



FACTfile



SHIP-BREAKING INDUSTRY Strict law and appropriate guidelines are essential

MOST often than not the ship-breaking industry in Chittagong makes headlines. The industry is beset with many problems. There are accidents and deaths. It is also blamed for polluting the environment. Despite complaints, the industry is thriving.

As per the 1995 environment law, the activities related to ship-breaking can be categorised as moderate pollutant. However, environment activists claim that ship-breaking poses serious threat to environment.

In the developed world ship-breaking is carried out in three ways - berth method, block method and high-tech cutting method. These methods are not harmful to environment. But in Bangladesh the ship-breaking industry uses the discarded old method known as beachin method, which is quite harmful to environment.

This method is used for quick profit. The ship-breaking industry involves dismantling of old ships so the iron and steel can be used as scraps. There are solid, liquid and gaseous wastes in every old ship. Since there is no proper guidelines for the ship-breaking business there is no system of qualitative assessment of the level of pollution in these wastes.

Deposits of burned or used oil make its way into the sea damaging or harming the marine resources, including fish. The oil also harms food chain, migration and aquatic birds. Many birds cannot fly because of the heavy layers of oil and thus die.

Paints in the ships contain chlorine, zinc, copper, lead, PBC and chemicals, which are bad for environment. Ships also use heat-preventive chemicals that can cause cancer. The use of this chemical is banned worldwide. This chemical mixes into air when a ship is broken and can affect human lungs.

Ships have many batteries they use. The batteries contain lead, nickel and sulfuric acid. Besides, anode is used in which there are zinc, lead and cadmium. There is copper and PVC in electric cables. These electric cables are normally burned to get the metal inside. When PVC is burned it creates dioxin gas that spreads in the air threatening the environment.

These chemicals often spill over into seawater and get deposited in the soil. There is thus a danger that the chemicals make way to food, which through magnification travel to human body. This can be responsible for diseases.

In 1990, a study was carried in Canada to see how harmful ship-breaking can be to the environment. In the area of ship-breaking it was found that the existence of lead in the air was much above the Canadian standard of safe level. Workers tested under the project reported higher level of lead in their blood.

A similar research was done in Taiwan in 1989. Higher level of lead was found also in the blood of Taiwanese workers who were tested under the project. In a study in Bahrain researchers found TBT in the neighborhood of a ship-breaking industry in 19992.

In another study in 1995, TBT was found in fish in areas close to ship-breaking grounds. Researches have shown that high level of TBT exists in fish. Several other researches have produced similar results.

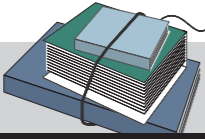
Many argue that the economic benefits from ship-breaking business are far greater than the pollution caused by it. Others dismiss the theory as nonsense. Environment activists insist that what harms the environment cannot be good for the economy even though there can be short-term revenues.

Says Prof. Noman Ahmed Siddiqui, who teaches marine science at Chittagong University, "The government and other affiliated organisations must remain alert against this type of pollution-causing activity. There must be clear-cut guidelines before giving go-ahead signal to ship-breaking industry. Besides, the government and International Maritime Organization should work together in formulating laws, rules of procedures and guidelines for ship-breaking. There has to be constant monitoring.

Source: News Network.



LAW lexicon



Stare decisis

A basic principle of the law whereby once a decision (a precedent) on a certain set of facts has been made, the courts will apply that decision in cases which subsequently come before it embodying the same set of facts. A precedent which is binding; must be followed.

State

A term of international law: those groups of people which have acquired international recognition as an independent country and which have four characteristics; permanent and large population with, generally, a common language; a defined and distinct territory; a sovereign government with effective control; and a capacity to enter into relations with other states (i.e. recognised by other states). The USA, Canada and China are examples of states. States are the primary subjects of international law. The United Nations is comprised of all the states of the world. Some large states have subdivided into smaller units each having limited legislative powers normally restricted to subjects which are more properly regulated at a local, rather than a national level. Thus, the states of the USA are not really "states" under international law. It is common for the general public and English dictionaries to use the word "nations" to refer to what international law calls "states."

Statutes

The written laws approved by legislatures, parliaments or houses of assembly (i.e., politicians). Also known as "legislation". The written laws of the Canadian Province of Newfoundland, for example, are in a multi-volume set of books called the Statutes of Newfoundland.

