

LAW amusements



Surreal law facts

The truth is always stranger than fiction.

The dancing judge

Sir Christopher Hatton became chief justice and minister of justice of England not because of any skills as a lawyer. He was a lawyer - but he was a better partier and catching the eye of Queen Elizabeth never hurt any good Englishman's chances.

Fuller writes that after studying law, Hatton: "... he came afterwards to court in a mask, where the Queen (Elizabeth) first took notice of him, loving him well for his handsome dancing.... The queen at last preferred him Lord Chancellor of England. The gown-men, grudging hereat, conceived his advancement their injury, that one not thoroughly bred in the laws should be preferred to the place."

Queen Elizabeth affectionately called Hatton her little sheep (mouton). Hatton amassed a fortune because of the Queen's preferences - including his tenure as Lord Chancellor from 1587 to 1591 - and yet the lawyer never married, always under the spell of the flirtatious queen.

The swimming judge

Lancelot Shadwell (1779-1850) was Vice-Chancellor from 1827 to his death in 1850, the second most senior judge of all England. One day, he was enjoying a nice, peaceful swim in the middle of the Thames River, London, near his residence at Barn Elms, when he was tracked down by two lawyers, one of which was seeking an urgent injunction.

"Go ahead", shouted the Vice Chancellor, and he continued to tread water while the two lawyers presented their cases and he, once satisfied, rendered judgment while never leaving the river.

Walford writes of Shadwell:

"... he was a fine swimmer ... (O)n more than one occasion those who came from London to see him on legal affairs had to talk to him whilst he was in the water and to receive his replies as they waited on the banks."

Source: www.duhaime.org

LAW lexicon

Admission - A statement tending to establish the guilt or liability of the person making the statement.

Advance sheets - Paperback pamphlets published by law book publishers weekly or monthly which contain reporter cases, including correct volume number and page number. When there are sufficient cases, they are replaced by a bound volume.

Adversary system - The system of trial practice in the United States and some other countries in which each of the opposing, or adversary, parties has the opportunity to present and establish opposing contentions before the court.

Source: Jurist International.

RIGHTS corner

Maternal Mortality : A woman a minute

More than half a million women die each year from complications related to pregnancy and childbirth one every minute. Most of these deaths could have been prevented. The complications are largely unpredictable, but they can be treated.

The vast majority of women who die are poor and come from developing countries. In some western European countries, one woman in 25,000 dies during pregnancy or childbirth. But in sub-Saharan Africa, the lifetime risk of maternal mortality is 1 in 26, and as high as 1 in 7 in some countries. In rich countries, a disproportionate number of the women who die come from marginalized and poor communities.

This is not only a global health emergency; it is a human rights scandal. Women have the right to life, but they are dying needlessly because of poverty, injustice and gender discrimination. Women have the right to the highest attainable standard of health, but they face financial and social barriers in access to health care. Women have the right to determine when they become pregnant, but many are denied contraception and control over their bodies.

Skilled attendance at birth and emergency obstetric care are key



to reducing maternal mortality. But in too many places health care services are of poor quality or are simply inaccessible, especially for women living in poverty and women living in remote areas.

When women living in poverty have to pay for health care, there are delays in the decision to go to a clinic or hospital, delays in reaching the facility because of time spent raising money and delays in receiving treatment once they arrive. These delays can prove deadly.

Poverty drives maternal mortality, and maternal death and injury drive families further into poverty. The women who die leave behind families struggling to survive. More than one million children are left motherless each year. Maternal mortality reflects the cycle of human rights abuse - deprivation, exclusion, insecurity and voicelessness that defines and perpetuates poverty.

The UN Millennium Development Goals are internationally agreed targets to reduce poverty. Millennium Development Goal 5 seeks to cut maternal mortality by 75 per cent from 1990 levels by 2015. However, very few countries are on track to reach this target. In sub-Saharan Africa, where the problem is most acute, progress has been negligible. Maternal mortality is not only a question of public health - it is a critical human rights issue. Women have the right to have access to services that could save their lives or prevent disabling injury in childbirth. Governments are responsible for providing those services. And governments should be held answerable if they fail to do so.

