do not constitute an assault, unless the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Note further that what constitutes an outrage to female modesty has not been defined. This will differ according to the country and the race to which the woman belongs. It is highly likely that considering her age and Bangladeshi culture, the judge will find the molestations and teasing as capable of outraging female modesty.

As for the teasing as well as the molestations, redress can be sought under Section 509 of the Penal Code 1860. Under this section an action can be brought against a person who, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman.

Note that while the scope of this section is really wide and it covers many situations under which teasing and any kind of act constituting sexual molestation may very easily fall, the punishment available is simple imprisonment up to one year and/or fine.

Note that the word "modesty" does not lead only to the contemplation of sexual relationship of an indecent character. So for example, if a group of young men is following a group of young girls with indecent gestures and words, this can insult the modesty of woman and hence constitute this offence.

The scope of this offence is wide and any kind of gestures or words that the teacher may have used to molest your cousin or tease her can fall within the ambit of this section.

More to this, Section 10 of the Nari O Shishu Nirjatan Daman (Amendment) Ain 2003 offers redress in this regard. It provides that if any person with a view to illegally satisfying his sexual lust by any of his organ or matter touches genital organ or any part of body of a woman or child or violates her modesty such act of that person shall constitute offence of sexual oppression and he shall be liable to rigorous imprisonment for a term not exceeding ten years but not less than three years and shall also be liable to fine.

This is a very helpful section as it covers touching any part of the body or even violating modesty of a woman without touching her. If convicted, it ensures that the accused shall be imprisoned for a term not less than three years and up to as long as ten years. Notwithstanding the length of such imprisonment, he shall also be liable to pay fine.

It is worth noting that another advantage of availing redress under the Nari O Shishu Nirjatan Daman (Amendment) Ain 2003 is that the offence under this Act shall be exclusively triable by Nari-o-Shishu Nirjatan Daman Tribunal. This spares you from having to go to busy courts, and ensures accuracy in procedures and justice as these Tribunals exclusively deal with these kinds of issues. It also has the potential to provide speedy resolutions, as there is also a provision under Section 20 of the said Act that the Tribunal shall complete the trial within 180 (one hundred and eighty) days from the date of the receipt of the case. Under section 28 of the said Act, there shall be a tribunal in each district headquarter for the trial of offences under this Act. I understand that you are writing from Rangpur and if your cousin resides in Rangpur as well then you should be informed that there is a Nari-O-Shishu Nirjatan Daman Tribunal in Rangpur. As per the said Act, the tribunal shall take and consider the opinion of any woman or child as to securing their welfare and interest while passing order for keeping in safe custody. Furthermore, the Act prohibits the news media to publish the identity of the child victim.

Some other penal provisions may also be attracted based on the actual conduct don't by the instant accused.

I hope that you find the aforesaid opinion helpful and get a redress for your cousin accordingly.

For detailed query contact: omar@legalcounselbd.com.

LAW WEEK

## Hearing on pro-BNP lawyers' bail plea June 3

A Dhaka court on May 31, 2012 fixed June 3 for hearing the bail petitions of 22 pro-BNP lawyers in a case filed for vandalising metropolitan sessions and district judges' courts on May 22. First Additional Chief Metropolitan Magistrate Mohammad Shahidul Islam Faruque passed the order as the lawyers' bail term granted by the High Court will expire on June 3. Dhaka Bar Association President Borhanuddin and 21 other accused secured the bail for 10 days from the HC in the case on May 24. The lawyers will be at liberty as before until June 3, the court said Thursday. - *The Daily Star* May 31 2012.

## Decision on accepting Zia trust graft charges now July 1

A Dhaka court on May 31, 2012 for third time deferred the date for passing an order on whether it would accept the charges against BNP Chairperson Khaleda Zia and three others in Zia Charitable Trust graft case. The court will now give the decision on the matter on July 1. Judge Mohammad Zahurul Haque of the Senior Special Judges' Court in Dhaka passed the order following a time petition of the defence counsel. In the petition, Taherul Islam Towhid, a counsel for Khaleda, told the court that his client could not appear before the court as she was busy with budget session of the Parliament. The court also extended the bail term of two other accused -- Ziaul Islam Munna, assistant private secretary (APS) of Khaleda's former political secretary Harris Chowdhury, and Monirul Islam Khan, APS of former Dhaka City Corporation mayor Sadeque Hossain Khoka -- till July 1, the next date of the case. - *Daily Star* May 31 2012.

## HC summons 8 police officers

The High Court on May 31, 2012 summoned eight police officers to appear before it on June 6 and explain their roles in Tuesday's incident in which a girl and her parents were assaulted in front of Dhaka magistrate's court. The eight officers are: Harun-or-Rashid, deputy commissioner of police of Lalbagh zone; its assistant commissioner Rajib Al Masud; Salauddin Khan, officer-in-charge of Kotwali Police Station; its sub-inspectors, Nuruzzaman Sarker, Amir Afzal Biplob, Zaman and Jahangir; and the president of Police Club near the court. Meanwhile, the girl's mother late last night filed a case against five policemen, including operations officer Nazmul Huda, with Kotwali Police Station, said Sub-Inspector Mokbul Hossain. On May 31, 2012 in a suo moto rule, the High Court also directed the inspector general of police (IGP) to turn in a report within 48 hours containing details of the responsible police officers including their records, and what steps had been taken against them in connection with the incident. - *Daily Star* May 31 2012.

## Admit Khoka to Birdem hospital: HC

The High Court on May 28, 2012 directed the jail authorities to immediately admit BNP leader Sadeque Hossain Khoka to Birdem hospital for treatment. In response to a petition, the court also issued a rule upon the government asking it to explain in a week why Sadeque Hossain Khoka should not be granted bail in an arson case. The HC bench of Justice Salma Masud Chowdhury and Justice FRM Nazmul Ahasan came up with the order and rule after hearing the petition filed by Khoka on May 27

LAW LEXICON

**Referee** - A person to whom the court refers a pending case to take testimony, hear the parties, and report back to the court. A referee is an officer with judicial powers who serves as an arm of the court. \*\*\*

**Rehearing** - Another hearing of a civil or criminal case by the same court in which the case was originally heard. \*\*\*

**Registered mark** - Trademark with the words "Registered in the U.S. Patent and Trademark Office" or the letter "R" enclosed within a circle. \*\*\*

**Rejoinder** - Opportunity for the side that opened the case to offer limited response to evidence presented during the rebuttal by the opposing side. \*\*\*

**Remand** - To send a dispute back to the court where it was originally heard. Usually it is an appellate court that remands a case for proceedings in the trial court consistent with the appellate court's ruling. \*\*\*

**Remedy** - Legal or judicial means by which a right or privilege is enforced or the violation of a right or privilege is prevented, redressed, or compensated. \*\*\*

**Replacement volumes** - Volumes which replace books and their pocket parts when the pocket parts cause the books to become too bulky. \*\*\*

Source: Jurist International.

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, 64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel: