



LAW amusements



Interesting laws...

France
Between the hours of 8AM and 8PM, 70% of music on the radio must be by French artists.

It is illegal to kiss on railways in France.

No pig may be addressed as Napoleon by its owner.

It is illegal to take photos of police officers or police vehicles, even if they are just in the background.

It is forbidden without a cemetery plot to die on the territory of the commune.

Why does this law exist? When the town's only cemetery filled up, the town government requested another plot of land next to the coast in order to build another. However, the regional court rejected the proposal on the ground of violating a law regulating seashore constructions. Due to this, the city retaliated by passing a law for this unusual situation.

An ashtray is considered to be a deadly weapon.

Germany
Every office must have a view of the sky, however small.

A pillow can be considered a "passive" weapon.

It is illegal to wear a mask.
Why does this law exist? During an unruly riot or demonstration, police may sometimes need to arrest persons breaking the law, and can do so more easily if their identity is not concealed.

It is illegal for ones car to run out of gas on the Autobahn.

Source: www.geocities.com

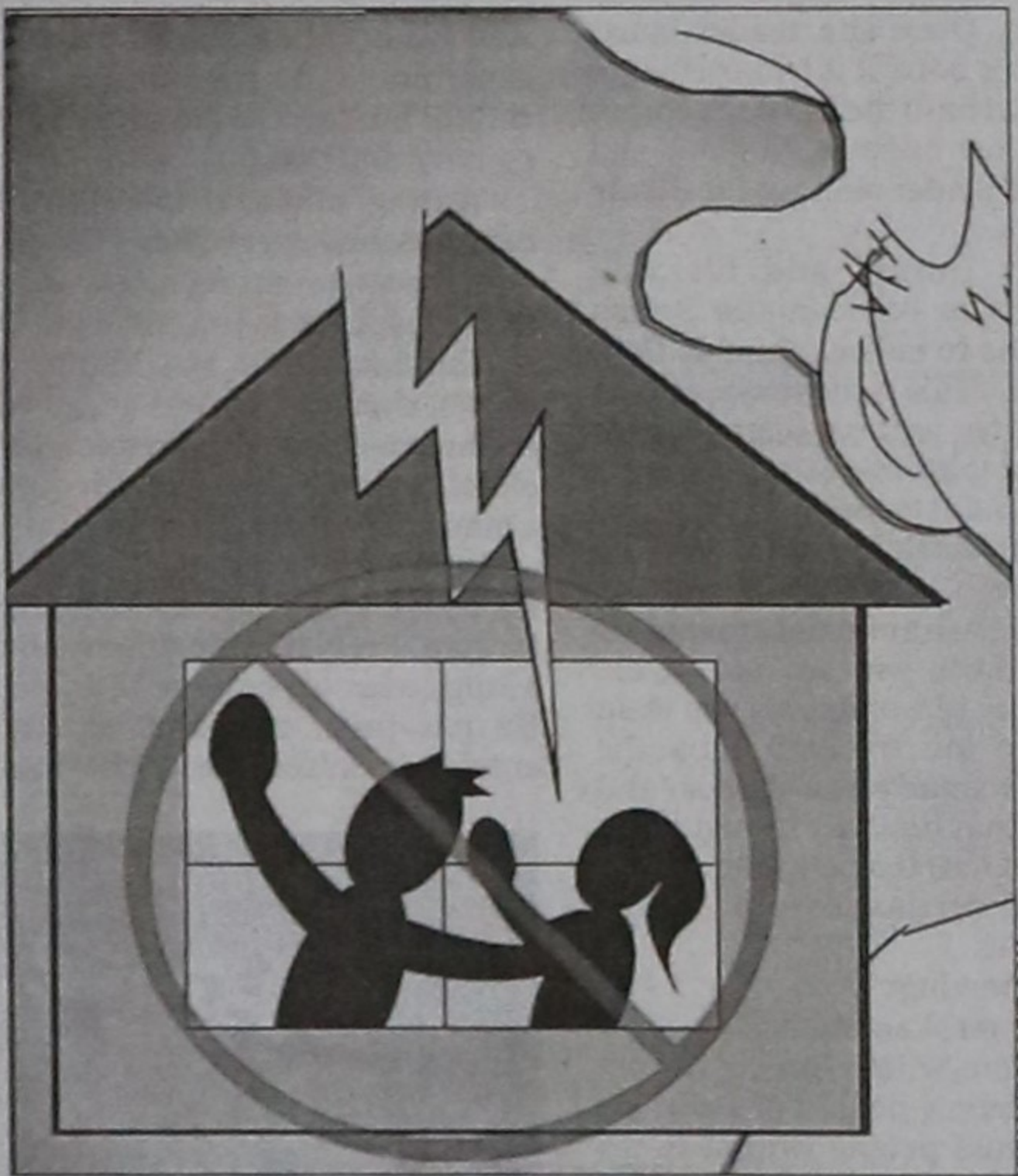
HUMAN RIGHTS watch

NEPAL
Tackling domestic violence

Saru Tamang has been slapped, verbally abused and threatened by male members of her village in Kavre District when she has gone to mediate in domestic violence cases. The village has one of the highest rates of gender-based violence (GBV) in the country, say local rights activists.

"But nothing discouraged me. I have been trained to endure abuse until I achieve my goal," Tamang told IRIN. Tamang is among 88 women in the district to have recently completed training as a peer pressure volunteer to prevent, detect and respond to any form of violence.

"The work is very challenging but the impact of mediation is already showing," said Rangaraj Dhungana, executive director of local NGO National Health Foundation (NHF), which provided the training with the support of the UN Population Fund (UNFPA). The volunteers were also trained to raise awareness of