Source: Amnesty International.

LAW event

Clinical Legal Education in Iran

ARPEETA SHAMS MIZAN

It was the land of Rumi, it was Ferdousi, it was Shahnama, yet it was also more than that - it was the place which will be taking the torch forward that has been kindled in my motherland - Iran, it is the first summer school in Iran, the kingdom of Darius. This year from 23rd to 28th October the Khorasan Islamic Azad University held its first Summer School on Clinical Legal Education in Isfahan, jointly

the writer, a student, LLB 2nd year at Dhaka University and Active Street Lawyer, ELCOP.

The workshop was divided into 2 parts - one for the teachers and one for the students. The workshop for the teachers was held from 23rd to 25th October. The participants were learned senior professors and practicing lawyers of Iran. It was literally amazing to see how these fine educators, so much experienced themselves, were thirsty to learn more about the CLE. They

performed a number of small role-plays which simultaneously entertained the students, motivated them to be more interactive and embedded the core message deeply on the brains of the participants.

Dr. Rahman discussed how ADR creates a Win-Win situation while in the court litigation is a Win-Lose situation where one party will always lose where "Winner takes it all". He also made a comparative study between the Iranian and Bangladeshi situation, pointing out how ADR in a society (where the social infrastructures are not too strong) leads to a more desired consequence, while court litigations often direct towards wastage of huge resources and time.

Ms. Rumana Islam and the writer together conducted sessions on Moot courts and Street Law. Ms. Islam laid down the theoretical aspects of these two topics, how moot court can be the best practical experience of a court situation a student can get before joining the Bar, while the writer discussed the topics from a student's practical and technical perspective, laying out the issues of presentation before the judges, court manners and personal skills.

Street Law was another success in Iran. While South Africa puts the best example of street lawyering, ELCOP leads the way of the concept in the Subcontinent. The writer discussed how Street Law creates future responsible citizens, sharing her personal experiences as a Street Lawyer in Bangladesh. It gave immense enthusiasm to see how the participants took active part in preparing Street Law lessons appropriate for their social structure, with flip charts, dramas and posters. Their different approaches have taught us a few new techniques which we can also implement in our Street Law programme.

The outer exposure of Iran is often distorted by the media, but when one penetrates deep inside, one shall realize the true picture is much different. In Professor Bodenstein's words: "Realized a few things after my short trip to Iran - people throughout the world, whilst differing in social approaches and belief systems, have the same basic needs and desires - the international press paints an unacceptably negative picture of a country which has a proud history and presence."

The social structure of Post-Revolution Iran is a quite rigid one: the women have to maintain a strict seclusion from the rest of the society. But that doesn't prevent them from taking a strong role in moulding the society. They are in all fields conscious about their rights, and are eager to make a difference by taking an active position in the state organ. The conversations I had with them showed how same we all are, how perfectly our dreams and thoughts harmonize! It is after all, indeed, one world with only one race!

The writer is a student of Law, University of Dhaka.



organized by Azad University, Mofid University of Qom and ELCOP (Empowerment through Law and Community People), Bangladesh.

ELCOP is the pioneer of Human Rights Summer School in Bangladesh, a 10 day residential training program intended for grooming future rebellious lawyers. But clinical legal education as a concept is rather a young one in Iran. Mofid University started its first in Iran in 1990, and since then it has been nourishing itself to turn the legal clinic into a more efficient, more pro-people institute. Last year 2 students from the Mofid University participated in the 9th HRSS in Bangladesh, and became interested in holding a similar workshop in Iran. The initiator was Professor Dr. Seyed Mehdi Allameh, director of the Legal Clinic of Khorasan Islamic Azad University. With his inventiveness, a joint venture was created among Azad University, Mofid University, Rhodes University (South Africa) and ELCOP, Bangladesh.

