

LAW reform



China: Extend new media rules to Chinese reporters

IF fully implemented, Beijing's decision to permanently enshrine in law key provisions of its Olympics-related temporary regulations on foreign media could herald a less restrictive reporting climate in China, Human Rights Watch said today.

Announced on October 17, the new 23-point regulation signals the Chinese government's acceptance of basic reporting rights, including the freedom of foreign correspondents to interview any consenting interviewee without official permission, and creates a permanent measurable standard of foreign media freedom in China.

"This decision marks an important step forward in the battle for freedom of expression in China," said Sophie Richardson, Asia advocacy director at Human Rights Watch. "But the struggle will continue until all journalists - particularly Chinese journalists - have full freedom to report and exercise their rights under the Chinese constitution and international law."

The temporary regulations on foreign media freedom were originally in effect from January 1, 2007 to October 17, 2008. The Olympic rules had explicitly removed a long-standing regulatory handcuff of requiring foreign correspondents to secure government permission for interviews with Chinese citizens and for travel outside of Beijing and Shanghai. However, Human Rights Watch and other press freedom organizations extensively documented incidents of harassment, detentions, and physical abuse by government officials and security forces in violation of the temporary regulations (<http://china.hrw.org/>). These abuses were not investigated, and the temporary regulations never applied to Chinese journalists.

Although Article 35 of the Constitution of the People's Republic of China specifically guarantees freedom of the press, China's reporters remain hostage to the dictates of the official propaganda system. At least 26 journalists are in prison due to their work, many on ambiguous charges including "revealing state secrets," for having done nothing more than written or posted articles critical of China's political system.

Human Rights Watch pointed out that restrictions on and abuses of Chinese journalists are discriminatory in light of the new freedoms offered foreign media under the new permanent regulation on foreign media freedom.

"Particularly because reporting freedom can help bring to light public health, environmental, and corruption problems, we hope the Chinese government will see the wisdom of granting Chinese journalists the same rights as foreign reporters," Richardson said.

Source: Human Rights Watch

LAW campaign

International legal framework to combat money laundering

SHAH MD. MUSHFIQUR RAHMAN

THE act of criminalizing 'money laundering' is not a matter of distant past, though the act of 'money laundering' itself has been there from time immemorial. In relatively recent years, it is recognized as one of the most serious financial crimes capable of weakening the economy of not only a particular country or region but also the entire globe. What is money laundering then?

