



FOR YOUR information

Secret information violates right to fair trial

The highest court in the United Kingdom has ruled that people have the right to know the information used against them to impose control orders, so that they can effectively challenge those orders.

The Law Lords' unanimous ruling on June 10, goes some way towards restoring the right of all people, including those people whom the government alleges to be or have been involved in terrorism-related activity to know the secret information that forms the basis of the government's claims against them.

The Law Lords recognised that, if such information is kept secret from the individual, he is unable to contest the allegations against him. Lord Hope of Craighead stated: "This [right to a fair trial] is a right that belongs to everyone [...] even those who are alleged to be the most capable of doing us harm by means of terrorism. [...] The controlled person must be given sufficient information about the allegations against him to give effective instructions [...] This is the bottom line [...] that cannot be shifted."

Amnesty International welcomed the ruling by the Law Lords. "The fact that the Law Lords ruled unanimously in assessing that the system of control orders as it stands violates the right to a fair trial should signal a beginning of the end of the control order regime in the UK," said Nicola Duckworth, Amnesty International's Europe and Central Asia director.

"The ruling goes some way to allay Amnesty International's longstanding concern that the control order regime imposes restrictions on some individuals' right to free movement and, in some cases these restrictions have been tantamount to a deprivation of liberty on the basis of secret information, withheld from these individuals and from their lawyers. Amnesty International continues, however, to call for the repeal of the control order regime. A number of elements of the system remain problematic, despite today's decision by the Law Lords."



The right to challenge the information against the individual is still undermined as some of the court hearings that will result in decisions about whether an individual will have a control order imposed on him are closed to the individual and his lawyer. Instead, a court-appointed Special Advocate, who is not necessarily a lawyer of the individual's choice, participates in closed hearings. Once the special advocate has seen or heard secret information, he or she is unable to consult the individual concerned or the individual's lawyer without permission from the court, which in practice is rarely sought or granted. Amnesty International considers this process to be gravely unfair.

Despite the Law Lords' ruling, it appears that there is no concrete government strategy in place to end the seemingly indefinite renewal of control orders against some individuals who the government claims are involved in terrorism. The control order regime has had a profound detrimental impact on the mental and physical health of individuals who have been subjected to control orders, and on the lives of their immediate families.

Mahmoud Abu Rideh, a stateless Palestinian refugee, for instance, has been under a control order for four years after being detained for almost three and a half years in a high security prison and hospital. In all of this time, the authorities have not charged him with violating any of the range of the UK's laws which aim to combat and criminalize terrorism.

A consultant psychiatrist examining Mahmoud Abu Rideh in 2008 described certain conditions of the control order at that time, as "having the most deleterious effects on his mental health". Mahmoud Abu Rideh's lawyers believe that he "has reached a high level of despair" and that there is a real risk he would commit suicide if he remains under control orders in the UK and is denied an internationally-recognized travel documentation that would allow him to leave the UK. "Amnesty International considers that the most effective ways to counter-terrorism are by ensuring the effective protection of human rights of all persons and respect for the rule of law, not by eroding those protections," said Nicola Duckworth.

Source: Amnesty International.

LAW event

Bringing manpower sub-agents under law

Speakers at a consultation underscored the need for better appreciation of the role of informal facilitators in the labour recruitment process of Bangladesh. They called on the authorities to bring the informal facilitators under a legal cover. These observations were made at a consultation organised by Refugee and Migratory Movements Research Unit (RMMRU).

At the meeting subagents demanded social and legal recognition for their positive contribution to the national economy. They felt that they are often made scapegoats when migration process does not meet its desired goal. They claimed that recruiting agencies often demand high fees in excess of government stipulated amounts which make the cost of migration high.

Mr. Selim Reza, Director, Immigration of BMET observed that the issue of registration subagents merits serious consideration because of their inevitable role in the migration process.

Dr. Nurul Islam, another Director of BMET agreed with the idea but observed that with its current resource it may be difficult for BMET to regulate the activities of innumerable sub-agents. He stated that efficiently monitoring 800 recruiting agents itself has become a daunting task for the agency.

The Chair of the Session Dr. C R Abrar stated that onus should rest on respective recruiting agencies to issue work permits and a photo identity cards to its subagents and be liable for all actions of the latter. He suggested that the recruiting agencies should send the list of its sub-agents to BMET which in turn will circulate the same to all upazillas for the aspirant migrants to see.

- Compiled by Law Desk.

LAWS FOR everyday life

Public nuisance

A public nuisance is an interference with the common right of the general public or an indefinite number of persons; an unreasonable interference with the health, safety, peace, or comfort of the community.

Public nuisance is such an inconvenience or troublesome offence, as it annoys the whole community in general, and not merely some particular person. To constitute a public nuisance, there must be such a number of persons annoyed, that the offence can no longer be considered a private nuisance. It is difficult to define what degree of annoyance is necessary to constitute a nuisance. In relation to offensive trades, it seems that when such a trade renders the enjoyment of life and property uncomfortable, it is a nuisance for the neighbourhood as they have a right to pure and fresh air. A thing may be a nuisance in one place, which is not so in another; therefore the situation or locality of the nuisance must be considered.

