



LAW news

New UN High Commissioner for Human Rights

The United Nations General Assembly has confirmed the appointment of Navanethem (Navi) Pillay, of South Africa, to succeed Louise Arbour as High Commissioner for Human Rights -- the leading UN human rights official. At a special meeting in New York on 28 July 2008, the Secretary-General's nominee was confirmed by consensus. Ms. Pillay's four-year term will start on 1 September 2008.

As a member of a non-white minority in apartheid South Africa, and as a front-line, grassroots lawyer who acted as a defense attorney for many anti-apartheid campaigners and trades unionists, Ms. Pillay has direct personal experience of many of the issues that a High Commissioner for Human Rights covers under her mandate. She has also been very active in supporting women's rights, and was one of the co-founders of the international NGO Equality Now, which campaigns for women's rights. She has also been involved with a number of other organizations working on issues relating to children, detainees, victims of torture, and of domestic violence as well as a range of other economic, social and cultural rights.

More recently, Ms. Pillay has served as a judge on two of the most important international criminal courts in the modern era, spending eight years with the International Criminal Tribunal for Rwanda, including four years as its President, and then the past five years on the International Criminal Court in the Hague. Both of these courts deal with the extreme end of the human rights spectrum -- war crimes, crimes against humanity and genocide, and are at the cutting edge of the development of international law in these areas.

Judge Pillay will be the fifth UN High Commissioner for Human Rights to be appointed since the office was founded 15 years ago. She will head an



organization that now has just under 1,000 staff working in 50 countries with a total annual budget of some US\$ 150 million.

Source: Office of the High Commissioner for Human Rights.

LAW amusements

Illinois' eavesdropping conundrum

(Section 5/14-2)
You may be convicted of a Class 4 felony offense, punishable by up to three years in state prison, for the crime of "eavesdropping" on your own conversation.

Oklahoma's no-horse-tipping law

(21-1700)
A. It is unlawful for any person to:
3. Sell, purchase, possess, or offer a horse for any horse-tripping event;
D. As used in this section, "horse tripping" means to cause an animal of the equine species to fall or lose its balance with the use of a wire, pole, stick, rope or other object. The term does not include the lawful laying down of a horse for medical purposes or for the purposes of identification.

No marathon dancing in Alabama

Marathon dance contests prohibited (Section 13A-14-3)
(a)....it shall be unlawful for any person to participate in any marathon dance contest, walkathon contest or similar physical endurance contest by walking, dancing, riding or running continuing or intended to continue for a period of more than eight consecutive hours, whether or not an admission is charged or a prize awarded, and it shall be unlawful for any person to participate in more than one such contest or performance within any period of 48 hours.

Unremoved snow is considered a public nuisance in Sun Prairie, Wisc.

Public nuisances affecting peace and safety (Section 8.44.050)
The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 8.44.020.
O. Unremoved Snow. All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this code.

Source: www.thestormystore.com.

LAW lexicon

- Habeas corpus - The name of a writ having for its object to bring a person before a court.
- Harmless error - An error committed during a trial that was corrected or was not serious enough to affect the outcome of a trial and therefore was not sufficiently harmful (prejudicial) to be reversed on appeal.
- Headnote - A brief summary of a legal rule or significant facts in a case, which along with other headnotes, precedes the printed opinion in reports.
- Hearing - A formal proceeding (generally less formal than a trial) with definite issues of law or of fact to be heard. Hearings are used extensively by legislative and administrative agencies.
- Hearing de novo - A full new hearing.
- Hearsay - Statements by a witness who did not see or hear the incident in question but heard about it from someone else. Hearsay is usually not admissible as evidence in court.
- Hostile witness - A witness whose testimony is not favorable to the party who calls him or her as a witness. A hostile witness may be asked leading questions and may be cross-examined by the party who calls him or her to the stand.
- Hung jury - A jury whose members cannot agree upon a verdict.
- Hypothetical question - An imaginary situation, incorporating facts previously admitted into evidence, upon which an expert witness is permitted to give an opinion as to a condition resulting from the situation.

