



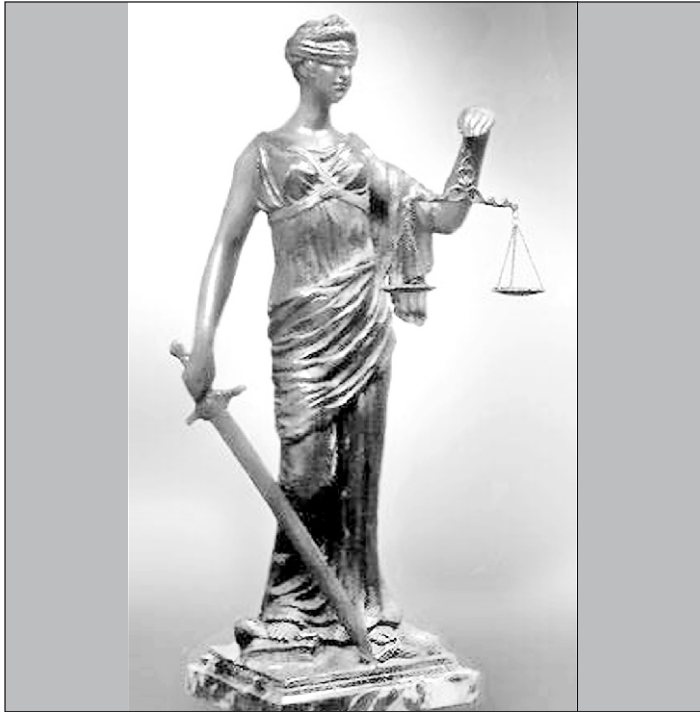
LAW education



READER'S queries



Your Advocate



This week your advocate is M. Moazzam Husain of the Supreme Court of Bangladesh. His professional interests include civil law, criminal law and constitutional law.

Q: If I apply for "Succession Certificate" for claiming from the Bank my deceased husband's balance in his Current Deposit A/c is it mandatory that, I must obtain prior consent in writing on the Succession Certificate from my in-laws? Our relations are strained, so, impossible on our part to procure their signatures. 2. Obviously it is crystal clear that, neither shall I claim my in-laws share nor shall any Bank ever pay the same. 3. My daughter of 18 months age has been living with me ever since conception and she was born on Apr 19, 2002 for which, the entire Maternity/Delivery expenses of the Clinic was paid by me inclusive of her entire other expenses till today. So, the question of my daughter's 50% share of my husband's balance in his A/c, is it mandatory for the Bank to pay into my possession/Account?

Rokeya Kasim Putool,
E/G9, Firozshah, Chittagong.

Your Advocate: Things will become clear if you read the earlier two replies given to your queries together with the present one. The context of your problem suggests that by 'succession certificate' you have meant 'application for succession certificate' and by 'consent' you have meant 'signature'. Yes, all the successors of the depositors are required to sign the application. But if any one does not like to join you it is not imperative for you to persuade him or her by any means. As far as I remember I advised you to participate in the certificate proceedings then proposed to be initiated by your in-laws. You have not mentioned what happened to that move in this regard or what prompted you to file one for yourself? Well, if circumstances necessitate filing one there is no wrong in it. You can file the case with your signature and with the signatures of those who are agreeable citing all others as opposite parties. Court in exercise of its jurisdiction will issue summons to them to appear before it.

Your daughter's share to her father's property remains unaffected. The Bank is bound to pay off the deposit to the successors of the depositor in accordance with the share determined by the court. Naturally you are now mentally disturbed by the tainted relationship with your in-laws and badly bothered about the property left behind by your late husband. In the realities of your life it would be advisable for you to keep in touch with a lawyer.

English for Law (EfL) programme Striving for improvement of legal English

SHAMSUL HOQUE

The legal community now agrees that the standard of English of the law graduates in Bangladesh is in generally very low. The most cogent reason inter alia why this is so is English lost its importance and status after the emergence of Bangladesh as an independent nation in 1971. Since then the learning of English (as well as other subjects) at all stages and for all purposes general or specific has not been effective for various socio-economic, political and academic factors deeply rooted in a virtually unproductive education system like ours. Under this system the poor quality of English acquired at the primary stage is always snowballed towards, and multiplied at, the later stages, i.e. secondary and tertiary.

Effect of the low standard of English

In the above circumstances, most students come to law colleges and also to the universities in some cases with little English knowledge. And there they study law mainly through the medium of Bangla. The learning materials they use are also mainly Bangla notebooks and



Learn English, earn more!

guidebooks. Hence most of them cannot have any access to the vast domain of legal texts, documents, reports, journals, etc. As a result, they remain seriously deficient in English. This poor English language proficiency works in them as a deterrent to their understanding and practising of law as a profession.

How to improve the situation?

