



RIGHTS corner



Malaysia must end abuse of migrant workers

THE Malaysian authorities should take action to end widespread workplace and police abuses of the migrant workers who make up more than 20 per cent of the country's workforce, Amnesty International said in a report released on 24 March 2010.

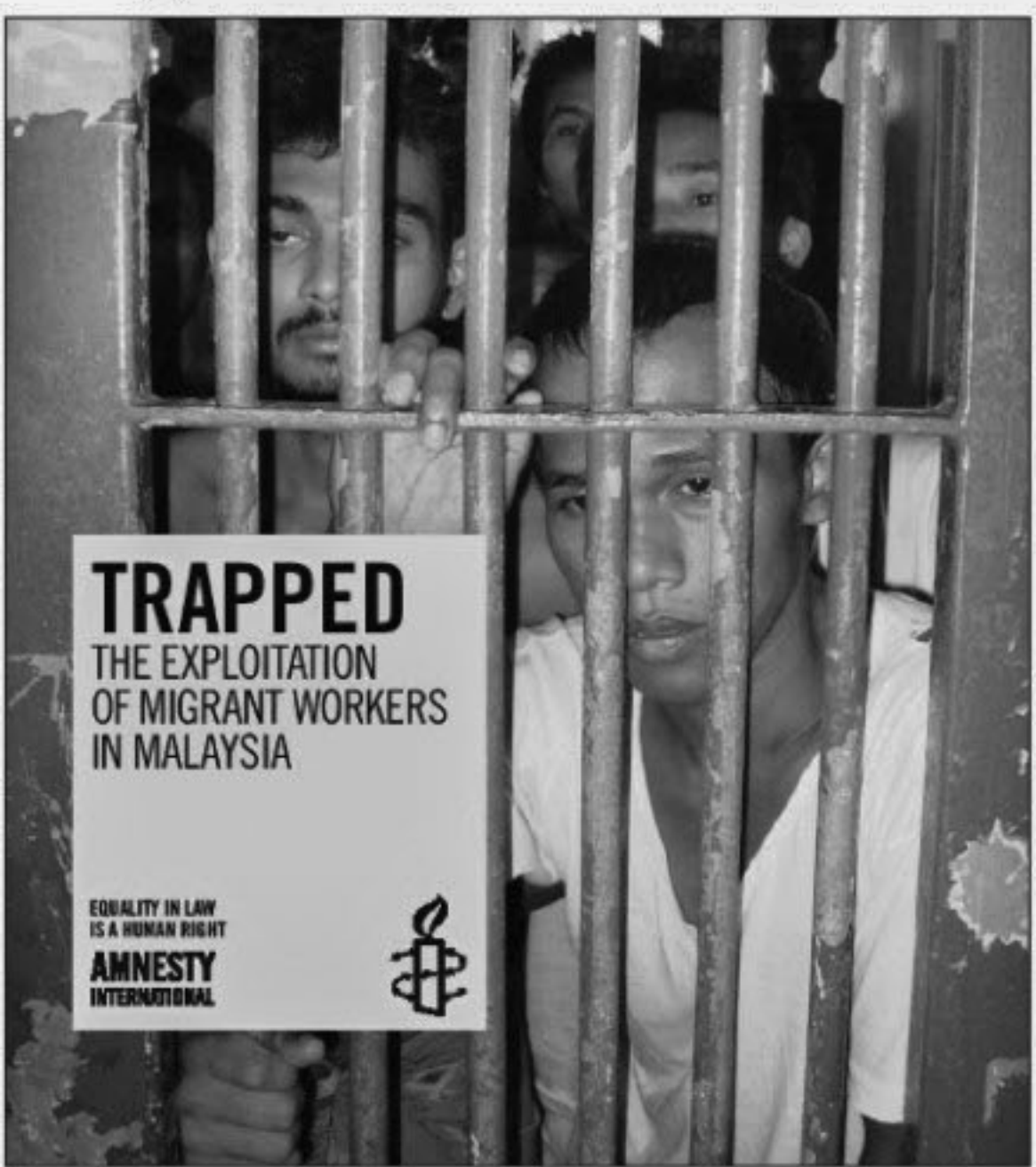
Trapped: The Exploitation of Migrant Workers in Malaysia documents widespread abuses against migrant workers from eight South Asian and Southeast Asian countries who are lured to Malaysia by the promise of jobs but are instead used in forced labour or exploited in other ways.

