



LAW campaign



JUNE 20, 2009

World Refugee Day

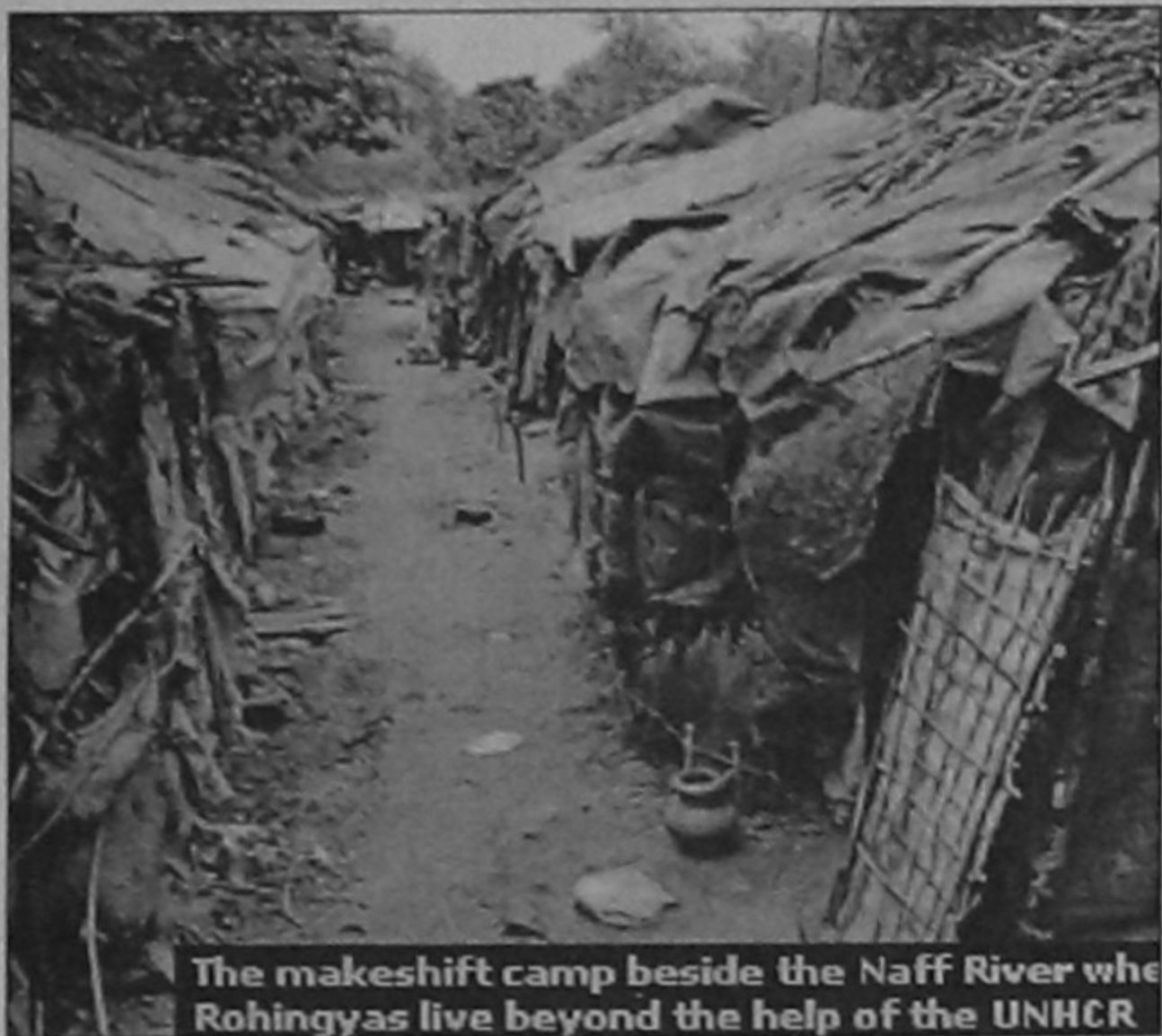
"On this World Refugee Day, let us remember that refugees too are real people with real needs. Helping them to rebuild their lives and their communities benefits us all."
High Commissioner António Guterres, UNHCR

"Real People, Real Needs" - refugees are individuals with real needs, just like you and me.

For the more than 34 million people of concern to UNHCR, a shortage or lack of the essentials of life - clean water, food, sanitation, shelter, health care and protection from violence and abuse - means that every day can be a struggle just to survive.

