

International death penalty abolition day

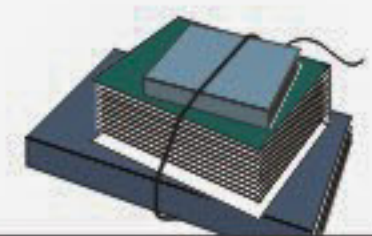
1 March 2011 -- This day marks the occasion in 1847 when the U.S. state of Michigan became the first English-speaking territory in the world to abolish capital punishment. The death penalty is a violation of human rights, as stated in Article 3 of the Universal Declaration of Human Rights.

In 2009, the last year for which worldwide data is available, there were at least 714 known executions in 18 countries. This figure does not include executions in China, which were estimated to be in the thousands. China, Iran, Iraq, Saudi Arabia, and the United States were the five countries who carried out the most executions.

International law related to capital punishment is evolving. There is currently only one universal treaty banning executions and aiming for the total abolition of the death penalty: The Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). The Protocol, adopted by the United Nations General Assembly in 1989, requires states that have ratified it to renounce definitely the use of the death penalty. As of February 2011, it has been ratified by 73 states and signed by 35 others. In December 2010, the General Assembly passed its third resolution calling upon all countries to establish a moratorium on the death penalty.

Sources: Amnesty International, World Coalition Against the Death Penalty, UN Treaty Collection.

LAW LEXICON



Family law - Those areas of the law pertaining to families, i.e., marriage, divorce, child custody, juvenile, paternity, etc.

Federal Bureau of Investigation (FBI) - A federal agency which investigates all violations of federal laws.

Federal Communications Commission (FCC) - A federal agency which regulates interstate and foreign communications by wire and radio.

Federal Deposit Insurance Corporation (FDIC) - An agency which insures deposits in banking institutions in the event of financial failure.

Federal Mediation and Conciliation Service - An agency which provides mediators to assist in labor-management disputes.

Federal Register - A daily publication which contains federal administrative rules and regulations.

Fee simple absolute - The most complete, unlimited form of ownership of real property.

Felony - A serious criminal offense. Under federal law any offense punishable by death or imprisonment for a term exceeding one year.

Source: Jurist International.

HUMAN RIGHTS MONITOR



Work-safety at risk

ERSHADUL ALAM and SHARMILA ISLAM

SAFETY at work is one of the major issues in modern employment sector. Today, employment is not all about production and business oriented activities, rather it involves many other relations amongst the concerned groups of people. Safety at work is a part of occupational issues which simultaneously affects and is affected by employer-employee relations, production and business pattern and scores of interactions prevailed in the society. The term 'occupational issue' broadly includes injury, impairment or diseases affecting an employee during and related to the course of his service in a particular work place. The modern industrial safety movement was started in 1912.

To give effect to the term, 'work place', it does not mean only a particular place where an employee delivers his service only, it may include any place if public are affected by any involvement of the employees or the employment. Hence, the area of responsibility in occupational health and safety is wider beyond a particular place or person.

The relations between compliance at work and welfare for workers are established in contemporary concept of employment where right and duty follows each other. Right to employment means right to work in a safe and secured place where the lives of the employees will be free from any risk and hazard which may have negative effect to the body or mind of the employees and their families. But, right cannot walk alone, when right walks, the duty also follows. Therefore, the duty of all concerned is an important factor in ensuring the right to safe working place. There exists a multilateral responsibility matrix in this regard.

Who bears the sole responsibility to ensure safety at work? The largest part of national and international laws and regulations put

the responsibility upon the employers. But the employees were not freed from responsibility. The employer is primarily responsible to take reasonable care to the safety of the employees at work.

International law has extended the area responsibility of the employer in different area of jobs. Based upon the category of jobs, provision of special responsibility has also been ensured in international labour rights instruments. Besides, special responsibility to care is also ensured for the employees with disabilities.

Safety at work concerns us more than anyone living in the developed country. We experience a large number of casualties in our country which call for taking safety measures at work place with an utmost importance. But regrettably enough, we observe the same kind of negligence in every work place. After an accident is occurred, the safety issue is focused by the media and in course of time is forgotten by as well and the offence goes unpunished.