Source: Jurist International.

LAW letter

Eve teasing

As men, we achieved knowledge of eve teasing from adolescent period in our lives by unorthodoxy. Since then we have been practicing the same in different dimensions against women. We feel proud because we are men and this is a male dominated society. We all, except a few, are male chauvinist. Exceptions are not laws or exceptions prove the law; whatever we say, most of us believe in male chauvinism to a great degree. This is the general phenomena in a gender discriminated country like Bangladesh. As days pass by, the severity and horizon of eve teasing continue to increase in urban as well as rural areas. The third is polluted sky culture. Some of the highly educated and so-called stylish people may allow and accept this in the name of women's emancipation, or empowerment of women. Maybe there is a galore of reasons, arguments and counter arguments, but the matter is reaching higher trajectory beyond our capacity to control and restrict. Our think tanks and civil society should put emphasis on this matter and find a reasonable solution to address this problem.

The first priority should be the free movement of women. But ironically enough what we do is staring at the ladies like strangers. It seems like we are looking at any lady for the first time and that first time never ends. And every time is our first time. When we are with our wives we look at other women cursorily. When we are with our sisters we follow the silent method. With our mother we take a freedom to see a lady as if we do not understand lady character and we have no feeling of any sort or urge inside us. The interesting thing is that when we are with our girlfriend or lover we watch the inner limbs of other ladies telling the fellow partner that she could be better looking in that costume. Grass is always greener on the other side of the fence-- we keep forgetting this simple maxim. We come out of the house invariably to surreptitiously see the dressed-up, well groomed, flexible body and other physical traits of women. Our eyes are sharp and crook.

