



## FROM LAW DESK

### Laws regarding workers rights

## The Fatal Accidents Act, 1855

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

**Preamble:** Whereas no action or suit is now maintainable in any court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows:

- Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong. Whenever the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.
- Every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased; and in every such action, the court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the court by its judgment or decree shall direct.
- Not more than one suit to be brought. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint Claim for loss to the estate may be added. Subject that in any such action or suit the executor, administrator or representative of the deceased may insert a claim for, and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.
- Plaintiff shall deliver particulars, etc. The plaintiff in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.
- Interpretation clause: The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grand-father and grand-mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.

## RIGHTS investigation

### Copyright is pricing consumers out of knowledge

The worldwide federation of consumer organisations, Consumers International (CI), has condemned WIPO technical assistance as 'thoroughly inadequate', and is demanding a wholesale review of the organisation's legislative advice to developing countries. The criticism comes as Consumers International publishes the findings of its study into the copyright laws of 11 Asian countries, released to coincide with the World Intellectual Property Organization (WIPO) development agenda summit in Geneva (20-24 February).

The 'Copyright and Access to Knowledge' report finds that all 11 countries, including China, India and Malaysia, have given copyright owners far more protection than the intellectual property treaties they have signed up to require. As a result, copyrighted educational materials in these countries are expensive and consumers are being priced out of access to knowledge. Imported books are prohibitively priced. When considered in terms of GDP



for instance, selling students a book at US \$27 in Indonesia is equivalent to selling it to students in the US at US\$1.048.

The report concludes that WIPO is failing to provide developing countries with the technical assistance they need to take advantage of copyright exemptions and limitations written into international IP treaties. In doing so, WIPO is tacitly supporting the unfair IP demands of governments and businesses in the developed world at the expense of consumers in poorer nations.

Richard Lloyd, Director General of Consumers International said, 'In order to develop, poorer nations need access to affordable learning materials. Yet immense pressure from the developed world has meant many of the copyright laws in these countries are tougher than they need to be. This means consumers are being priced out of the opportunity to learn. WIPO must support its developing world member states and provide them with the technical assistance they need to effectively implement their rights under international law.'

Source: Consumers International (CI), Asia Pacific office.

### Corresponding with the Law Desk

Please send your mails, queries, and opinions to: **Law Desk**, The Daily Star 19 Karwan Bazar, Dhaka-1215; telephone 8124944, 8124955, fax 8125155; e mail <slawdesk@yahoo.co.uk, lawdesk@thedailystar.net

## HUMAN RIGHTS advocacy

### INTERNATIONAL DEATH PENALTY ABOLITION DAY, 1 MARCH 2006

# Facts and figures on the death penalty

1<sup>ST</sup> March is International Death Penalty Abolition Day, a day that marks the occasion in 1847 when the state of Michigan became the first English-speaking territory in the world to abolish capital punishment. The death penalty is a violation of human rights. Abolition of the death penalty is an evolving standard of international law.

Over half the countries in the world have now abolished the death penalty in law or practice.

Amnesty International's latest information shows that:

- 86 countries and territories have abolished the death penalty for all crimes;
- 11 countries have abolished the death penalty for all but exceptional crimes such as wartime crimes;
- 25 countries can be considered abolitionist in practice: they retain the death penalty in law but have not carried out any executions for the past 10 years or more and are believed to have a policy or established practice of not carrying out executions, making a total of 122 countries which have abolished the death penalty in law or practice.
- 74 other countries and territories retain and use the death penalty, but the number of countries which actually execute prisoners in any one year is much smaller.

### Progress towards worldwide abolition

Over 40 countries have abolished the death penalty for all crimes since 1990. They include countries in Africa (recent examples include Côte d'Ivoire, Senegal), the Americas (Canada, Paraguay, Mexico), Asia and the Pacific (Bhutan, Samoa, Turkmenistan) and Europe and the South Caucasus (Armenia, Bosnia-Herzegovina, Cyprus, Greece, Serbia and Montenegro, Turkey).

