

## Modhumoti

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remain as a free flood flow zone and the capital will also be freed of waterlogging.

Lytton said the fate of the plot purchasers would be known after the full text of the SC verdict had been obtained.

Earlier on June 8 last year, the HC declared 77 unauthorised housing projects in and around Dhaka illegal and directed the government to remove or demolish them within 60 days.

But the directives were not implemented since the full text of the HC verdict had not been released yet, he said.

The Daily Star earlier carried out several reports on illegal housing projects, including Modhumoti Model Town, and stopped running their advertisements on ethical grounds even before the HC ruling.

Yesterday, a six-member Appellate Division bench headed by Chief Justice Md Muzammel Hossain delivered the verdict, after around six months of concluding hearings on the appeals.

Details of the SC verdict are yet to be released.

The HC on July 27, 2005, declared Modhumoti Model Town project at Bilamalia and Baliarpur near Aminbazar of Savar unauthorised, illegal and against public interest, but directed that the interest of the purchasers be protected.

In August 2004, Bela filed a writ petition as public interest litigation with the HC, challenging the legality of the project, which was violating the Environment

Conservation Act, Town Improvement Act and Rajuk rules.

In its petition, Bela said if the project continued, the character of the area would be destroyed and the environment polluted.

Bela also appealed to the apex court to pass necessary orders so that the city remained free of waterlogging.

Bela, Metro Makers Ltd, plot purchasers and Rajuk filed five separate leave-to-appeal petitions in 2006 with the SC against separate portions of the HC verdict.

Metro Makers and plot purchasers appealed to protect their interest, saying they had invested a lot of money for the project and its plots, and Rajuk appealed for declaring the project illegal.

The SC on March 19, 2009 upheld the HC verdict, but allowed Metro Makers, plot purchasers and Rajuk to move regular appeals before it against the HC verdict.

In the verdict, the SC yesterday allowed an appeal of Bela, dismissed the appeals of Metro Makers and plot purchasers and disposed of the appeal of Rajuk.

The Appellate Division on February 15 this year concluded hearings on the appeals and kept the appeals waiting for verdict anyway.

Mahmudul Islam and Syeda Rizwana Hasan appeared for Bela, Rafiqueul Huq, Rokanuddin Mahmud, Ajmalul Hossain, Abdur Razzaq and ABM Siddiqui Rahman Khan for Metro Makers and plot purchasers while AFM Mesbahuddin stood for Rajuk.

## EC to take advice from predecessors

STAFF CORRESPONDENT

The Election Commission is planning to invite former chief election commissioners and election commissioners to a discussion on parliamentary and local government polls and electoral reforms, an incumbent election commissioner said yesterday.

The talks would be held after Eid-ul-Fitr, Election Commissioner Zayed Ali told reporters at the EC Secretariat. The present CECs and ECs want to learn from what their predecessors had experienced in jobs and apply those in the next polls, he added.

Zayed said he personally supported some proposals for electoral reforms made by the immediate past EC led by ATM Shamsul Huda.

The past EC had proposed that the cabinet division and the ministries of public administration, LGRD and home affairs should consult with the EC before taking any decision in regard to the polls at the election time.

"I think the ministries of education, health and land should also be included," Zayed noted.

Citing the past EC's proposal for restricting parliamentary seats for the capital to 10, he said the number should further be down to eight.

If the EC redraw the boundaries of parliamentary constituencies on the basis of current population, the capital will get 20 seats, Zayed said, "But it cannot be allowed. If we allow it, seats in rural areas will be significantly decreased."

## Elderly fish trader

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man was shot dead allegedly by his rivals following a dispute over controlling illegal electricity and water supply business at Mohakhali Beltala slum in the capital yesterday afternoon.

Family sources and police said, a caretaker from a next-door neighbour's house hit Ratan Bepari, 70, a fish vendor, on the head with a wooden log around 9:00pm Monday.

He was declared dead after he was brought to a hospital around 12:30am yesterday.

Rozina, the daughter of the deceased, said the family were conversing with him on a footpath after Iftar on Monday evening.

Suddenly a minor girl from their adjacent building came to the spot, pulled their father's hair and ran away to her house, she said.

Soon Md Liton, the caretaker of the house, and the family members of Ratan Bepari got locked into a brawl over the incident. At

one stage, Liton hit Ratan on the head with a wooden log that made him unconscious, she added.

