



LAW amusements



Surreal law facts

The truth is always stranger than fiction

The tree prison

The ancient Greek town of Vostitza (also spelled Vostizza and now called Aigio) on the island of Zante, once had a plane-tree which, because of a hollow that had formed under it, served as the town jail.

Near the town's springs, the hollow tree had a circumference of 14m (46 feet). During the Greek War of Independence (1821-1829), men were held prisoner in the hollow.

The tree grew so large that it was cut down in 1872 as a threat to nearby homes.

In Derby, Western Australia, another hollow tree served as a local jail. The Boab tree held rebellious aboriginals, circa 1890 (a small door had to cut into its side).

The Boab prison-tree is estimated at 1,000 years old and has the same circumference as the Vostitza tree-jail (14m).

The 24-hour marriage

Leave it to the monarchy to once again test the speed limits of the law.

In the annals of matrimonial and marriage law, one marriage stands out as a record-maker. Peter the Cruel (of Castille, now part of Spain) lived from 1334 to 1369. Also known as Pedro I, he was a tyrant but nonetheless quite creative when it came to pickup ruses.

In May 1354, at the age of 19, he fell head over heels with Dona Juana de Castro, sister of Fernando Perez de Castro. Though Pedro was already married to Blanche of Bourbon, he dismissed that as null and void, gathered two bishops to attest to this and to preside over the wedding, and proceeded to marry his new queen at the Church at Cuellar.

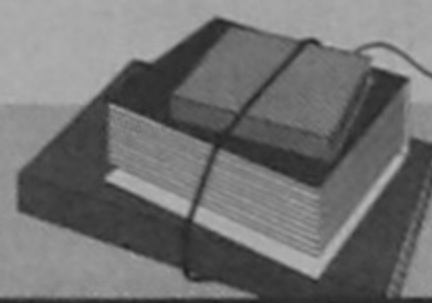
He consummated the marriage that night - we know this because Juana bore him a son. But the very day of his wedding, he received a very distressing courier - that an enemy army was poised to invade Castille and that Fernando, incensed at the trickery of his sister, had joined leagues with the enemy.

The next day, Pedro the Cruel disavowed his new marriage and left Juana never to see her again. A civil war ensued which was resolved only when Pedro agreed to honour his original marriage to Blanche.

After losing yet another civil war in 1369, Pedro was beheaded by his own brother.

Source: www.duhaime.org

LAW lexicon



Waiver - Intentionally given-up right.

Waiver of immunity - A means authorized by statute by which a witness, before testifying or producing evidence, may relinquish the right to refuse to testify against himself or herself, thereby making it possible for his or her testimony to be used against him or her in future proceedings.

Warrant - Most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. An application seeking a warrant must be accompanied by an affidavit which establishes probable cause by detailing the facts upon which the request is based.

Warranty - A promise that a proposition of fact is true.

Will - A legal declaration that disposes of a person's property when that person dies.

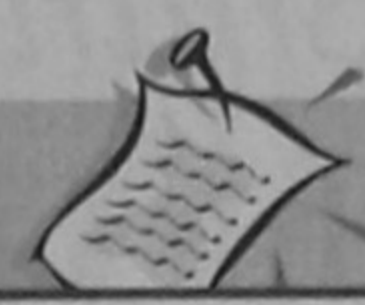
Withholding - A tax deducted from a salary, wage, or other income on behalf of the government at the time of payment of wages to the person who pays it.

With prejudice - A declaration which dismisses all rights. A judgment barring the right to bring or maintain an action on the same claim or cause.

Without prejudice - A declaration that no rights or privileges of the party concerned are waived or lost. In a dismissal these words maintain the right to bring a subsequent suit on the same claim.

Source: Jurist International

LAWS FOR everyday life



PENAL CODE DEFINES

When culpable homicide is not murder

THE term "culpable homicide" refers to an unlawful killing which is not classified as murder due to the evil intention of killing being absent. Culpable homicide is a specific offence in various jurisdictions which generally involves the unlawful killing of another with (in most relevant jurisdictions, but not all) an absence of an intention to kill. The term is also used in some other jurisdictions as an official description for the general group of offences involving the unlawful killing of a human being.

In Bangladesh, The Penal Code 1860 provides the provisions which define when culpable homicide is not murder.

The Penal Code, 1860
Chapter XVI - of Offences
Affecting The Human Body

When culpable homicide is not murder

Exception 1

Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or cause the death of any other person by mistake or accident.