The team from Bangladesh flew to Iran on the 21st October, consisting of 4 members - Rumana Islam, Assistant professor of Law at Dhaka University, Dr. Rahmat Ullah (Director, ELCOP), Dr. Mizanur Rahman (Executive Director, ELCOP), and

were given small group exercises, usually intended for students, but their brainstorming was just same as of university pupils in their twenties.

The focus point for both the workshops was the same - how to strengthen the CLE to conduct efficient sessions. But the mode of grooming the lawyers were different - while the workshop for teachers focused on how teachers should train themselves to instruct the students properly, the workshop for students emphasized on how a student should change his/her perspective as to the intrinsic meaning of clinical legal education in order to train himself/herself into an efficient lawyer right from the period of the Student hood. The sessions included discussions on client interviewing, ADR, Family laws, Mock trials, Moot courts, Street law, Drafting etc. The final day had a daylong session on Forensic science conducted by the Iranian Professors.

Professor Jobst Bodenstein from South Africa and Dr. Mizanur Rahman from Dhaka University made excellent illustrations of various modes of client interviewing, emphasizing on the sole point that if the lawyer fails to show the integrity, the client will never open up himself and the whole story will remain untold. They

RIGHTS watch

Who are the victims of human trafficking?

"THE other girls and I were arrested over and over for prostitution. Never did the police or prosecutors ask us if we were trafficked. Never did they offer us help and protection."

These were the words of Kikka Cerpa, speaking at the United Nations in New York, as she told the harrowing story of how she survived being a victim of human trafficking.

"I am telling my story to help other trafficking victims around the world," she said. "We need to train police officers and prosecutors so they can identify and protect victims."

"When I asked the policeman to help me, he told me my 'boyfriend' would give me a ride home," said Rachel Lloyd. This was despite the fact that she was nowhere near home but in another country entirely, with no shoes, no passport, no money and no way to escape from her 'boyfriend' who was in fact forcing her into prostitution.

Rachel and Kikka were not only victims of trafficking but were also denied the protection and assistance they needed because they were not seen as victims. "Who's going to believe a whore?" asked Kikka rhetorically, pointing to the paradox of their situation.

They, together with other victims who were trafficked for sexual and labour exploitation, were testifying at the special UN event "Giving Voice to the Victims and Survivors of Human Trafficking" in the hope that governments will do more to prevent human trafficking and to help the survivors.

But governments are not paying adequate attention to the need for properly identifying victims, according to Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons. This is despite the ready existence of toolkits and training manuals that could be utilised to train law enforcement and other officials.

"The first step in providing trafficked victims with protection and assistance is their proper identification," the Special Rapporteur told the UN General Assembly. "Failure to do so leaves the victims open to being charged or prosecuted for their activities."

Unfortunately, "in some cases, victims are simply treated as criminals and arrested and deported with no opportunity to be identified and provided with the necessary assistance," she said. In addition, "screening procedures sometimes woefully fail to respect the rights of the victims to privacy and confidentiality."

Trafficking itself violates the most fundamental of our human rights: "the right to life, to equality, dignity and security; the right to health; the right to freedom of movement, freedom from violence and abuse; and the right to be recognised as a person before the law," said High Commissioner for Human Rights Navi Pillay.

"These are rights to which every human being is entitled, without discrimination." Speaking at the special UN event organised by her Office featuring the testimony of four survivors of human trafficking, Pillay said that trafficking involves practices prohibited in every country including slavery, debt bondage, forced labor and sexual exploitation.

