

## HUMAN RIGHTS advocacy



## Stop racism against Bangladeshi workers

On 27 May, the Government of Bahrain announced that it will ban migrant workers from Bangladesh country due to an alleged murder of a Bahraini man by a Bangladeshi. FORUM-ASIA has expressed its concern that Bahrain has chosen to condemn an entire population instead of the individual involved in the crime. It has urged the government to lift the ban and to put an end to policies which constitute racism and discrimination against Bangladeshi migrant workers.

FORUM-ASIA is concerned over the decision of the Bahraini government to issue a blanket ban on Bangladeshi migrant workers. This decision came in the wake of an alleged murder case of a Bahraini man by a Bangladeshi migrant worker over a financial dispute.

The ban, which sent "shockwaves" through more than 90,000 Bangladeshi workers in the country was announced on 27 May. Several Bahraini Parliamentarians called for the expulsion of all Bangladeshi workers currently working in the country.

However, on 1 June, the government withdrew the ban on Bangladeshi residents and their families, including those shifting companies inside Bahrain. The Interior Ministry said that only labourers who applied for a work visa after May 27 would be affected by the new policy.

Despite the recent positive measure to rescind decision on the ban for workers already living in the Bahrain, FORUM-ASIA is appalled that the country intends to punish an entire population, over a single individual's action.

Moreover, this decision targeting one specific national group smacks of institutionalised racism and is likely to fuel discrimination and racial hatred acts between Bahraini nationals and Bangladeshi migrants. The alleged murder involving a Bahraini and Bangladeshi national should be dealt with according to fair and honest legal proceedings.

This ban is also likely to increase the number of undocumented workers, who are in a very vulnerable position in Bahrain. They face maltreatment, abuse, and blackmail and are also unable to access aid and protection from government authorities, health service providers, and the judicial system.

Meanwhile, echoing the call for Bahrain to remove the ban is Migrant Forum in Asia (MFA), a network of civil society organisations which advocates for the rights and well-being of migrant workers and their families in Asia. Read their full statement.

In a statement issued on 2 June, MFA reminds Bahrain that it has ratified the International Convention on the Elimination of All Forms of Racial Discrimination as well as a number of international conventions which address racial discrimination.

It is also a signatory to the following human rights treaties:

- International Convention on the Crime of Apartheid
- Anti-Slavery Convention
- International Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- International Convention on the Prevention and Punishment of the Crime of Genocide
- International Convention on the Rights of the Child
- International Labour Convention on the Training and Employment of the Handicapped
- The Universal Declaration of Human Rights is a further international accord that Bahrain has agreed to abide by.

In view of this, FORUM-ASIA urges the government of Bahrain to withdraw the blanket ban on issuing visa for Bangladeshi migrant workers altogether, and to put an end to policies encouraging discrimination and racism.

Moreover, Bahrain ought to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and effectively protect the rights of the migrant workers.

Source: Asian Forum for Human Rights.

## LEGAL education

### IOM to promote Migration law course

DR. UTTAM KUMAR DAS

Bangladesh is a major labour sending country. In 2007, about 832,000 individuals left the country with overseas employment. The amount of remittance is US\$ 6.5 billion. During current fiscal year until May, the country has earned about US\$ 7.1 billion as remittance.

It has been a thriving foreign exchange earning sector for the country. However, it is now widely acknowledged that there is a need for better management of the sector to realize its potential benefits and minimize any adverse impacts through exploring new market opportunities and preventing reported abuses and exploitations in the labour migration processes.

There are some laws and regulations to deal with issues relating to labour migration from Bangladesh. These include the Emigration Ordinance 1982, Emigration Rules 2002, Recruiting Agent's Conduct and License Rules 2002, and Wage Earners' Welfare Fund Rules 2002.

Apart from that, the Government of Bangladesh has adopted the Overseas Employment Policy 2006. The Ministry of Expatriates' Welfare and Overseas Employment (MOEWOE) has prepared a Strategy Paper in December 2007 to boost overseas employment opportunity.

