



HUMAN RIGHTS WATCH

Broken pledges by India to end border killings

AUTHORITIES in India should investigate fresh allegations of human rights violations by the Border Security Force (BSF) along the Bangladesh border and prosecute those found responsible.

Despite assurances to the Bangladesh government and public orders to exercise restraint and end unlawful killings and attacks on suspected smugglers, evidence documented and published by Indian and Bangladeshi nongovernmental organizations suggest that the BSF is once again committing abuses including extrajudicial

January 2011, the Indian government assured Bangladeshi officials that it would order the BSF to exercise restraint and encourage the use of rubber bullets instead of more lethal ammunition, steps welcomed by Human Rights Watch.

Although BSF attacks decreased significantly over the next year, the new evidence presented suggests that Indian border

Odhikar, a Dhaka-based nongovernmental organization, has documented as many as 13 killings by the BSF since January 2012. Kolkata-based nongovernmental organization Banglar Manabdhikar Suraksha Mancha (MASUM), has documented five other killings during the same time period, based on statements from witnesses and families of victims.

In one recent example, MASUM reported to the National Human Rights Commission of India that on April 22, 2012, soldiers from the BSF's 91st battalion chased and shot 21-year-old Babu Sheikh in the Murshidabad district of West Bengal. According to MASUM, Sheikh, along with three of his companions, was walking toward the marshland in the evening when they were chased by BSF soldiers who fired at them without warning. After a bullet hit Sheikh, MASUM says that one of his companions saw the soldiers drag an injured Sheikh to their camp nearby, where he later died in custody without access to medical attention. In another case, MASUM reported that on January 1, 2012, four Indian teenagers, accosted while smuggling cattle, jumped into a rivulet to avoid punishment. The BSF soldiers allegedly beat them when they tried to come out of the water. All four boys, severely injured because of the beatings, eventually drowned.

In another case, Okhikar reported that Mohammad Mizanur Rahman, a cattle trader who bought cows from India to Bangladesh and lived in West Khodaipur village of Dinajpur district, died on February 14, 2012, due to alleged torture by BSF soldiers. Rahman was caught by BSF soldiers when smuggling cows from India. According to Okhikar, he was then severely beaten near the border at Aboiter in Hili Thana, Gangarampur district in India. He

was later taken by his companions to the Upazila Health Complex in Bangladesh for medical help, where he died at around 5:30 a.m. on February 14. The post-mortem report says Rahman died due to injuries to his head. At the time of death his right eye was missing; his right jaw, ear, and gums were crushed; and some brain matter had come out through a deep wound in his upper jaw.

Last year, MASUM released a video showing BSF soldiers brutally beating a Bangladeshi national caught smuggling cattle in West Bengal state. Eight soldiers were suspended but no further information is available regarding their prosecution or punishment.

Human Rights Watch knows of no cases in which BSF soldiers have been prosecuted for violations committed along the India-Bangladesh border. This includes a highly publicized case in which a 15-year-old Bangladeshi girl trapped in the wire fencing at the border was shot by the BSF in January 2011.

"While the Indian government claims that it holds its forces accountable, it produces no information to show that this is actually happening," said Ganguly. "There appears to be complete impunity for BSF soldiers even in the most egregious cases. Unless the government orders an independent investigation and ensures the prosecutions of those against whom credible evidence is found, such acts of brutality will continue."

The India-Bangladesh border is heavily populated and very poor, with large numbers of people moving back and forth to visit relatives, buy supplies, and look for jobs. Others engage in petty and serious cross-border crime. The border force is mandated to address illegal activities, especially narcot-

ics smuggling, human trafficking for sex work, and transporting fake currency and explosives. However, instead of arresting suspects and handing them over to the police for trial, BSF soldiers have taken it upon themselves to punish suspects.

Human Rights Watch called on the Indian government to do more to ensure compliance with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Given the failure of the BSF's internal justice system to prosecute its members for human rights abuses, personnel of all ranks implicated in serious rights abuses should be investigated by civilian authorities and tried in civilian courts. This is particularly important because the BSF is now being deployed in security operations against Maoists in central and eastern India. Considering the widespread tendency to subject local residents at the Bangladesh border to verbal and physical abuse including severe beatings, the government should ensure a transparent system of accountability that will prevent violations in these areas.

