



GOOD NEWS



European Parliament honours jailed Chinese activist

Imprisoned Chinese activist Hu Jia has been awarded the Sakharov Prize for Freedom of Thought by the European Parliament. Hu Jia is one of China's best-known environment and human rights activists.

He was one of the founders of the Beijing-based HIV/AIDS organization Loving Source, a grassroots organization dedicated to helping children from AIDS families. Together with his wife, Zeng Jinyan, he regularly informed overseas journalists and human rights organisations of abuses taking place in China.

Hu Jia was sentenced to three-and-a-half years in prison on 3 April 2008 for "inciting subversion". Hu Jia is serving his sentence in Beijing City prison. His family is concerned that he is not receiving adequate treatment in prison for his liver disease but the authorities rejected an application for his release on medical parole.

Zeng Jinyan and the couple's 11-month-old daughter remain under tight police surveillance with officers stationed outside their home, limit-



ing their visitors and following them when they go out. For the duration of the Olympic Games, they were moved outside Beijing.

Amnesty International considers Hu Jia a prisoner of conscience and has demanded his immediate and unconditional release and the end of harassment of his wife and their daughter. The organisation called the awarding of the prize a significant acknowledgement of the work of Hu Jia.

The award highlights the work of all activists in China who stand up against human rights abuses.

Source: Amnesty International.

LAW news



Food crisis -- viewed through the lens of human rights

Nearly 1 billion people hungry worldwide

Propelled by this year's global food crisis, nearly one billion people worldwide are now hungry, an independent United Nations expert said today, urging the issue to be viewed through the lens of human rights.

"Prices have dropped around the world, but 'the crisis is still with us,'" cautioned Olivier De Schutter, the Special Rapporteur on the right to food, noting that the number of hungry has grown significantly as a result.

Numerous international responses including Secretary-General Ban Ki-moon's convening of a high-level task force have centred around the need to boost food production to meet rising demand and lower prices, he told reporters in New York.

"The human rights dimension has been all too often absent from these reactions," Mr. De Schutter, who addressed the General Assembly today, said.

The "real problem of hunger" is not linked to inadequate food supplies, but rather that many people lack the purchasing power to buy available food, he pointed out.

"If you double the number of supermarkets in New York, those who today are hungry will still be hungry if they don't see their incomes increase if their purchasing power remains too low for them to afford the food which is on the market."

Hunger is a political problem, he stressed, with poor governance leading to insufficient attention being paid to swathes of the population traditionally discriminated against.

It is crucial to empower small hold farmers, comprising half of the world's hungry, as well as landless laborers, pastoralists and others, the Rapporteur, who took up the position this May, said.

"We must avoid at all costs that under the pretext of producing more food, we increase the marginalisation of small hold farmers and increase the dualisation of the farming system for the benefit only of the very few large agricultural producers," he stressed.

Source: UN News Centre.



LAW quotations

"Written laws are like spiders' webs, and will like them only entangle and hold the poor and weak, while the rich and powerful will easily break through them."

-Anacharsis, to Solon when writing his laws

"Law, an ordinance of reason for the common good, made by him who has care of the community."

-Saint Thomas Aquinas

Source: GIGA Quotes.