It is also acknowledged that the existing laws and regulations relating to migration in Bangladesh need serious review and modification to meet the demand of the time.

The Ministry of Expatriates' Welfare and Overseas Employment (MOEWOE) of the Government of Bangladesh has decided to review and update laws and regulations related to labour migration from Bangladesh.

Being approached for technical assistance, IOM has already taken up some activities in collaboration with the MOEWOE, which is funded by USAID/Bangladesh.

These activities include formation of an Inter-Ministerial Committee (which already been formed and headed by the Joint Secretary, MOEWOE) for "Strengthening Information Collection and Monitoring Capacity over Overseas Employment Recruitment Services in Bangladesh." Apart from that, IOM has been undertaking four studies including one on the review of existing legal framework relating to labour migration.

Although Bangladesh has already signed the Convention on the Rights of All Migrant Workers and Members of their Families 1990, however it did not ratify the instrument yet. There is a need to consider the ratification of the Convention.

Apart from that, there is a lack of general understanding on the migration issues and legal framework and rights of the migrant workers in the country.

In this backdrop, the Office of the International Organization for Migration (IOM) has initiated to promote migration related issues through various activities. The newly added one is with the academic arena.

In the first place, IOM is in the process of advocating with law schools both at the public and private universities to incorporate International Migration Law (IML) in the regular curriculum. IOM has already designed a course outline on IML and shared with different law schools.

The course has been designed incorporating fundamentals of migration, international, regional and national legal framework relating to migration, trafficking and smuggling in persons etc.

So far, five law schools have initiated to introduce IML in the LL.M. Programme to be offered to students soon.

IOM will be organising a national level seminar on the significance of studying IML in coming months.

IOM is also approaching other academic and training institutes to introduce migration related issues in their curriculum. Discussion is also going on for introducing certificate or diploma programmes on IML.

This type of course would facilitate to have a pool of individuals having sound knowledge and understanding of various dimensions of migration issues. In future, they would be in various positions including in the Government, judiciary, legal practice and academia.

The introduction of migration issues in the curriculum would have a long-term positive impact in the management of the issue in the country. IOM Office will be pleased to extend necessary technical support (i.e. development of curriculum and training for faculty members) in introducing courses on migration issues for interested institutions.

The writer is National Programme Officer of the International Organization for Migration, Mission with Regional Functions for South Asia, Dhaka.

## HUMAN RIGHTS monitor

### Plight of a child domestic worker

OLI MD. ABDULLAH CHOWDHURY

"All citizens are equal before law and are entitled to equal protection of law", stated in Article 27 of the Constitution of the People's Republic of Bangladesh. The constitution is the source of all laws prevailing in Bangladesh. In practice, an oppressed coming from vulnerable groups seldom gets equal protection. Rather, marginalised people, particularly women and children, often cry for justice when they become victim of torture and violence. Although judiciary was finally separated from executive during the tenure of current government and there were high rhetoric before and after, there is hardly any remedial measure when a child domestic worker becomes victim of torture, cruel and inhuman treatment.

In urban areas of Bangladesh, children working in households often become victim of violence and maltreatment. Ironically, some housewives despite being women take the lead in committing acts of torture, as reported in newspapers on a number of occasions. This time, leading newspapers reported that a domestic worker became victim at the house of a senior judicial official in Sylhet Metropolitan Area. There had been report of torture published in several newspapers including Prothom Alo (Saturday, June 7, 2008) that the child domestic worker had been persecuted while she was kept under lock and key in the official residence of Chief Judicial Magistrate in Sylhet.

Human rights organisations further alleged that police did not record the case although victim herself described the incident while attending police at the police station in person.

The child domestic worker, namely, Ratna (15) informed police that she had been brutally tormented by the wife of the magistrate while working in the house of a magistrate in Sylhet. Later, it was revealed that the girl used to work in the house of Chief Judicial Magistrate at Pathantula, Sylhet. While contacted by the journalists, the suspect accused of plotting against her. On the other hand, journalists saw marked injury in different parts of victim's body including chest, back, thigh and tongue. The girl was sent to ward after treating in One Stop Crisis Centre (OSCC) in Sylhet Osmani Medical College Hospital.