Rashid Talukder, officer-in-charge of Adabor Police Station, said police had arrested Liton's nephew Abu, who had taken part in the clash, and detained his wife Rina Begum.

Liton, however, managed to escape arrest, he added.

In the other incident at Mohakhali Beltala slum, Bashir Miah, 35, was shot dead allegedly by his rivals following a dispute over controlling illegal electricity and water supply business.

According to the residents of the slum, Bashir used to collect money from the slum dwellers by illegally supplying them with water and electricity.

Bashir had escaped another attempt on his life when local "extortionists" opened fire on him at his residence in Mohakhali on February 14 this year. His son Nishat, 8, also received three bullets in the legs but survived.

Witnesses said two youths riding a motorbike came to the slum around 4:00pm yesterday. One of the bikers opened fire on Bashir while he was talking to a boy in front of a rice trader's shop. The criminals left the scene on their bike.

Locals rushed Bashir to Dhaka Medical College Hospital (DMCH) where doctors declared him dead.

Bashir had seven bullets in different parts of his body, DMCH sources said.

Sources at the slum said Bashir used to claim himself to be a BNP worker and had been overseeing the supply business since the last BNP rule.

After the political change-over, criminal in the locality was trying to take control of Bashir's business, which might have triggered a feud between the two and ultimately led him to death, sources added.

Aminul Bashar, sub-inspector of Banani Police Station, told this correspondent that the police were investigating the incident.

## Indigenous people 'face extinction'

Says Santu Larma; slates curbs on rights

STAFF CORRESPONDENT

Indigenous people in Bangladesh could become extinct within the next few decades if their deprivation of rights continues as it had in the past, said CHT Regional Council Chairman Jyotirindra Bodhipriya Larma yesterday.

"There is regular bloodshed in the hills; its extent might go up. Either the peace accord in the hills will be implemented or the juma people will be extinct," he told a discussion at the capital's Cirdap auditorium.

Ten rights bodies jointly hosted the event on the theme of land and human rights of indigenous people ahead of International Day of the World's Indigenous People tomorrow.

While in power, the present ruling party had signed the Chittagong Hill Tracts (CHT) Peace Accord in 1997; but today it lacks goodwill in implementing the deal, said Jyotirindra, popularly known as Santu Larma.

Both the civil and military bureaucracy, he complained, have demonstrated an undemocratic and communal attitude towards the indigenous people, whose land was grabbed by the social and political elites for decades.

"Now we are termed ethnic minorities and tribes, and barred from observing the indigenous peoples' day. This is ridiculous.... I see dark days ahead."

Santu Larma, also president of Parbatya Chattagram Janasanghati Samity, urged indigenous people to get united for any kind of movement if they are to sustain

their existence.

In his keynote, Prof Abul Barkat of Dhaka University said 22 percent indigenous people had either been evicted or driven out of their households between 1977 and 2007 mainly by Bangalee settlers in the CHT.

Their traditional social ownership of land came down from 83 percent in 1978 to 41 percent in 2009, he added.

On the other hand, 90 percent of indigenous people of the plains have become landless, mentioned Barkat. He added that the rate of poverty among the indigenous people is much higher than the average national rate of poverty.

"In the last three decades, the number of Bangalee settlers in the hills has gone up, but the number of indigenous people has come down."

He suggested implementing the CHT peace accord, punishing the land grabbers, forming a separate land commission for the plain land adivasis and recognising their traditional land ownership arrangement.

Rashed Khan Menon, chairman of the parliamentary caucus on indigenous people, demanded withdrawal of the government's restriction on observing of the International Day of the World's Indigenous People.

Lawmakers Hasanul Huq Inu, AKM Moazzam Haque, rights activists Sanjeeb Drong, Anna Minz, Syeda Rizwana Hasan, Sara Hossain, Rana Das Gupta and Khushi Kabir, addressed the discussion moderated by Ain O Salish Kendra Executive Director Sultana Kamal.

## Get judges from

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on Sunday.

According to Article 95 (2) (a) (b) of the constitution, an individual with at least 10 years' experience in legal practice and service can become an SC judge.

Although Article 95(2) (c) also prescribes other qualifications for the appointment, a law in this regard has yet to be formulated.

There is also scope under sub-section (c) of Section 2 of Article 95 of the constitution for the appointment of legal experts, law professors and researchers as SC judges, the report said.