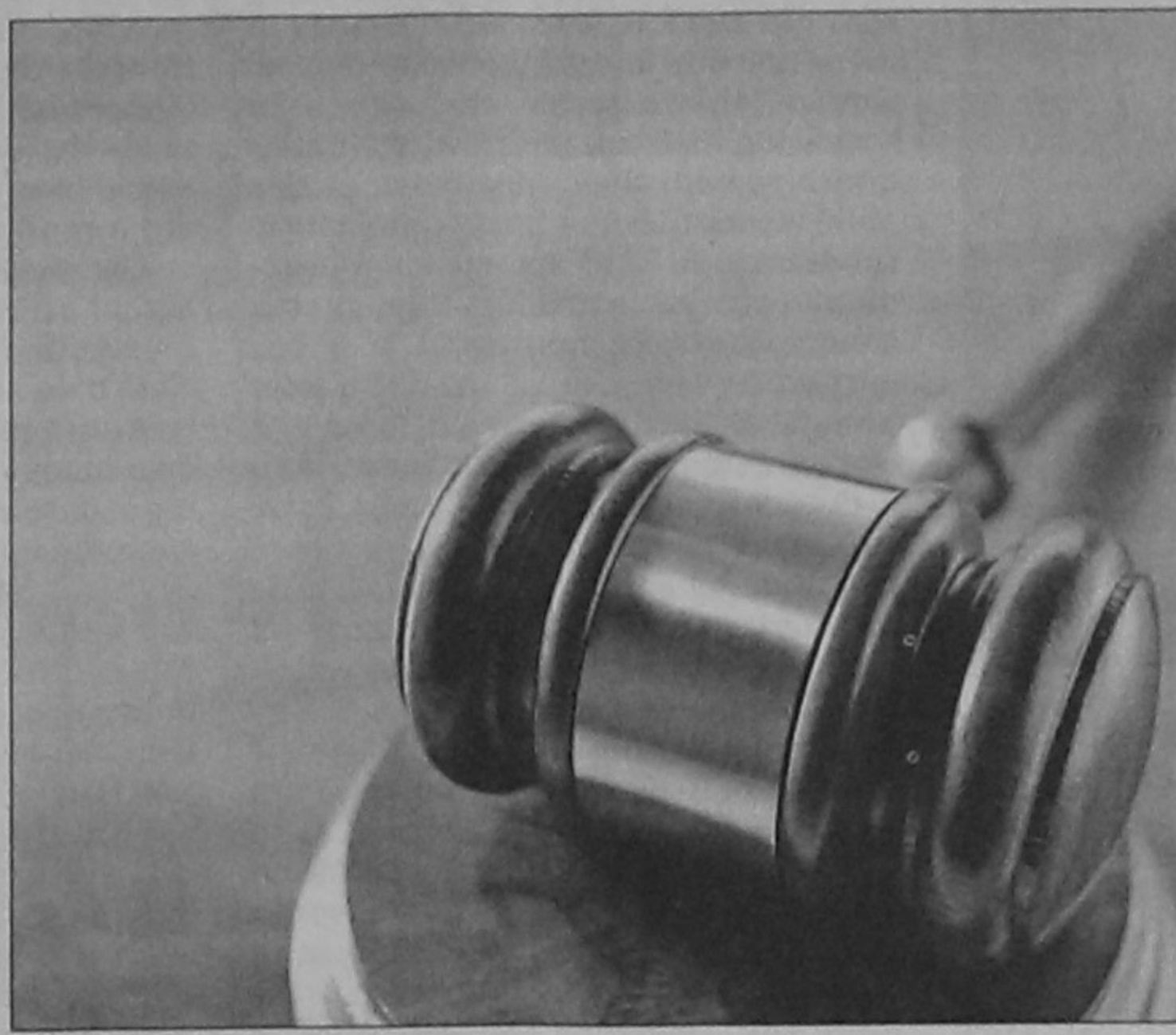
LAW campaign

Renaissance of the judiciary

Challenges and recommendations

K M MUKTA

JUDICIARY is one of the indispensable organs of an independent sovereign nation state. The judiciary is viewed as the last resort for getting justice from time immemorial from pole to pole. In the first decade of 19th century the Supreme Court of USA launched the classical dogma of 'Judicial Review' in Marbury vs. Madison 1804 to uphold the constitutional rights and to suppress the arrogance of the executive organ. In the constitution of Bangladesh, we discover that the preamble, Articles 7, 26, 102, etc. explicitly enshrine the provisions of judicial hegemony as watchdog to uphold the constitution and rights of all strata of people including the down trodden minority and other vulnerable groups. But ironically the judiciary was caused to sink for multi-dimensional reasons like corruption, naked encroachment by the executive, muscle power, lethargic bureaucracy, colonial legacy, backdated laws, lack of intellectual human resource in the Bar and Bench, lack of logistic support, etc. which justice lawyer inducted by four pathological factors: (a) colonial judicial backwardness, (b) medieval management methods promotive of docket and stagnation, (c) functional non-accountability to the people, and (d) a careerist hedonism ready to negotiate judicial independence. As a result, there are many corners which whispered "the court is dead, rest in peace!"



of any renaissance as it is axiomatically inferred from the saga of various renaissance and human civilization. The judicial service commission has already appointed 396 assistant judges who are comparatively young, determined, committed with brilliant academic results. There are multifaceted options of lucrative professional opportunities for them. At the time of appointment all of them heard the promise of ameliorating the salary and other logistic support crisis in accordance with the soaring prices of daily necessities. But those happened to be promises as the judicial service pay commission's recommendations to enhance the salary of the judges were turned down by the government. This sets another bad precedent while all over the world we observe high degree of respect towards the apex court's recommendations.