Bangladesh not only ratified more than 12 UN human rights treaties and 4 optional protocols, but also is a member of UN Human Rights Council. Bangladesh is one of those countries that became the earliest signatory to the UN Convention on the Rights of the Child (UNCRC), the most venerated human rights convention. Bangladesh also signed

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and ILO Convention on the Worst Forms of Child Labour.

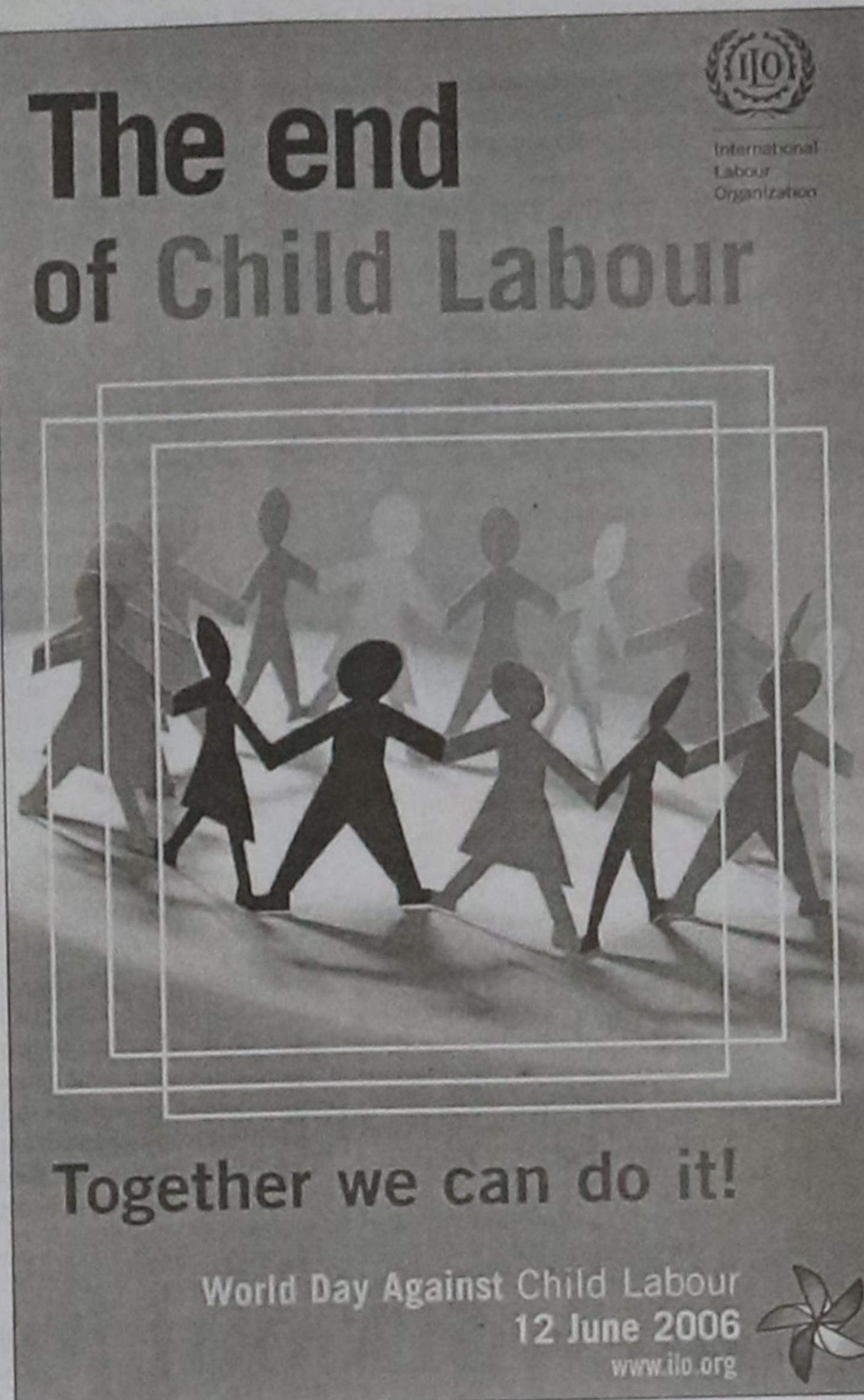
According to the National Child Labour Survey for 2002-2003, carried out by the Bangladesh Bureau of Statistics (2003), the number of child domestic workers in the whole of Bangladesh is 155,883. However, an estimate reached by the NGO Shoishab in 1999 was that there were 300,000 in Dhaka alone, of which 225,000 were girls (Shoishab 1999). Although there is no independent statistics available for other cities, significant number of girls involved in domestic work are prone to violence and maltreatment.