### Moves to reintroduce the death penalty

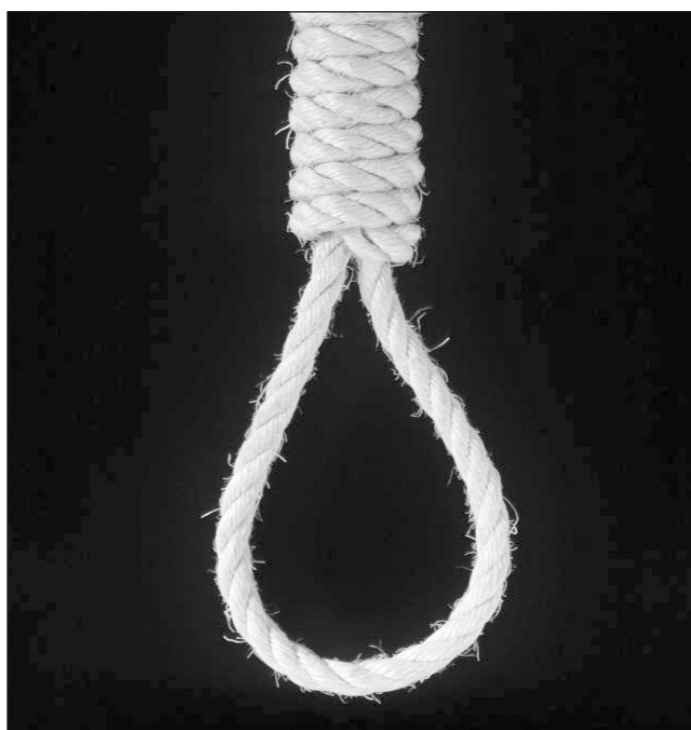
Once abolished, the death penalty is seldom reintroduced. Since 1985, over 50 countries have abolished the death penalty in law or, having previously abolished it for ordinary crimes, have gone on to abolish it for all crimes. During the same period only four abolitionist countries reintroduced the death penalty. One of them - Nepal - has since abolished the death penalty again; one, the Philippines, resumed executions but later stopped. There have been no executions in the other two (Gambia, Papua New Guinea).

### Methods of execution

Executions have been carried out by the following methods since 2000:

- Beheading (in Saudi Arabia, Iraq)
- Electrocution (in USA)
- Hanging (in Egypt, Iran, Japan, Jordan, Pakistan, Singapore and other countries)
- Lethal injection (in China, Guatemala, Philippines, Thailand, USA)
- Shooting (in Belarus, China, Somalia, Taiwan, Uzbekistan, Viet Nam and other countries)
- Stoning (in Afghanistan, Iran)

### Use of the death penalty



### against child offenders

International human rights treaties prohibit anyone under 18 years old at the time of the crime being sentenced to death or executed. The International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and the American Convention on Human Rights all have provisions to this effect. More than 110 countries whose laws still provide for the death penalty for at least some offences have laws specifically excluding the execution of child offenders or may be presumed to exclude such executions by being parties to one or another of the above treaties. A small number of countries, however, continue to execute child offenders.

Eight countries since 1990 are known to have executed prisoners who were under 18 years old at the time of the crime: China, Congo (Democratic Republic), Iran, Nigeria, Pakistan, Saudi Arabia, USA and Yemen. China, Pakistan and Yemen have raised the minimum age to 18 in law, and Iran is reportedly in the process of doing so. The USA executed more child offenders than any other country (19 between 1990 and 2003).

Amnesty International recorded four executions of child offenders in 2004 - one in China and three in Iran. Eight child offenders have been executed in Iran since January 2005.

### International agreements to abolish the death penalty

One of the most important developments in recent years has been the adoption of international treaties whereby states commit themselves to not having the death penalty. Four such treaties now exist:

- The Second Optional Protocol to the International Covenant on Civil and Political Rights, which has been ratified by 56 states. Eight other states have signed the Protocol, indicating their intention to become parties to it at a later date.

abolition of the death penalty in all circumstances.

### Execution of the innocent

As long as the death penalty is maintained, the risk of executing the innocent can never be eliminated. Since 1973, 122 prisoners have been released in the USA after evidence emerged of their innocence of the crimes for which they were sentenced to death. There were six such cases in 2004 and three up to December 2005. Some prisoners had come close to execution after spending many years under sentence of death. Recurring features in their cases include prosecutorial or police misconduct; the use of unreliable witness testimony, physical evidence, or confessions; and inadequate defence representation. Other US prisoners have gone to their deaths despite serious doubts over their guilt.

The then Governor of the US state of Illinois, George Ryan, declared a moratorium on executions in January 2000. His decision followed the exoneration of the 13th death row prisoner found to have been wrongfully convicted in the state since the USA reinstated the death penalty in 1977. During the same period, 12 other Illinois prisoners had been executed. In January 2003 Governor Ryan pardoned four death row prisoners and commuted all 167 other death sentences in Illinois.