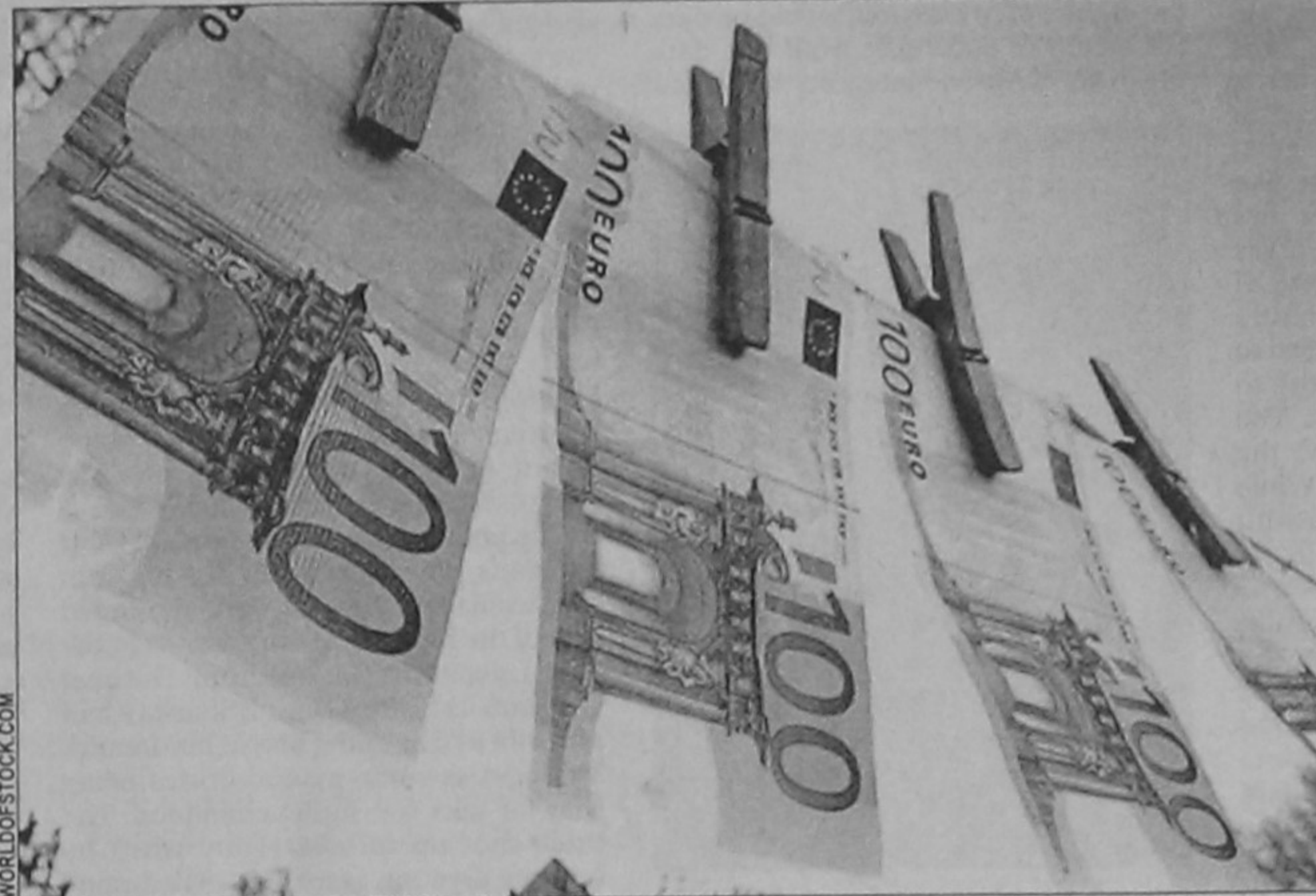
The incident of money laundering constitutes through a series of financial transactions that are dedicated to make illegitimate money appear legitimate. Criminals earn money by way of numerous illegal means. But this 'hard-earned' money means little if they cannot spend it the way they like without raising any issue or triggering any law enforcement probe. One way of doing it is to give this 'black' money a 'white' appearance.

Say for example, a drug dealer can choose to put his money buying some property. But without any visible legal source of income he can easily bring the attention of tax or law enforcement authorities to him in so doing and end up in jail. And it would be pretty hard for him to explain where he has got the money from, if asked. So it would be better for him to get the money passed through a number of financial transactions so that when it comes to reap its benefit, the source of it would be hard to trail. Say, first up he deposits criminal proceeds in an offshore bank (a bank located in a place where regulatory regime is not strong enough). Then the money is transferred to another bank of another country through wire transfer wherefrom it is transferred to a third country by means of over invoicing. After such a long sequence of transactions that criminal proceeds return to the original owner. Now it would be really hard even for a seasoned law enforcer to track the criminal origin of this money.

Whenever considering the offence of money laundering, it must be borne in mind that this offence is to be differentiated from the primary crime that is the source of money to be laundered. Money laundering is an offence in itself independent of the primary crime and would be tried separately. Thus, persons unconnected with the primary crime but got involved in the process of money laundering would be punishable under the anti-money laundering law.