When Bangladesh submitted 5th periodic report, the CEDAW Committee called on the State party to ensure the effective implementation of the existing legislation to combat all forms of violence against women and to adopt specific legislation on domestic violence within a clear time frame, in order to ensure that women and girls who are victims of violence and sexual harassment have access to protection and effective redress, and perpetrators of such acts are effectively prosecuted and punished.

"States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child", as provided in Article 19 of UNCRC. Significant numbers of incidents of torture against child domestic workers are being reported in the newspaper each year. Obviously, there are stories that don't appear in the newspaper where guardians suppressed the incident out of fear. State has so far failed to take appropriate measures to protect children, particularly those working as domestic workers.

Again, children have the right to be protected from economic exploitation. It has been asserted in Article 32 (1), "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development". Children involved in domestic work often become victim of both economic exploitation and maltreatment.

However, UNCRC lays the responsibility with the state. "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to



interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development". State has three particular responsibilities in this regard. Firstly, there must be a minimum age or admission to employment. Secondly, law must determine regulation of the hour and conditions of employment. Thirdly, there should be a provision for appropriate penalties or other sanctions to ensure the effective enforcement of laws and regulations. Unfortunately, we do not have any comprehensive regulation, or law regarding child domestic workers in Bangladesh.

According to Article 37 of the UNCRC, it lies with the state that it shall ensure no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Notwithstanding obligations under international law, there is no formal mechanism to date to regulate child domestic work in Bangladesh. There is a Domestic Servants' Registration Ordinance of 1961 that requires domestic ser-

vants to register themselves with the police station. Again, this law does not delineate any rights and privileges for domestic workers nor does it define the obligations of employers. As a result, there is no formal mechanism to address the rights of child domestic worker.

To recapitulate, child domestic workers are extremely vulnerable as they are deprived of family environment. Even in the face of gruesome torture, they are forced to suffer silently in most cases. Human rights organisations have called for codification of a comprehensive law regarding child domestic worker for a long period. Subsequent government though failed, this government should act now as reform is needed in legal aspect of children. As there is currently action being taken against corrupts by bringing them to justice, there must be adequate law against the oppressor of children.

The writer is human rights worker.

## LAW week



### EPR to be relaxed to allow rallies, campaigns

The caretaker government is going to relax the Emergency Powers Rules (EPR) allowing rallies and processions for election campaigns in city corporations and municipalities where polls will be held in phases under the state of emergency.

LGRD Adviser Anwarul Iqbal said the government is now mulling which sections of the EPR should be relaxed and will declare it on the day the Election Commission (EC) announces the schedules for polls to four city corporations and nine municipalities. The polls schedules are due to be announced as per an EC decision earlier. -- *The Daily Star*, June 19, 2008

### Right to information ordinance okayed

The cabinet approved in principle the Right to Information Ordinance 2008 to ensure free flow of information to the people.

The cabinet sent back the draft of the Right to Information (RTI) Ordinance, suggesting a few changes in its wording, rewriting a few clauses and merging some sections, said sources. After making the changes, the information ministry, which initiated the move, will have to get the draft vetted by the law ministry before placing it before the cabinet for final approval, the sources added.