### The death penalty in the USA

- 59 prisoners were executed in the USA in 2004, bringing the year-end total to 944 executed since the use of the death penalty was resumed in 1977.
- Over 3,400 prisoners were under sentence of death as of 1 January 2005.
- 38 of the 50 US states provide for the death penalty in law. The death penalty is also provided under US federal military and civilian law.

Source: Amnesty International.



## LAWevent

# Migrants make major contributions in the economies of destination countries

MARUFA AKTER

**S**PEAKERS at a seminar called for creation of conditions for increased mobility of labour across national borders. They also underscored the need for an understanding between the labour surplus developing countries and the labour deficit developed countries to work out arrangements for such mobility.

The seminar on 'Recent labour migration policies of developed countries' was organised by the Refugee and Migratory Movements Research Unit of Dhaka University at the Centre for Advanced Research in Humanities under the auspices of the DRC on Migration, Globalisation and Poverty on Saturday, 25 February 2006.

Dr. Daniel Cherot, professor of the Washington University of Seattle in his keynote address stated that while poverty and relative poverty in many developing societies are working as push factors, lower fertility rates, increase in the proportion of aged population and other factors have created demands for labour in many sectors in European and North American economies. Instead of facilitating the flow of labour, from south to north, in responding to economic needs, more and more restrictions are being placed by the developed countries. These are done on extra-economic considerations, often shaped by right wing political forces, he stated.



Prof. Chirot stated that migrants make major contributions in the economies of destination countries. One-half of Ph.Ds in hard sciences of US universities is foreign students, without which it would be impossible for the US to keep its competitive edge in industry, science and technology, he noted.

A major challenge of western democracies, particularly in post 9/11 situation, will be framing policies that assuage concerns of migrant population, he observed.

Dr. C R Abrar, the chair of the session, stated that failure to allow labour through regular channels to a large extent encourages flows through irregular routes. Recent efforts to understand irregular migration should necessarily focus on the demand aspect of the problem, he stated.

Among others, Prof. Ramjul Huq, Prof. Ruksana Kibria and Sayed Imtiaz Ahmed of International Relations department participated in the discussion. Students and faculty members of the university and representatives of the foreign missions attended the seminar.

The author is Programme Associate, RMMRU.

## LAWweek

### BGMEA to inspect all RMG plants

The BGMEA (Bangladesh Garment Manufacturers and Exporters Association) has decided to inspect all the garments factories across the country within next one month to find out whether the units are following the necessary safety standards and other compliance issues set by the national and international organisations. The decision was taken at an emergency board meeting of the association at Agarabab BGMEA Bhaban in Chittagong following the devastating fire at the KATB Composite Textile Mill of Arina group. BGMEA President Tipu Munshi chaired the meeting. Any factory lacking required safety and security arrangements or other facilities for the workers will be given 15-20 days of time to fulfil those conditions, the meeting decided. "If a factory fails to be compliant even after the time frame, we will cancel the association's membership of the company," said SM Abu Tabbab, first vice-president of BGMEA. The association decided to form a high-powered committee to carry out the inspection. - *The Daily Star, February 26.*

### Rajuk in dark about sloppy buildings

The government's sloppy monitoring on the booming construction sector has once again come into focus with yet another building collapse in the city. There are 4,376 buildings six to 22 stories in 66 localities of the city but Rajuk has no idea how many of these structures were built following proper construction rules, Rajuk sources said. Unable to crosscheck documents due to theft of over 250 files from its archive, Rajuk sources said it would not be possible to verify the legitimacy of many structures unless a door to door survey is done. According to top officials of the Public Works Department (PWD) and Rajuk, the entire city is dotted with buildings which were either built without any approval of Rajuk or in total violation of proper construction rules. Officials said over 95 percent of all Rajuk approved structures in the city have been built deviating from original plans. PWD officials said a large section of landowners, developers, engineers and architects are involved in doing this. Rajuk, the sole authority to approve building plans and to monitor construction, is riddled with corruption where anyone can get anything done through a gang of highly influential and well-linked middlemen. - *The Daily Star, February 27.*

### Judiciary separation bill tabled in JS

The government at last placed a much-awaited bill in the Jatiya Sangsad (JS) seeking separation of the judiciary from the executive with a provision for introducing separate executive and judicial magistracy. Another bill titled 'Public Procurement Bill, 2006', pursued for long by The World Bank as a condition for its Development Support Credit and aimed at bringing transparency and curbing corruption in public procurement, was also tabled in the House. Law, Justice and Parliamentary Affairs Minister Moudud Ahmed piloted the bill for separation of the judiciary styled the Code of Criminal Procedure (Amendment) Bill, 2006, terming the move a historic one. - *The Daily Star, February 27.*