"Migrant workers are critical to Malaysia's economy, but they systematically receive less legal protection than other workers," said Michael Bochenek, the report author and director of policy at Amnesty International. "They are easy prey for unscrupulous recruitment agents, employers and corrupt police."

Migrants, many from Bangladesh, Indonesia, and Nepal, are forced to work in hazardous situations, often against their will, and toil for 12 hours a day or more. Many are subject to verbal, physical and sexual abuse.

Most pay recruitment agents substantial sums of money to secure jobs, work permits and training. Once they arrive, they often find that much of what their agents told them about their new jobs is untrue - the pay, type of work, even the existence of those jobs or their legal status in the country.

Most workers have taken out loans at exorbitant interest rates and simply cannot afford to return to their home countries.



Some are in situations close to bonded labour.

Nearly all employers hold their workers' passports, placing workers at risk of arrest and in practice preventing them from leaving abusive workplaces. Coercive practices such as these are indicators of forced labour.

Labour laws are not effectively enforced, and labour courts may take months or years to resolve cases. For domestic workers, who are not covered by most of the labour laws, recourse to the courts is usually not an option.

"Malaysia can and must do better for its workforce. Everyone, regardless of immigration status, is entitled to safe and fair working conditions and to equal treatment under the law," said Michael Bochenek.

Amnesty International's report concludes that many workers are victims of human trafficking. The Malaysian government has the responsibility to prevent such abuses but instead facilitates trafficking through its loose regulation of recruitment agents and through laws and policies that fail to protect workers.

In addition, Amnesty International heard over a dozen cases in which Malaysian authorities delivered immigration detainees to traffickers operating on the Thai border between 2006 and 2009.

Malaysia imposes severe and excessive criminal penalties in some cases caning on migrants who work without proper permits, even when errors by the employer are the reason for immigration violations.

Large-scale, public roundups in markets and on city streets and indiscriminate, warrantless raids on private dwellings in poorer neighbourhoods are common. Police frequently ask migrants for bribes. Those who cannot pay are arrested and held in deplorable conditions in immigration detention centres.

"The Malaysian government must stop criminalising its migrant worker force and instead tackle forced and compulsory labour," said Michael Bochenek. "Until Malaysia's labour laws offer effective protection and are effectively enforced, exploitation will continue."

Amnesty International called on the Malaysian government to reform its labour laws and promptly investigate abuses in the workplace and by police. Malaysia should also make more effective use of its Anti-Trafficking in Persons Act to prosecute individuals who recruit, transport or receive workers through fraud or deception in order to exploit them.

Source: Amnesty International.

FOR YOUR information



Did you know you can get comprehensive information on business registration online? - To find out more please log on to <http://www.businesslaws.boi.gov.bd>

The Bangladesh Board of Investment's new electronic library contains the latest versions of all business related laws, acts, rules and regulations, licenses and related forms. This online library will make it possible for small businesses located all over the country to easily, efficiently and inexpensively search out the rules and regulations that apply to them. This will not only improve the public's access to information, but also help reduce regulatory transaction costs and risks and improve transparency and accountability.

YOUR Advocate

This week your advocate is **Barrister Omar Khan Joy** of the Supreme Court of Bangladesh and Head of 'The Legal Counsel'. His professional interests include commercial law, corporate law, family law, land law, constitutional law, banking law, arbitration and intellectual property laws. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.

Reader's query

How does the law on narcotics work in our country? Is it illegal to possess narcotics (hold them for someone) or is it illegal to administer narcotic drugs on one and others? What if one requires it for medical purposes and has a valid prescription from doctor, does that make it legal to carry or have such drugs? What is the penalty?

Response

The laws relating to addictive drugs are quite strict in Bangladesh. The strictness stems mainly from the religious, cultural and social ambience of the land. The Narcotics Control Act 1990 and the rules and regulations made thereunder are the central governing laws in this area. I will try to provide a very general understanding on the laws concerning to Narcotics in our country.