In this milieu, the newly appointed judges who are the active force of sustainability of the judicial renaissance are in a state of frustration. If a judge cannot get minimum basic emolument for his family, it is not possible to materialize the dreams of the renaissance of judiciary. Meantime, some of the newly appointed assistant judges are stated to have quit and many others are pondering over to quit for better options.

Problems in lower judiciary The colossal impediments in lower judiciary are too apparent and interwoven. It is highly indecent for the state, and wisdom would not support that judicial officers and

their family members would suffer from malnutrition. The whole nation has expectation up to the sky from the judiciary without basic investment. As statistics demonstrate the national budget never allocates more than Taka 200 cores for the judiciary which is a remarkable revenue earning sector for Bangladesh. In the District level courts, there is no minimum opportunities of rich library, modern information technology, residence and other ancillary opportunities in contrast with other South Asian countries like, India, Nepal, Pakistan and Sri Lanka where judicial officers are endowed with higher degree of opportunities culminated in feeding back justice to the citizens.

There is little scope of intellectual development here as the judicial officers cannot publish any articles, research papers unless and until pursuance of complex bureaucratic manoeuvre for consent from the authority is made. There is a small number of judicial officers who have PhD degree in comparison with other cadre services as the judicial officers do not have access to various scholarships of foreign governments/agencies which are now destined the BCS officers. This has already created and will enlarge the intellectual vacuum in the realm of judiciary. There is a great frustration with the rank and protocol too -- I whereof a judicial officer at the end of his service retires as district judge, his same calibre friend/classmate retires as

secretary.

There is a large communication gap between the Bar and the Bench while there is no formal and informal steps to minimize the misunderstanding. The newcomer judges do not have any training but are functioning as plenipotentiary judge which might create further bitterness and result in substantial distrust towards the whole institution. The training opportunity accommodated by JATI is embedded with multidimensional lacunae including selection of not so qualified trainer. Intra and inter judicial conflict and discrimination also exist. For instance, assistant judges enjoy one month vacation which is not available to the judicial magistrates though all of them entered the service as assistant judge. The lower judiciary is left like an orphan as if there is no stakeholder/platform to negotiate for them. Actually, there is a communication gap between the lower and higher judiciary on various issues regarding service.

Recommendations

Finally, if the real flavour of independence and separation of judiciary is to sustain, then proper logistic support has to be available to the judges. There should be reshuffling of the status through amendment of the present 'warrant of precedent' system. The prolonging meagre tradition of isolation of judicial officers should be eliminated with self-sanction of judgeship, ethics and morality. The horizontal and vertical avenue of higher education, various training, scholarship, intellectual publications, participation in workshop, seminar etc. should be made available for the judicial officers. There should be a paradigm shift from lackadaisical meaningless prohibitions which ultimately ostracized judicial officers from mainstream and hinders judicial activism. After all, patriotism, self-sanction and accountability of the judicial officers to the citizens are conditions precedent to retaining the prolific renaissance of the judiciary. Higher degree of value system should be invented through combined endeavour of the decision makers of the higher judiciary where the lower judiciary should be consulted as a matter of right.

The writer is a researcher and analyst on Law and Judiciary in Bangladesh.

LAW week

Militant patrons stay safe for lax law

Despite repeated pledges made by the interim government early last year to punish the masterminds and patrons of outlawed Islamist militant outfit Jama'atul Mujahideen Bangladesh (JMB), no effective measures have been taken so far.

Some high-level officials in the law-enforcement agencies involved in investigations into rise of militancy and its patronisation say the existing laws are not adequate to bring the patrons or masterminds to book. "We need new laws or amendment to some existing laws to take legal actions against the patrons," says a top official desiring not to be named. As the issue is sensitive and linked to the policy, the government, though at one stage thought of bringing the JMB patrons to justice, has changed its mindset later. But eminent jurist Dr Shahdheen Malik told The Daily Star: "Definitely there are sufficient laws. But usually those laws are not applied as our focus has always been on the main perpetrators, not on their abettors, facilitators, helpers or others involved." -The Daily Star, October 29, 2008.