the impact of violence on reproductive health among new mothers and pregnant women.

Lack of laws
Domestic violence is widespread, says the National Women's Commission, a government body - a view shared by human rights NGO Informal Sector Service Centre (INSEC) which says assault, group beatings by in-laws, dowry-related murders and mental torture are quite common.

The lack of laws against domestic violence means perpetrators often get away with it, activists said.

"Violence against women takes place even for simple reasons, like cooking bad food, waking up late or not providing enough dowry," said Subhadra Ale, a police officer from the Nepal Police Women's cell in Janakpur, Dhanusa District, 400km southeast of Kathmandu. The city has one of the worst records of violence against women, according to unofficial police records.

Mediation is best?
Many police and lawyers in Janakpur agree that community-based mediation has so far proven to be the best way of tackling the problem. "Our focus is on the protection of the victimised women. So far mediation seems to be effective and has positive results," lawyer Balkrishna Karki of the Legal Aid Consultancy Centre (LACC) told IRIN.

LACC is a prominent NGO providing free legal support to impoverished families and women unable to afford the services of lawyers. The NGO has also been training social workers, government health staff, police and political activists to work as peer pressure volunteers to mediate in the community to reduce gender-based violence.

The mediation usually involves counselling, with both victim and abuser sitting together.

"Right now, mediation is key to preventing further violence and failure to use this [method] could make the situation worse for women," said activist Hemlata Sigdel, field coordinator of the Women's Rehabilitation Centre (WOREC), a national women's rights NGO. Sigdel also sounded an optimistic note, saying victims and abusers were now approaching volunteers like her to mediate in their domestic problems.