The above exception is subject to the following provisos:

Firstly - That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly - That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly - That the provocation is not given by anything done in the lawful exercise of the right of private defence.

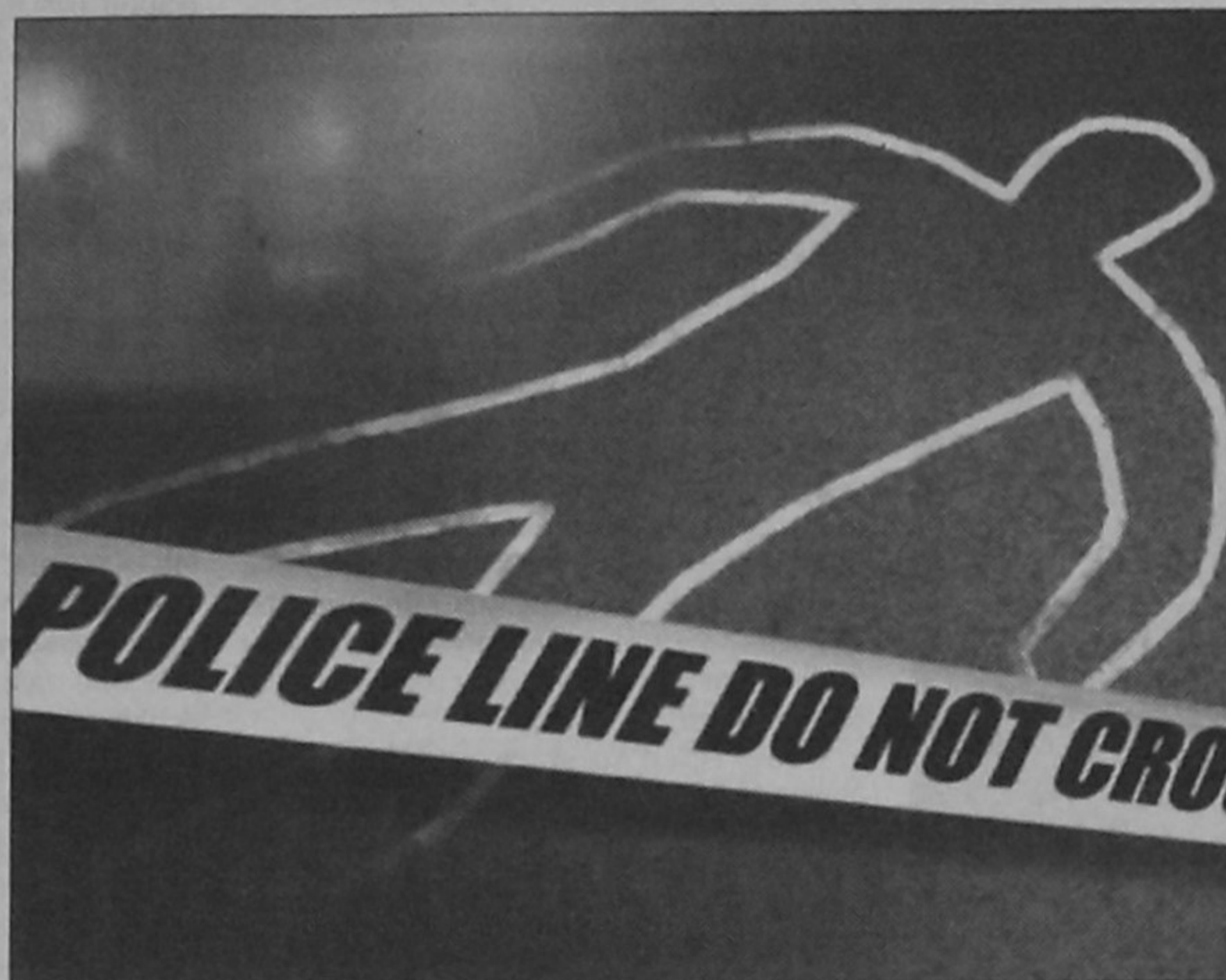
Explanation - Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the



exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(e) A attempts to pull Z's nose. Z, in exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2

Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the powers given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3

Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4

Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation - It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5

Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Culpable homicide, like murder is a form of unlawful killing. The crucial difference, however, is that if a person kills intentionally it is murder, whereas if he or she kills negligently it is culpable homicide.

