



LAW amusements



Eccentric English Laws

All of these extracts have been taken directly from the old, dusty English Statute collection.

Until their former wives and former husbands be dead

In 1604, James I had been king for but a year when his Parliament decided to act against bigamy and polygamy in a statute which had the quaintest name: AN ACT TO RESTRAIN ALL PERSONS FROM MARRIAGE UNTIL THEIR FORMER WIVES AND FORMER HUSBANDS BE DEAD.

You just can't find statute names like that anymore! Forasmuch as divers evil disposed persons being married, run out of one County into another, or into places where they are not known, and there become to be married, having another husband or wife living, to the great dishonour of God, and utter undoing of divers honest men's children and others"

"Be it therefore enacted by the King's Majesty, with the consent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, that if any person or persons within his Majesty's Dominions of England and Wales, being married, or which hereafter shall marry, do at any time after the end of the session of this present Parliament, marry any person or persons, the former husband or wife being alive; that then every such offence shall be felony, and the person in persons so offending shall suffer death...."

Odious and loathsome

Three years into the reign of James I, his Parliament decided to act in regards to a growing social problem and enacted, in 1606, AN ACT FOR REPRESSING THE ODIOS AND LOATHSOME SIN OF DRUNKENNESS in the usual style of a preamble, which stated the reason for the law, followed by the actual law itself.

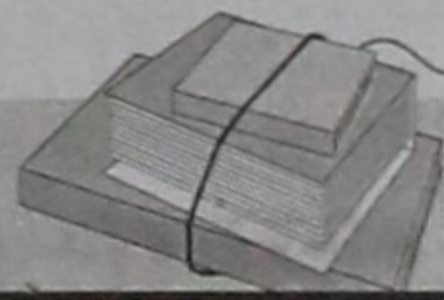
"Whereas the loathsome and odious sin of drunkenness is of late grown into common use within this Realm, being the root and foundation of many other enormous sins, as a bloodshed, stabbing, murder, swearing, fornication, adultery and such like, to the great dishonour of God, and of our nation, the overthrow of many good arts and manual trades, the disabling of divers workmen and the general impoverishing of many good subjects abusively wasting the good creatures of God.

"Be it therefore enacted by the King's most Excellent Majesty, the Lords Spiritual and Temporal and Commons, in this present Parliament assembled and by the authority of the same, and all and every person or persons which after 40 days next following the end of this present session of Parliament, shall be drunk, and of the same offence of drunkenness shall be lawfully convicted, shall for each such offence forfeit and lose five shillings of lawful money of England to be paid within one week next after his, her or their conviction thereof...."

"If the offender or offenders be not able to pay the said some of five shillings, then the offender or offenders shall be committed to the stocks for every offence, they are to remain by the space of six hours."

Source: www.duhaime.org

LAW lexicon



Shepardizing - Method for finding subsequent development of a legal theory by tracing status of a case as legal authority.

Sheriff - The executive officer of local court in some areas. In other jurisdictions the sheriff is the chief law enforcement officer of a county.

Sherman Act - The basic antitrust statute prohibiting any unreasonable interference, conspiracy, restraint of trade, or monopolies with respect to interstate commerce.

Sidebar - A conference between the judge and lawyers, usually in the courtroom, out of earshot of the jury and spectators.

Slander - Spoken defamation which tends to injure a person's reputation.

Small Business Administration (SBA) - A federal agency which provides assistance of all kinds, including loans, to small businesses.

Small Claims Court - A state court that handles civil claims for small amounts of money. People often represent themselves rather than hire an attorney.

Source: Jurist International.

LAWs FOR everyday life

Extortion - criminalised

IN the previous week, we defined instances of extortion according to the Penal Code, 1860, which also distinguished when extortion is robbery. Putting someone in fear of accusation of offence, injury, death or of grievous hurt in order to commit extortion are also punishable offences according to the Penal Code. This week we'll consider the provisions in the Code of Criminal Procedure, 1898 with regards to offences of extortion.