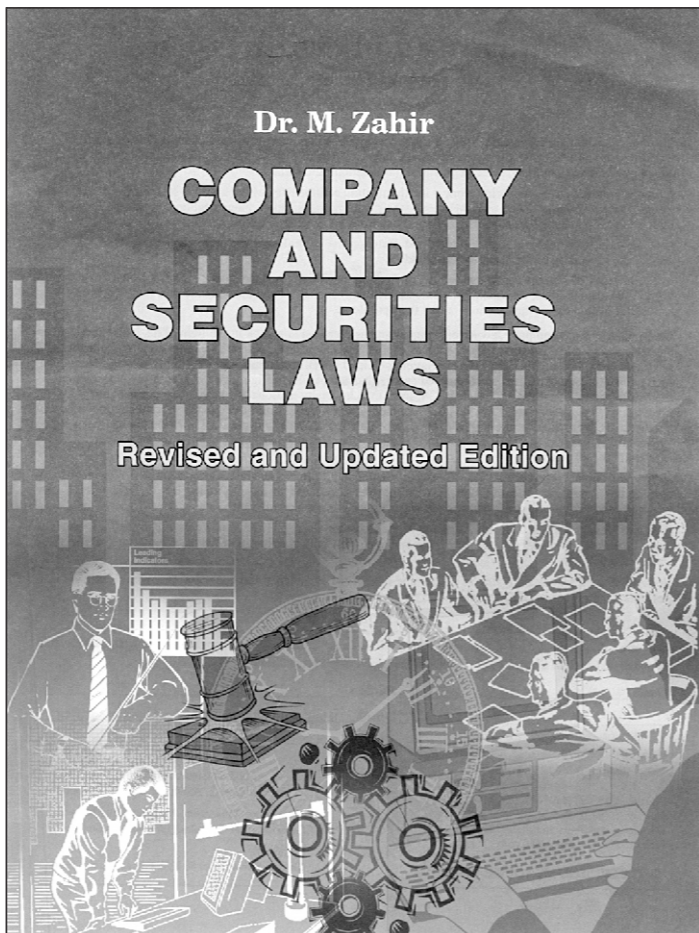
Statutory rape

The common law definition of rape has not proven adequate to reflect modern values. It is limited to sex without consent and with a woman, and only where the victim is not the wife of the rapist. Many states have enacted laws which include under the charge of rape, sex with a minor even if done with the minor's consent, sex without consent regardless of whether the victim is male or female, and sex without consent regardless of the matrimonial bond between victim and rapist.

Star LAW book review

An authentic handbook on Company and Securities Law

BARRISTER M. MOKSADUL ISLAM



Company and Securities Laws
Revised and Updated Edition
By Dr. M. Zahir
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Price: Tk. 1600

different cases. Some of these books even do not correspond to the reference books apparently they referred to.

Dr. M. Zahir's book on Company and Securities Laws is different from many other law books available in the market. Besides couple of other statute books on company law with few references or commentaries actually this is the only textbook on companies and securities law available in the market with sound commentaries. Dr. M. Zahir not only tried hard to quote the interpretation given by our court regarding a particular section of Companies Act but also compared them with decisions held in UK, Australia and India etc. A man of his standing Dr. Zahir needs no approval from any body and his work on this book simply testifies the same. He himself is a legal institution in the country and needless to say this book will have remarkable and long lasting effect on the judiciary and the commercial world.

This second edition published as revised and updated edition reportedly has more than 30 new case references. Like other books on securities laws the second part of this book has again compiled many much-needed updated SROs, Notifications and Regulations which are not always easily available from the library of the Securities Exchange Commission even. Although web sites of Bangladesh Bank and Security Exchange Commission nowadays publish recent Rules and Regulations about the securities laws however not many of us are computer literate to reap the benefit of the modern information technology.

However, there were ample rooms for improvement in this latest edition. Casual proof reading and careless formatting is noticeable in some part of this book. Like other law books published in this country the index part of this book is not user friendly at all compared with the leading textbooks published even in the neighbouring countries. Lack of complete index has made it very hard to navigate the book easily.