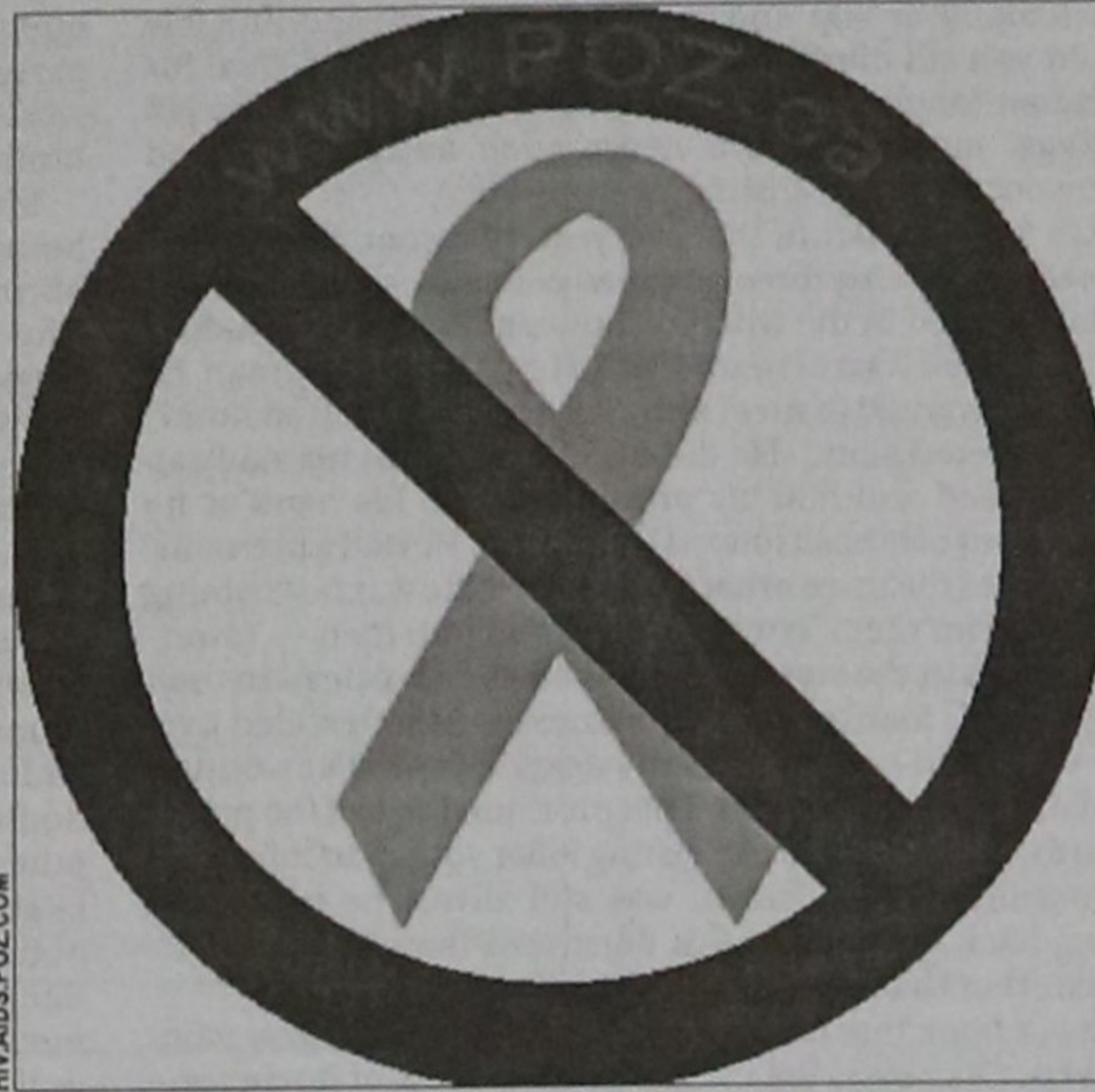
Source: IRIN, humanitarian news and analysis; UN Office for the Coordination of Humanitarian Affairs.

LAW letter

Neglected health services for sex workers

Sex workers have been identified as one of the most vulnerable groups for spread of HIV/AIDS in Bangladesh. Therefore, sex workers among other targeted groups such as Injecting Drug Users (IDU), Men Sex with Men (MSM), Transgender etc. are targeted for intervention for prevention of HIV/AIDS.

Sex Workers are identified by different names based on their nature of work. Though activities for street or brothel based sex workers started long ago, the term 'Hotel & Residence Based Sex Workers' is relatively new to us. For the last few years some NGOs have been working for hotel and residence based sex workers. At present the services for hotel and residence based sex workers are limited to only HIV and AIDS prevention though experience of some NGOs in this area reveal that these sex workers need other supports especially finance support because different studies show that most of the sex workers come to this profession only on financial consideration. Due to continuous price hike of essentials it has been very difficult for people to cope with the financial crisis. Studies also show that a large number of housewives are involved in sex work (professionally). Different studies bring the fact to surface that these women are mostly from the middle class families. It is also to be mentioned here that a large number of women from upper class families are also involved in sex work but they are not



easily reachable by NGOs. As members of well-off families these women are not in need of support from NGOs or other support agencies. Therefore, NGOs are working mainly for women of middle and lower class families.