"The required conditions can be set under this section without constitutional amendment," it said, adding this provision exists in India and Nepal.

The report also noted that retired or serving judges and lawyers could also be considered for appointment under the law that the commission recommended introducing.

Not only practical experience but also in-depth knowledge and understanding of vast theory, explanation and use of law, and perfect perception of justice are required to conduct judicial work.

This knowledge and understanding can also be achieved without a person having to work as a judge and lawyer, said the commission.

Alongside persons with excellent academic career in law, university professors or researchers who are at least 45 years' old and have worked at reputed institutions can be appointed as SC judges. This exception will be helpful in ensuring qualitative development of the Supreme Court, it added.

The report also mentions the constitutional provision that says a person shall not be qualified to be a judge

unless he/she has, for not less than 10 years, been an SC advocate or held judicial office in the country.

The commission said mere enrolment as a lawyer of the Supreme Court should not be acceptable. The lawyer must practice regularly and have a record of a minimum number of successful cases.

The report also said a lawyer considered for the position of an SC judge should have experience of conducting cases in the Appellate Division for at least two years.

The commission also mentioned the current practice of selecting district judges as HC judges. At least three years' experience can be made mandatory for this without any constitutional amendment, it added.

Academic results of district judges should also be examined.

"The required experience of 10 years can be extended through constitutional amendment," it also said.

The commission said this "10-year experience" should be counted when the person has been a judge. Only working with the law ministry or judicial administration of any government agency should not come under consideration.

In practice, the commission observed, lawyers get priority in the appointment of HC judges. More than two-thirds of HC judges have been lawyers.

But it will be good for the SC if more district judges or judges with the same status get appointment as SC judges. The commission has recommended picking more HC judges from the lower level of the judiciary.

It also suggested scrapping Article 98 of the constitution that provides for temporary appointment of additional HC judges and

judges to the Appellate Division from the HC, as the provision is inconsistent with the spirit of an independent judiciary.

It said the process of the president's seeking advice from the chief justice and the chief justice's giving advice in the appointment of judges has to be transparent and in black and white.

The report also said the formation of a separate judicial commission to recommend SC appointments is not required. Such commissions have been introduced only in the UK and Pakistan and the time has not come to evaluate their results.

The appointment and qualification of SC judges have been an issue of debate for the last one decade.

Following a writ petition, the HC on June 6, 2010 asked the government to explain in six weeks why specific guidelines should not be framed for judges' appointment to bring transparency and competitiveness into the process.

The government has not replied to the rule yet. Prof M Shah Alam, acting chairman of the commission, told The Daily Star that his office was yet to receive any reaction from the government.

He said the commission had made the recommendations on its own. However, the parliamentary standing committee on law, justice and parliamentary affairs around two years ago sent a letter asking the commission to make recommendations on some legal issues, including SC judges' qualifications.

Prof Shah Alam also said Law Minister Shafique Ahmed at a recent programme in the capital had informally asked him to make recommendations on judges' qualifications.

## Mojaheed denied bail

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Justice ATM Fazle Kabir, however, rejected the bail petition of war crimes suspect Jamaat-e-Islami Secretary General Ali Ahsan Mohammad Mojaheed.

Tribunal-2 also completed recording the cross-examination of Abdul Mannan, the fourth prosecution witness in the case against Jamaat leader M u h a m m a d Kamaruzzaman, before adjourning proceedings of the case until August 13, when the fifth prosecution witness is expected to testify.

Meanwhile, at Tribunal-1, a witness testified and was cross-examined in camera in the case filed against BNP leader Salahuddin Quader Chowdhury.

Mohammad Ali, conducting prosecutor in Quader Mollah's case, told Tribunal-2 that the investigation officer of the case had found some new witnesses who were essential for the prosecution. He sought the tribunal's permission for bringing in seven additional witnesses in the case.

After lunch, defence counsel Farid Uddin Khan urged the tribunal to hold a hearing on the prosecution petition today (Wednesday), instead of yesterday, as they were not prepared.

Justice Obaidul Hassan, a member of the tribunal, then said as per law the prosecution issued a notice upon the defence and they had filed the petition on Monday.

Farid insisted that they were not prepared and that they had to figure out strategies in this regard.

Justice Obaidul then said, "Is submitting 3,000/4,000 witnesses [in a case] your [defence] strategy?" He said there was no instance in Bangladesh of submitting such a large number of witnesses in a case.