Public nuisances arise in consequence of following particular trades by which the air is rendered offensive and noxious. These may include-

- Acts of public indecency
- Acts tending to a breach of the public peace, as for drawing a number of persons into a field for the purpose of pigeon-shooting
- The disturbance of the neighbourhood or keeping a disorderly house or a gaming house or a bawdy house or a dangerous animal, as a large bull-dog accustomed to bite people
- Exposing a person having a contagious disease, as the smallpox, in public and the like.

The following are provisions from national legislations with issues concerning public nuisance-

The Penal Code, 1860

Chapter XIV, Of offences affecting the public health, safety, convenience, decency and morals

Public nuisance

268. A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, dangers or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.

Continuance of nuisance after injunction to discontinue

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a



term which may extend to six months, or with fine, or with both.

The Code of Criminal Procedure, 1898

Chapter X, Public nuisances

Magistrate may prohibit repetition or continuance of public nuisance

143. A District Magistrate or any other Executive Magistrate empowered by the Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Penal Code or any special law.

The Ports Act, 1908

Chapter III, Port-officials and their powers and duties

Removal of obstructions within limits of port

10. (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable with fine which may extend to one hundred taka.

(3) The conservator or any Magistrate

having jurisdiction over the offence may cause any such nuisance to be abated.

The Dhaka Metropolitan Police Ordinance, 1976

Chapter IV, Powers and duties of police-officers

General duties of Police-officers

15. It shall be the duty of every police-officer-

(a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors;

(b) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and the orders of his superiors, as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences within his view;

(c) to the best of his ability to prevent the commission of public nuisances;

(d) to apprehend without unreasonable delay all persons whom he is legally authorised to apprehend and for whose apprehension there is sufficient reason;

(e) to aid another police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;

(f) to discharge such duties as are imposed upon him by any law for the time being in force.

- Compiled by Law Desk.

RIGHTS corner

ILO says crisis increases risk of girls becoming child labourers

THE global financial crisis could push an increasing number of children, particularly girls, into child labour, according to a new report issued by the International Labour Office (ILO) for the World Day Against Child Labour on June 12.

The ILO report, entitled Give Girls a Chance: Tackling child labour, a key to the future, notes that while recent global estimates indicate the number of children involved in child labour has been falling, the financial crisis threatens to erode this progress. "We have seen some real progress in reducing child labour.



The policies chosen in the present crisis will be a test of national and global commitment to take this fight forward," said ILO Director-General Juan Somavia.

The report says the danger of girls being forced into child labour is linked to evidence that in many countries families give preference to boys when making decisions on education of children. It states that because of the increase in poverty as result

of the crisis poor families with a number of children may have to make choices as to which children stay in school. In cultures in which a higher value is placed on education of male children, girls risk being taken out of school, and are then likely to enter the workforce at an early age.

Other factors which could push up the numbers in child labour include cuts in national education budgets, and a decline in remittances of migrant workers, as these remittances often help to keep children in school.

This year's World Day against Child Labour also coincides with the tenth anniversary of ILO Convention No. 182 on the elimination of the worst forms of child labour.

"With 169 ratifications we are now just 14 short of universal ratification by our member States" said Mr. Somavia. "It is a remarkable expression of commitment. This Convention calls for special attention to the situation of girls and we want to highlight the particular risks that girls face during this crisis. Protecting girls and all children from child labour calls for integrated responses that include jobs for parents, and social protection measures that help them to keep both girls and boys in school. Access to basic education and training for girls and boys must also be part of the solutions for the future."

The ILO report says the most recent global estimate indicated that more than 100 million girls are involved in child labour, and many are exposed to some of its worst forms. Girls face a number of particular problems that justify special attention, including:

- Much work undertaken by girls is hidden from public view, which creates particular dangers. Girls make up the overwhelming number of children in domestic work in third party households and there are regular reports of the abuse of child domestic workers;
- In their own homes, girls take on household chores to a much greater extent than boys. Combined with economic activity outside the household, this imposes a "double burden" that increases the risk of girls dropping out of school; and,
- In many societies girls are in an inferior and vulnerable position and are more likely to lack basic education. This seriously restricts their future opportunities.

The report highlights the importance of investing in the education of girls as an effective way of tackling poverty. Educated girls are more likely to earn more as adults, marry later in life, have fewer and healthier children and have decision-making power within the household. Educated mothers are also more likely to ensure that their own children are educated, thereby helping to avoid future child labour.

Source: ILO.

LAW week

Tipai emits an air of eerie feelings

Ignoring its promise, India in the last four years has refrained from sharing technical information with Bangladesh about building the Tipaimukh Dam in the bordering Manipur state, triggering public uncertainty and outcry over its possible negative impact on the neighbouring country. While India has not started construction of Tipaimukh dam on the Barak river near Manipur-Mizoram border, it had floated international tender in 2005 and opened the bid in 2006 during the era of former BNP-Jamaat alliance rule. - The Daily Star, June 11, 2009.