THE CODE OF CRIMINAL PROCEDURE, 1898

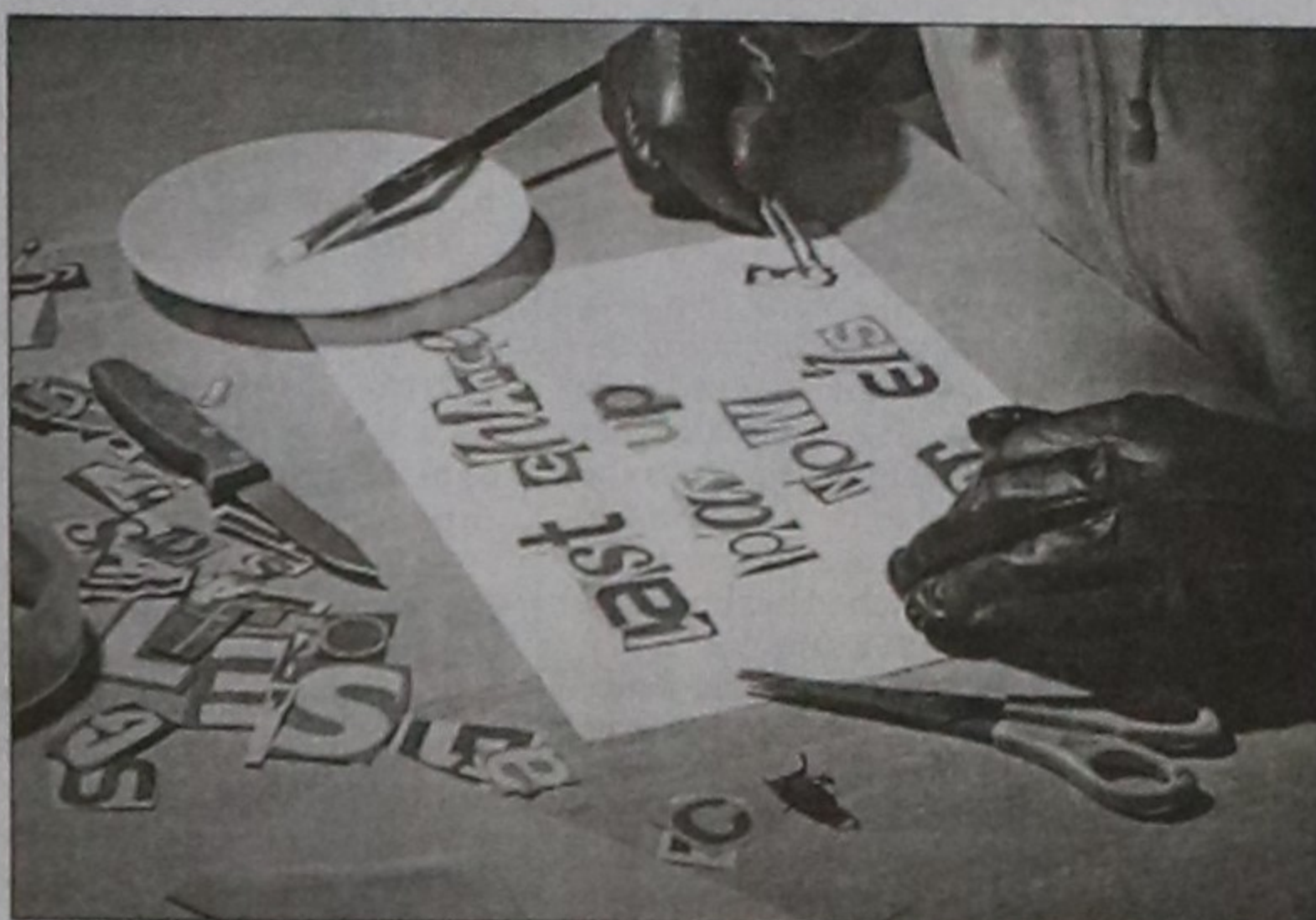
Part III - General provisions, Chapter V - Of arrest, escape and retaking. Arrest of vagabonds, habitual robbers, etc

55. (1) Any officer in Charge of a police-station may, in like manner, arrest or cause to be arrested-

(a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view committing a cognisable offence; or

(b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or



who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

Part VI - Proceedings in prosecutions, Chapter XV - Of the jurisdiction of the criminal courts in inquiries and trials. Accused triable in district where act is done or where consequence ensues

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court

within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Example

(a) A is wounded within the local limits of the jurisdictions of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be required into or tried by X or Z.