Both ignorance and disobedience of law are responsible for unsafe condition at work place. This sort of ignorance and disobedience prevails both in the employers and the

employees and last but not the least with the government. The role that should have been played by the government in this regard is largely missing. Most factories are not equipped enough to provide adequate safety to the workers. It has been the common practice in our country that the workers do not wear proper clothing and even they are not trained up to do the same. For lack of training and skill, the casualty reaches at an unpredictable height which is beyond the limit of logical or reasonable consequence of an accident. In addition, insufficient lighting, unavailability of emergency exit and transparent door and safety alarm etc give rise to the hazards. No significant precautions are taken to avoid accidents and to minimize the casualty after the accident. The law

enforcing agency also plays a passive role in implementing the law regarding safety and security for the work place.

The basic principle of right to employment and related issues are enshrined in Article 20 and some other articles of our constitution. However, specific safety and health related provision is not available in the constitution. But guided by fundamental principles of state policy, fundamental rights and international human rights instruments, we have formulated special law in this regard. Health and safety is included in the Labour Laws of Bangladesh, 2006. Chapter Five of the Act provisioned for health related rights and duties by all concerned in a work place. Safety and security of work place is referred to in Chapter Six and Seven of the Act. Provision for compensation is also there in Chapter Twelve of the Act. The Act has extensively included the required health and safety issues in it. But in practice, its implementation is a far cry.

(to be continued...)

The writers are Lawyer and Journalist respectively.



LAW WEEK

SC gets 1st woman judge

For the first time in the history of country's judiciary, a woman judge has been appointed to the Supreme Court (SC), along with three new judges. The president elevated four senior High Court judges--Justice MA Wahhab Miah, Justice Nazmun Ara Sultana, Justice Syed Mahmud Hossain and Justice M Imman Ali--to the Appellate Division. Justice Nazmun Ara Sultana, also the first female judge in the HC, was promoted to additional judge of the HC on May 28, 2000. President Zillur Rahman made the appointments as per Article 95(1) of the Constitution upon recommendations of the chief justice, sources said. The appointed judges of the Appellate Division of Supreme Court were sworn in on Wednesday. -The Daily star 23 February 2011.

310 more BGB jawans charged

A special court of Border Guard Bangladesh (BGB), formerly BDR, yesterday pressed charges in a case against 310 jawans of 36 Rifle Battalion for their involvement in February 2009 mutiny. Earlier, a prosecutor read out charges before the Special Court-10 in Pikhana, led by Col Khondakar Obaidul Ahsan. Asked by the court whether they were guilty or not, only two of them, Sepoy Ahsan Habib and Sepoy Hasan Ali, pleaded themselves guilty. The plaintiff of the case Nayek Subedar Giasuddin gave depositions against 20 accused. The court was adjourned till 9:00am on March 9. The accused were alleged of leaving Darbar Hall, showing solidarity with mutineers, revolting with firearms, staying inactive to prevent mutiny and failing to control unruly colleagues. -The Daily star 23 February 2011.

HC asks cops to explain

The High Court in a suo moto move yesterday summoned the officers-in-charge concerned to explain their actions regarding the murders of schoolgirl Tumpa and her brother Babla. The HC bench of Justice Shamim Hasnain and Justice Md Rezaul Hasan ordered the OCs of Shabbagh police in Dhaka and Raipura police in Narsingdi to appear before it on March 21 with the investigation reports on the cases filed over the separate incidents. It passed the order following a report published on The Daily Star yesterday with the headline "Tumpa Abduction, Murder: Same gang killed her brother last May". The report says the police suspect the same gang that allegedly killed schoolgirl Ayesha Akhter Tumpa after kidnapping her from the capital on February 14 also killed her brother Al Kawsar Masud alias Babla eight months ago. The court yesterday also issued a rule upon the authorities concerned and the police to explain within four weeks why they should not be directed to take effective measures to arrest and punish the culprits. -The Daily star 23 February 2011.