In the rise of mounting pressure put on the global financial system by money-laundering and its increasing nature of transcending national borders, the world leaders in 1989 G-7 Summit agreed to form a Task Force to work out the counter measures. Originally the Task Force on Money Laundering (FATF) was composed of 16 members: seven G-7 countries, the European Commission and eight other countries. This new international financial oversight body was charged with the responsibility of examining money laundering trends and techniques, setting out the counter measures in the fight against money laundering and reviewing effectiveness of the steps taken in that direction.

In an attempt to set a comprehensive action plan to encounter money laundering, the FATF came up with 40 recommendations in 1990. Revised twice in 1996 and 2003, these recommendations provide the global framework of anti-money laundering efforts on which countries all around the world invariably model their anti-money laundering programmes. Alongside keeping their recommendations up-to-date, the FATF



also expanded its membership from time to time with 34 members today. Tracing new methods of money laundering and examining the anti-money laundering measures employed by member countries are two of its major functions. It has already completed two rounds of such mutual evaluations and a third round has started. In fact the revisions made to the Forty Recommendations are results of these examinations.

In the aftermath of 9/11, the FATF widened its scope of work so as to include fight against terrorist financing. Eight Special Recommendations were devoted to this purpose which came into being no later than in October 2001. A ninth Recommendation followed on October 2004. These nine Recommendations set out the basic framework in the global combat against financing of terrorism.

Among many others, the FATF does an intriguing function of maintaining a list populated by countries and jurisdictions which are not cooperative in their anti-money laundering endeavours. These "Non-Cooperative Countries or Territories", unofficially known as FATF Blacklist, are considered to fall well short of global standard in this regard. Contrary to popular belief, well known "tax havens" and "off-shore" countries are not the only inclusions in the list rather the list contains name of countries, lacking needed resources and infrastructures to mould its financial system in compliance with FATF requirements. One can find some names in the list much unknown e.g. Nauru, Niue, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Dominica etc. are some to mention. Bigger names include Israel, Lebanon, Philippines and Russia. It is rather an effective list as enlisted countries tend to get de-listed as early as possible. Once designated as a non-cooperative country in global fight against money laundering, a particular country has to do a lot to convince its counterparts or counterparties before executing any financial deal. Its stigma as "non-cooperative" in global anti-money laundering efforts takes the country longer time and greater cost in carrying out financial activities which is a definite turnoff for foreign investors. As a result, almost all the enlisted countries take some measures to address the FATF concerns so that they get de-listed soon.

Bangladesh is not a party to the FATF but has its membership in the 'Asia/Pacific Group on Money Laundering (APG)' which basically replicates the FATF model in this region. This Group was founded in Bangkok in 1997 and currently has 38 members. It works in close collaboration with many international organizations including the FATF, the World Bank, International Monetary Fund, the United Nations Office on Drugs and Crime, the Asian Development Bank, the Egmont Group etc. The APG basically adheres to FATF recommendations in its effort to encounter money laundering and terrorist financing. It assists member jurisdictions in complying global anti-money laundering standards, technically and financially. Mutual evaluation is another way of sharing best practices, identifying loopholes in anti-money laundering measures in place and accordingly developing new strategies for member countries. The APG has Associate Membership status in the FATF which allows it to contribute to the policy development in the field of anti-money laundering at the global level.

"The Egmont Group of Financial Intelligence Units" is the most active functional international body on anti-money laundering that provides a common forum for Financial Intelligence Units worldwide. Financial Intelligence Units, are governmental financial entities responsible to collect intelligence on suspicious money laundering activities. They can exist in different names in different countries e.g. Financial Investigation Agency, Anti-Money Laundering Authority, Money Laundering Prevention Unit, Money Laundering Reporting Authority, Financial Information Procession Unit etc. Irrespective of their names, job of these bodies are fundamentally similar. Different financial entities are required to report any suspicious activity to these Units. They process and analyze this information to detect and prevent any attempt to money laundering or terrorist financing. They are not really enforcers of law, rather work in conjunction with law enforcement agencies in their pursuit of thwarting money laundering. Though Bangladesh has a Financial Intelligence Unit working as a division of Bangladesh Bank, it is not a member of the Egmont Group.