HC bench did not refuse to hear petitions

Advocate Habibul Islam Bhuiyan and barrister Abdur Razzag, two senior lawyers of the Supreme Court, in a statement said the High Court (HC) bench comprising Justice Md Muzammel Hossain and Justice Afzal Hossain Ahmed did not refuse to hear the petitions filed by five former ministers and one state minister for quashing the proceedings of Barapukuria coal-mine case filed against them.

They said a section of the press on October 28 had reported that the HC bench had refused to hear the petitions filed by former ministers M Saifur Rahman, Motiur Rahman Nizami, Khondoker Mosharrar Hossain, Ali Ahsan Mohammad Mojahid, Altaf Hossain Choudhury and former state minister AKM Mosharrar Hossain for quashing the proceedings of the case. -The Daily Star, October 29, 2008.

Govt finally acts on HC ban order

Though the High Court (HC) banned sale and display of eight brands of powdered milk 'contaminated with melamine' on October 23 the government apparently took no measures.

Health Adviser AMM Shawkat Ali after a meeting on Sunday and at a press conference said they would strictly follow the HC order. The district administrations have been asked to form committees to monitor markets and conduct drives, he added. But officials of the civil administration in the capital and major cities told The Daily Star they did not receive any such order. Meanwhile, a contempt of court petition was filed with the HC against the government for not complying with the HC order, which restricts display and sale of the powdered milk until receipt of test results from abroad. -The Daily Star, October 28, 2008.

No money laundering in Trust Bank

The central bank said the Trust Bank's loss of about Tk 22.41 crore was not due to money laundering rather it was transactional loss.

"The bank incurred the loss dealing in foreign exchange. We have no evidence that indicate the loss was due to money laundering," Ziaul Hassan Siddiqui, deputy governor of Bangladesh Bank, told reporters. Reporters asked the question to the Bangladesh Bank governor who referred it to his deputy for the answer. The issue came to the limelight when Bangla daily Amar Desh published a news item in this regard. Amar Desh publisher and former energy adviser Mahmudur Rahman also tried to file a case in this connection. -The Daily Star, October 28, 2008.

Trust Bank story twisted

Interbank foreign exchange trading that caused big losses to at least eight

banks about six years back has suddenly been twisted and wrongly labelled as 'money laundering', although the Bangladesh Bank had resolved them as transactional losses.

The false notion arose when an attempt was made on Saturday to file a case against Anti-corruption Commission (ACC) chief Hasan Mashud Chowdhury. Efforts were made to implicate that Mashud had laundered money from Trust Bank, of which he was the ex-officio chairman as the erstwhile army chief. The allegation was based on the fact that the bank had lost about Tk 22.41 crore in interbank foreign exchange dealings.

The Daily Star reinvestigated the issue, although it had reported the transactions years ago when a number of both private and state-owned banks had faced a few hundred crore taka loss through currency dealings. -The Daily Star, October 27, 2008.

Ombudsman to ensure intra-party democracy

Renowned lawyer barrister Rafique-ul Huq has said big political parties should appoint an ombudsman if they want to clean the party and bring real democracy in it.

The next government may repeal the caretaker government system and the two major political parties might come to a consensus that those who can run the country can also hold an election and that they would have trust in that election, he said in an interview with The Daily Star. He appreciated the present caretaker government for its good work like formulating the income tax law amendment ordinance and the Supreme Judicial Commission ordinance, preparation of voter ID cards and separation of the Election Commission Secretariat from the Prime Minister's Office, which is now the office of the chief adviser. -The Daily Star, October 27, 2008.

Abducted Brac staff yet to be traced

Bangladeshi Brac employees Akhter Ali and Mohammad Shahjahan Ali, who were abducted in Afghanistan two days ago, are yet to be located. There was no government move as of October 26 to expedite their release and Brac officials in Dhaka failed to say anything specific about their fate.

Unidentified gunmen abducted the two in Ghanzi province of Afghanistan Thursday afternoon. Their family members said they went to the Bangladesh Rural Advancement Committee (Brac) head office in Dhaka and tried to communicate with officials but none was available. Shahjahan's only son, Sharif went to the Brac office but failed to get any information as it was the weekend holiday. -The Daily Star, October 26, 2008.

Cremation ground of indigenous people grabbed

Fifty-two indigenous families in Naogaon demanded stern actions against a group of local influential people for trying to grab their cremation ground at Sonapur village through fake documents.