"There is no such instance even in the world," Judge Md Shahinur Islam, another member of the tribunal, added.

Afterward, Justice ATM Fazle Kabir passed an order allowing three additional prosecution witnesses to give their testimonies. Defence would get proper time to prepare their defence, added Justice

Kabir.

Defence counsels of detained Jamaat and BNP leaders submitted a list of 3,328 defence witnesses in Abdul Alim's case; 10,111 witnesses in Jamaat chief Nizami's case; 2,939 witnesses in Ghulam Azam's case; 1,357 witnesses in Kamaruzzaman's case; 965 witnesses in Quader Mollah's case and 1,153 in Salahuddin Quader Chowdhury's case.

Earlier in the day, while moving the bail petition filed on August 2, Mojaheed's counsel Nazrul Islam said Tamanna-e-Jahan, wife of Mojaheed, had been suffering from severe back pain for the last one and a half months. She needs special care of the doctors along with family members. Only Mojaheed was capable of arranging better treatment for his wife, Nazrul claimed.

He also said that Mojaheed had been performing "Itikaf", an Islamic practice of being on retreat in a mosque for a certain number of days, especially during Ramadan, for the last twenty years and wanted to perform Itikaf this year too.

Opposing the petition, prosecutor Mir Iqbal Hossain said Mojaheed's wife's ailing health could not be valid grounds for bail and there was no instance at home and abroad of bail being granted for performing religious rites.

Besides, Mojaheed was accused of serious offences, including killing of thousands of people, and there was no scope for granting bail considering the gravity of the crimes, added Mir Iqbal.

In the order, Justice ATM Fazle Kabir said the grounds stated in the application submitted by defence did not appear convincing. The tribunal was of the opinion that the accused was not entitled to be released on bail and accordingly the bail prayer was rejected, said Justice Kabir.

Arrested on July 29, 2010, Mojaheed has been indicted on seven charges of crimes against humanity, including murder, genocide and hatching a conspiracy to kill intellectuals during the Liberation War.

Tribunal-1 had rejected Mojaheed's bail petition twice and after Mojaheed's

case was transferred to Tribunal-2, it rejected his bail prayer yesterday.

In Kamaruzzaman's war crimes case, defence counsel Kafil Uddin Chowdhury spent 45 minutes to complete the cross-examination of Abdul Mannan and asked him over 40 questions.

On August 6, Mannan in his testimony told the tribunal that Kamaruzzaman had been involved in the killing of one Badiuzzaman during the Liberation War.

Kafil Uddin yesterday suggested that Kamaruzzaman was neither an anti-liberation activist nor an Al-Badr man.

Mannan rejected defence claim saying, "It is not true." Replying to another question, Mannan said there was hearsay in Sherpur since 1972 that Kamaruzzaman was a commander of Al-Badr force during the Liberation War but he had not verified it.

CAMERA TRIAL  
A witness yesterday testified and was cross-examined behind closed doors in the case filed against BNP leader and war crimes accused Salahuddin Quader Chowdhury at International Crimes Tribunal-1.

The ninth prosecution witness, Parag Dhar, was recalled to testify in camera by the tribunal following a petition of the prosecution.

Parag had testified on July 26. Since many important matters were left out in his earlier deposition, prosecution filed a petition before the tribunal to bring him back, said prosecutor Zeed Al-Malium.

Defence counsel Ahsanul Huq Hena cross-examined him after the testimony was recorded in the one hour and 10 minute proceedings.

Apart from Malum, Chief Prosecutor Golam Arief Tipoo and Prosecutor Sultan Mahmud Simon were present on the prosecution panel while defence counsel Fakhru Islam accompanied Ahsanul Huq during the proceedings.

Following the order of the tribunal, both prosecution and defence were silent on the matter of the proceedings.

Salahuddin Quader Chowdhury is facing 23 specific charges of crimes committed against humanity during the Liberation War.

## Bus passengers

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15 from Dhaka to Barisal. But some regular passengers on this route said the usual fare is Tk 400-450.

At Mohakhali bus terminal, a ticket seeker named Raju Hamid said Fathea Ali Paribahan demanded Tk 450 for tickets for August 14 from Dhaka to Naogaon, while the usual fare is Tk 400.

Asked about such hike in bus fare, Ali Khabir Chand, president of Bangladesh Bus-Truck Owners Association, and Khandaker Enayet Ullah, secretary general of Bangladesh Sarak Paribahan Samity, said bus owners were now charging as per the government's fare rate.