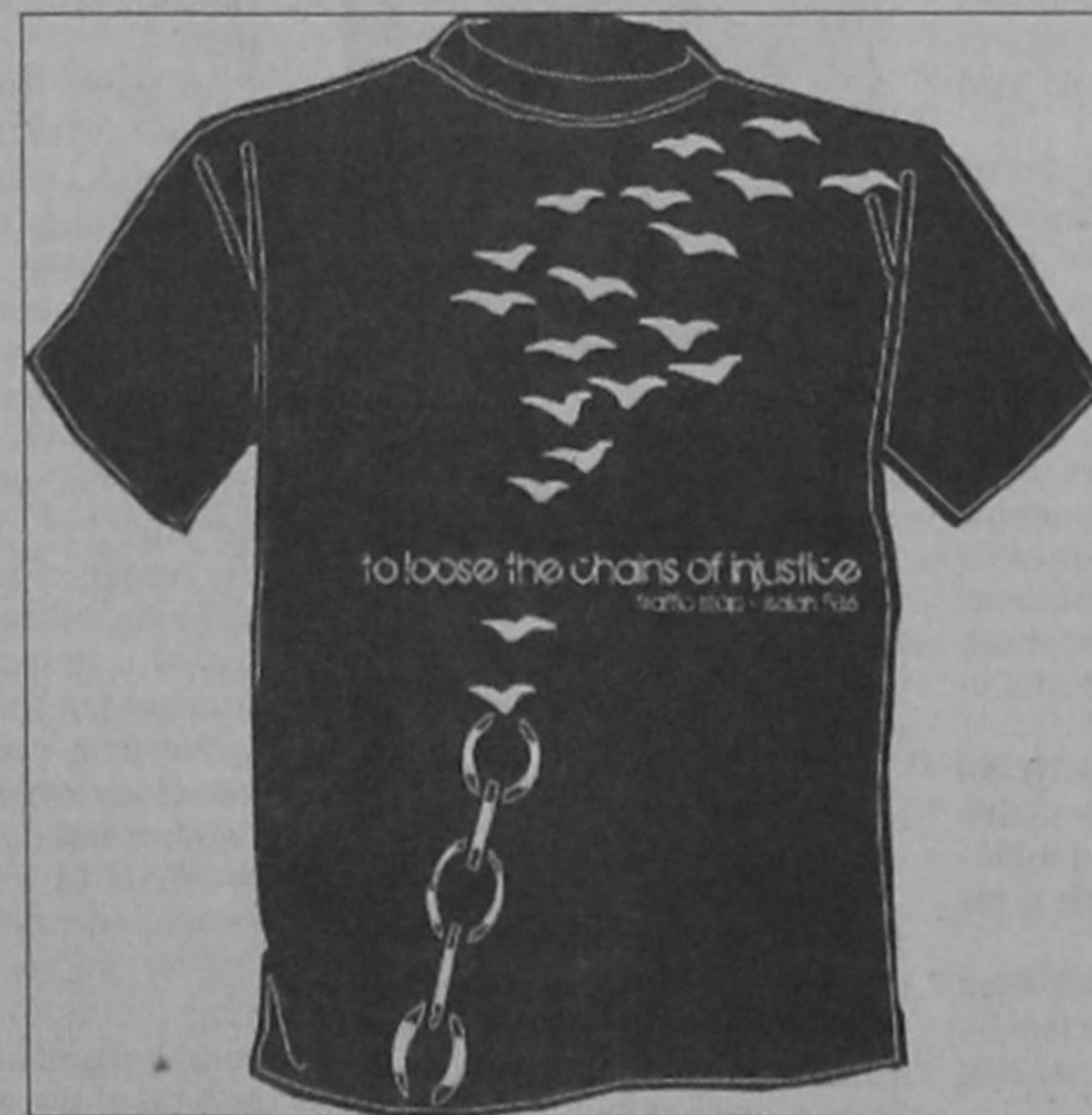
"Trafficking in persons has reached devastating dimensions worldwide," said Ruchira Gupta, journalist and anti-trafficking activist, who moderated the special event. "In the last 10 years the

nature and scale of trafficking has undergone a dramatic change."