The Santal and Oraw families made the demand at a press conference at the Metropolitan Press Club in Naogaon. The indigenous people have been using about 0.19 acres of land as their cremation ground at Sonapur village of Manda upazila for over a century.

But recently a group of local influential people including Rakib Pramanik and Rafiqul Pramanik are trying to grab the cremation ground, they alleged. They were barred from cremating bodies there and also received death threats from the influential group, the indigenous people alleged. They said the henchmen of the influential group also attacked them in September when they went to the cremation ground carrying a deceased member of their community. -The Daily Star, October 26, 2008.

LAW amusements



Intriguing Laws...

Thailand

It is illegal to leave your house if you are not wearing underwear.

You must wear a shirt while driving a car.

You must pay a fine of \$600 in Thailand if you're caught throwing away chewed bubble gum on the sidewalk.

No one may step of any of the nation's currency.

This is because all the bills and coins in Thailand have a picture of the King printed on them. As the King is highly revered, stepping on his likeness can not only get you landed in jail, but can also lead to a serious beating.

Turkey

All married women must get their husband's permission if they wish to have a job, they must live wherever the husband wishes to reside, and they must forfeit all jointly held assets upon divorce from her husband.

Philippines

Cars whose license plates end with a 1 or 2 are not allowed on the roads on Monday, 3 or 4 on Tuesday, 5 or 6 on Wednesday, 7 or 8 on Thursday, and 9 or 0 on Friday from 7:00 A.

Switzerland

Clothes may not be hung to dry on Sunday.

You may not wash your car on a Sunday.

It is considered an offence to mow your lawn on a Sunday, because it causes too much noise.

It is illegal to flush the toilet after 10 P.

A man may not relieve himself while standing up, after 10 P.

Though it is illegal to produce, store, sell and trade absinth (special alcohol), it is legal to consume it.

It is required that every car with snow tires has to have a sticker on its dashboard which tells that the driver should not drive faster than 160 km/h with these tires.

If you forget you car-keys inside the car and you leave the car open, you will be punished.