The writer is advocate, member of Dhaka Bar Association.

LAW amusements



California (US) Laws

Kites may not be flown above 10 feet over the ground

Citation: 17-1 Kite flying restricted.

It shall be unlawful for any person to fly, above an altitude of ten feet above the ground, or near any electrical conductive public utility wires or facilities, any kite or balloon which has a body or any parts, tail, string or ribbon made of any metallic or electrical conductive material.

Children may not wear a Halloween mask unless they get a special permit from the sheriff

Citation: 17-32 Mask or disguise Wearing.

No person shall wear a mask or disguise on a public street without a permit from the sheriff.

Persons may not pick flowers from the city parks

Citation: 17-25 Flowers Picking in parks, etc.

No person shall pick any flower or flowers growing in any public park or place in the city, except by the express authorization of the superintendent thereof.

Males may not dress as a female unless a special permit is obtained from the sheriff

Citation: 17-31 Male dressing as female.

No man or boy shall dress as a girl or woman without a permit from the sheriff, except for the purpose of amusement, show or drama.

One may not leave sand in their own driveway

Citation: 15-3 Depositing certain items on public or private property prohibited.

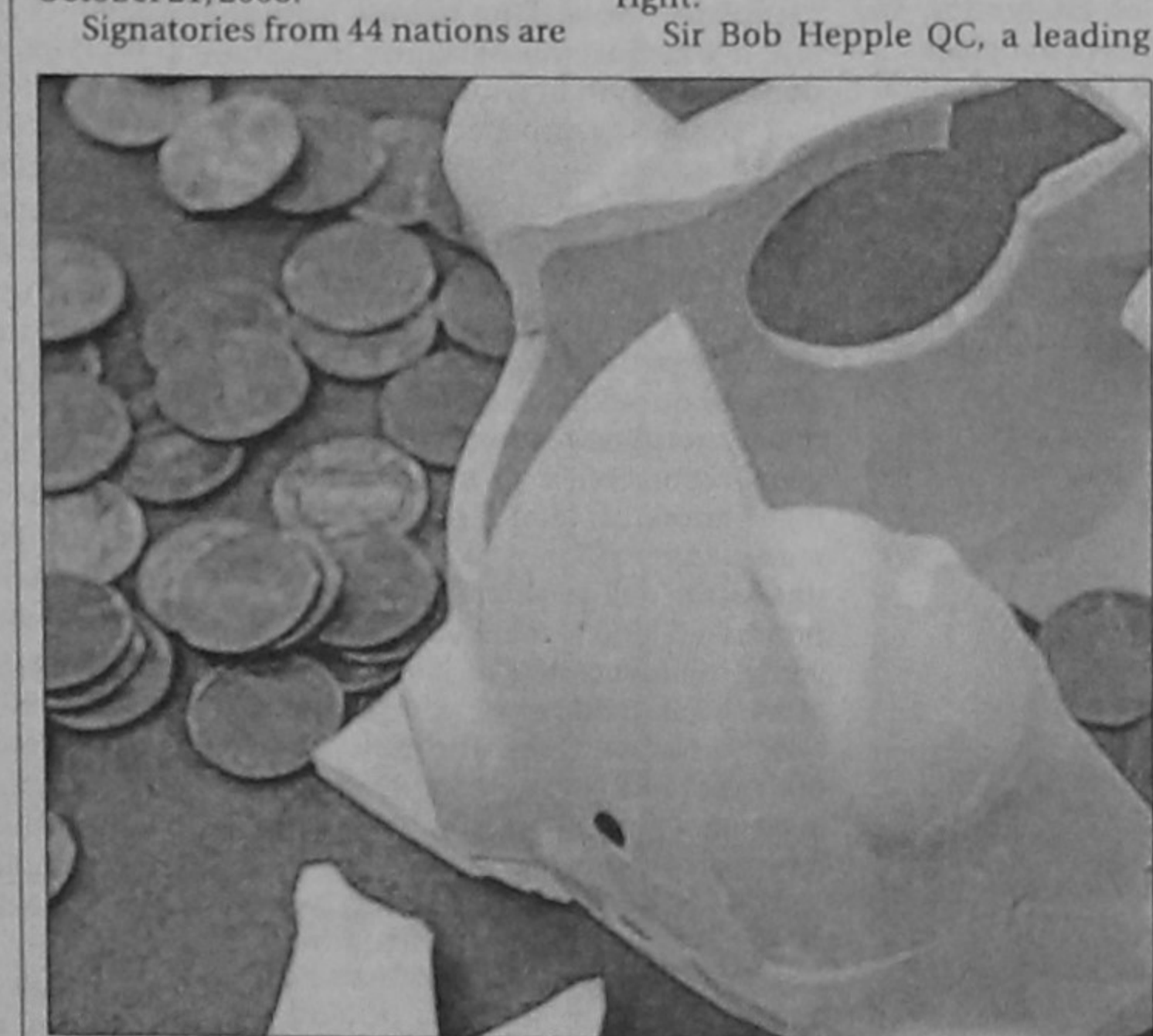
No person shall place, deposit, throw or dump, or cause to be placed, deposited, thrown or dumped, any garbage, swill, cans, bottles, papers, ashes, dirt, sand, rock, cement, glass, metal, carcass of any dead animal, offal, refuse, plants, cuttings or trash or rubbish of any nature whatsoever, or any nauseous, offensive matter or in or upon any public or private road, highway, street, alley, public way or any public or private property of any kind whatsoever.