To reverse the existing situation the legal community has realised that there is no alternative but to make the study of appropriate English compulsory for all the law graduates as well as young entrants to the Bar. The pioneering initiative towards achieving this goal was taken for the first time in Bangladesh by the Legal Education Committee of Bangladesh Bar Council. As a result a course titled 'English for Law' (EFL) was designed for the new entrants to the Bar and introduced in 1995 at LETI, an arm of Bangladesh Bar Council.

What does the EFL course aim to achieve?

The EFL course aims to develop the English language proficiency of those law graduates who are willing to enter the Bar. The mastery of the language skills, ie reading, speaking, listening and writing, enables them to access information and source materials such as law books, law reports, journals, etc and to use English both orally and in writing. The course helps the participants upgrade these language skills, thereby improving their professional standard, both in and outside the courts.

What is the course about?

EFL is a 50-hour intensive course delivered in 5 weeks, with a 2-hour session each day, 5 days a week. The main focus areas of the course are: Basic language skills in reading, speaking, listening and writing; remedial grammar; language of advocacy; reading legal texts, documents, etc; legal drafting and presentation skills. The EFL course is designed to help participants use all the four language skills in legal profession with greater emphasis on reading and writing.

Speaking and listening skills: There is little or no scope for the young law graduates and lawyers to speak English in their real-life situations, particularly at the lower courts. Also their study of English for 12/14 years as a compulsory subject at schools and colleges is almost totally unproductive. As a result, their proficiency in spoken English is so low that it remains almost always far below communicative competence.

The course provides the participants with favourable classroom conditions and teacher input, which create a friendly atmosphere encouraging and stimulating them to speak English. In this congenial working environment they are given suitable situations and problems to think about, discuss and debate on. The participants themselves, through pair and group

work, carry out all these interactive classroom activities facilitated by the resource person. These speaking-listening activities are often reinforced by practice with audio-video materials available at LETI.

Reading skills: Law students study law for 3/4 years at universities

and law colleges, mainly for a specific purpose, i.e. to earn a law degree for becoming legal practitioners. Thus the knowledge they get from their academic study is theoretical and limited. But to become professionally successful legal practitioners they need to acquire new knowledge the demand of which is ever increasing in the changing socio-political scenario of the country vis-à-vis the present-day rapid growth of information technology and globalisation. Poised for upgrading their lawyering and advocacy skills, they have no alternative but to read law books, judgements, reports, journals, etc. The work is inexhaustibly stupendous, as its volume is staggeringly huge. So they must acquire the skills in reading that will enable them to decipher legal texts, to gather main ideas and specific information from a text, to organise ideas, facts and points found in a document chronologically and coherently, to differentiate between facts and opinions, to analyse a case, to summarise the facts of a case, and most importantly, to do these activities very fast. A considerable part of the EFL course is given to developing such skills in reading as extensive reading, intensive reading, contextual reading, inferential reading, etc.

Writing skills: Law students have the option to take either Bangla or English medium to answer their examination questions. But in reality most of them choose the former mainly for three reasons: (a) The standard of English they come to law college with is very low and they don't dare to do their study through it (b) they hear classroom lectures in Bangla and are allowed to write answers to their examination questions in Bangla and (c) Bangla guidebooks and notebooks are available for the law courses, which are easy for the law students to use for rote learning.

As a result of the above options and opportunities the students enjoy during their academic life, they develop a kind of writing both in English and Bangla, which has in most cases little or nothing to do with writing skills. They write mostly memorised answers and as such they cannot express their own thoughts, ideas and feelings coherently and clearly in a piece of writing. This lacking in their writing ability is acutely noticed when they write English.

It is true that the young entrants to the Bar hardly write their pleadings, notices, etc in English while they practice at the lower courts. But many of them one day may become the honourable Judges and learned Advocates of the Supreme Court. And here both the Bench and the Bar use English in the discharge of their respective duties (i.e. writing judgements, complaints, written statements, etc). So the aspiring young entrants to the Bar have to develop writing skills properly for their future elevated positions in life in the higher court.

The EFL course has been designed to meet this need for developing the participants' writing skills. Starting with remedial grammar in context, the course proceeds to develop inter alia corpus of words, organisation of facts, opinions and ideas and techniques of legal drafting.

What prospects does EFL look forward to?

EFL is the only specialised course of its kind in Bangladesh that is intended for the would-be legal practitioners of the whole country. The course holds out prospects for these future professionals by improving their language proficiency, which they badly need for upgrading their lawyering and advocacy skills.

Based on the usefulness of the course as realised by the experienced legal professionals (and also by the BVC participants), EFL should be a compulsory component of the BVC program. To meet this need the course is being further redesigned, catering for participants of wide-ranging abilities.

Shamsul Hoque is Director, Legal Education & Training Institute (LETI), Bangladesh Bar Council and former Professor, Bangladesh Open University.