62 'political' cases to be dropped

The government has decided to recommend withdrawal of 62 "politically motivated" cases filed against Awami League leaders, including 12 against Prime Minister Sheikh Hasina. State Minister for Law, Justice and Parliamentary Affairs Quamrul Islam yesterday said they received 824 applications for withdrawal of cases filed during the tenures of the BNP-led four-party alliance government and the last caretaker government. "We have reviewed 113 of those cases and found 62 fit for withdrawal," he said. - The Daily Star, June 11, 2009.

Eviction drive extends to Shitalakhya

Bangladesh Inland Water Transport Authority (BIWTA) and Narayanganj district administration launched a drive to evict the land grabbers along the river Shitalakhya and knocked down parts of five multi-storey buildings. Sources said part of a semi-concrete yarn coning factory and around eight to 10 small makeshift structures were also demolished during the daylong eviction drive against structures built illegally on the river. - The Daily Star, June 10, 2009.

Nizami found guilty of Tk 35cr misuse

A government probe team detected that former agriculture minister Matiur Rahman Nizami was behind misuse, waste and misappropriation of at least Tk 35 crore of Barid Multipurpose Development Authority (BMDA) during the four-party alliance rule. The team also found that Tk 81.27 crore more of BMDA was wasted, misused or embezzled during that period. In response, Nizami, who heads Jamaat-e-Islami, a partner of the four-party alliance, told The Daily Star, "I am surprised hearing about the probe report. I am in no way involved in the alleged corruption and misuse, waste and misappropriation of BMDA money. This is a politically-motivated move against me with an intention to defame me." - The Daily Star, June 10, 2009.

Tannery shifting must by Feb: HC

Demarcation of the rivers around the capital will be determined within four months apparently in a last-ditch effort to save the dying rivers from encroachers and polluters. Rampant pollution and indiscriminate encroachment on the Buriganga, Turag, Balu and Shitalakhya continued as the government agencies pinned the blame on loopholes in the laws, while the court observed that the government was slow in taking action. Against this backdrop, a High Court bench on Thursday directed the deputy commissioners (DCs) of Dhaka, Narayanganj, Gazipur and Munshiganj to give their opinions on steps to save the rivers. - The Daily Star, June 09, 2009.

Girl dies, 400 fall sick

A six-year-old girl of Munshiganj died of what the parents claimed the after effect of Vitamin A capsule and deworming tablet. More than 400 children who were reportedly provided with Vitamin A capsules along with deworming tablets sought treatment at different hospitals across the country with diarrhoea, stomach ache and nausea symptoms. The government has formed a five-member investigation committee to find out whether the children's falling sick was related to the Vitamin A Plus campaign. The committee headed by Director of Primary Health Care Jahangir Alam will place its report in three days. - The Daily Star, June 09, 2009.

Army seeks to form crisis unit

Bangladesh Army seeks to form a special unit named, Quick Reaction Force (QRF), to ensure the country's internal security, particularly to tackle on an urgent basis -- incidents like mutinies and bombings. Terming such an unit 'indispensable' for the country 'under the current circumstances', the army in a report claimed that QRF troops will be able to neutralise the threats to the nation much quicker, sources said quoting from the proposals stipulated in the report. Placed for discussion before the Parliamentary Standing Committee on the Defence Ministry, the report also suggested that the government approves formation of a QRF brigade. - The Daily Star, June 08, 2009.

Operation Clean Heart to be opened

The government as part of its stance against extrajudicial killings is likely to examine whether the controversial Joint Drive Indemnity Act, 2003 that indemnified all concerned for their acts during the Operation Clean Heart should be scrapped. Meanwhile, rights activists and eminent jurists who were strong critics of the law still believe it should be repealed to ensure fundamental rights of the people as enshrined in the constitution. Law, Justice and Parliamentary Affairs Minister Shafique Ahmed told The Daily Star the government would examine the indemnity law if any person aggrieved by the joint operation wishes to get remedy or justice which has been prohibited by the law. - The Daily Star, June 08, 2009.

Demolition goes on, not the restoration

Officials involved in the ongoing government drive for demolishing illegal structures in the Turag river, expressed an urgent need for excavators to remove the debris, for recovering the river's encroached upon channel. Abul Bashar Md Amir Uddin, the on-duty magistrate from Gazipur district administration, who is helping Bangladesh Inland Water Transport Authority (BIWTA) in the drive, told The Daily Star that they need another team, which will work with an excavator and some other modern equipment to remove the debris following demolitions. - The Daily Star, June 07, 2009.

One-stop land service Sept 1

Finance Minister AMA Muhith said a single counter at the sub-registrar's offices will receive all land registration fees to reduce existing registration hassles from September 1. Muhith said currently people pay different kinds of fees for registration at separate sections of an office, leading to payment of a significant amount of bribe by both buyers and sellers at each table. The minister urged the sub-registrars to restore the heritage of the sub-registry offices by serving the people without any repression, oppression, bribe or threats. - The Daily Star, June 07, 2009.

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