(b) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on a

may be inquired into or tried either by X or Y.

(c) A is wounded in Dhaka, and dies of his wounds in Chittagong. The offence of causing A's death may be inquired into and tried in Chittagong.

Part VI - Proceedings in prosecutions, Chapter XIX - Of the charge

What persons may be charged jointly

239. The following persons may be charged and tried together, namely:-

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;

(c) persons accused of more than one offence of the same kind, within the meaning of section 234 committed by them jointly within the period of twelve months;

(d) persons accused of different offences committed in the course of the same transaction;

(e) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named per-

sons, or of abetment of or attempting to commit any such last named offence;

(f) persons accused of any offence under sections 411 and 414 of the Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence; and

(g) persons accused of any offence under Chapter XII of the Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.

Extortion criminalises intimidation and interference with freedom of choice. It punishes those who, through threats, accusations, menaces, or violence induce or attempt to induce their victims into doing anything or causing anything to be done. Threats, accusations, menaces and violence clearly intimidate. When threats are coupled with demands, there is an inducement to accede to the demands. This interferes with the victim's freedom of choice, as the victim may be coerced into doing something he or she would otherwise have chosen not to do.

-Compiled by Law Desk.

Star LAW book review

Unveiling secrets of legal research

Name of the book: Essentials of Legal Research
Author: Dr. Abdullah Al Faruque
Press: Palal Prakashani
First Published: February, 2009
Price: 150 taka

MOHAMMAD MOIN UDDIN

RESEARCH is a sine qua non for the creation and advancement of knowledge, and also for the progress of civilization. Law, being a necessary tool for a sustainable and well-organized society, must be the result of well-researched solution to social problems, and it needs to be kept in constant review. As the society progresses and new problems emerge, we must find out appropriate new solutions and due processes of law through socio-legal research. We must also know how to scrutinize, and criticize the existing bad laws.

Whereas research is an integral part of legal education, legal curriculum in Bangladesh highly ignored it in the past. Research remained hostage to a few intellectual minds bearing the pains of exercising it in personal interest, the bulk of other students and teachers remaining outside the pale. Therefore, the absence of any book or working guideline for legal research in Bangladesh is no wonder. Thanks to the author of "Essentials of Legal Research", Dr. Abdullah Al Faruque for filling up the long thirst.

The book under review is primarily "aimed at introducing the students of law to the basic ideas of conducting legal research at academic level and the skills needed for it" as the writer puts it. Although primarily aimed for potential researchers, grown-ups will also find the book worthy of collection and would like to read and refer to it. Prefaced by the author himself, and forwarded by Professor M. Shah Alam of the Faculty of Law, Chittagong University, the book contains 9 chapters and only 118 pages.