LAW week



Law and order deals with 4 countries soon

Bangladesh is set to sign agreements with four more countries on assistance to improve the law and order situation. Already there is an agreement of this type with the USA. Now the government is negotiating deals with China, India, Pakistan and Saudi Arabia for taking assistance of different kinds. Under the planned agreement with Pakistan, the Bangladesh police would receive assistance in designing a national highways and motorways police system that will be financed by the ADB. Initially, some 400 officers will be trained for 3 months at an estimated cost of \$75 per officer and the major focus of the programme would be how to deal with crimes on the highways. Bangladesh is negotiating a deal with India on joint patrol by BDR and BSF to combat cross-border terrorism and trafficking of drugs, women and children. Exchange of police delegations between the two countries will also be another component of the planned agreement. China will assist Bangladesh in improving the public security system while Saudi Arabia will provide monetary support for modernising the law enforcing. - *New Age*, 4 March.

Parliament session extended

The ongoing session of the parliament has been extended till 30 March. Business Advisory Committee of the Jatiya Sangsad at a meeting took the decision. The meeting also decided to adjourn the session till March 16. Earlier, the advisory committee decided to run the session till March 4. The current session, after 26 sitting-days since January 18, passed a number of bills and dealt with question-answers, notices and private members' resolutions. But it failed to finish discussion on the thanks motion on the presidential address. The House spent only eight hours and 30 minutes out of 30 hours' allocation, settled by the committee, during the 26 sitting-days. - *Law Desk*, 5 March.

Judicial service commission formed

President Iajuddin Ahmed constituted a seven-member judicial service commission. Justice MM Ruhul Amin, of the Appellate Division of the Supreme Court will perform the responsibility of the chairman of the commission. The establishment secretary, finance secretary, law secretary, the register of the Supreme Court, Public Service Commission member Latifur Rahman and the district judge, Dhaka, will be ex-officio members of the commission. - *New Age*, 5 March.

Bill to establish land survey tribunals passed

The Jatiya Sangsad has passed a bill styled State Acquisition and Tenancy (Amendment) Bill for establishment of land survey tribunals to deal exclusively with disputes on land records and surveys for their speedy disposal. According to the bill there shall be also a land survey appellate tribunal to deal with appeals against any judgement or order of the land survey tribunals. Only the Appellate Division of the Supreme Court will have the jurisdiction to hear an appeal against any order or judgement of the appellate tribunal. - *Prothom Alo*, 28 February.

Speedy Trail Act Amendment Bill placed

The Speedy Trail Act Amendment Bill 2004 has been placed in the parliament seeking a two-year extension. The act was scheduled to expire on April 9 this year. The bill will be passed in the current session of the parliament. Earlier, on 23 February a cabinet meeting approved the extension proposal of the Speedy Trial Act 2002 for two more years through an amendment. The law provides for a special court to try offenders in a period ranging from 30 to 60 days. It suggests rigorous imprisonment of two to five years for crimes disrupting social peace. Offences under the law include hindrance to normal air, rail, road and river traffic movement, vandalism on transport and public and private property, mugging, illicit toll collection, violence in public places, obstruction to tender bidding and works of government officers and employees and their relatives. - *Law*

Desk, 1 March.

44 people killed in political violence

Forty-four people were killed, 873 injured, 908 arrested and two were abducted in political violence in the country in February. This was revealed by report of Odhikar, a human rights organisation. The report also said that during this period 13 people died in police and jail custody and three of them died allegedly from torture by law enforcers. Some 127 incidents of violence against children took place. Thirty children died, 15 injured, 22 raped and 27 abducted in these incidents. Besides, 12 children were missing, five arrested, eight trafficked while six committed suicides and two sustained acid injuries. Three journalists were injured, three assaulted and one arrested. In addition, 37 journalists were threatened and cases were filed against 13. Twenty women died in dowry-related incidents while seven others were acid-burnt. The report also said 67 women were raped. - *The Daily Star*, 2 March.

Abolition of quota system recommendation

The Public Service Commission (PSC) has recommended for revoking quota system in government jobs. Submitting its annual report for the year 2003 to the president, PSC members asked the government to abolish quota system for appointment in vacant government positions. PSC Chairperson presented the report to the president. They stressed accelerating construction works of PSC building. The president thanked them for submitting the annual report in time. - *Prothom Alo*, 2 March.

6 more BDR battalions to be raised

Prime Minister Khaleda Zia announced on Mar 3 that six more battalions of Bangladesh Rifles (BDR) would be raised gradually to further strengthen and expand the paramilitary force. The prime minister said it at the opening speech of the Rifles Reunion 2004. She also said that the government had taken steps so that BDR members could take part in UN peacekeeping missions. - *The Daily Star*, 4 March.