The Bangladesh government, after initially failing to address this issue, finally began to call for the protection of its citizens. In March 2011, at a joint border coordination conference, Maj. Gen. Rafiqul Islam, head of the Bangladesh border guards, called on the BSF to respect the right to life and said that individuals "must be treated innocent unless and until he or she is proved to be a criminal or offender." BSF director-general Raman Srivastava promised "to maintain utmost restraint on the border" and also provide troops "with non-lethal weaponry."

"It is time for the Indian government to keep its promises to end abuses and hold its forces accountable," said Ganguly. "At the same time, Bangladeshi government should publicly demand that the Indian government end this scourge of violence along their border."

Source: Human Rights Watch.



killings, torture, and ill-treatment of both Indian and Bangladeshi border residents.

"The Border Security Force has reverted to its previous tactics of unilaterally punishing suspects, defying orders from Delhi issued last year to exercise restraint and protect the right to life," said Meenakshi Ganguly, South Asia director at Human Rights Watch. "But the central government is also responsible, since it has failed to hold perpetrators accountable. Justice is the best deterrent against further violations."

In December 2010, Human Rights Watch released "Trigger Happy, Excessive Use of Force by Indian Troops at the Bangladesh Border," which documented nearly 1,000 killings by the BSF over the last decade. In

troops continue to frequently abuse both Bangladeshi citizens and Indian nationals residing in the border area. The recent allegations claim that in order to get around the restrictions on shooting at sight, BSF soldiers have been subjecting suspects to severe beatings and torture, resulting in deaths in custody.

Efforts by local residents and activists to file complaints and secure justice have resulted in threats and intimidation. The National Human Rights Commission has sought responses when allegations are filed, but without adequate witness protection complainants end up risking further abuse.

Large numbers of killings and other abuses have been reported in 2012.