Besides many ordinances, gazettes, notifications, rules, regulations, and circulars the book also contains many very important rules and forms under the Companies Act. This book is written in very lucid language and definitely would help the legal practitioners, business entrepreneurs and students alike.

Not all renowned books in the absence of original writers simply evaporate. On many occasions others take them over from the original writer and improve and update them. There are many books which even have changed three or four hands and still available in updated form without losing its originality. Our author may also take initiative and hand over the book to someone interested and competent to improve and update it in his absence and keep it alive for many years to come.

The author is advocate Supreme Court of Bangladesh.

LAWweek



Building knock-down stopped on HC stay order

Rajdhani Unnayan Katiripakha (Rajuk) authorities yesterday said they could not demolish the unapproved 11-storey building in Patuail in Old Dhaka due to a High Court stay. A statement signed by Md Nasiruddin, member (planning), said the Rajuk chairman had allocated Tk 4.56 lakh to knock down the building.

Rajuk sent a team comprising magistrates and police with necessary equipment to bulldoze the building on 11 May. But the team could not perform its duty due to the HC order, the statement added. If the building collapsed, the owner would be held responsible, since Rajuk had sent him several notices, it said. However, the authorities claimed they have already taken legal measures to lift the stay order, as the structure has become a threat to a large number of people. "Rajuk will demolish the unapproved part of the building as soon as the stay is lifted," said the statement. -*The Daily Star, May 19.*

SC Bar to cancel Sircar, Moudud membership

Supreme Court Bar Association (SCBA) on May 17, decided to cancel membership of the speaker and the law minister for their remarks against SCBA lawyers' ongoing agitation demanding removal of an additional High Court judge. Noted jurists Dr Kamal Hossain and Dr M Zahir also questioned the speaker's ruling against the lawyers' movement, saying the speaker of the Jatiya Sangsad has no jurisdiction to issue such a ruling on matters outside the House. Speaker Jamiruddin Sircar and Law, Justice and Parliamentary Affairs Minister Moudud Ahmed are associate members of the SCBA which has been spearheading a movement for removal of the judge, Faisal Mahmud Faizee, since last month. -*The Daily Star, May 18.*

Judges, Bar agitation brew storm at JS

Law, Justice and Parliamentary Affairs Minister Moudud Ahmed in parliament slammed leaders of the Supreme Court Bar Association (SCBA) and Bangladesh Bar Council for staging demonstrations on the Supreme Court premises.

Moudud criticised the Supreme Court for not taking any actions against the demonstrators and questioned, "Doesn't it fall into a [category of] contempt when a section of lawyers are blocking the chief justice's entrance?" Referring to instances of contempt of court for "misconduct" in relation to judges outside the courtroom, the law minister said it depends on the Supreme Court to uphold its image. He criticised the judges who do not sign the certified copies of their judgements. The government has been deprived of about Tk 1,200 crore in revenues as the National Revenue Board cannot get certified copies of the judgements. "I have a list of 300 cases in which the judges are delaying putting signatures," he added.

Speaker Jamiruddin Sircar in a ruling said the Supreme Judicial Council should see whether the delay is being caused by inefficiencies of the judges and if so, those judges should be removed. Describing it as a 'conspiracy within to undermine the judiciary', the law minister said, "The Supreme Judicial Council should take necessary steps in this regard. It is not possible for us to get involved in the situation." -*The Daily Star, May 17.*

Contempt rule on judge, PP, accused

The High Court (HC) served a suo moto contempt rule on a Dhaka court judge, the public prosecutor (PP) and the sacked managing director (MD) of Inqilab TV for granting the MD bail in a seditious case in the lower court while the matter was pending with the High Court. Judge Mohammad Shamsul Alam Khan of the Court of First Additional Metropolitan Sessions Judge, Dhaka, PP Abdullah Mahmud Hassan and Shoaib Chowdhury are to respond to the rule that ordered them to explain why contempt proceedings should not be drawn against them.

The High Court Division Bench of Justice Khademul Islam Chowdhury and Justice Emdadul Haq Azad also directed them to appear before the court on May 24 to explain their position on the matter.