Charge framed Against Dr. Iqbal

The First Additional Metropolitan Sessions Judge's Court, Dhaka has framed charge against former Awami League (AL) MP Dr HBM Iqbal and 29 others in a foreign currency smuggling case. According to the prosecution, the accused in connivance with others collected Saudi riyals equivalent to Tk 92 crore from Bangladeshis working in Saudi Arabia in the name of sending them to their relatives in Bangladesh through M/S Rahmania Travels Limited in the year of 1982-1985. But they exchanged riyals with dollars and pounds and sent those to other countries through TT, MT and DD instead of sending to the relatives of Bangladeshi expatriates. As a result, the relatives of the Bangladeshi expatriates were deprived of getting the money and it caused a financial loss to the government. The Bureau of Anti Corruption (Bac) filed a criminal case with Motijheel Police 6 November, 1985. Later, the investigation officer included the names of Dr Iqbal and others in the charge sheet as the investigation revealed their involvement. - *Prothom Alo*, 5 March.

Corresponding Law Desk

Please send your mails, queries, and opinions to: **Law Desk**, The Daily Star, 19 Karwan Bazar, Dhaka-1215; telephone 8124944, 8124955, 8124966; fax 8125155, 8126154; email <dslawdesk@yahoo.co.uk>

LAW letter



Controversy over secularism

In the February 15th, 2004 Law Letter, Sharif Hussain wrote: "secularism - which by definition rejects any form of religion!" I find it stunning that the President of Muslim Medics Society in the UK doesn't know the definition of secularism. Secularism is widely understood to accept the right of all religions to co-exist in the state without giving undue precedence to the majority religion, and in no way "rejects any form of religion." Perhaps he is confusing secularism, a policy of the state, with atheism, an individual belief regarding religion which does indeed reject all religions.

In any case, Bangladesh ceased to be a secular state a very long time ago. It remains to be seen whether it can now prevent itself from turning into a breeding ground of religion-based fanaticism and bigotry. One gets the sense that the orthodox right is gaining strength everyday and the institutional protections all citizens were supposed to enjoy are rapidly eroding. Mr. Hussain is right to point out the lack of protection of minority rights that is unfortunately going on in many Western democracies. That, however, is a tired and old argument for not protecting the rights of religious and other minorities in Bangladesh, such as the 'Ahmadiyyas'. It is the type of argument we like to put forward so that we don't have to actually do any work to improve the situation at home.

Rafiq Ahmed,
Chicago, USA.

Finally it happened!

In this country some one that speaks especially against the fundamentalism patronised by the state and does not come under attack is unexpected indeed. I was apprehending the attack on Dr. Azad after reading his recently published book named 'Pak Sar Zamin Sat Bat' which speaks of the brutal attack on the Hindu community before and after the 2001 gen-

eral elections. That was a holy war (!) against the people who belongs to other religion specially the Hindu religion. Dr. Azad draws a picture of these holy attacks in his book. What a stupidity! In this country he writes against our holy soldiers who sacrifices their lives for Islam. Let us take a decision that we will establish Islam here. We will replace 'Amar Sonar Bangla.' Therefore, we will not let Dr. Humayun Azad or any other person stay alive who campaign against us. We care nobody. State is ours, government has nothing to do but scrambling for power. Government is busy with the opposition. State forces are busy to give escort to its great ministers, deputy ministers. We have some representatives in the parliament. We will establish Pak Zamin here.

Anisur Rahman Biswas
Dhanmondi, Dhaka.

A dark episode in our history

Words are not enough to describe the brutal attack on honourable Professor of Dhaka University Dr. Humayun Azad. Those culprits, who have committed this dreadful crime and are behind this abhorrent attack, are not beasts- they are inhuman.

The government have declared that they will find out the criminals and bring them to justice. But it seems that they are trying to use this devilish attack on Prof. Azad as a political issue to coerce the opposition parties. On February 28, in BNP's meeting at Bashabo, our Prime Minister directly alleged Awami League as the perpetrator (Prothom Alo March 1). I wonder how our Prime Minister gave this baseless statement before any type of investigation.

The teachers and students of DU are continuing their strong and peaceful protest against the barbaric attack on Prof. Azad. The assault on such a renowned and freethinker like him proved that our home ministry has failed to ensure our safety and security. Therefore, DU

students are making a strong movement against our present home ministry. By demanding the resignation of our present home minister, when they were going to besiege the ministry on March 3, they were attacked and physically assaulted by police and JCD activists, where more than 100 students were seriously injured (Janakantha March 4). However, the sad truth is our government did not enforce the law properly and those students were deprived from justice.

Finally I want to say, It has been an attack on not only an individual, but also the people who think for the betterment of our country. But after so many things, I still hope that our government will come up with right decision very soon and bring the culprits to book. Our government have to do it for their own sake.

Julius Valentine Gomes,
Rajabazar, Dhaka.