### Factory safety watch in complete disarray

Recurring accidents causing loss of a large number of lives and huge property have failed to make the government take effective steps to ensure safe working condition in factories. Three major factory accidents occurred recently -- two in Dhaka and one in Chittagong-- leaving 142 workers killed and more than 500 injured, many of them disabled for life. All these accidents took place due to lack of proper safety measures at the factories. But the government's factory inspection office under the directorate of labour is still to wake up to improve the situation. Directorate sources however said the number of factory inspectors is too small for this job. "Our manpower is too limited to cover all factories and take proper steps but we are doing our best," said Dr Md Serajuddin, chief inspector of factories. According to official statistics, only three inspectors are engaged in inspecting safety measures at as many as 15,000 factories under Dhaka divisional factory inspection office. - *The Daily Star, February 28.*

### Sircar rejects 162 opposition notices

The speaker in parliament yesterday rejected 162 notices submitted by opposition lawmakers demanding discussions on dozens of burning issues including outage, reforms in caretaker government system and Election Commission. Speaker Jamiruddin Sircar did not entertain the notices as the treasury bench has already refused to hold discussions on any of the issues adjourning other businesses of the House. He however came up with a clarification about the opposition lawmakers' demands while disposing the notices. A minute afterwards, the treasury and opposition bench lawmakers traded blames against each other in an unscheduled debate. Sircar defending rejection of the notices on crises of diesel, power and fertiliser, price hike of essentials, corruption, and law and order slide said he hopes the government will take steps to deal with these. - *The Daily Star, February 28.*

### No compensation from owners yet

Relatives of those killed in building collapse at Tejgaon are yet to get any compensation from owners of the multi-storey building despite the latter's offer of it, they alleged. The Phoenix building owners announced through advertisement that they would pay compensation to the families of the dead and bear all expenses for treatment of the injured and also pay compensation. Ten of the injured under treatment at Dhaka Medical College Hospital (DMCH) said they received some money for treatment. One of them said he received Tk 8,000 and the others received Tk 2,000 each. The injured and their relatives alleged the money given by the building owners is insufficient for treatment. - *The Daily Star, February 28.*

### 22 JMB cadres to walk gallows

A court in Jhenidah sentenced 21 members of JMB to death for taking part in the August 17 serial bomb blasts last year while a Sylhet court sentenced another member of the banned outfit to death for carrying out a bomb attack on a judge the same year. Judge Anisur Rahman Khan of Jhenidah District and Sessions Judge's Court sentenced the 21 men to death by hanging after they were found guilty of carrying out bomb blasts in Jhenidah. Three of the convicts were tried in absentia. All 21, aged between 20 and 25, are members of the militant group Jama'atul Mujahideen Bangladesh (JMB) and were sentenced under the Explosive Substances Act. The convicts carried out bomb attacks at six places including the judge court premises in the district town. Russell, an eight-year old child, was injured in one of the attacks. JMB leaflets were found at the blast sites calling for imposition of strict Islamic laws in the country, says an AFP report. - *The Daily Star, March 1.*

### Judiciary Separation Hearing on contempt rule

Hearing on the contempt rule against nine bureaucrats on charges of distorting the judgement of judiciary separation case will be held in the Supreme Court (SC). The five-member full bench of the Appellate Division, headed by Chief Justice Syed JR Mudassir Husain, will also hear a contempt petition against another nine bureaucrats and the government proceedings regarding implementation of the Supreme Court's 12-point directives in judiciary separation case. Other members of the bench are Justice Mohammad Ruhul Amin, Justice MM Ruhul Amin, Justice Tafazzal Islam and Justice Amirul Kabir Chowdhury. On February 22, the Appellate Division fixed March 1 for hearing the contempt rule. On the same day, Barrister M Amir-UI Islam, counsel for the Judiciary separation case, filed the contempt petition against the nine for 'violating at different times' the 12-point directives of the Supreme Court in the judgement of the Masdar Hossain versus Bangladesh case, popularly known as judiciary separation case. - *The Daily Star, March 1.*

**Dear Readers,**  
To observe the "International Women's Day" we will publish a special issue on March 11, 2006 and going to start a new corner on Elections issues. Interested contributors are requested to send their valuable comments, queries and write-ups on these issues.  
-Law Desk.