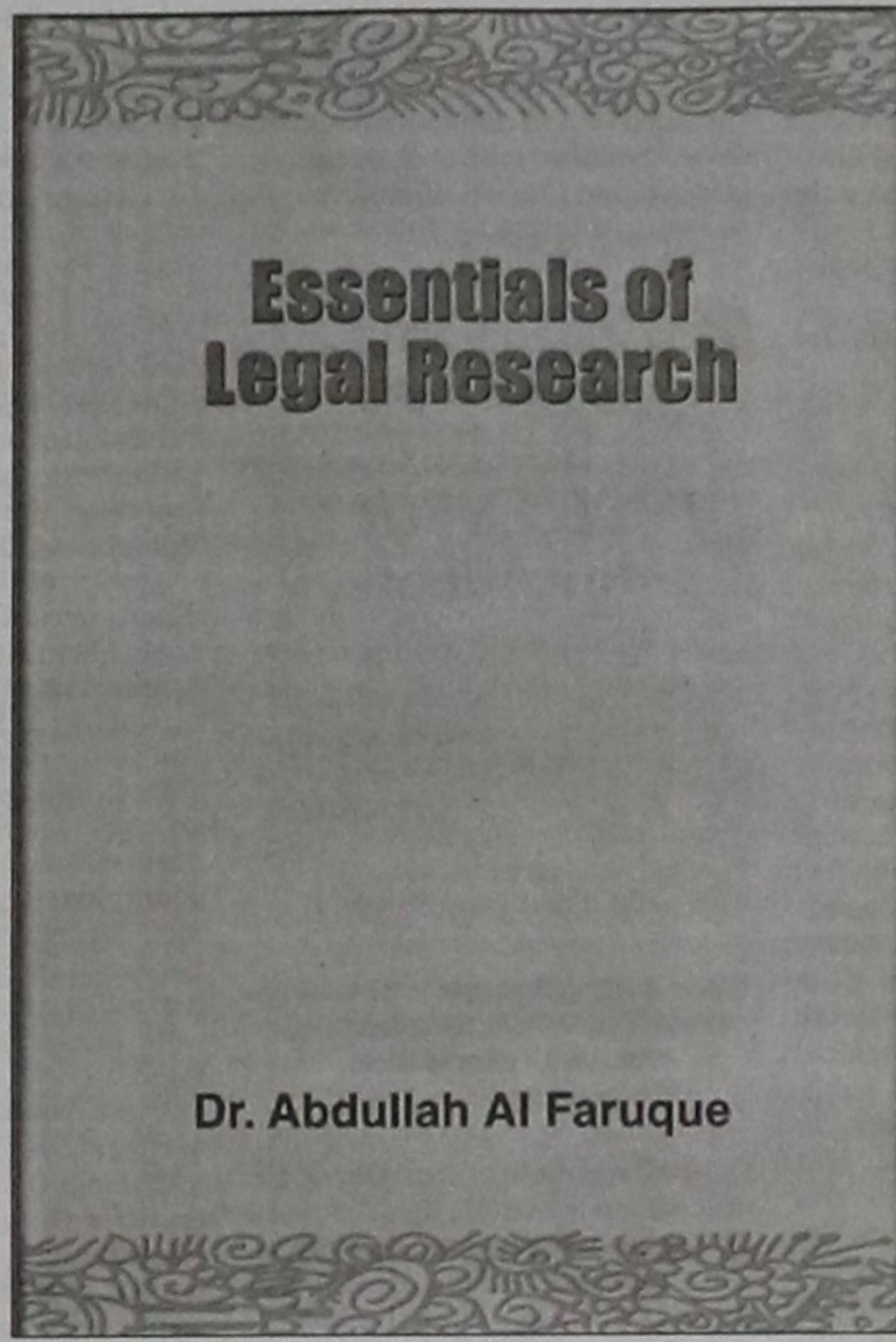
Chapter I titled 'Context of Legal Research' gives a total picture of the nature of a research work. The writer attempts to answer some natural-to-arise preliminary questions in the mind of potential researchers with precision and teacher-like patience. They are- What is research; Why is it for; what goal is to be achieved through it; what is Research Methodology and why; and Where to begin a research work and when to stop writing it? The writer draws 'Steps of legal Research' in such a fashion as one indicates a new comer the right way providing him a road map. The author wraps up the chapter with some basic suggestions in writing legal research.

In Chapter II under the heading 'Methodologies of Legal Research', the author acquaints us with different methods of research and their respective utilities. Explaining the distinctive features of analytical, inter-disciplinary, socio-legal, comparative and historical methods, the author rightly comments that a good researcher will choose one or more of these methodologies as it suits his/her research project and can best resolve his research questions. The vitality of this comparatively short chapter lies in the fact that "an effective legal research is hardly possible without proper understanding of research methodology"-- as the writer justifies it.

Chapter III would be the most attractive part for a young researcher. Under the title 'Design and Structure of Research', the author portrays the overall system of arranging a research work. After giving a general idea of writing Introductory Part, Middle Part and Conclusion part, the author precisely sketched what and how to organize the title page, acknowledgements, abbreviations, table of contents, table of cases, appendices, index, sign-posting, bibliography etc. This Chapter will remove many confusions of a novice researcher.