This year, with the world economic crisis threatening to slash aid budgets and amid enormous global uncertainty, we need to ensure refugees are not forgotten. That's why the theme for this year's World Refugee Day on June 20 is "Real People, Real Needs."

Of the millions of people forcibly displaced by conflict, persecution and natural disasters, every one has a story to tell; they are real people, just like you and me, and they have real needs. But,



The makeshift camp beside the Naff River where Rohingyas live beyond the help of the UNHCR

despite the best efforts of UNHCR and many others, many of these basic needs are far from being met.

A comprehensive assessment of the needs of refugees and other people cared for by the UN refugee agency revealed that 30 percent were unmet - a third of them in basic and essential services. Improvements in nutrition and water supplies, access to primary health care, strengthened child protection programmes, better protection for women from sexual violence and abuse, and improvements in living conditions and sanitation facilities are just some of the needs that are not being met worldwide.

This World Refugee Day we ask you to remember the millions of forcibly displaced and stateless people under our care who are struggling with their day-to-day lives. One thing connects them all: basic needs that must be met so they have a chance to rebuild their lives.

Source: United Nations High Commissioner for Refugees.

LAW amusements



Eccentric English Laws

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

Fleshy incontinency

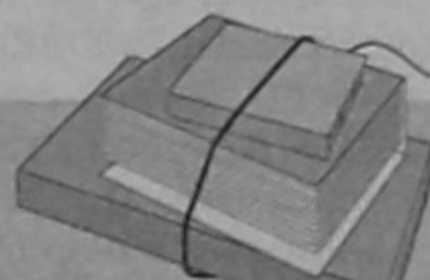
In 1485, King Henry VII approved a law with a self-explanatory title: AN ACT TO PUNISH PRIESTS FOR INCONTINENCY, with the proviso that incontinency did not have the same meaning as it does today.

This law had the unfortunate effect of shielding the clergy from the brunt of the criminal law in regards to sexual assault and left such clergy to be mildly punished by their peers:

"For the more sure and likely reformation of priests... and religious men, culpable, or by their demerits openly reported, of incontinent living in their bodies, contrary to their order, it is enacted and established that it be lawful to all archbishops and bishops and other ordinaries having Episcopal jurisdiction, as shall be convicted afore them by examination and other lawful proof requisite by the law of the Church, of adultery and fornication, incest or other fleshy incontinency, by committing them to prison, they are to abide for such times as shall be thought to their discretions convenient for the quality and quantity of their trespass."

Source: www.duhaime.org

LAW lexicon



Social Security - A system of federal old-age pensions for employed persons begun in 1935. A portion of the payment is deducted from the employee's salary and an equal portion is contributed by the employer.

Social Security Administration - The federal agency which administers the national social security program.

Social Security Tax - A payroll deduction based on gross wages paid; this amount is matched by the employer as required by the Federal Insurance Contribution Act (FICA).

Sovereign Immunity - The doctrine that the government, state or federal, is immune to lawsuit unless it give its consent.

Specific performance - A remedy requiring a person who has breached a contract to perform specifically what he or she has agreed to do. Specific performance is ordered when damages would be inadequate compensation.

Spendthrift trust - A trust set up for the benefit of someone who the grantor believes would be incapable of managing his or her own financial affairs.

Standard of proof - Indicates the degree to which the point must be proven. In a civil case, the burden of proof rests with the plaintiff, who must establish his or her case by such standards of proof as a "preponderance of evidence" or "clear and convincing evidence."

Source: Jurist International.