HC appoints 5 amicus curiae

The High Court yesterday appointed five lawyers as amicus curiae for giving expert opinions over the legality of the BGMEA building's construction. The lawyers are Rakanuddin Mahmud, AF Hasan Arif, Fida M Kamal, Syeda Rizwana Hasan and Sara Hossain. The HC bench of Justice AHM Shamsuddin Chowdhury Manik and Justice Md Zakir Hossain asked the lawyers to place their opinions tomorrow during the hearing on a suo moto rule issued earlier. On October 3 last year, another HC division bench issued the rule upon the authorities concerned asking explanation as to why the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) building in the city's Hatirjheel area should not be demolished. The rule was issued following a report published in a daily newspaper on October 2 stating that the building was constructed without any approval from Rajdhani Unnayan Kartripakkha (Rajuk). Advocate GHM Muniruddin placed the news item before the HC and said the BGMEA building was illegally built. -The Daily star 23 February 2011.

Sayedee to be produced in tribunal on Mar 15

The International Crimes Tribunal yesterday directed the jail authorities to produce Jamaat-e-Islami Nayeb-e-Ameer Delwar Hossain Sayedee before it on March 15 in connection with the war crime charges. The three-member tribunal, headed by Justice Nizamul Huq, ordered the investigation agency to submit the 'case diary' (regular progress) for investigation into allegations against Sayedee by March 15. The tribunal also adjourned the hearing on the matter till that day. It came up with the order after hearing submissions from the prosecution and a counsel for Sayedee on a progress report of investigation against him. Earlier, the prosecution submitted the report to the tribunal on February 15. Prosecutor Syed Haider Ali told the tribunal the investigation agency has collected papers and documents relating to the allegations against the accused and it would collect more. He prayed to the court to give time for completing the investigation. -The Daily star 21 February 2011.

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LAWS FOR EVERYDAY LIFE



Insurance claims



If you are involved in a motor vehicle accident, it is important that you maintain appropriate communication with your insurance company. Following are some "do's and don'ts" to remember throughout the insurance claims process.

THE DO'S

DO call your agent as soon as an accident or injury takes place. As soon as you get home from the car accident, or even before you go to the doctor, call

your agent.

DO review and understand your coverage before talking to your insurer or your agent. Read the "Coverage" and "Exclusion" sections of your policy in particular.

DO take and keep detailed notes of all conversations with insurance company representatives, and get names, phone numbers, and job titles of people you speak with, including their supervisor's name.

DO consider whether you might have

insurance coverage under some other insurance policy as well. Many people have more than one policy that might cover a claim. In particular, look at homeowner policies, "umbrella" policies, and materials that came with your credit cards.

DO take pictures, if possible, of damage to your vehicle, the accident scene, and your injuries.

DO be honest and forthcoming with your insurer. Even if it is embarrassing, it is better if your insurer knows all the facts. Failing to be candid with your insurer might invalidate your policy or cause a denial of coverage.

DO understand the difference between replacement coverage and depreciated or actual cash value. If your policy provides replacement coverage, don't settle a personal property loss for "actual cash value." You may be required to replace the lost items before getting your full reimbursement if you have replacement cost coverage.

DO keep all receipts of meals, lodging, and purchases made in connection with time spent pursuing your claim or recovering from your injuries from the time of the covered event until final settlement with your insurance company.

THE DON'TS

DON'T give any recorded or written statements to your insurer until you are sure you understand your coverage. Remember you are not required to allow the insurance company to record your telephone conversation. If you have doubts, do consult an attorney.

DON'T automatically accept the estimate or appraisal of your losses given to you by the insurer. Insurance

companies will often try to get you to accept their estimator's or contractor's repair or replacement estimates, which might be a bit low.

DON'T sign any releases or waivers of any kind until you obtain legal advice. A bad financial situation after a major loss may make it seem necessary for you to accept a premature, inadequate settlement from your insurer. But you may remember destroyed items after you have signed a release as to payment for your personal property inventory or other claims. For these reasons, it is advisable to consult an attorney before signing a release or waiver. Be sure to read the fine print on any payment from the insurance company.

DON'T accept any check that says "final payment" unless you are ready to do so.

DON'T ignore time limits set by your policy. Most policies require a signed proof of loss within a certain time limit. Be sure you comply with this requirement unless you obtain a written waiver from your insurance company. Many policies allow you only one year from the date of loss in which to bring a legal action if your claim has not been adjusted fairly. If your claim has not been settled to your satisfaction eleven months after your loss, consult an attorney immediately. A failure to do so could result in the loss of your right to sue.

DON'T forget that you have a contract with your insurer. Your insurer has a legal obligation to provide the coverage it promised to you. Be insistent about enforcing that obligation.