- Law Desk

LAW week



Rid owner gets bail; 4 in hiding

A district court granted bail to one of the five warranted accused in a case filed against Rid Pharma Ltd. The court reissued arrest warrants against the other four absconding accused and fixed October 27 for the next hearing. Sheuli Rahman, a director of the pharmaceuticals company whose paracetamol syrup caused severe renal failure in children and claimed 28 lives so far, appeared before Brahmanbaria District and Sessions Judge AFM Mustofa, appealing for bail. Sheuli, also wife of Rid Pharma Managing Director Mizanur Rahman, earlier got six months' anticipatory bail from the High Court. -The Daily Star, Oct 01, 2009.

7 sacked doctors serve legal notice

Seven out of 11 terminated doctors of Bangabandhu Sheikh Mujib Medical University (BSMMU) served a joint legal notice to the BSMMU authorities seeking justice while two others applied for contractual appointments. Advocate Ahsanul Karim served the notice on behalf of Prof Matiur Rahman Mollah of Dental Department, Prof Nasim Akhter Chowdhury of Gynaecology, Prof Abul Kashem Chowdhury of Microbiology, Prof SA Khan of Transplant Urology, Jahangir Kabir of Nephrology, Prof Sayeba Akhter of Gynaecology and Associate Prof Sharif Hossain of Plastic Surgery. -The Daily Star, Oct 01, 2009.

Businessmen to grab sports

A limited company of powerful businessmen will soon take over Dhanmondi playground, earmarked in the city's master plan as a common field, to build there a mini stadium with exclusive sports facilities much to the chagrin of local residents. Dhanmondi Club, now a limited company, has been named after Sheikh Jamal, Prime Minister Sheikh Hasina's slain brother, said sources. Noted environmentalists denounced the move and said the playground is a public property, which will now serve the business interest of a group of affluent people. -The Daily Star, Sept 30, 2009.

Aman lands in jail

The Detective Branch of police arrested former BNP state minister Amanullah Aman at Zia International Airport in an attempt-to-murder case filed by one of his party colleagues. The former student leader was held as soon as he got off a Thai Airways flight from Singapore at around 1:30pm. Police took him straight to a Dhaka court which sent him to jail. The arrest sparked fierce demonstrations by a group of BNP activists disrupting traffic on Airport Road for about an hour. Police charged baton to disperse the stone-throwing protesters, said witnesses. -The Daily Star, Sept 30, 2009.

DCC hamstrung by lawsuits

Regular promotions and service confirmation of a number of engineers at Dhaka City Corporation (DCC) remain stalled due to lawsuits filed by themselves or department proceedings. Besides, most of the key positions of DCC are being held by the officials on deputation from army and civil service hampering services of the important local government body. Meanwhile, DCC's Superintendent Engineer Md Farukh Aziz was arrested from Sheikhetek Mohammadpur area on charge of brandishing firearms before his boss for promotion. Captain Taifur Mahbub of Rab-3 said they held Farukh at 8:00 pm following a general diary filed with Shahbagh Police Station on Sunday by the DCC chief engineer's staff officer. -The Daily Star, Sept 30, 2009.

Rapist goes into hiding

Police raided video stores in Pirojpur and arrested three on charge of trading in CDs containing footage of rape of a school-girl by a local leader of Bangladesh Chhatra League (BCL). The law enforcers filed a case against the three and an unspecified number of accused on charges of rape, blackmail and distribution of obscene video footage in the market, said Officer-in-Charge (OC) of Pirojpur sadar police Mir Fashiar Rahman. The police also visited the family of the victim and assured them of all legal aid and security. -The Daily Star, Sept 29, 2009.

VAT on health bill still in force

Most private hospitals and clinics are charging patients Value Added Tax, violating a High Court order, since the VAT Act 1991 is still in force. The National Board of Revenue, which looks after realising VAT from citizens, has not given hospitals, clinics and diagnostic centres any instructions to break the stalemate arising out of the contradiction between the HC order and the VAT act. NBR's Member (VAT) Mannan Patwary told The Daily Star, "We are taking steps to appeal in the court against the order since it contradicts VAT Act 1991. We will try to implement the act but the decisions depend on the court." -The Daily Star, Sept 28, 2009.

Shafiq on 1972 charter

Law Minister Shafique Ahmed said if the original 1972 Constitution revives following the nullification of the Fifth Amendment, the four fundamental state principles--democracy, nationalism, secularism and socialism--would be restored concomitantly. He said restoration of the basic spirit of the War of Liberation enshrined in the 1972 Constitution is not the end-all rather more areas under the Constitution are amendable and the government contemplates bringing about the necessary changes. -The Daily Star, Sept 28, 2009.