At other times, they charge less than the government-set fares, said Ali Khabir and Enayet Ullah.

Samad Mandal, manager of Hanif Paribahan, said, "Ahead of Eid, the buses become jam-packed while

leaving Dhaka. But they remain almost empty while returning to Dhaka. That is why we charge government-set fares during this time."

The state-run Bangladesh Road Transport Corporation yesterday started selling advance tickets for different routes from Dhaka.

Meanwhile, at Kamalapur railway station, hundreds of ticket seekers were seen standing in long queues yesterday, the third day of advance ticket sale by Bangladesh Railway.

According to the station schedule, train tickets for August 14 were sold on Sunday, tickets for August 15 on Monday, tickets for August 16 yesterday, tickets for August 17 today, while tickets for August 18 will be sold tomorrow.

Law enforcers arrested one person allegedly for an attempt to sale tickets on the

black market.

People stood in queues since 1:30pm yesterday to buy tickets for August 17 even though tickets for the date are scheduled to start selling from 9:00am today.

Private launch owners will start selling advance cabin tickets on August 10, while the state-run Bangladesh Inland Water Transport Corporation will start selling its advance tickets today.

Three separate committees were formed yesterday at a meeting among Bangladesh Road Transport Authority (BRTA), transport owners and workers at BRTA office.

The committees, consisting of BRTA officials, law enforcers, transport owners and workers, will monitor three bus terminals -- Gabtoli, Mohakhali and Sayedabad during the Eid rush.

## Five major risks

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the draft MoU to the finance division for review. The division sent it back to the minister after analysing it, said a finance ministry official on condition of anonymity.

The finance division said it would take at least two years to construct the Padma bridge, but according to the MoU the deal will remain effective for nine months or a maximum of 12 months.

It means Malaysia will only play the role of a facilitator as there will be no scope for Kuala Lumpur to stay in the project till its completion, observed the division.

Another major concern about the MoU is that it does not contain direct or indirect commitment or indications of providing any type of grant or concession loans.

The division said if it was not a government to government deal, it could have been processed under the government policy and strategy for Public Private Partnership.

Besides, the MoU contains no guidelines on how the money invested in the bridge's construction will be paid back, how the fees/toll/charge for using the infrastructure will be fixed and what the maximum tenure of the concession agreement will be.

Another concern arises from the provision for constructing the bridge under the build-own-operate-transfer (BOOT) system that will allow the contractor to have the project's ownership.

The finance division said it would be more appropriate to construct the bridge under build-operate-transfer system instead of the BOOT system.

A delegation led by Malaysian envoy Samy Vellu came to Dhaka on August 5 and submitted a proposal on the concession agreement to the communications minister. Later, Quader told reporters that Malaysia would submit the final proposal in three weeks.

The Malaysian envoy also met Finance Minister AMA Muhith the same day, but the minister did not tell reporters anything about it.

The finance division on

Sunday issued a guideline for the bridge division to open two bank accounts with Sonali Bank for people to deposit money there as a way of raising funds for the Padma bridge project.

The cabinet last month decided to open the two accounts -- one for local and the other for foreign currency -- to raise funds for the project.

The bridge division will inform the Prime Minister's Office and finance and planning ministries about the amounts deposited with the accounts every three months.

The planning ministry decided that 5 percent of the allocations in the development budget for all ministries and divisions except for agriculture and communications ministries, LGRD and power division would be diverted to the Padma bridge fund.

## 3 drown as 2 motorboats collide

OUR CORRESPONDENT, Narsingdi

At least three people drowned when two engine-boats collided head-on in the Meghna river in Narsingdi on Monday night.

Of the victims, two were identified as Abu Sayeed, 30, and Danish, 26, identity of the other dead, of around 35, could not be known immediately.

Sources said the accident occurred around 10:00pm when two Kalaigobindapurbound engine-boats, each with some 45 passengers, collided in the middle of the Meghna river as the engine-boats' drivers could not decide their way in the dark.

All the passengers who fell into the river managed to swim ashore, except the three.

A case was lodged with Narsingdi Sadar Model Police Station in this regard. Asaduzzaman, officer-in-charge of the police station, said the unidentified body was recovered yesterday and sent to Narsingdi Sadar Hospital morgue for an autopsy.