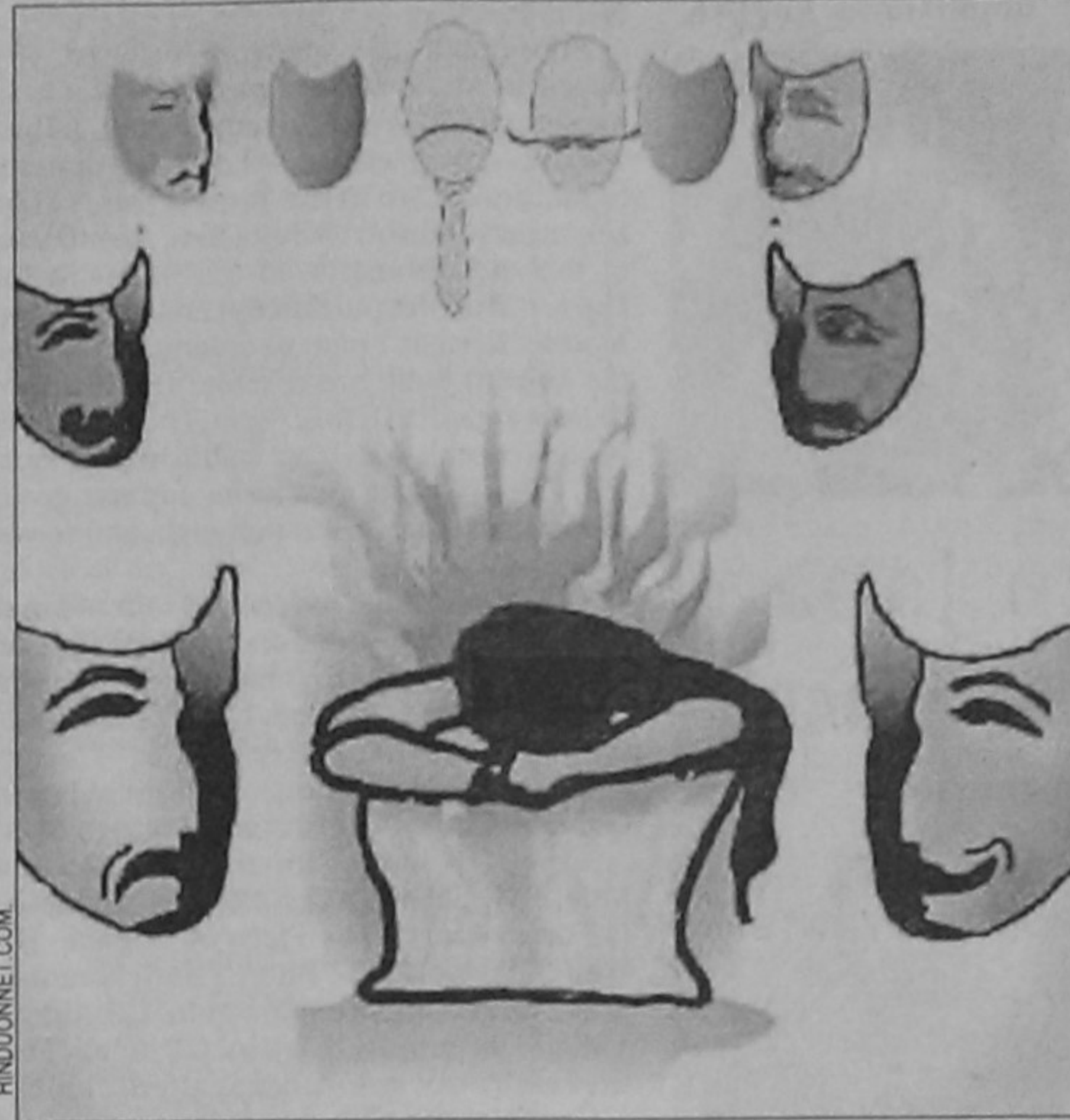
Now we'll try to draw out the definition of teasing. Teasing is nothing but to disturb someone in an indirect way. Sometimes ironical comments or ridicule fall under teasing. According to Oxford Advanced Learner's Dictionary tease means "to laugh at somebody and make jokes about them either in a friendly way or in order to annoy or embarrass them". Sometimes some sorts of caricature are used to mock girls. Girls have their own way of life, own style and above all separate pattern of behaviors. To disturb, deny or disrespect this style is teasing.

The term Eve Teasing most likely refers back to the biblical Eve, the supposed first woman.

Times (London, England) first used this term on April 22, 1960. Eve teasing occurs in urban areas as well as in rural areas in South Asia and elsewhere although its name varies from country to country. In 2004-'05 the Bangladeshi women's group, Mahila Parishad distributed a poster and conducted a campaign against eve-teasing because several young female, students, and even young girls committed suicide owing to social pressures-shame-daily harassment. In 2007, Advocate Habibun Nessa of Naripokkho reported 29 suicide deaths in the last four years. In some cases the police colluded with the eve-teasers and blamed the women for their own problems. Bangladesh has no laws against eve teasing, and has much less respect for the women who dare to venture alone or even in groups in the streets.

Bangladesh is a developing country; our socio-economic condition is not good enough. Poverty, lack of literacy and gender awareness are important factors in addressing eve teasing, particularly in the northern part of the country. For example most cases of eve teasing occur in Nilphamari District. People there are not taking it seriously. Eve teasing is a general phenomenon in that area.

If we consider Nilphamari District, various types of Eve teasing exist there, like, adolescent boys tease females when they journey by bus, van