AL lawmaker sued for graft

Awami League lawmaker Ishak Hossain Talukder and 21 others were sued with the district court on charge of corruption and irregularities in teacher recruitment process of Fulzhur Degree College in Raiganj upazila. Dr Jinnat Rehana, lecturer of Biology department of the college, filed the case against Ishak, also chairman of the college managing committee, and other members. It is the first case against any Awami League lawmaker in the district. Jinnat in the case alleged that Ishak Hossain selected Nasrin Khatun for the post of vice-principal of the college through a 'fake examination' held on September 6. -The Daily Star, Sept 28, 2009.

SC opinion overlooked

The Election Commission is now seeking amendment to the Representation of the People Order (RPO) to empower executive magistrates permanently to try electoral offences during parliamentary polls, which goes against an opinion of Supreme Court. The EC has already asked its officials to draft proposals to this end in line with the new mobile court law, which empowers executive magistrates to impose fines and sentence an offender to imprisonment for up to two years. -The Daily Star, Sept 27, 2009.

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; e-mail: dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net

LAW event

Combating domestic violence: role of media

SADRUL HASAN MAZUMDER

BANGLADESH National Woman Lawyers' Association (BNWLA), along with other program interventions, has been implementing an advocacy campaign, which firstly aimed at influencing the policy level to enact an independent legislation to combat domestic violence and secondly to creating a community intervention to address

ment with the efforts of nearly forty organizations under the platform "Citizen's Initiative against Domestic Violence (CIDV)", which is coordinated by BNWLA. The coalition had series of consultations with different professional groups including judges and lawyers to finalise the draft.

BNWLA organised the workshop titled "Roles of Media to address Domestic Violence" recently bringing journalists of both Print and

as well the nation.

Inaugurating the workshop Advocate Salma Ali, Executive Director of BNWLA said that immediate enactment of an independent Domestic Violence is urgent, best efforts should be put to change the attitude of the society, which is not possible without functional cooperation of the Media. Emphasising on the proper implementation of laws she urged all out support from both print and electronic media to curb domestic violence in the society. She viewed that too many people continued to believe that domestic violence is a private matter between couple, rather than a criminal offence that merits a strong and speedy response.