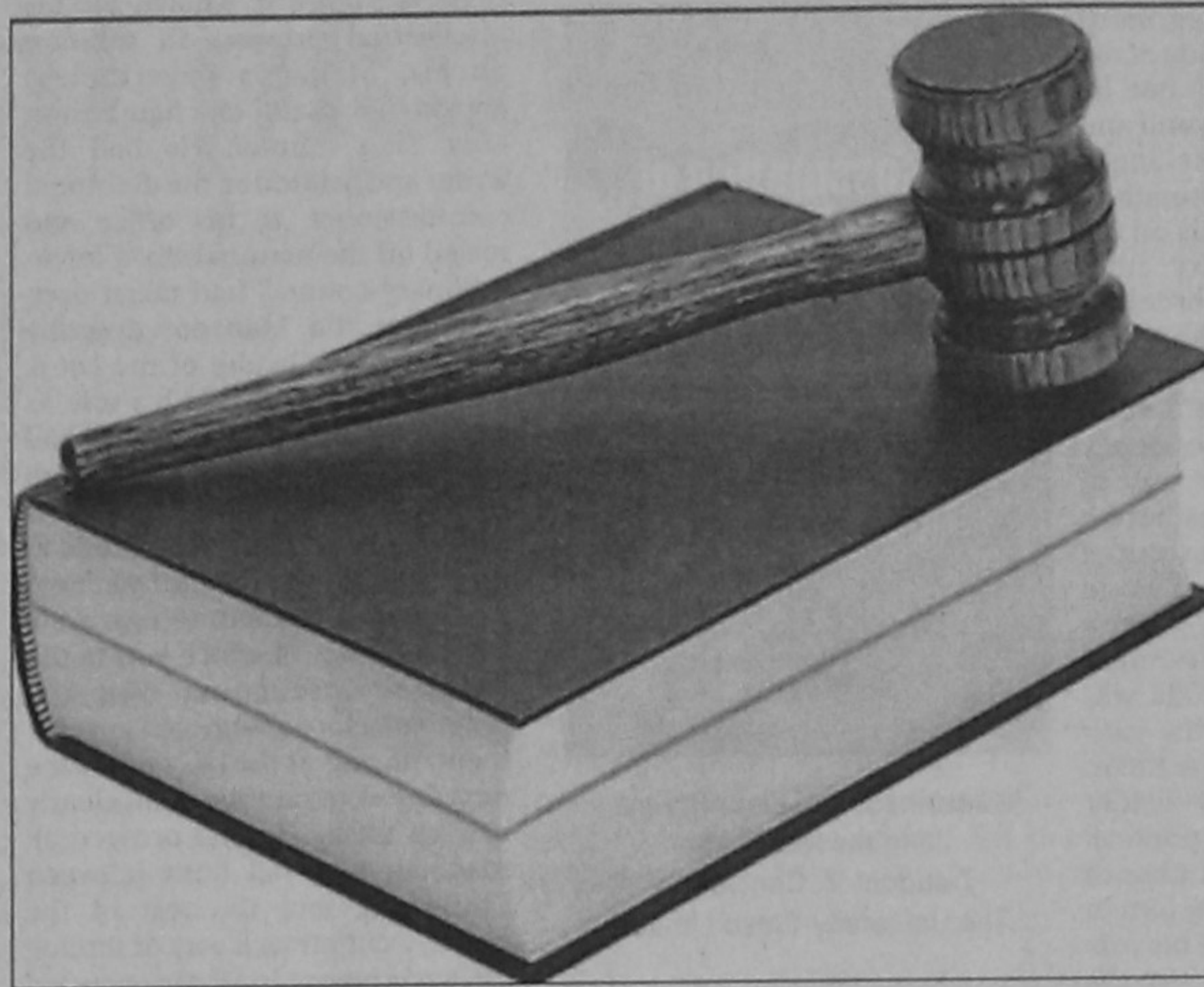
LAW students corner



How to write a good 'Memorial' for a Moot?

IN Moot Court your written submission is called memorial or counter memorial. This is also known as brief. You need to write your team's memorial fairly some days ago before the mooting day. In competitions, the memorials are to be submitted in advance for evaluation. In some moot competitions you need to argue for both the sides, hence you need to make memorials for Appellants as well as respondents. Usually, memorials are exchanged between the parties before some times the moot is kicked off. So, you may need to make many copies (generally 4 or 5) of your submission. Every competition gives its own guidelines for writing the memorial. If not, a standard method should be followed. Generally, the Memorial shall consist of the following parts: cover page, table of contents, index of authorities (including corresponding page numbers and maintaining orders), statement of facts, identification of issues, statement of jurisdiction, arguments in favour of the issues/pleadings, summary of pleadings and prayer for relief. If the given problem gives you indication that question of jurisdiction is settled, you may omit statement of jurisdiction from your memorial. The length of a written memorial also varies according to competition rules. Normally, it ranges from 20 pages to 40 pages including the footnotes. The references in support of your arguments are to be placed in the foot note by following a standard referencing style. You can support your legal argument by relying on: a. authority, b. reason and logic c. policy arguments.

Among these the first one (relying on authority) is the most important. Indeed, reason and logic as well as policy arguments should be used subtly so that your memorial does not become very



flat. Any legal argument should be firmly founded on authority. The mooters should concentrate solely on use of authority. Authorities can be: 1. Decisions of the Appellate Division/High Court Division 2. Supreme Court/Appellate Court judgments from other common law jurisdictions 3. National or International Statutes, Conventions, Treaties 4. Quotations from authoritative articles and textbooks 5. Parliamentary debates / debates of standing committees (only in certain circumstances) 6. Decisions of ICJ or other international tribunals (in case of international law and human rights problems).