Source: www.crazy-laws.com

FACT file

Global human rights and world economic turmoil

MORE than 120 of the world's leading human rights and equality experts called for the most radical re-think of equal rights in two generations as global economic turmoil holds nations in its grip at October 21, 2008. Signatories from 44 nations are



in London by The Equal Rights Trust, would transform treatment of discriminated groups across the world and is the first ever international initiative to set out general legal principles that define equality as a basic human right. Sir Bob Hepple QC, a leading

is now one of the most pressing issues we face today.

"Recession and depression can lead to increasing exclusion and, at worst, persecution of the most vulnerable groups within society. That is why the Universal Declaration on Human Rights happened in 1948 and it is why we need to establish universal equality for all human beings today."

The Declaration on Principles of Equality:

- Defines the right to equality as a basic human right and, in doing so, combines human rights and equality law concepts.
- Provides a global expression of equality between discriminated people.
- Ensures consistency in the way different nations treat the right to equality.
- Ends inconsistencies in the rights afforded to different discriminated groups within the same societies and nations and so ends the current hierarchy of discrimination.

Sir Bob, chair of the Equal Rights Trust, added: "We are making a very serious mistake if we attempt to tackle world economic recession in isolation from the social devastation that it could herald."

"Depression can result in heinous erosion of basic human rights and we need only look at the 1930s and the consequent rise of Fascism to understand the dangers."

"Without the active and positive pursuit by governments of

substantive equality, the gap between the haves and have-nots will increase dramatically. Outsiders belonging to other identity groups, like the foreigners in the recent riots in disadvantaged South African townships, will be blamed. Now is the time to act decisively not only on the economy, but at the same time on equality and human rights."

The new declaration is based on a total of 27 principles and will be submitted to UN officials as part of a global campaign to win support for the initiative.

The Principles move away from the pursuit of single-issue equality agendas for particular identities such as gender, race, disability, religion, age which, its authors claim, have been one of the most serious weaknesses of anti-discrimination law. The Declaration provides expert guidance for promoting equality even in countries where no anti-discrimination law currently exists.