One of the puzzling tasks for a new researcher is using accurate referencing style. In absence of a proper orientation in this regard, one may commit serious anomalies and diverse referencing in the same piece of research monograph. Chapter IV entitled 'Reference Style' is a commendable addition to this book that resolves the problem. Here the author introduces us with Oxford reference style and Harvard reference style and also with notions like Plagiarism and academic dishonesty. The author gives minutes of referencing system with examples-- that of using footnotes and endnotes; using direct quotation, summary, paraphrasing, primary data and secondary data; how to cite books, journals, internet sources, periodicals etc.; and where to use italics, ibid, supra, infra, et al etc. This chapter will certainly help a new researcher writing his research paper more confidently.

Locating and finding out resources primary, secondary and others is a challenge for proceeding with a research project. The sources of materials for a legal research are to be located properly and the credibility for those sources needs to be ensured. The author tried to give a list of sources of legal research marking their respective authentic value in Chapter V. Although the author does not claim it to be an exhaustive list, hardly any legal material



Essentials of Legal Research

Dr. Abdullah Al Faruque

escaped this list.

In Chapter VI, the author speaks about 'Structure and Interpretation of Statutes'. It is beyond question that statutes are the number one source of law in modern times, and that is why a primary tool for legal research. Different parts of a statute must be properly understood and duly interpreted. The writer tried to give a picture of principal methods and fundamental rules of interpreting statutes. While interpretation of law is a multi-faceted task that requires an overall knowledge of jurisprudence and all the corresponding branches of law, an interpreter must start with primary principles explained in this chapter.

We know that law regulates the behaviour of its subjects particularly the human beings in the society. Thus in a socio-legal research, empirical approach to find out an appropriate solution is becoming more prominent. In Chapter VII under the heading 'Empirical Tools of Research: Case studies, Questionnaire Survey and Interviewing', the writer introduces us with various types and sub-types of empirical tools with their respective advantages and disadvantages. The author does not forget to give a 'guideline for designing questionnaire', which will help young researchers to a great deal.

Chapter VIII is a natural corollary of and supplementary to the previous chapter. We know that collection of data for research has a purpose, which is to explore the actual problem prevailing therein. The success of this purpose depends upon proper sampling methods and analysis of data. As the Census method is very costly, time-consuming and generally beyond a researcher's capacity, the writer rightly emphasized on the Sampling method in this chapter. The chapter seems to be a compact one that could be a bit elaborate.

The author wrapped up the very easy-to-understand book with a highly philosophical chapter entitled 'Legal Reasoning: Criteria and Forms'. In chapter IX, the author gives us a brief idea on standards of legal reasoning and different forms of it. While the content of the chapter addresses judges predominantly and therefore it may seem to break the flow of the book in the last chapter, the philosophical part of the discussion will immensely benefit the researchers.

The book is the first of this type of work in Bangladesh. The book is a small volume of only 118 pages but the spirit lying behind a short volume-written in lucid, reader-friendly and easy-to-understand language seems to be high enough. The book is rich in content. Being a prolific researcher himself, the author shared his practical research experiences in many places of the book, e.g. he gives a time management methods for PhD thesis so that it can be timely completed in chapter V. Certainly the book will be marked for pioneering the structural legal research in Bangladesh. But for a few printing mistakes, the book is very much okay and reasonably priced. All Bangladeshi law students must collect one copy of the book; why not law-teachers, rights activists and NGO workers undertaking legal research.

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LAW week



Some ex-ministers face interrogation

Several former ministers of the previous BNP-led alliance government are likely to face interrogation in the sensational Chittagong arms haul case, said the public prosecutor (PP) of the case. Meanwhile, investigators of the Chittagong arms haul case were quizzing two former NSI chiefs--Maj Gen (ret'd) Rezzaqul Haider Chowdhury and Brig Gen (ret'd) Abdur Rahim--in Chittagong. Quoting arrested former NSI director (security) Wing Commander (ret'd) Sahab Uddin's confessional statement, PP Kamaluddin told The Daily Star that Abdur Rahim held several meetings with representatives of the UAE-based business firm ARY group in Dubai and in Dhaka. -The Daily Star, May 19, 2009.

JS body slams Petrobangla for 'inefficiency'

A parliamentary body strongly criticised officials of Petrobangla for not working "efficiently" in producing gas at different gas fields. The parliamentary standing committee on estimate at a meeting asked Petrobangla to work in a "warlike situation" and increase volume of gas production. The committee also asked officials of the power and energy ministry to submit in two weeks a report on how to overcome energy crisis. Petrobangla on the other hand sought relaxation of present rules and regulations in exploring gas in a bid to materialise its specialised fast-track project under which it projected to produce as much as 118 to 128 million cubic feet per day (mmcf/d). -The Daily Star, May 19, 2009.