HINDUJANET.COM

and rickshaw or when girls are walking to school, College and market. In different types of religious and cultural festival like Durga Puja, Eid, Boishakhi Mela, School Annual sports, Independence Day, Victory Day females also face teasing by the opposite sex. In some cases even adults and old men get involved. The scenario is open secret but nobody takes any initiative to reduce eve teasing in that area. Surprisingly enough in some cases father and son simultaneously get involved in this bad practice. Two girls have committed suicide in Nilphamari District in last 2 years as a result of repeated teasing. Girls of 4 to 10 years old start to face teasing and later they get used to this situation and day-by-day it only increases. Parents are concerned about the matter but they could not communicate with respective organizations like, Police station, Upazila Nirbahi office, Upazilla Women Affairs office and Upazilla Social Welfare office and other development organizations due to social, religious and cultural constraints. There exist some groups in Nilphamari district that kidnap girls and women almost at will and force the victims to marry and sometimes those groups traffic the victims to abroad. The local government and elites patronize these groups. People of Nilphamari think that it is a normal matter that some adolescent boys and adult males will be waiting for girls and women on their way and will use slang and look badly. People think that, it is a hard part of women life, there is no solution, it existed, it exists and will exist. Sometimes we also accept it because we don't leave the opportunity to tease a girl if our turn comes. As a result we have got a lower rate of girl enrollment in school and less participation in social and cultural events in society due to teasing panic.

Eve teasing is not presently a college girl's problem, it's also problem of adult women as well as adolescent girls. Eradicating eve teasing will help women access public places and it will further gender equality in Bangladesh. We have a dream that all female will be respected by the opposite sex. Every place will be secured and safe for women. We are very confident that today or tomorrow, our dream, expectation and hope will be true.

Nurul Haque
Program Coordinator--Enabling Environment
Plan International Bangladesh