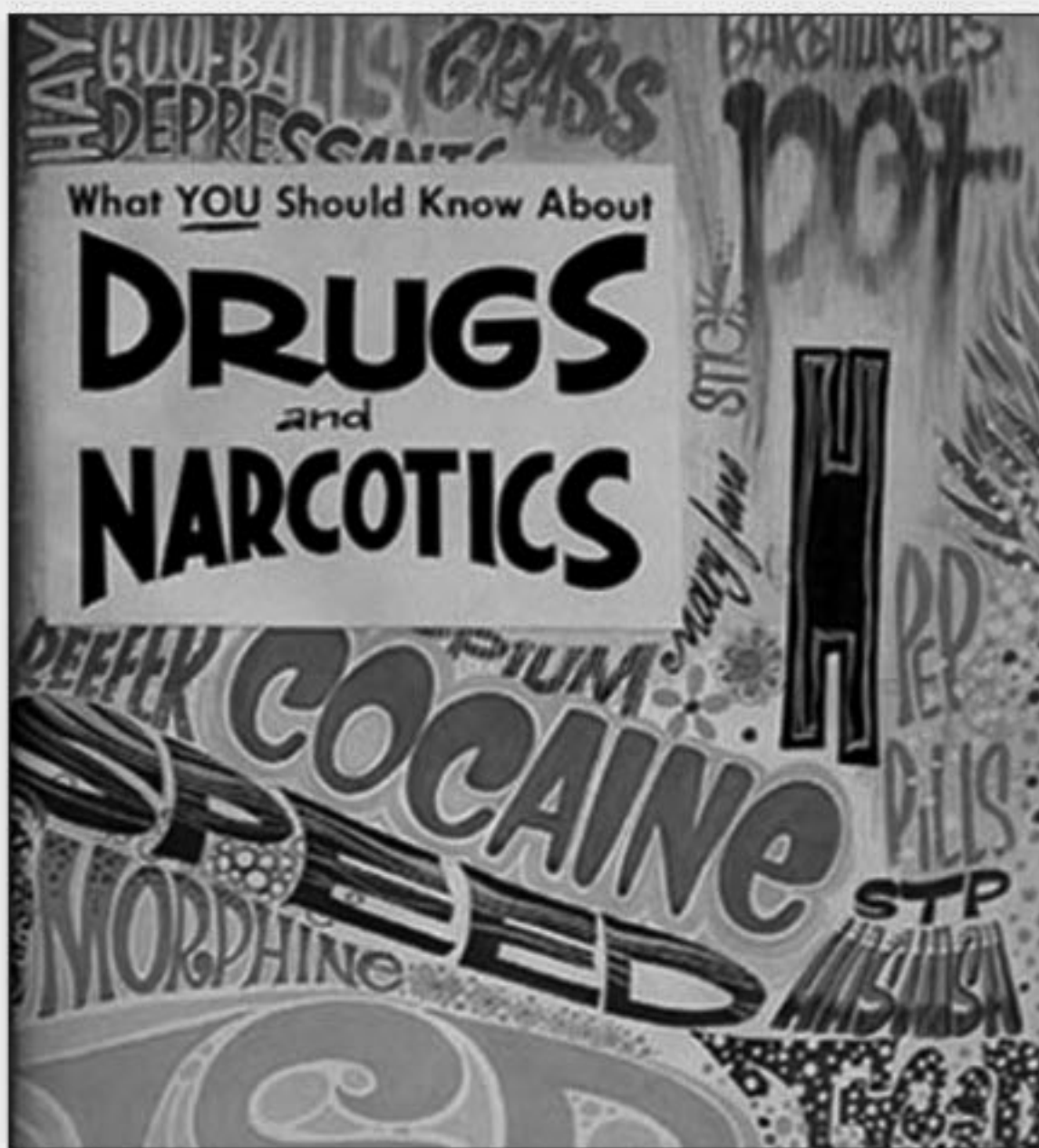
The law has broadly divided narcotics into two categories, alcohol and other narcotics.

For narcotics that are not alcohol, cultivating, producing, manufacturing, carrying, transporting, exporting, importing, delivering, buying, selling, bearing, preserving, displaying, storing of all other drugs and plants and the ingredients of manufacturing the drugs are prohibited under the Narcotics Control Act 1990. However, if such prohibited drug is needed for production of any medicine, medication or for any scientific research then the government may give license to produce, import, export, preserve, sell and buy the same. The government may also give permit to use and/or pass to carry such drugs on the aforesaid grounds.

Under the law, alcohol means any spirit or any other kind of wine or beer or any liquid containing more than 0.5% alcohol. So far as alcohol is concerned, no one can use, carry, sell, buy, store or produce alcohol without the license from the government. In case of drinking alcohol, any Bangladeshi needs to have a permit from the government. In case of a Muslim, such permit may only be given on medical grounds. For such medical treatment permit, one must produce the prescriptions prescribed by not lower than a civil surgeon or associate professor of the medical college. And there should be the name of the disease and the necessity of the drugs mentioned in the prescription.