Care should be taken in selecting the choice of authority. The index of authority would vary depending on the subject matter of the mooting. Mooters should always refer to case law carefully. Foreign

cases also can be relevant. It may be prudent to introduce the case by saying 'although not binding on this Court it may be of assistance to examine the judgment in...' A note must be made on the use of textbooks and articles. You should use textbooks rarely. A textbook may only be used if it is a leading authority on the subject, as recognized by legal luminaries. For example, William Anson's Contract Law is a good authority on contract law. You can give reference books like such. Your course textbooks will almost certainly not be considered as good authority.

You can find a sample memorial by searching internet. Memorial is vital in mooting because majority of marking are allocated in memorials. Best memorials and researchers are awarded.

-Law desk.

LAW watch



Cyber crime in 'Digital Bangladesh'



SHAKILA YEASMIN SUCHANA

CYBER crime' is a contemporary phenomenon to Bangladeshi people. With advancement of information technology, we have been facing increasing rates of high-tech crime mostly committed with the use of computer. Whereas we are envisioning 'Digital Bangladesh' and the government is making various efforts towards achieving this end, we should not be oblivious of the evils of technological crimes! For reasons obvious, we must be alert of cyber crime.

Cyber crime is the criminal activities done by computer or internet. It is also known as computer crime. Any use of computer as an instrument of further illegal ends or any illegal acts against computer do fall within the ambit of cyber crime. In Bangladesh, many people now are using computer and internet. Most of the government and private institutions have introduced e-governance and e-commerce. Hence, there is high risk of cyber crime victimization.

Financial cheating is the most occurred cyber crime in Bangladesh. It is done by giving attractive advertising in the website or enticement by email. Money laundering, credit card frauds, and online gambling are the most using way to cheating Bangladesh people.

It is painful that copyright infringement and software piracy are now very visible ills in our country. Trademark violation is also a crime. Password crack-

ing or cheating by others ID is a common crime done by juveniles in Bangladesh. These crimes are mainly committed by doing fun through face book. For example, recently Apurbo, one popular drama-artist of our country, disclosed to the media that someone had opened Face Book account by his name and photo and used this as camouflage of cheating people. Same experience is faced by actress Sohana Saba. The cheats take people's contact number and personal information by using famous person's ID and then use it for blackmailing.

Cyber pornography, a degrading facet of cyber crime, has taken many forms and is swelled by internet. Pornographic pictures, photos and writings affect young mindset. Child pornography attracts children by providing them pornographic material in accessible manner. Some years back, hackers inserted pornographies to the website of Bangladesh National parliament. It was really embarrassing, shameful and distressing. Unfortunately, person/s committing such heinous crime spared unidentified.

Computer virus caused serious damage to computer's application system. There are more than 5000 different strains of virus across the globe. For instance, news published all over the world says that on 1st April 2009 a virus would attack thousands of computers. Fortunately, it did not happen. Logic

bombs, web jacking and Trojan attacks are also crime to attack computer.

Data diddling and theft information from website or by email is an alarming crime for our country. The government should be more watchful to secure our national secret information's.

Email threatening is also a great problem to internet users. Many of our VIP and persons from reputed organizations are victims of email threatening. Even, example of threat to Sheikh Hasina's life by e-mail indicates that the premiers are also the subject of e-mail crime.

There are many other cyber crimes like sale of illegal articles, hatching, forgery, cyber stalking and the latest being using emails and computer for spreading cyber terrorism. These crimes create financial problems, encourage property theft, or damage our computer system.

Good news is that, of late enacted Information and Communication Technology Act 2006 has defined cyber crime and brought this crime under our criminal jurisprudence. However, there are many other things need to be included in the Act and we have to enact and implement appropriate laws to address the problem of cyber crime. Thus, we can really make our country 'DIGITAL BANGLADESH' without fear or cyber crime victimization.

Shakila Yeasmin Suchana is a student of Department of Criminology and Police Science, Mawlana Bhasani Science and Technology University.

LAW week



Boon for tax-dodgers, bane for taxpayers

The provision for whitening black money in the proposed new budget comes with certain strict conditions this time, but the rate of tax for whitening money still remains unduly favourable for black money owners, compared to regular income tax rates, just like previous similar provisions. Since the country's independence, scope for whitening money was provided 9 times in different ways, and Tk 18,091 crore was legalised while the state got Tk 1,480 crore in tax on the amount. -The Daily Star, June 18, 2009.