LAW EVENT



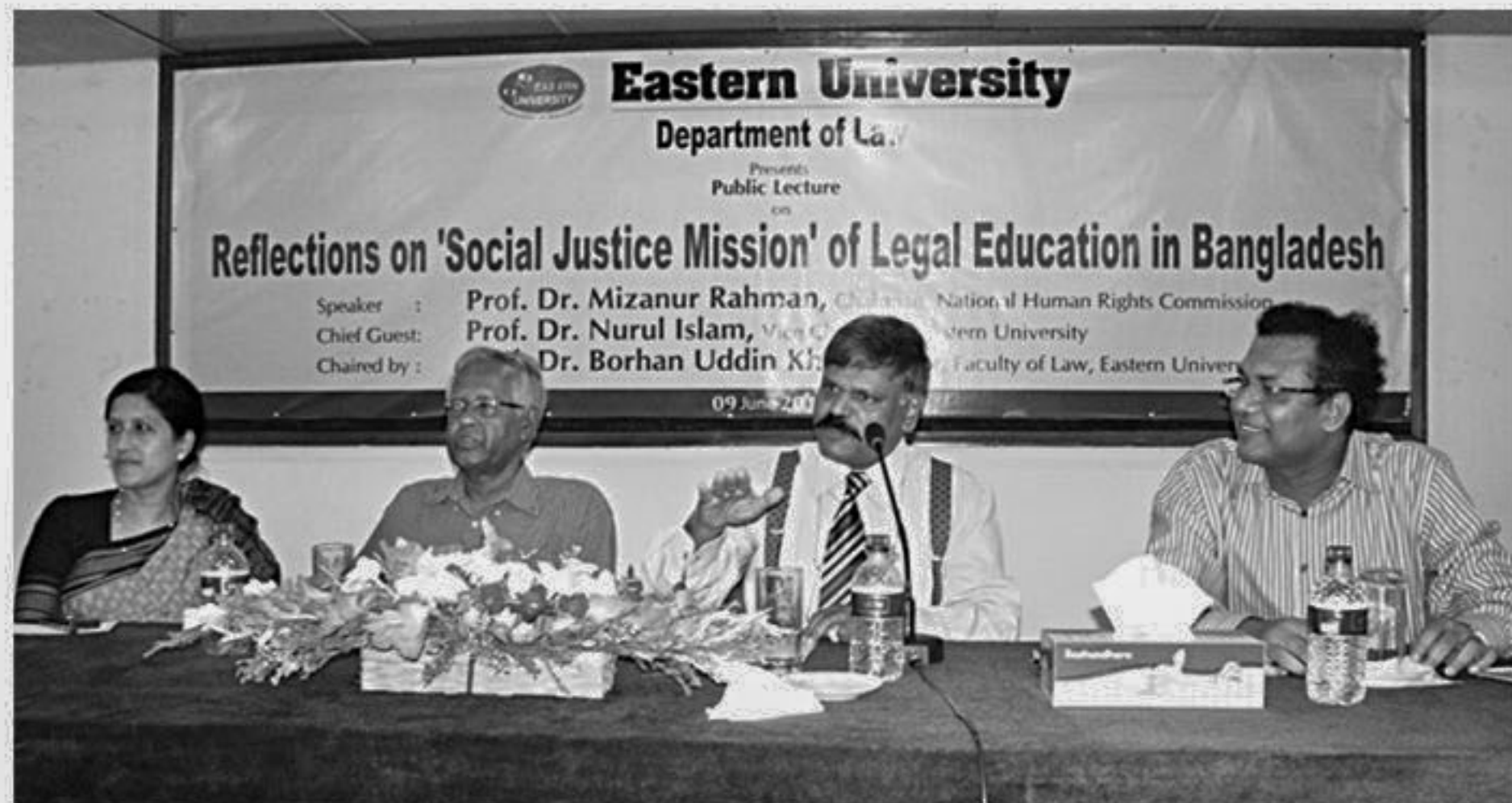
Social justice mission in legal education

ANISUR RAHMAN

ALI Akbar Khan in his article "Political Economics of Reforms" opined that reforms directed at changing the situation of the poor can only be brought with measures that are not lucrative to the upper strata of the economic situation as then they would be compelled by their own nature to engulf all of it. Reform can only be brought with a design that offers things unwanted by the Haves so that they get delivered to the Have Nots.

Professor Prof. Rahmanur Rahman, Chairman of the Human Rights Commission, spoke in the same vein in his speech on "Reflections on Social Justice Mission in Legal Education of Bangladesh" in Eastern University, Dhaka on 9th June. The programme was arranged as part of the regular Lecture series convened each month by the Department of Law of the University. Held in the Auditorium of the University the session was chaired by Professor Dr. Borhanuddin Khan, Advisor of the Law Faculty and Dr. Nurul Islam, Vice Chancellor of the university graced the occasion as the Chief Guest. While Chairperson Department of Law, Ishrat Azim Ahmad rendered the vote of thanks.

By portraying the redundancy of the current obsolete legal education system, in his words "in house system of learning, overwhelmingly textual and extensively legalistic" Prof. Rahman argued that the graduates passing every year are nothing more than mere legal technicians lacking the sensibility to read between the lines there fore rendering the legislations "black letter laws". Seemingly radical and preposterous idea at first sight, the proposal is in fact long due and a silent movement that dates almost 3 decades. The legal education system prevalent in Bangladesh lacks the all important connection with politics, sociology, anthropology, history, science, philosophy, psychology, international relations; a suicidal approach for a multi disciplinary subject such as law. Law is fundamentally a discipline that stems from and thrives in the real life problems of the people, mostly poor people, and real life problems do not come in single focused uniforms rather



are entrenched with the niceties of the day to day life.

The absence of or even lack of understanding and compassion on the lawyer's part, who is to defend another person, the detached, impersonal approach that has so become likely of the vocation by default leads to a system that does not change the situation of the incumbent.