A total of more than 12000 hotel and residence based sex workers are receiving supports from NGOs for the prevention of HIV and AIDS. But these women need other services also. Reviewing their need, some NGOs have come forward to provide other services. But these NGOs have been facing problem in implementing their activities because of attitudinal problem of the people in our society. Support to this group is opposed by different quarters such as community leaders, religious people and in many cases by the people in the local administration though the activities are being implemented with due approval of the relevant government agencies. In an attempt to overcome this problem involving community people in project implementation and monitoring has been evolved as a strategy. In furtherance of that initiatives have been taken to ensure involvement of community people and local administration. Committees headed by the Civil Surgeons and others at every place have been formed though availability of their cooperation at all levels is not beyond question.

The main problem of implementation of these initiatives, for hotel and residence based sex workers,

LAW week

Small and fresh
The small cabinet with fresh faces is something very rare in the arena of the political culture of the country, which has created a space for new leadership and political reforms, civil society members and educationists said.

Keeping most of the stalwarts out of the cabinet is the primary sign that Awami League (AL) truly wants a change, but incorporation of different party leaders into the cabinet made it a big challenge whether it will be able to work as a team, they said in reaction to the formation of the new cabinet. They also said the success of the cabinet mostly depends on the distribution of portfolios and the formation of the cabinet suggested that AL was very circumspect in the process.

"Such a change in the cabinet is a reform more than the reforms the so-called reformists wanted to bring about except the minus two formula," Dr Akbar Ali Khan, Regulatory Reforms Commission Chairman, said. He said the cabinet is small and comprised of mostly new faces, which is very different from the traditional cabinets of the country and will help emerge new political leadership. -The Daily Star, January 7, 2009.

Hasina acquitted as police give final report

A Dhaka court acquitted Awami League (AL) President Sheikh Hasina of the charges laid against her in the barge-mounted power plant case filed by Tajul Islam Farook, chairman of Westmont Power Co (Bangladesh) Ltd.

The court of Metropolitan Magistrate Tania Kamal delivered the order after Officer-in-Charge of Tejgaon Police Station Lutfor Rahman submitted the final report of the case before the Chief Metropolitan Magistrate's court.

Farooq had filed the extortion case with Tejgaon PS on April 10 last year under the non-bailable sections of the Penal Code but withdrew it on December 23. He submitted an application to the Tejgaon Police Station OC, requesting him to take necessary steps to withdraw the case, which is now under investigation. -The Daily Star, January 5, 2009.

Cut ties with war criminals

Sector Commanders Forum (SCF) has urged BNP to sever relations with its ally 'war criminals' party Jamaat-e-Islami, and help bringing these criminals to trial.

BNP's refusal to meet the demand for trial of war criminals was one of the main causes of its debacle in the December 29 parliamentary election, the forum said.

Leaders of the forum demanded that the newly elected government (yet to be formed) start the trial process very soon.

They also demanded that the coming government activate International War Crimes (Tribunal) Act 1973, set up chief prosecutor's office or constitute a commission in this regard, reactivate Collaborators Act repealed in December 1975 and formally seek help of the United Nations in trying the war criminals. They also urged revival of the 1972 constitution. -The Daily Star, January 4, 2009.

Female RMG workers sought in Romania

Irked by Bangladeshi male workers' strike and leaving jobs violating contracts, employers in Romania are now interested in recruiting skilled female workers from the readymade garment sector in Bangladesh.

They even agreed to pay the airfare for the female workers as they might not be able to pay the high cost of moving to that country. Kefayet Ullah, deputy secretary of the Ministry of Expatriates' Welfare and Overseas Employment, told The Daily Star after his recent visit to Romania.

Recently, around 200 Bangladeshi workers of a garment factory in Romania went on a one-week strike demanding pay hike. Earlier, many workers left their jobs and went to nearby European countries violating their job contracts. This irritated their employers.

Since the beginning of manpower export to Romania in January last year, through the initiative of a recruitment agency, around 800 workers found jobs mainly in the garment and construction sectors there. But over 400 workers left their jobs and moved to countries neighbouring Romania. -The Daily Star, January 4, 2009.