Such restrictions with regard to consumption of alcohol do not apply for a foreigner, who can drink inside a licensed bar. Foreign diplomatic passport-holders have some wide ranging facilities in terms of buying, selling and carrying of alcohols. It is interesting to note that the indigenous people of Rangamati, Banbarban and Khagrachari are allowed under the law to drink any alcohol that is traditionally produced in these districts. Besides, the indigenous people, cobbler, dome, sweeper, tea-garden labourers are permitted to drink 'Taree' and 'Pochui'.

If any person by violating the said provisions of the law carry,



transport, export, import, deliver, buy, sell, preserve, display or store different kinds of narcotics then depending on the type and amount of the narcotics, he may be liable for imprisonment for different terms. For example, for Heroin, Cocaine etc. for quantity of maximum 25 grams, the penalty is 2 years to 10 years of imprisonment. And for more than 25 grams the penalty is sentence to death or lifetime imprisonment. In case of Pethedrine, Morphine etc. for quantity of maximum 10 grams, the penalty is 2 to 3 years of imprisonment. And for more than 10 grams the penalty is sentence to death or lifetime imprisonment. In case of Ganja and other Cannabis for quantity of maximum 5 kg, the penalty is 6 months to 10 years of imprisonment. And for more than 5 kg the penalty is 3 years to 15 years of imprisonment. For Alcohol the punishment is 1 year to 5 years' imprisonment. In sentencing the drug-addicts, the Court may send the drug-addict to the Drug Addiction Rehabilitation Center in addition or in alternate to the punishment. The authorised personnel and police have very wide ranging powers with regard to arrest, search and seizure in narcotics related matters.

For detailed query contact [omar@legalcounselbd.com](mailto:omar@legalcounselbd.com)

LAW campaign

Treating the tannery

ERSHADUL ALAM

TANNERY is one of those few most important sectors of our economy which contribute a lot to the export earnings. Beside its impact on our economy, we should not forget about the people whose lives are directly dependent on this industry. While we discuss about the environmental impact of tanneries and ways to reduce its pollution, we have to consider the lives of he people working there so that we can adopt a sustainable developmental approach in this field.

The workers and the people living nearby the tanneries can feel bitter experience of pollution created from the tanneries of Hazaribagh area of our Dhaka City. The pollution is caused from the adoption of chrome tanning process by the most tanners and continued discharge of untreated effluents into land and water bodies, especially in the Buriganga. Around 300 tanneries are located on only 25 hectares of land in the Hazaribagh area. Most of the tanneries are old discharging huge liquid effluent and solid waste every day. This causes many diseases like severe respiratory and other skin related diseases. As a consequence of increasing health problem and environmental pollution in the locality, the people demanded several times to transfer the tanneries from Hazaribagh, a densely populated area, to somewhere else. But their appeal went unheeded and the issue of relocation did not receive much attention. Some environmental activists and civil society appealed the government to relocate the same from Hazaribagh. Subsequently, highest court of the country issued a rule to shift the tanneries from Hazaribagh to Savar.

We do not have special law to deal with this specific area of environmental pollution. In fact, tannery pollutes almost all the elements of our environment. It pollutes water, air and soil as well and we have laws to deal with pollution covering all those elements of environment. Like ours, India also developed their environmental laws to cope with the high rate of development and pollution generated from industrialization. Considering that fact, an Act was passed in 1974 to establish Central and State Pollution Boards. Consequently, Tamilnadu Pollution Control Board was constituted following the adoption of an Act in 1981 by the State of Tamilnadu. A committee was constituted with a view to establishing Effluent Treatment Plant for tanning industry in India.

Though we do not have special focus on pollution created from tannery, but we have number of laws and policies regulating environment in the country. The government has adopted Environment Policy in 1992 where almost all the sectors of environmental issues were discussed and the responsibilities were distributed among different bodies of the government. The Policy discussed that measures that

should be taken to prevent and reduce the pollution from industrial sector in its clause 3.2. The policy articulated about the adoption of corrective measures in industrial sector. It also has the provision of EIA before setting up of any industry irrespective of its ownership; government or private. Recognizing health-environment relation, the Policy clearly stated that the right to health would not be infringed while taking any development programmes. The provision of the Environment Policy is also applicable to the tannery. Following the Policy, The Bangladesh Environment Conservation Act, 1995 was passed to provide for conservation of environment, improvement of environmental standards and control and mitigation of environmental pollution. Provisions are there regarding environ-

prevailing in our country, especially in the capital.