Prof. Rahman's proposition stands on four concrete grounds. Firstly, legal education has ceased to become multi disciplinary as both the students and the teachers find that it would not bring them any good in the professional sector. A supposition that tells us that the lawyers and the actors in the system has successfully achieved the goal of measuring everything in terms of the fruit they yield and not just any fruit rather, financial gain and pushed the social responsibility that is thrust upon them by the nature of the vocation to the corner. Secondly, the real people, working in the periphery, fighting with the difficulties of every day life are not aware of their legal rights and processes, the same processes that are supposedly designed for them and thus are not being empowered at all. In this situation it befalls upon the students and practitioners to take up the mantle and be the protector but since due to the classroom oriented teaching system, no real connection is ever made with the student

and the reality, thus the lack of passion and empathy. Thirdly, there has not been a growth in our domestic jurisprudence and a strong inclination towards accepting the law as it is- a reluctance to read between the lines or to interpret them. In his words "our students are at their best are mere technical interpreters. They do not philosophize. They do not question or challenge existing paradigms".

Napoleon once said that he has done a lot of things but would only be remembered for one thing, that is the French Penal Code. Throughout the drafting process he read and re-read the whole thing and sent it back to table to ensure that the provisions are clear and easily understandable by the layman, so that law does not become the monopoly of an elite group, apt to understand it. Our legislations suffer from the same ornamental words and a way of twisting and turning them before chucking them out, and it seems by pointing out the reluctance in reading between the lines, Prof. Rahman wanted us take notice of this issue also.

And fourthly, law has always been pro rich and anti poor, a tool that has always come handy to protect the rich whereas it is the poor that needs the protection most. Prof. Rahman asks the students to stand up and question the present set up if they are not happy and to bring

changes through what he calls "Rebellious Lawyering". The concept of rebellious lawyering demands a socially relevant legal education which would in the end usher in people friendly laws, rule of law and access to justice.

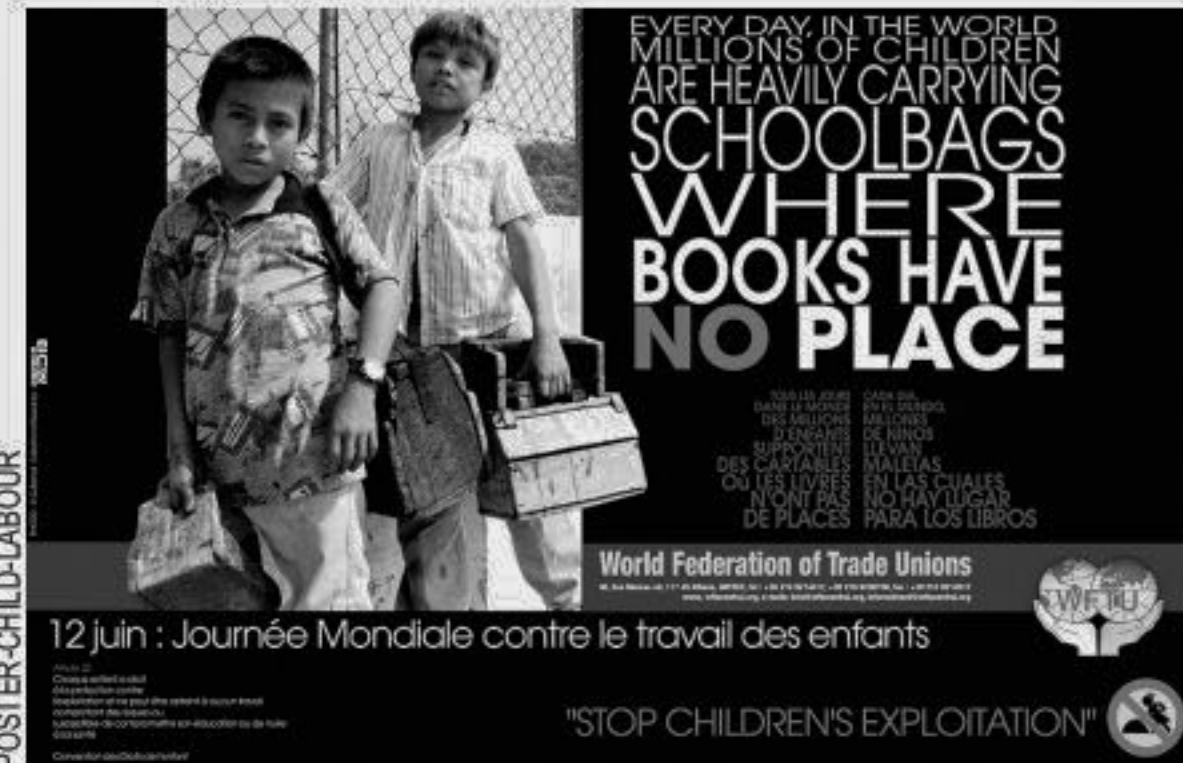
As he states, his philosophy is much influenced by the thoughts of Prof. N. R. Madhava Menon who with the help of Indian Bar council and Government has been working towards realizing his vision. The vision of educating lawyers that would stand up for the common man, empower the indignant, work for the community and is certainly not the personification of the shrewd blood sucking lawyer, so feared by the people. The interpretation of that vision along with Prof. Rahman's own ideology in Bangladesh and where it stands to day has been a long journey fraught with censure, obstructions and strong oppositions often resulting in denial.