Many laws among ordinances

The caretaker administration led by Fakhruddin Ahmed has handed over power to the Awami League-led government along with the fate of at least 114 ordinances to be decided about in the first 30 days in parliament. The political government also has to decide about three more ordinances promulgated by President Iajuddin Ahmed-led caretaker government in 2006. The law ministry has already initiated steps so that the government can complete the huge task within the stipulated time, ministry sources say. The sources add proposals of two more ordinances -- Local Government (Union Council Amendment) Ordinance and Educational Institution Governing Body Ordinance -- await the president's approval for promulgation.

Overall, it promulgated 42 ordinances in 2007 and 72 in 2008. Of the 114 ordinances, 44 are regarding fresh laws and 70 concerning amendment to the main laws. Promulgation of some ordinances including the one amending Criminal Procedure Code (CrPC) to meet the longstanding demand for separation of the judiciary also yielded huge appreciation. -The Daily Star, January 7, 2009.

Govt moves to right flaws in DAP

The government has formed an expert committee to review the proposed Detailed Area Plan (DAP) within the next 30 days and recommend ways to correct its flaws and make it suitable from both housing and environmental points of view.

The timetable to finalise the DAP has also been extended by another six months.

The 12-member committee, comprising urban experts and environmentalists, was formed on January 1.

Floated in 2004, the DAP was scheduled to be finalised by December 31, 2008. However, it was the plan could not be finalised as it was recast several times.

Experts and environmentalists have earlier raised strong objections about the DAP citing some serious flaws in it, which they said would have a terrible impact on urban life and the environment.

They also complained that the DAP appeared to have been prepared in such way that it would only serve the purposes of real estate developers. -The Daily Star, January 6, 2009.

New power policy to buck up local investors

The caretaker government last month approved a policy welcoming greater participation of local private entrepreneurs in the power sector and their wider involvement in selling electricity to large consumers.

The Policy Guidelines for Enhancement of Private

LAWS FOR everyday life

Undue influence in contract

Undue influence takes place when one person takes advantage of a position of power over another person. It is where free will to bargain is not possible. It is the use of one person's power over another without due consideration in order to induce the other to compromise a certain right. Section 16 and 19 of The Contract Act, 1872 defines 'undue influence' and provides the power to set aside contract induced by undue influence. Some instances of undue influence are provided below:

- A having advanced money to his son, B, during his minority, upon B's coming of age obtains, by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence.
- A, a man enfeebled by disease or age, is induced, by B's influence over him as his medical attendant, to agree to pay B an unreasonable sum for his professional services. B employs undue influence.
- A, being in debt to B, the money-lender of his village, contracts a fresh loan on terms which appear to be unconscionable. It lies on B to prove that the contract was not induced by undue influence.
- A applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. This is a transaction in the ordinary course of business, and the contract is not induced by undue influence.