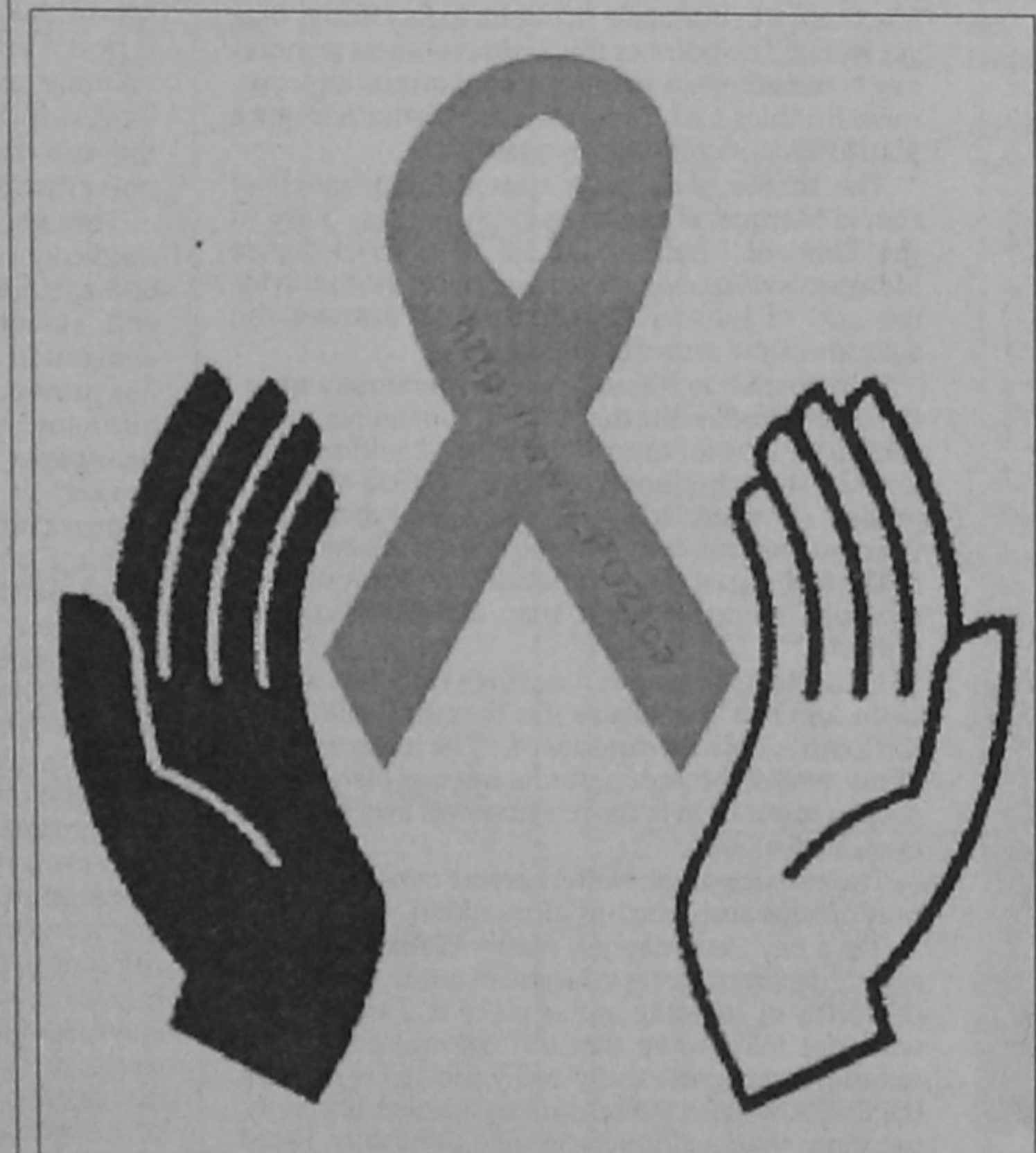
LAW watch

USA: Inferior medical care hurts migrant detainees

Inferior medical care for HIV-positive immigrant detainees threatens their health, and ultimately their lives, Human Rights Watch said today at the 2008 International AIDS Conference in Mexico City. The US Department of Homeland Security (DHS) --

McLemore of Human Rights Watch's Health and Human Rights Program. "Unless Homeland Security reforms its treatment systems, more immigrants will die or fall sick for no good reason."

Human Rights Watch



the agency charged with providing health care services to detainees fails to ensure timely HIV prevention and treatment services, putting many at risk of infection, resistance to treatment, and even death.

"Medical care for HIV-positive immigration detainees in the US is so poor that it endangers the health and lives of many," said Megan

researchers have documented the difficulties encountered by detainees with HIV and AIDS in obtaining essential medical services in a 71-page report, "Chronic Indifference: HIV/AIDS Services for Immigrants Detained in the United States". McLemore is to discuss the report's findings at the Mexico conference. The investigation included

interviews with current and former detainees, DHS and detention facility officials, and an independent medical review of treatment provided. The report found that the Department of Homeland Security fails to collect vital information concerning the number of detainees with HIV and fails to adequately monitor their medical care. The medical detention standards fail to comply with international or national guidelines for appropriate HIV services and treatment.

In a July 2007 case, Victoria Arellano, a 23-year-old transgender immigrant from Mexico, died of AIDS-related meningitis in the San Pedro federal detention center in California. Arellano was denied necessary treatment and became gravely ill. Detainees in her housing unit repeatedly alerted the guards to the fact that she needed medical care, but she was left suffering in her bunk as her condition worsened. Finally taken to the facility clinic, she was taunted and ridiculed by staff. An internal staff review later determined that the medication given to Arellano was "completely useless" and that a policy delaying laboratory testing of detainees was "particularly dangerous with many chronic care cases and [especially] for HIV/AIDS patients."

Human Rights Watch, together with a national coalition of immigrant advocates, has repeatedly urged the Department of Homeland Security to improve its detention standards to meet national and international guidelines, to formalize the voluntary standards so that they can be enforced, and to improve the monitoring of medical care in all of its hundreds of facilities. The United States Congress has held hearings on the more than 80 deaths in immigration detention

since 2002, and legislation is pending that would establish a minimum threshold for immigrant medical care. DHS has undertaken a lengthy internal review of detention standards but the department has resisted formalizing any standards and maintains that its current inspection programs are adequate.