At the end of the day all these efforts, programmes and talks are a way of reminding us, the actors in the legal education system, both student and teachers alike that, this is a discipline that entails social responsibility with it, a responsibility that can not be shaken off or be ignored.

Prof. Rahman's Arithmetic Dream envisions that in 20 years there would be 140 to 150 rebellious lawyers in the High Court dedicated to the cause of the humanity and poor and urges the institutions providing legal education to initiate such steps. But one must ponder, whether the day has come, for all the law schools of the country come together to create a curriculum and a teaching method that would not only fashion the susceptible, green mind of a student to look at the law as it ought to be, not as it is and ignite the fire within to fight for a cause. The people of this country are denied justice on a daily basis and there is a lot to do, to help them, to make tangible difference if all came together. The question is whether the day of calling has come and gone and whether it is the time when we start walking on the road that has been painfully paved before us.

The writer is Assistant Professor Faculty of Law, Eastern University.

No child labour



ENDING child labour is a matter of human rights and social justice. Step up the fight; do not relent: this is the call addressing the tenth anniversary of the World Day against Child Labour. The worldwide mobilization against child labour is paying off with important progress achieved over the past decade. Today there are 30 million fewer child labourers worldwide than a decade ago. The sharpest decrease has been among younger children, in particular girls.

Conventions on child labour are among the most widely ratified of all ILO Conventions. More and more countries have established national plans to tackle child labour or have introduced laws prohibiting hazardous work by children. And in consciousness, policy and practice, crucial linkages are increasingly being made: between child labour and poverty, and between the elimination of child labour and universal access to quality education.

Decent work for parents means that children are less likely to fall victim to child labour."

Said by Juan Somavia, Somavia Director-General of the ILO while giving message on the occasion of child labour.

However, the road to full eradication is long and challenging. The reality remains extremely worrying. The bottom line is that 215 million children are still trapped in child labour, 115 million of them in the worst forms. Our latest estimates indicated an increase of 20 per cent in child labour among young people aged 15 to 17, mainly involved in hazardous work.

We can put together a combination of policies founded on respect for those principles and rights so that children can be free from child labour and have the chance of a better life. Effective education and training policies backed by social protection measures can produce significant increases in school enrolment and a decline in child labour. Decent work for parents means that children are less likely to fall victim to child labour. And better enforcement of national laws, including strengthening child labour inspection and monitoring, enhancing victim assistance and improving prevention strategies are critical to success.

In a world of growing inequality we must link policy agendas with basic standards of fairness and do right by the world's children. In a world of incredible wealth, the means exist to end child labour. On this World Day with will and solidarity let us renew our efforts, stay the course, and reach the goal.

Source: Hrea.org.