A few of the existing 38 sections in the draft may be merged together, said sources. The eight-member ordinance drafting committee of the information ministry had proposed a five-member information commission, which the cabinet decided to have three members. -- *The Daily Star*, June 19, 2008

### Niko sued for Tk 746cr over Tengratilla loss

The government filed a damage suit with a Dhaka court against Niko Resources Bangladesh Ltd, claiming Tk 746.50 crore in compensation for destroying properties and gas reserves in and around the Tengratilla Gas Field in Sunamganj.

The secretary of the Ministry of Energy and Mineral Resources filed the case on behalf of the government and Bangladesh Oil, Gas and Mineral Corporation (Petrobangla).

The defendants are Qasim Sharif, president of Niko Resources Bangladesh Ltd, Brian J Adolph, vice-president and country manager of Niko, Peter Mercier, vice-president (Bangladesh Operation) of GSM Inc--a worldwide company represented by its President Robert D Grace--and GSM Drilling Manager George M Lattimore. -- *The Daily Star*, June 18, 2008

### Convicts who served half their terms may be freed

The government has started an initiative to free convicts, who have served half of their punishment, under special consideration since jails are overcrowded with inmates.

"Owing to accommodation problem in jails, we have directed deputy commissioners to send proposals after scrutinising who might be released," Home Secretary Abdul Karim told a press briefing at his ministry.

He said earlier the government considered freeing those who have served two-thirds of their sentences. Bangladesh has the capacity to accommodate 27,386 inmates in jails across the country but as of May 28 the total number of inmates was 85,866.

At the press conference, Home Adviser Maj Gen (retd) MA Matin replying to a query said, "A provision could be considered mentioning where we will apply EPR [Emergency Power Rules, 2007] and where not."

Replying to another question, he said the government is not acting in a biased way regarding the release of former prime ministers Sheikh Hasina and Khaleda Zia. -- *The Daily Star*, June 16, 2008

### Govt yet to act on EC plan to clip party wings

The caretaker government is yet to respond to the Election Commission's (EC) proposals made more than a year ago to bar political parties from having overseas units and front organisations comprising students, teachers, employees, workers or members of any profession.

The EC sent the proposals to the law ministry in May last year requesting it also to repeal the existing provisions in the Political Parties Ordinance 1978 which allow parties to have front organisations, not party units.

But the law ministry could not yet take any steps in this regard as the government did not ask it to do so, officials in the ministry said.

Once the ordinance is amended in line with the EC proposals, political parties will have to amend their constitutions to de-link their units and front organisations from them, an EC official noted. -- *The Daily Star*, June 15, 2008

### Taliban attack helps 1,100 inmates flee Afghan jail

More than 1,100 prisoners escaped during a brazen Taliban bomb and rocket attack on the main prison in southern Afghanistan that knocked down the front gate and demolished a prison floor, officials said.

Afghan officials said that at least 15 security guards were found dead. The complex attack late Friday included a truck bombing at the gate, a suicide bomber who struck a back wall and rockets fired from the prison courtyard, setting off a series of explosions that killed and wounded many inmates and guards.

Police official Mohammad Jamal Khan said more than 1,100 escaped. 15 police officers and eight prisoners were killed, he said. Another 12 police officers were wounded. More than 30 nearby villages were damaged.

Last month, some 200 Taliban suspects at the prison ended a hunger strike after a parliamentary delegation promised they would be reviewed. -- *The Daily Star*, June 15, 2008

## LAW lexicon

**Exclusion of witnesses** - An order of the court requiring all remain outside the courtroom until each is called to testify plaintiff or defendant. The witnesses are ordered not to discuss with any one of them and may be held in contempt if they do.

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**Execute** - To complete; to sign; to carry out according to its terms.

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**Executor** - A personal representative, named in a will, who administers the estate.

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**Exempt property** - All the property of a debtor which is not attached under the Bankruptcy Code or the state statute.

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**Exhibit** - A document or other item introduced as evidence during a trial or hearing.

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**Exonerate** - Removal of a charge, responsibility, or duty.

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**Ex contractu** - Arising from a contract.

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**Ex delicto** - Arising from a wrong, breach of duty.

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**Ex parte** - On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present at the hearing. Source: Jurist International.

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