"The Department of Homeland Security says it spends millions to fulfil its legal duty to provide care to immigrants in detention," said McLemore. "But until Homeland Security takes real steps to ensure that detainees with HIV receive adequate care, the most vulnerable will face unnecessary illness, and even untimely death. And until it sets standards that can be enforced, Homeland Security can't guarantee proper care."

Selected cases documented in the Human Rights Watch report, "Chronic Indifference: HIV/AIDS Services for Immigrants Detained in the United States":

Charles B., a lawful permanent resident from Jamaica, became resistant to 13 leading AIDS drugs during more than four years in immigration custody. This left Charles with almost no options for treatment, even in the United States, as well as a disabling neuropathy that prevents him from working.

Anna F., a 61-year-old woman born in Germany, failed to receive medically indicated treatment to prevent pneumonia.

Gloria M., an AIDS counselor in Chicago, was told by jail officials that "the state won't pay" for her HIV medications, interrupting her treatment until she could receive medications from her family.

Source: Human Rights Watch.

LAW week

Nasim, Mamun get HC bail

The High Court (HC) granted ad interim bail to ailing former home minister Mohammad Nasim and controversial businessman Giasuddin Al Mamun in separate cases.

An HC bench of Justice Md Muzammel Hossain and Justice Syed AB Mahmudul Huq granted Nasim ad interim bail for four months in a graft case following a petition filed by Nasim.

The Anti-corruption Commission (ACC) filed the case against Awami League (AL) leader Nasim for accumulating wealth illegally and concealing wealth information from the commission.

Nasim's counsel advocate M Enayetur Rahim told The Daily Star that the HC granted him bail on medical grounds.

He also said the HC order cleared the way for release of Nasim, who has been undergoing treatment at the Lab Aid Specialised Hospital in the capital after suffering brain haemorrhage. -The Daily Star, August 7, 2008

Morshed Khan jailed for 13yrs

A special court sentenced former foreign minister M Morshed Khan to 13 years' rigorous imprisonment (RI) for amassing wealth illegally and concealing information in his wealth statement submitted to the Anti-Corruption Commission (ACC).

Judge M Sirajul Islam of the Special Court-7 on the Jatiya Sangsad Bhaban premises also fined Morshed Tk 10 lakh, in default of which he has to serve jail term for one more year.

The court ordered confiscation of Morshed's ill-gotten wealth worth Tk 82.2 lakh.

The former minister, also a BNP leader, was handed down 10 years' RI for acquiring wealth through dishonest means and three years' RI for hiding information about his wealth. The jail terms will run consecutively, the court said.

Since Morshed is absconding, the sentences will come into effect the day he surrenders or is arrested. -The Daily Star, August 5, 2008

Graft suspects must seek absolution by Sept 1

The much talked about Truth and Accountability Commission (Tac), the newest institution for dealing with graft charges in the country, finally started operating letting corruptionists seek mercy by voluntarily confessing to their graft, and by depositing their ill-gotten wealth to the state exchequer.

The commission, with a tenure of five months, launched its operation by issuing a public notice about its objectives, perspectives, and jurisdiction. Habibur Rahman Khan, who is a retired judge of the High Court, discussed the issues with journalists in an introductory briefing in the Tac office on Hare Road in the capital.

Graft suspects may apply to the commission by September 1 of this year for making voluntary disclosures about their corruption, the public notice said.

The idea of Tac came into being for relieving the state and the judiciary from the overwhelming burden of adjudicating a large number of graft cases, and to let economic and industrial development continue unhindered. The commission also aims at cutting short the time for dealing with graft cases. -The Daily Star, August 4, 2008

Saarc meet ends with vow to implement Safta

South Asian leaders pledged to implement the South Asian Free Trade Area (Safta) by removing trade barriers and giving special consideration to the bloc's least developed countries (LDCs), at the closing session of the 15th Saarc Summit in Colombo.

The 41-point Colombo Declaration adopted at the concluding session at the Bandaranaike Memorial International Conference Hall focused on collective regional efforts in core areas: food, energy security, trade, combating terrorism and climate change.