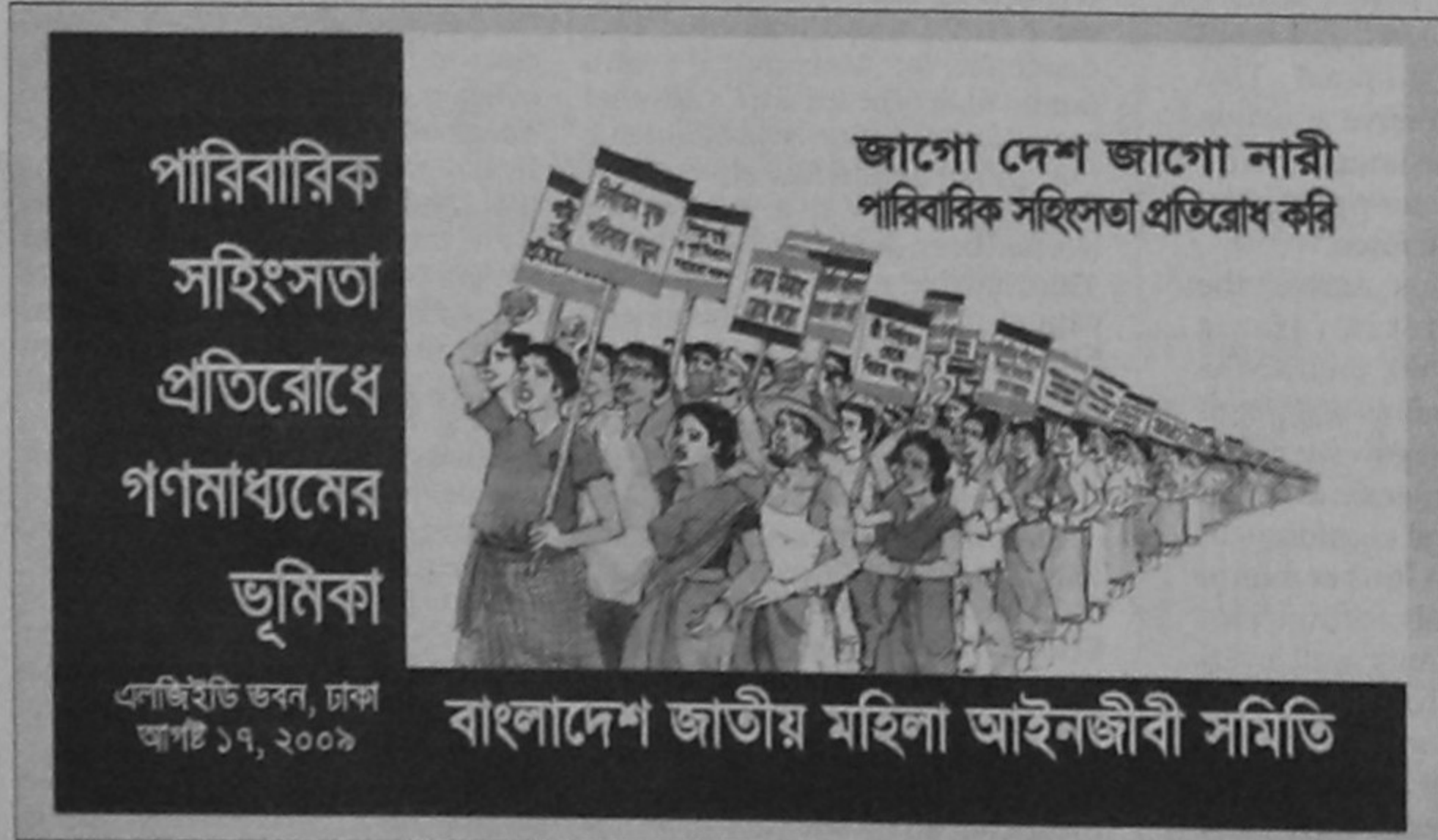
Moderated by Sadrul H. Mazumder the workshop was addressed by Maleka Begum, Gender Specialist, Dr. Farzana Islam, Professor Department of Anthropology, Jahangirnagar University, Professor Geetiara Nasreen, Department of Journalism, Dhaka University, and Nasimun Ara Huq, President of Nari Sangbadik Kendra. The participants however observed that the victims are more exposed in media than the perpetrators and in cases the contents of news on violence against women do not conform the Human Rights Standards, which makes the victims further vulnerable. The speakers opined that in most cases Domestic Violence are not recognised by the society and such gender-based violence are not always exposed in the media. The participants viewed that domestic violence exists in every cluster of the society whether rich or poor, educated or uneducated but all those facts of violence are not exposed to the society. The participants however urged all concerned to challenge domestic violence in the next day

and inform the concerned organisations for their support. Appreciating that Media has been playing an important role in covering the incidences of violence against women, the participants opined that media only concentrate on severe incidences like murder, suicide, rape etc and urged the authority to focus of domestic violence.

Numerous researches indicate that women are not safe in their homes where they are supposed to be safest. Most women in Bangladesh suffer physical, emotional, sexual and economic violence at the hands of their intimate partners or family members, she opined. The greatest obstacle to addressing Domestic Violence is family secrecy, cultural norms, fear, shame or the community's reluctance to get involved in what is seen as a domestic affair.

The daylong workshop concluded with recommendations including, private own media should be more sensitized and they should be sincere about publishing incidences of domestic violence. A documentary should be prepared on domestic violence and telecast in electronic media. Reports covering the incidences of domestic violence should be considered as serious by the print media- and Editorial Policy should be more specific on the said issue. Journalist should be more informed by the local and national organizations about the incidences of domestic violence. Journalist should be trained on gender discrimination and domestic violence. An independent Domestic Violence Act should be enacted recognising domestic violence as offence, which will enable the journalist to report on the incidences of domestic violence.

Sadrul Hasan Mazumder is Program Manager of Bangladesh National Woman Lawyers' Association (BNWLA).



domestic violence within the community. The community program has been implemented in nine districts of the country to recognize domestic violence as offense involving the union level Standing Committee on Violence against Women. An independent Domestic Violence [Protection & Prevention] Bill 2009 has been finalised and submitted to the govern-

Electronic Media from local and national level, academics and women activists together to discuss the role of media in recognising domestic violence as offence. The participants in the workshop unanimously urged the media to be more responsive towards women and viewed that media should always portray the positive side of women's contribution in family, society