Govt's rules change to rock WB aid flow

As the government has finalised some major amendments to the public procurement rules, the World Bank last week said adoption of these changes could jeopardise its project aid including budget support for Bangladesh. To amend the Public Procurement Act/Rules (PPA)/(PPR), the government has finalised about 50 articles of the PPA and PPR for amendment. Once the PPA and PPR is amended, it will allow the government to award contracts for jobs involving up to Tk 2 crore through lottery and selection of contractor without any pre-qualifications. -The Daily Star, June 16, 2009.

JS body to hear Matin's version

A parliamentary sub-committee decided to summon former shipping adviser Maj Gen (retd) MA Matin to hear his version about the allegation of corruption against him in awarding contract of container handling at Chittagong port. The sub-committee formed by the parliamentary standing committee on shipping ministry at meeting observed that there were anomalies in the tender process in awarding the contract to Eshak Brothers. "In the preliminary investigation, it seems that massive corruption took place in the tender process," Shah Alam, chief of the sub-committee, told reporters after the meeting at the Jatiya Sangsad Bhaban. -The Daily Star, June 16, 2009.

Govt footing eviction bill?

The government is spending huge amount from the public exchequer for its ongoing drive against river grabbers, although there is a legal option for realising the cost from the demolished property of the encroachers. Director (Port Division) of Bangladesh Inland Water Transport Authority (BIWTA) Mahabubul Alam said they have never received any compensation for demolition costs. BIWTA Deputy Director Saiful Islam said the deputy commissioners (DC) concerned are responsible for realising the demolition costs from the encroachers. -The Daily Star, June 16, 2009.

Unite against Tipai dam

Bangladesh Paribesh Andolan (Bapa) President Prof Muzaffer Ahmad called on the government "not to kill people" by allowing India to build Tipaimukh dam and thus cause a drought in Bangladesh. He said the Tipaimukh dam is not an issue to be used politically, and called on everyone to stand united against the dam to save the country from "turning into a stretch of desert." -The Daily Star, June 16, 2009.

Govt itself violating building rules

No government building including those built by Public Works Department (PWD) has taken approval from authorities concerned since 1987, which is mandatory under the Building Construction (BC) Act of 1952 and subsequent building rules. The PWD had enjoyed an exemption from such approval till 1987 but an amendment after that made the approval mandatory before construction of a building as it applies to other organisations and individuals. The government, a year back, delegated the authority to the chief architect of the Department of Architecture to approve only the PWD buildings, but to no avail. -The Daily Star, June 14, 2009.

Scope means injustice to regular taxpayers

The money-whitening provision would mean injustice to the regular taxpayers and leave them in an uneven contest with the black money owners, said speakers at a discussion. Participating in BBC Bangladesh Sanglap, they also observed that the size of the proposed budget is not that big compared to that of the previous one, but its implementation is surely a cause for concern. MM Akash, a professor of economics at Dhaka University, said the opportunity to legalise the undisclosed money would encourage corruption. -The Daily Star, June 14, 2009.

Child labour laws to be updated

The government will update the existing labour laws to stop children doing hazardous jobs, said Law Minister Shafique Ahmed. Since many families depend on the incomes of their children, child labour should not be stopped straightaway enacting any law, he said, adding that the government is trying to rehabilitate the poor children, who are engaged in different jobs, by creating facilities for their education and financial development. He was speaking as the chief guest at a meeting organised by Disadvantaged Adolescents' Working NGOs (DAWN) Forum marking the World Child Labour Resistance Day, 2009, at Dhaka Mohanagar Natya Mancha. -The Daily Star, June 13, 2009.

Sahara warns law enforcers, asks them to check crimes

Home Minister Sahara Khatun warned officials of law enforcement agencies that they would be held accountable for failing to improve law and order in the country soon. "I have ordered the law enforcement agencies to work for improving law and order immediately although they have acute shortage of manpower," Sahara told the press after giving her welcome speech at a ceremony celebrating the 37th founding anniversary of Bangladesh Mahila Samity. -The Daily Star, June 13, 2009.

Plan to appoint 13 judges to SC

The government will appoint at least three judges to the Appellate Division and 10 judges to the High Court (HC) Division of the Supreme Court (SC) by June this year as a number of judges of both the divisions will retire this year and next year. The present government appointed 11 judges to the HC Division and two judges to the Appellate Division. There are seven judges for the Appellate Division and 74 for the HC Division at present, sources said. Law Minister Shafique Ahmed on May 19 told The Daily Star that his ministry had already started the process of appointing some new judges to the Appellate Division and the HC Division of the apex court. -The Daily Star, June 13, 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