The concept of seeking environmental justice from court through Public Interest Litigation is newer in our country. However, PIL has developed both in Bangladesh and India since 1990s. In India, a writ petition was filed in 1991 against the tanners and others. Later, the SC of India ordered for closure of some industrial units having no Environment Treatment Plant (ETP) at that time. In 1996, The SC of India came up with directives to implement 'precautionary principle' and 'polluter pays principle' in judicial mechanism to create a path for environmental justice. The court also ordered some tanneries to set up ETP.

Considering its impact on health & environment, the Supreme Court of



ment pollutants and hazardous substances. Provisions were also formulated regarding the application of Environment Clearance Certificate before establishing of any industrial unit or project. A separate authority i.e. the Department of Environment was established to carry out the purpose of his Act. The Environment Conservation Rules was formulated in 1997 to supplement the Act of 1995. To implement the laws on environment, the government thought of having a separate court constituted by the Joint District Judge and thus the Environment Court Act, 2000 was enacted. The Environment Court is established to try the offenders violating environmental laws and to pass remedial orders to attain environment justice in the society. All the above laws can regulate environment pollution and health hazards created from the tannery industries.

Regardless of all those law and policies, social awareness is more important to control environment pollution, be it from tannery or different source. But regrettably, owners of the industries or even the public at large is yet to be that much conscious that is required to control and prevent pollution at a large scale which is

Bangladesh has ordered for relocation of the industries from Hazaribagh to Savar area. The court issued the rule to relocate the tanneries by February this year. The rule was issued back in June last year. Time elapsed, but no significant development in this matter is visible. Preventing pollution from tannery is not all about shifting the industry from one area to another. Relocation of tanneries is the first and primary stage to control and prevent pollution from that industry. Setting up of ETPs by individual industry or connection with the central ETP should be ensured in addition to relocation of industry from one area to another. If it is not felt and meant by the owners of the tanneries, relocation will bring no good effect in the long run. It will have the same impact as it is now. Ensuring a clean and green technology is of no alternative if we want not to meet those terrible experiences once again in Savar. The earlier the court directive is obeyed by the owners of the tanneries, the earlier the lives and environment will be saved. Shifting of area is expected to be started with new standard setting for future generation.

The writer is an advocate and researcher.

LAW week



2 'war criminals' get death in mock trial

Two imaginary war criminals were sentenced to death by a make-believe tribunal in a mock trial on Thursday, for carrying out, and aiding and abetting genocide during the Liberation War of Bangladesh. The defendants were tried under the International Crimes (Tribunal) Act, 1973, as the tribunal declared the act adequate for trying the war crimes of 1971, when an army from an imaginary country "Moonland" invaded Bangladesh. The condemned convicts were Ali Butchery, the chief of AL Badr, and Mr Karim, a commander of Razakar. The Department of Law at Dhaka University (DU) organised the mock trial in the Teacher Student Centre (TSC) Auditorium on the campus. The three-member tribunal was led by Justice AK Badrul Haque who pronounced the death sentences of Butchery and Karim. "No sentence other than death can and should be delivered to them for their crimes like mass killings and wholesale destruction," the justice said. - *The Daily Star* 26 March, 2010.

PM gets war trial process going

A long wait for justice is about to end as the government announces a formal start to the process of trying the war criminals, just before the nation's 40th Independence Day.

The government timed the landmark announcement with the Black Night of March 25 that evokes the painful memories of thousands of unarmed Bangalees slaughtered by the Pakistani occupation forces in 1971. Prime Minister Sheikh Hasina approved initiation of the trial of war criminals at her official residence Gono Bhaban, which will open a new chapter in the history of Bangladesh. It was confirmed by Law Minister Shafique Ahmed, who told *The Daily Star* that on completion of the official process a gazette notification would be issued. - *The Daily Star*, March 25, 2010.

Court rejects SQ Chy's bid to sue 7

A Dhaka court threw away an attempted murder case against immediate past president Iajuddin Ahmed, former chief adviser Fakhruddin Ahmed, ex-army chief Moeen U Ahmed, and four others. The defendants were accused of attempting to kill Prime Minister Sheikh Hasina by "slow poisoning" in a sub-jail during the state of emergency under the immediate past caretaker government. Metropolitan Magistrate AKM Emdadul Haque dismissed the case just hours after BNP Standing Committee Member Salauddin Quader Chowdhury filed it. - *The Daily Star*, March 25, 2010.