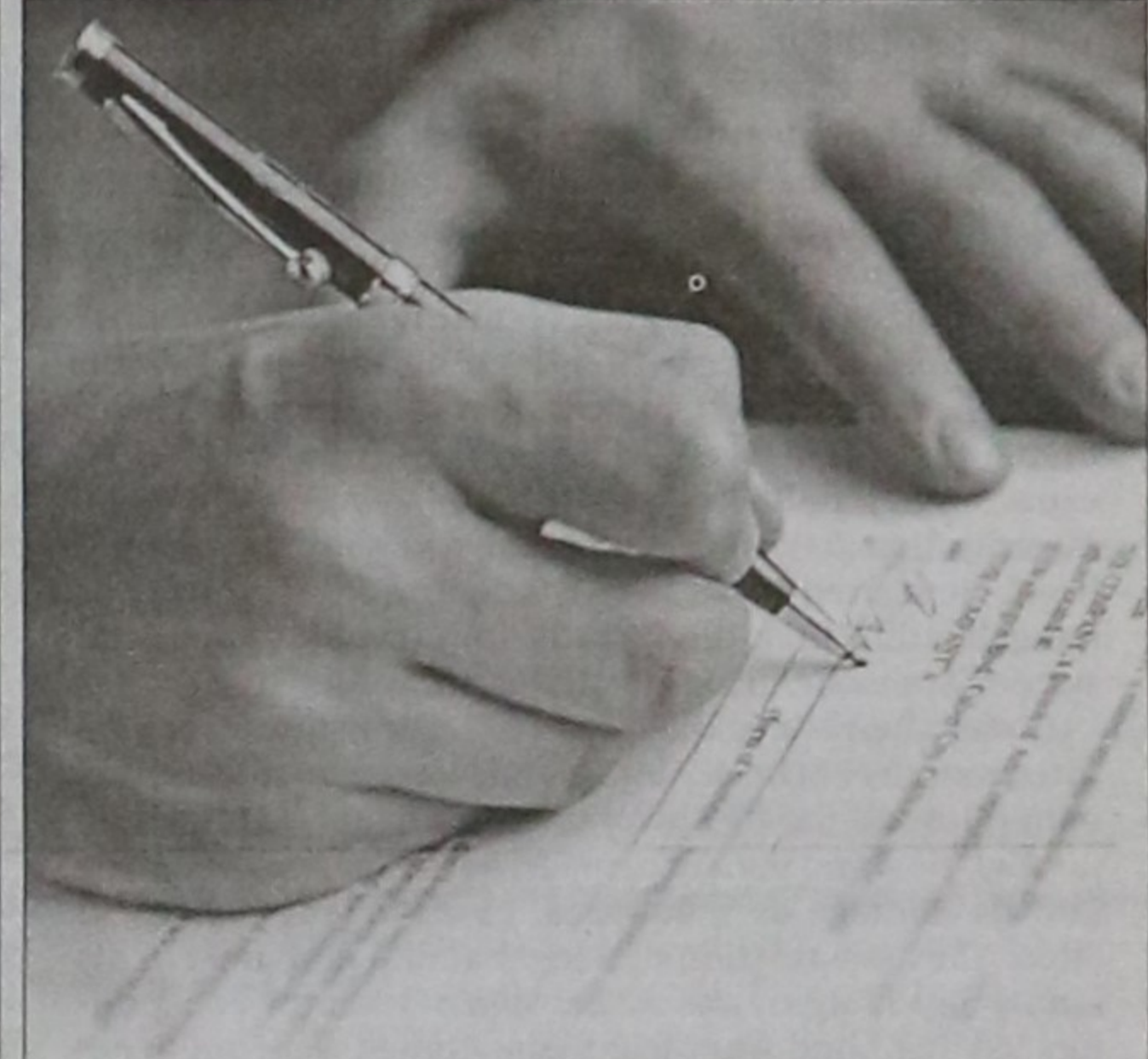
Section 16 of The Contract Act, 1872 defines 'undue influence' as -

16. (1) A contract is said to be induced by "undue influence" where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

(2) In particular and without prejudice to the generality of the foregoing principle, a person is deemed to be in a position to dominate the will of another-

(a) Where he holds a real or apparent authority over the other or where he stands in a fiduciary relation to the other; or

(b) Where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of



age, illness, or mental or bodily distress.

(3) Where a person who is in a position to dominate the will of another, enters into a contract with him, and the transaction appears, on the face of it or on the evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in a position to dominate the will of the other.

Nothing in this sub-section shall affect the provisions of section 111 of the Evidence Act, 1872.

Section 19 of The Contract Act, 1872 provides the power to set aside contracts induced by undue influence:

19A. When consent to an agreement is caused by undue influence, the agreement is a contract voidable at the option of the party whose consent was so caused.

Any such contract may be set aside either absolutely or, if the party who was entitled to avoid it has received any benefit thereunder, upon such terms and conditions as to the Court may seem just.

Reference: The Contract Act 1872.

LAW lexicon

- Party** - A person, business, or government agency actively involved in the prosecution of defence of a legal proceeding.
- Patent** - A grant to an inventor of the right to exclude others for a limited time from making, using, or selling his invention in the United States.
- Patent and Trademark Office** - The federal agency which examines and issues patents and registers trademarks.
- Peremptory challenge** - Request by a party that a judge not allow a certain prospective juror as a member of the jury. No reason or cause need be stated.
- Periodical** - A publication which appears regularly but less often than daily.
- Perjury** - The criminal offence of making a false statement under oath.
- Permanent injunction** - A court order requiring that some action be taken, or that some party refrain from taking action. It differs from forms of temporary relief, such as a temporary restraining order or preliminary injunction.
- Per se doctrine** - Under this doctrine an activity such as price fixing can be declared as a violation of the antitrust laws without necessity of a court inquiring into the reasonableness of the activity.
- Personal property** - Anything a person owns other than real estate.

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