Source: www.geocities.com

FOR YOUR information

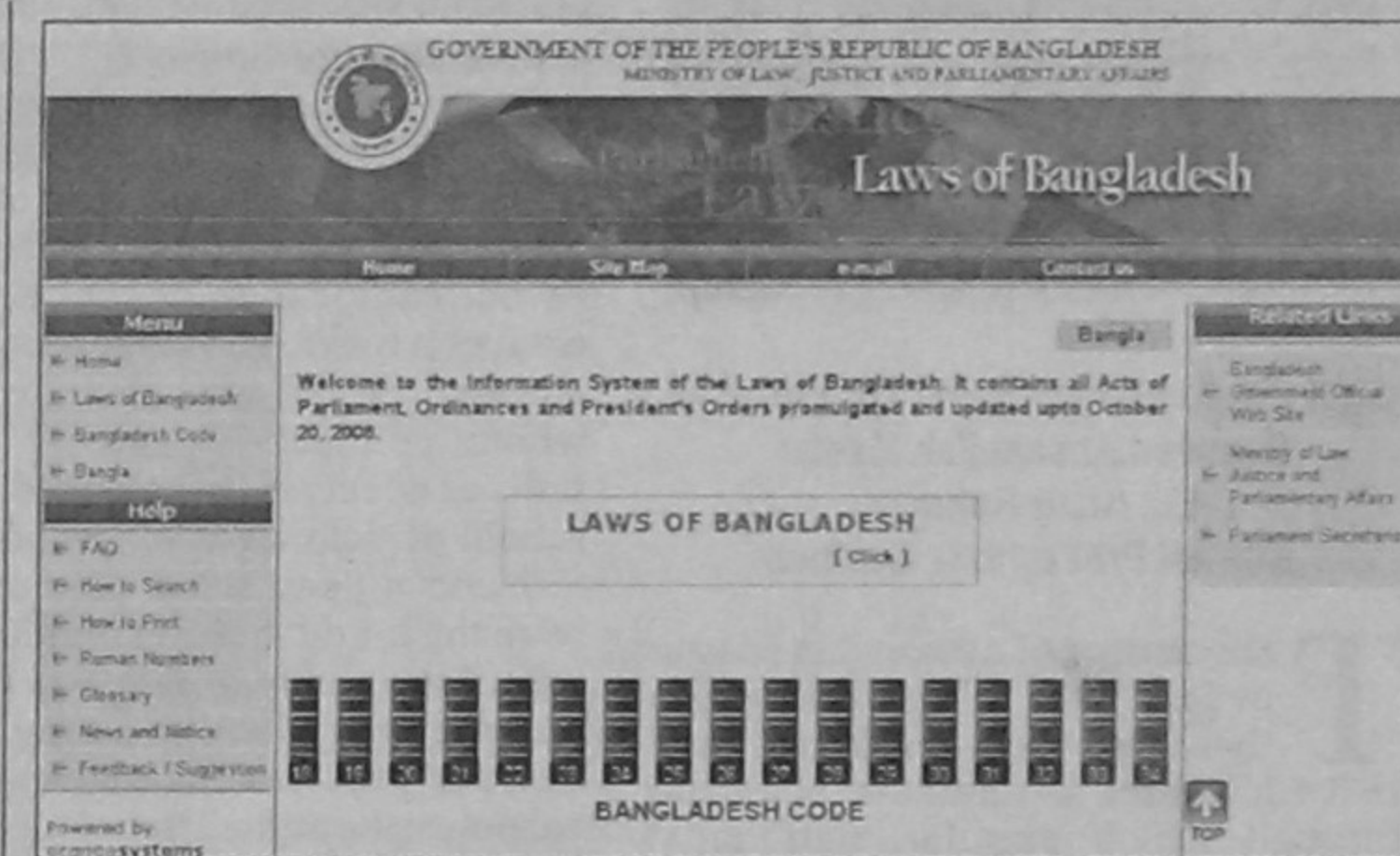


Bangladeshi laws are online now

All laws and regulations made as of October 20, 2008 can now be found online at the website launched by the Ministry of Law, Justice and Parliamentary Affairs. Laws of Bangladesh and the Bangladesh Code are available in both Bangla and English at www.bdlaws.gov.bd.

The Bangladesh Code contains all existing Acts of Parliament, Ordinances and President's Orders in force in Bangladesh. The website includes an Index book in chronological and alphabetical order, separately.

It comprises the earlier codified laws (1836-1938), which are updated and relocated in volumes 1 to 8 and partly in volume 9. The codified laws made between the years of 1939 and 2006 can be found in volumes 9 to 38. These laws include enactments that have been inherited from the past, dating back to 1836, promulgated by various authorities according to the Constitution in force at the relevant time.

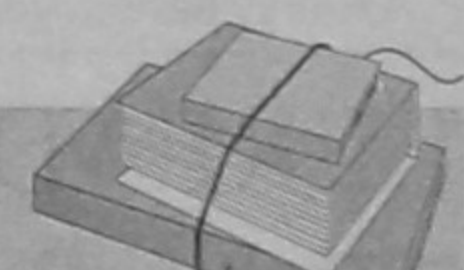


By introducing the Bangla Vasha Procholon Ain, 1987, all laws enacted in Bangla are shown in volumes 27 to 38.

In the website Bangladesh Code is presented in Portable Document Format (commonly known as PDF) which has been developed to show electronically the laws, as it is, incorporated in the Bangladesh Code which was published in June 2007.

-LawDesk.

LAW lexicon



Mediation - A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps them agree on a settlement.

Memorandum - An informal note or instrument embodying something the parties desire to have in written evidence.

Memorialized - In writing.

Mens rea - Literally in Latin, "guilty mind." The intent required to commit the crime. It is a prerequisite to conviction for a crime involving a moral wrong, but it is not a prerequisite to conviction for an act that is a crime only because a statute designates it to be a crime, e.g., overtime parking.

Merger - The absorption of one thing or right into another.

Minor - A person under the age of legal competence.

Minute book - A book maintained by the courtroom deputy (bailiff), which contains minute entries of all hearings and trial conducted by the judge.

Minutes - Memorandum of a transaction or proceeding.

Miranda warning - Requirement that police tell a suspect in their custody of his or her constitutional rights before they question him or her. So named as a result of the Miranda v. Arizona ruling by the United States Supreme Court.

Misdemeanor - A criminal offense lesser than a felony and generally punishable by fine or by imprisonment other than in a penitentiary.

Misfeasance - Improper performance of an act which a person might lawfully do.

Source: Jurist International.

Dear reader, You may send us your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those. Please send your mails, queries, and opinions to: LawDesk, The Daily Star, 19 Karwan Bazar, Dhaka-1215; telephone: 8124944, 8124955, fax 8125155; email: dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net