It also embraced connectivity, partnership for growth for the peoples of the region, environment, water resources, poverty alleviation, SDF transport, ICT development and Saarc social charter.

They underscored the need for implementing the decision by the Safta Ministerial Council (SMC) to revise the sensitive lists at the earliest but agreed to give special consideration to the Saarc LDCs when adjusting them.

They directed the Safta experts committee to expeditiously resolve the issues concerning non-tariff and para-tariff measures to facilitate and enhance trade under the mooted free-trade regime.

Appreciating the Saarc Convention on Mutual Legal Assistance in Criminal Matters signed at the 15th summit, the leaders urged early ratification and implementation of the new common instrument for combating crimes. -The Daily Star, August 4, 2008

Saifur, 3 ex-MPs get HC bail

The High Court (HC) granted anticipatory bail for six months to former finance minister M Saifur Rahman in Gatco corruption case filed by the Anti-corruption Commission (ACC).

After hearing separate petitions, the HC bench comprising Justice Sharif Uddin Chaklader and Justice Md Emdadul Haque Azad also granted anticipatory bail to former BNP lawmakers Shahidul Islam Master, Abul Khair Bhuiyan, and Habibul Islam Habib, and to Laila Arjumand Banu, wife of Khulna City Corporation Mayor Sheikh Teyebur Rahman, until submissions of police reports in separate criminal cases against them.

Detained president of BNP student wing Jatiyatabadi Chhatra Dal, Azizul Bari Helal, was also granted ad-interim bail in a case filed against him on charges of violating Emergency Power Rules (EPR).

The HC bench also issued separate rules upon the government ordering it to explain why the petitioners should not be granted regular bail. -The Daily Star, August 4, 2008

80,000 Bangladeshi workers resume work

Kuwait warned companies employing Bangladeshi workers in Kuwait of punitive actions if they fail to pay the workers the government-fixed minimum 40 Kuwaiti Dinar.

Kuwait authorities also directed its law enforcement agencies not to arrest any more workers provided they do not go on strikes or take part in illegal activities, a handout of Bangladesh Press Information Department (PID) said.

Bangladesh government also requested Kuwait to handover the outstanding dues and personal belongings of the deported workers through the Bangladesh mission in Kuwait.

Six human rights bodies and FBCCI also expressed their concerns over the issue.

Around 80,000 Bangladeshi workers under 23 companies withdrew their strikes in Kuwait and joined work, the handout said.

It said 850 Bangladeshi workers were arrested for their involvement in activities that violated Kuwaiti laws and Kuwaiti cabinet decided to deport them.

An official of the Bureau of Manpower Employment and Training's welfare desk, stationed at Zia International Airport, said 597 workers were deported during the last five days. However, Arab Times quoting security sources in Kuwait reported that a total of 1,000 Bangladeshis were deported. -The Daily Star, August 4, 2008

Massive plan to enact, implement RIA

The Ministry of Information chalked out a massive plan for enacting and implementing the proposed Right to Information Act (RIA), a modified draft of which now awaits the law adviser's nod.

Government officials said the law ministry might send a draft of the ordinance to the information ministry some time next week for the final approval of the council of advisers, for promulgating it sooner than later.

Since the act's promulgation, 90 days will be given to the government to set the ground and to equip all its offices down to the upazila level so information can be made available from the 90th day of RIA's promulgation. All ministries will also be engaged in the process to meet the deadline.

The military backed caretaker government took the initiative to formulate the law with an aim to empower the people as well as to ensure transparency and accountability in governance, as part of its institutional reforms.

A total of 68 countries so far promulgated such acts allowing their citizens to learn about the activities of their governments, enhancing transparency and accountability in many of those countries. -The Daily Star, August 2, 2008

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: LawDesk, The Daily Star, 19 Karwan Bazar, Dhaka-1215; telephone: 8124944, 8124955; fax 8125155; email: dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net