HR Watch for disbanding DGFI, Rab

Human Rights Watch (HRW) has recommended the disbanding of Rapid Action Battalion (Rab) and Directorate General of Forces Intelligence (DGFI), terming them symbols of abuse and impunity in a report. The New York-based HRW said if the two forces are not disbanded they should be made to comply with existing laws and international human rights norms. In the 76-page report titled "Ignoring Executions and Torture: Impunity for Bangladesh's Security Forces," HRW Asia Director Brad Adams said "The very forces tasked with upholding the law and providing security to the public have become well known for breaking the law in the gravest manner without ever facing any consequences." -The Daily Star, May 19, 2009.

Act fast to save rivers

A parliamentary body expressed concern over river pollution and asked the industries and environment ministries to take immediate measures to save the rivers, especially the Buriganga, Turag, Balu and the Shitalakhya, from pollution. The parliamentary standing committee on land ministry also asked the ministries to take measures so that industrial waste, especially of tanneries, do not end up in the rivers. The committee will sit with high officials of industries and environment ministries in its next meeting to discuss the issue in detail. The body in its meeting yesterday also asked director general (land record) and deputy commissioners concerned to conduct a fresh survey to identify areas of rivers and canals across the country that have been gobbled up by encroachers so that they could be recovered. -The Daily Star, May 18, 2009.

Supplementary plea filed for HC stay on govt notice

BNP Chairperson Khaleda Zia filed a supplementary writ petition with the High Court (HC) seeking a stay order on the government's show cause notice over her cantonment house. The HC might hold hearing of this petition along with a pending writ petition filed by Khaleda challenging the legality of the government notice asking her to leave the cantonment house. The HC bench of Justice Syed Refaat Ahmed and Justice Moeenul Islam Chowdhury permitted Khaleda to swear affidavit through her authorised person to file the petition along with her pending writ petition. The bench on May 12 accepted Khaleda's writ petition, as three judges of the HC felt embarrassed and one judge refused to hear the same petition. -The Daily Star, May 18, 2009.

HC orders re-probe

The High Court declared illegal Jahangirnagar University authorities' decisions of exonerating drama and dramatics faculty member Sanowar Hossain Sunny from sexual harassment charges and suspending six students on charge of assaulting him. The HC bench of Justice Syed Mahmud Hossain and Justice Quamrul Islam Siddiqui also directed the JU authorities to hold a fresh enquiry into the incident and take action against the alleged persons. The bench insists that neutral persons conduct the fresh enquiry in line with the HC's recent guidelines on sexual harassment. -The Daily Star, May 18, 2009.

JMB has at least 50 bomb experts now

Law enforcers suspect there are at least 50 operatives in the militant Islamist organisation Jama'atul Mujahideen Bangladesh (JMB) who can make bombs, and almost all of them were trained by now detained Jahid Hossain Sumon alias 'Boma Mizan'. 'Boma Mizan', key-explosives expert of the banned outfit, has already admitted to Rapid Action Battalion (Rab) that his prime job was to train the operatives in making bombs and grenades. "We don't have the actual number of JMB members trained in explosives but information given by JMB members arrested on different occasions suggest the number is not less than 50," a top Rab official told The Daily Star. -The Daily Star, May 17, 2009.

BDR mutineers' trial acid test for govt

The government's ability to hold a credible and fair trial of war criminals depends largely on how appropriately it handles the trial of BDR mutiny, says Amnesty International Asia Pacific Programme Director Sam Zarifi. Zarifi suggests that the trial of BDR mutiny should not be held in court martial but in legitimate civilian process. It is also necessary to ensure special training to all the people involved in war criminals' trial for a fair and credible outcome in international standard, he adds. "If the government can't handle that trial [of BDR mutiny] appropriately, it's difficult to see how it can handle the events of the 1971 war which are a hundred times more complicated and at this point the evidence is much more questionable," he observes. -The Daily Star, May 16, 2009.

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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