Renate Weber, Member of the European Parliament and one of the signatories of the Declaration said:

"I have no doubt that making the Declaration legally binding would change the current European reality. The European Union should not only adopt the Declaration but also promote it world-wide."

Source: The Equal Rights Trust

LAW week



Toxic ship being dismantled in Ctg

Defying a court order, dismantling of MT Enterprisen oil tanker black-listed by Greenpeace for containing hazardous substances continues at a ship-breaking yard in the coastal upazila of Sitakunda.

Madina Enterprise, locally known as Siko Steel ship-breaking yard, has been dismantling the vessel secretly for some time ignoring protests from environment-conscious people. Proprietor of Madina Enterprise Nazim Uddin admitted the dismantling of the ship and claimed that he has all the required clearances from the authorities concerned.

Bangladesh Environmental Lawyers Association (BELA) on October 17 filed a writ petition accusing the importer of the ship of being in contempt of court. Hearing of the petition was held on October 23. - The Daily Star, October 23, 2008.

Anti-graft drive slowing down

Eminent jurist Dr Kamal Hossain has said 206 bills in just 100 minutes and the commerce adviser's meeting with corrupt politicians are signs of a weakening in the caretaker government's fight against corruption.

"I do not want to say yet that the government has failed in its fight against corruption. But certainly we have seen some weakening. And that is because we feel that some views have been taken that you should bring in the parties [to the election] at any cost," he said during an interview with The Daily Star.

Granting of so many bills in such a short time is not possible through the legal procedure, he said. Asked if too many arrests have thinned out the anti-corruption drive, he said, "Definitely. It should have been more targeted." - The Daily Star, October 22, 2008.

Mojahid for stopping abuse of emergency

Jamaat-e-Islami Secretary General Ali Ahsan Mohammad Mojahid thinks the country's constitution can have an article to prevent abuse of emergency provisions.

If people want, he said, the next parliament may consider this. In an interview with The Daily Star on October 17, he alleged that the donor agencies interfered in the country's internal affairs last year to foil the parliamentary polls then scheduled for January 22. The roles that some of them had played contributed to the nation's being in troubled waters, he observed in reference to the changeover of 1/11.

"The upcoming election is an internal matter of ours. None of the donors or development partners should meddle in it," he said. - The Daily Star, October 21, 2008.

BNP, Jamaat revise constitutions

In developments BNP made some major changes in its constitution to apply for registration with the Election Commission (EC) on the closing date.

Earlier in the day, the party and its key ally Jamaat-e-Islami collected forms from the EC Secretariat. A couple of days back, Jamaat too brought about drastic changes in its charter to meet the criteria for registration, now mandatory for political parties seeking election to parliament.

Throughout the day, both the parties were busy readying documents required to be attached to the forms for registration. The interim constitution of BNP does not provide for front organisations and chapters abroad. It however has a provision like arch-rival AL's to allow associated organisations.

The changes were approved at a standing committee meeting presided over by Chairperson Khaleda Zia at her Gulshan office. Jamaat-e-Islami has changed 12/13 sections in its constitution. The phrases 'establishing the rule of Allah' have been replaced by 'establishing a fair and just Islamic society'. - The Daily Star, October 20, 2008.

Final HC hearing today on petition against EC

The High Court (HC) will hold the final hearing on the petition challenging the Election Commission's (EC) re-demarcation of parliamentary constituencies.

The court will also hear the petitions for quashing proceedings against former premier Sheikh Hasina in the Niko and barge-mounted power plant corruption cases. The HC bench of justices Mir Hasmat Ali and Shamim Hasnain on October 13 fixed October 19 for hearing the writ petition that challenged the legality of the EC's gazette notification finalising fresh demarcation of the constituencies.

EC's counsel Dr Shaheen Malik told The Daily Star that it might take two or three days to complete the hearing on the writ petition against the re-demarcation of the constituencies. - The Daily Star, October 19, 2008.