The metropolitan sessions judge's court granted bail to the terminated Inqilab TV MD, Salauddin Shoaib Chowdhury, on April 30 in a seditious case upon a bond of Tk 1 lakh with four guarantors. The PP did not oppose the bail petition despite being the prosecution lawyer since the case was filed on January 24 last year. During hearing on the bail petition, PP Hassan had told the court that he would have no objection to the bail move since the court grants the accused bail with proper guarantors. -*The Daily Star, May 17.*

WB Immunity Bill JS body places report

A parliamentary standing committee report recommending passage of the much-talked about bill that proposes immunity to World Bank (WB) in its

operations in Bangladesh was placed in the Jatiya Sangsad.

Chairman of the parliamentary standing committee on finance ministry Mushfiqur Rahman tabled the report in which Awami League lawmaker Mohammad Sayedul Haque gave a note of dissent saying the bill put the WB above the law.

The main opposition party lawmaker in his note said the bill goes against the constitution and democracy. The bill, titled The International Financial Organisations (Amendment) Act, 2005, proposes incorporating two new articles into The International Financial Organisations Order, 1972 (Presidential Order No 86 of 1972). The bill provides for legal immunity to the World Bank and if it is passed, no one can sue any of the bank staff for their operations in Bangladesh.

The bill was placed in parliament on October 31 last year amid widespread criticism by the opposition political parties, the civil society and rights groups.

"No other country in the world gave such immunity to the World Bank by enacting such a black law," Sayedul Haque said in the note of dissent. He said if the bill is passed, citizens of Bangladesh will be deprived of their right to sue the World Bank even if any of its policies brings any damage to the country. -*Prothom Alo, May 16.*

Govt framing new law on court contempt

Proceedings of contempt of court in recent months on the ground of 'misconduct' in relation to judges outside the courtroom have prompted the government to move to introduce a new contempt law immediately.

The government feels the term -- contempt of court -- should be specifically defined as some judges have sued people on charges of contempt following incidents in their personal life.

"It is high time to define what is contempt of court," Law Minister Moudud Ahmed said yesterday at a closed-door meeting with the Law Commission. He urged former chief justice Mostafa Kamal, chairman of the commission, for expediting drafting of their recommendations to that end. The law minister also advocated amendments to the rules of the Supreme Court (SC) for resolving problems including delay in the process of completing judgements.

Presently, there is no law on contempt of court except for one of 1926 introduced by the British rulers in regards to the contempt of court. Experts say the law does not define contempt, neither does it give guidelines on how to define it. The law ministry sent a reference to the Law Commission that, on completion of its review, is working on a draft bill on contempt of court by changing the 1926 one. -*The Daily Star, May 16.*

HC rule on govt as HR body not formed

The High Court (HC) asked the government and the Parliament Secretariat to explain why it (government) should not be directed to form a National Human Rights Commission for protecting human rights.

The rule came after Supreme Court lawyers Abdul Momen Chowdhury, KM Zabir and Zahurul Islam filed a writ petition about the urgency of forming the commission, a key election pledge of the ruling four-party alliance. A Division Bench of the HC asked the law secretary and secretary of the Parliament Secretariat to submit their reply in eight weeks.

The petitioners said establishment of a human rights commission is indispensable for social, economic and political rights and for administration of justice. It is needed also to prevent corruption and alleviate poverty, they stressed.

According to sources, a draft bill on National Human Rights Commission, prepared in 2003, is gathering dust at the Cabinet Division. The government formed a cabinet committee headed by the law minister on December 10, 2001 to prepare the draft bill. After a series of meetings, the committee finalised the draft and sent it to the Cabinet Division on January 23, 2003. It was placed at the cabinet meeting on January 29 the same year. The cabinet however sent the bill back to the law ministry for further scrutiny. Since then it is lying at the ministry. -*The Daily Star, May 15.*

Corresponding with the Law Desk

Please send your mails, queries, and opinions to: **Law Desk, The Daily Star 19 Karwan Bazar, Dhaka-1215;** telephone 8124944, 8124955, fax 8125155; e mail <dslawdesk@yahoo.co.uk,lawdesk@thedailystar.net

LAW events



INTERNATIONAL CRIMINAL COURT Last hope for humanity

SAIFUL ABEDIN

International Criminal Court recognised as the last hope for humanity which is a permanent independent judicial body created by the international community of states, through the Rome Statute to prosecute the gravest crimes under international law including genocide, other crimes against humanity, war crimes and the crime of aggression. To aware the students and civil societies Odhikar organised an advocacy workshop jointly with Premier University, Chittagong, with the assistance of Asian Forum for Human Rights and Development (Forum-Asia).