ACC explains its view on freedom

The Anti-Corruption Commission (ACC) requested the law minister to consider its opinion before any decision is taken on the proposed amendments to the ACC Act. "We have apprised the law minister of our views and opinions regarding amendments to the ACC Act 2004. We requested the minister to discuss our views at the cabinet meeting while reviewing the amendments proposed by the government-formed committee," ACC Chairman Ghulam Rahman told *The Daily Star*. Ghulam Rahman along with two ACC commissioners-- Abul Hasan Manjur Masud and Habibur Rahman-- made the request at a meeting with Law Minister Shafique Ahmed at his office. - *The Daily Star*, March 24, 2010.

BTCL plagued with bribery, influence

Most of the BTCL customers have to pay an average of Tk 6,000 as bribe for telephone connection, revealed a report of Transparent International Bangladesh. Under its research report titled "Lack of good governance in government's telecom sector and the way forward" TIB also identified telecom ministry's interference in BTCL as one of the major hurdles. In the current nine-member board, BTCL has only three private sector representatives. TIB organised a roundtable on publication of its report at CIRDAP auditorium in Dhaka. Dipu Roy and Shadhon Kumar Das, fellows (research and policy) of TIB conducted the survey. - *The Daily Star*, March 24, 2010.

DCC asked to remove illegal billboards

The High Court directed Dhaka City Corporation to start immediate removal of all unauthorised hoardings in the capital. However, the order is not applicable to those rooftop hoardings that obtained HC stay orders against their removal in 2007. The court asked the inspector general of police, Dhaka Metropolitan Police commissioner and officer-in-charge of Shahbagh Police Station to provide all-out cooperation to DCC authorities during their removal of hoardings. The HC move came after Human Rights and Peace for Bangladesh filed a writ petition with the HC. - *The Daily Star*, March 23, 2010.

High-ups' perks set to rise

The government placed six bills in parliament seeking to increase salaries and allowances of the prime minister, ministers, the speaker and the deputy speaker, lawmakers and judges of the Supreme Court to keep those consistent with the pay hike of civil servants. Once passed, the hiked salaries would be effective from July 1, 2009, while the allowances would come into effect from July 1 this year. The lawmakers are the luckiest as the proposed legislation offers them much financial and other benefits including reintroduction of the system of importing duty-free vehicles with a new offer of Tk 40,000 per month for fuel, maintenance and driver. - *The Daily Star*, March 23, 2010.

HC rejects pleas for staying jetty removal notice

The High Court rejected petitions filed by five companies seeking stay order on a government notice issued for removing their jetties from river Shitalakkhya. The five companies--City Group of Industries, Heidelberg Cement Bangladesh Limited, Kamal Vegetables, Akij Cement and Molla Salt Industries-- have set up seven jetties on the river. The HC, however, directed the government not to demolish the seven jetties for a month, as an appeal by the City Group against the eviction of jetties is pending with the Appellate Division of the Supreme Court. - *The Daily Star*, March 22, 2010.

2 Japan MPs arrive with peace call

Two visiting members of the Japanese parliament met Prime Minister Sheikh Hasina and urged her to fully implement the 1997 Chittagong Hill Tracts Peace Accord. They submitted a petition signed by 35,757 people from 105 countries and 12 autonomous territories. The statement also has peace messages from 2754 people including 1976 Nobel Peace Prize winner Mairead Corrigan-Maguire, Naoto Sakaguchi and Mieko Tanaka, Democratic Party parliamentary members of Japan who arrived here on March 20, had an hour's talk with the premier at her office. - *The Daily Star*, March 22, 2010.

SC bucks up lower court

The Supreme Court issued a set of directives for the lower court judges to improve their performance and increase case-disposal rate. The directives include timely sitting of courts and proper record keeping. The apex court authorities issued the directives on February 24 this year, since the lower courts have been experiencing a backlog of about 15 lakh pending cases, an SC official said. He said the backlog of pending cases is growing every day causing sufferings to people seeking justice. Even though no significant change has been noticed after the issuance of the notice, the official hoped that a positive change would be effected in the lower judiciary's functions within a few months. - *The Daily Star*, March 21, 2010.

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