UK plans tougher restrictions on immigration

Britain will impose tougher restrictions on immigration as the global financial crisis lifts unemployment to the highest rate in nearly a decade, the country's new immigration minister said.

"If people are being made unemployed, the question of immigration becomes extremely thorny," Phil Woolas told The Times newspaper. "It's been too easy to get into this country in the past and it's going to get harder," he added in an interview.

In a dramatic change of policy, the Labour government intends placing a limit on immigration, according to the daily. "There has to be a balance between the number of people coming in and the number of people leaving," said Woolas.

The minister said his government would not allow Britain's population to grow to 70 million people. Britain's population grew by about 3.4 percent to almost 61 million people between 2001 and 2007 fuelled by expansion of the European Union, according to latest figures from the Office for National Statistics. - The Daily Star, October 19, 2008.

Madrasa students vandalise DUVCO office

A group of recent madrasa graduates vandalised the office of Dhaka University (DU) Vice-chancellor (VC) Prof SMA Faiz spreading panic on the campus.

The vandals were demanding cancellation of the university authorities' decision to not allow admission to students who did not study Bangla and English of 200 marks each in their higher secondary or equivalent courses. About 200 madrasa students from different city madrasas along with some DU students embarked on the vandalism around 4:30pm, eyewitnesses said.

Six departments of DU this year decided not to allow admission to students who did not study Bangla and English of 200 marks each in their higher secondary or equivalent courses, and the DU committee of deans recently approved the decision. The attackers vandalised doors, window panes, furniture and other office decorations. - The Daily Star, October 19, 2008.

Good for some, bad for the others, worst for women

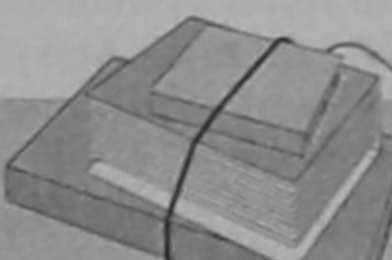
Rickshawpullers, male garment workers and workers of real estate and railway are luckier than those engaged in other non-farm sectors their real earning increased while the rest's dropped in the second quarter of 2007.

But worst off are the female workers who found their pay cheques shrinking. According to a Bangladesh Bureau of Statistics (BBS) recent survey, the daily real wage rate of farm labourers also increased.

The findings came from the BBS second Quarterly Wage Rate Survey (WRS) report on 36 industrial sectors released in August. The bureau started such surveys last year to determine changes in real wages or earnings of the non-farm workers and to assess the labour market situation. The survey revealed that women draw less than their male counterparts. - The Daily Star, October 18, 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

LAW lexicon



- Lis pendens - A pending suit. ...
- Litigant - A party to a lawsuit. ...
- Litigation - A lawsuit; a legal action, including all proceedings therein. ...
- Living trust - A trust set up and in effect during the lifetime of the grantor. (Also called inter vivos trust.) ...
- Loose-leaf services - Loose-leaf replacement pages provided by a publisher in areas of the law where changes occur at a rapid rate. ...
- Magistrate - Judicial officer exercising some of the functions of a judge. It also refers in a general way to a judge. ...
- Malfesance - The commission of an unlawful act. ...
- Malicious prosecution - An action instituted with intention of injuring the defendant and without probable cause, and which terminates in favour of the person prosecuted. ...
- Malpractice - Any professional misconduct. ...
- Mandamus - A writ by which a court commands the performance of a particular act. ...
- Manslaughter - The unlawful killing of another without intent to kill; either voluntary (upon a sudden impulse); or involuntary (during the commission of an unlawful act not ordinarily expected to result in great bodily harm). ...
- Marshal - The executive officer of the federal court. ...
- Martindale-Hubbell Lawyer Directory - A publication of several volumes which contains names, addresses, specialties, and rating of United States lawyers; also includes digests of state and foreign statutory law. ...
- Material evidence - Evidence which is relevant to the issues in a case. ...

Source: Jurist International.