At the conference room of Premier University, on May 14, 2005 a day-long workshop was arranged and active participation of the law students and faculties from University of Chittagong and Premier University, members of the civil societies and media was made the workshop successful. The objective of the workshop was to disseminate the ICC mechanism and mounting ICC campaign.

The opening session was presided over by A. F. Hassan Ariff, former Attorney General for Bangladesh and Member, Executive Committee, Odhikar. In the opening speech he said Odhikar was working in favour in ratification of the international criminal court. And the campaign for ratification was running nation-wide and it was organising a movement on Rome statute an international criminal court treaty for its implementation and legislation. Chief Guest, Professor Anwarul Azim, Vice-Chancellor, Premier University, Chittagong emphasised on the importance of ICC and hoped that Government should consider its value and gave a wise thought for ratification. In the first working session Dr. Asif Nazrul simplified the ICC mechanism and Rome Statute. He also informed about the misguided fierce of ICC and the role of US and BIA. He narrated the Security Council's relation and procedure of referring situation to ICC. In the questions answer session students participated actively and it was a successful discussion.

Second working session was conducted by, Dr. Sha Alam, Professor, Chittagong University. In this session he explained how important the ratification was for Bangladesh and the process of ratification of International instruments as per the constitution. In this session, Lecturer, Md Shaheen



Chowdhury was presented as discussant.

Third working session was briefed the status of victims and witnesses under Rome Statute. Sultana Razia from Law Desk, The Daily Star, read out a paper on the protection of victims and witness. Lecturer Rakiba Nabi and Munirul Azam were present as discussant. In the discussion Raiba Nabi traced out the real condition and status of victims and witnesses in our criminal justice system.

In the closing session, Guest of Honor, Abul Momen, Residential Editor, The Prothom Alo, said as a journalist he felt that in this world the powerful states were getting more power day by day. To uphold humanity ICC could be a strong platform. Zakir Hossain, Chairman, Department of Law, University of Chittagong, was also present as guest of honour. In his speech he said that there was no legal limitation to ratify Rome Statute. Awareness could be the most powerful tool for ratification campaign. A. F. Hassan Ariff, summed up the workshop. In his closing speech he thanked all for being present and for the active participation of all in this workshop.

The author is a LL.M. student of University of Chittagong.

LAW news



Asma Jahangir beaten as police foil marathon bid

The police severely beat up and arrested scores of rights activists, including women, who tried to hold a mini-marathon. The Human Rights Commission of Pakistan (HRCP) and the Joint Action Committee for People's Rights (JACPR) had announced to organise the marathon from the Qadhafi Stadium to the Kalima Chowk to highlight violence against women, and for promoting 'enlightened moderation' in society.

As the HRCP chairperson Asma Jahangir and members of other rights organisations converged outside the AGHS Legal Aid Cell on the Main Boulevard in Gulberg to head for the Qadhafi Stadium, the police barred them from proceeding and, on resistance, resorted to baton charge. Women participants, along with their male companions, were manhandled, beaten



up, dragged and bundled into police trucks to be driven to the Model Town investigation centre.

Around 40 people were taken into custody, including Asma Jahangir, Iqbal Haider, former minister and the HRCP secretary-general, Hina Jilanni, Farooq Tariq, Muhammad Tehseen, Joseph Francis, and Azra Shad. The arrested people were set free hours after they were taken into custody. However, they staged a sit-in outside the Race Course Police Station for the release of two other arrested activists - Jan Nisar Baloch and Shazia - who were not released by the police. Those assembled at the stadium to take part in the marathon were scared away by the police, who threatened the intending participants with arrest if they did not disperse and continued to violate Section 144 enforced in the city.

The HRCP has sharply reacted to the police action, saying that by using brute force to prevent a peaceful attempt to draw attention to violence against women, authorities have demonstrated their anti-women bias and contempt for basic liberties.

"The brutality of the police in preventing what was intended to be a peaceful event has unmasked the true face of the state. Sadly, such thuggish behaviour has increasingly become the norm in the city, as a means to prevent basic rights, including those of assembly," said a news release issued later.

Source: Dawn, Pakistan.