"Although available statistics are limited and contested, the existing data has served to highlight that the numbers of trafficked individuals have gone up and the ages of the trafficked have come down." Worldwide, about 20% of trafficked victims are children and the majority of those trafficked are women and girls. It is estimated that the number of enslaved persons as a result of trafficking at any given time in the world today is 12.3 million. This is more than the number of people held in slavery in the 19th century, Gupta observed.

"One of the main reasons for the spurt in trafficking in this decade is the demand for trafficked people," she said, "from end-users to those who make a profit from the trade. End-users are buyers of trafficked people and traffickers - those who make a profit from selling people - pimps, recruiters, sweat shop and brothel owners."

"We need to address the 'root causes' of trafficking," said the High Commissioner. "Likewise, we must shed light on the 'demand' side of trafficking, particularly on those social, political and economic



forces that develop and sustain a market for trafficking."

"Any serious attempt by the international community to respond to trafficking must acknowledge that this practice is the hidden, shameful part of a broader global market in which all of us are, in some way, involved," she said.

Source: Office of the High Commissioner for Human Rights.

LAW week



Justice delayed, justice denied

- Over 2,000 children killed by toxic paracetamol between 1980-92
- Corruption sabotaged the criminal cases
- Never-ending High Court stay orders prevent cases coming to trial
- Families kept in heart-breaking wait for justice in one of the worst ever crimes
- One case reopens today upon STAR inquiry; one company was not even prosecuted, two other cases stuck in stays, another acquitted

Manufacturers of adulterated paracetamol syrups, which caused the deaths of as many as two thousand children sixteen years ago from fatal kidney disease, have escaped punishment due to an extraordinary combination of corruption and mismanagement in the Directorate of Drug Administration (DDA) and other government agencies, an investigation by The Daily Star reveals. - *The Daily Star, November 11, 2008.*

Govt told to suspend all WB-funded projects

The World Bank has asked Bangladesh to put on hold all local procurement activities under WB-financed projects since the amendments made to the Public Procurement Act (PPA) 2006 are not consistent with its procurement guidelines. In a WB letter to Finance Minister AMA Muhi, the WB has suggested that Bangladesh government "temporarily" suspend all local procurement activities under projects financed by WB until the financing agreements concerned are "amended with agreed new parameters" in order to minimise any possible disruption in project implementation. - *The Daily Star, November 11, 2008.*

AL constitution still not RPO-proper

The Election Commission (EC) decided to ask the ruling Awami League (AL) to further amend the party constitution as it still contains provisions in conflict with the Representation of the People Order (RPO). It also decided to ask three other parties - Liberal Democratic Party (LDP), Samyabadi Dal and Jatiya Party (JP-Manju) -- to include new provisions in their constitutions to meet the criteria for registration, EC officials said. - *The Daily Star, November 10, 2008.*

Judges must not become CMLA

Attorney General Mahubey Alam urged the Supreme Court to pass some observations so that none of the SC judges becomes the Chief Martial Law Administrator (CMLA) in future in order to uphold the constitution and democracy. Without citing the name of then chief justice Abu Sadat Muhammad Sayem, he said an SC judge had become president and the CMLA violating the constitution and democratic principles after the assassination of president Bangabandhu Sheikh Mujibur Rahman in 1975. - *The Daily Star, November 10, 2008.*

Moshtaque was key plotter

Khandaker Moshtaque Ahmed was the most-heinous betrayer, hypocrite and deceiver in the history of the world as he conspired to kill the father of the nation under whose shelter he was doing politics, the attorney general (AG) told the Supreme Court. Moshtaque was the biggest beneficiary of the killing of Bangabandhu Sheikh Mujibur Rahman since he became the president of Bangladesh after the incidents of August 15, 1975, said AG Mahubey Alam. - *The Daily Star, November 9, 2008.*

Anti-crime drive counts more on unwanted means

The present government believes, like its predecessors, that "crossfire", "encounter" and "gunfight" are effective means to combat criminals, especially outlaws, home ministry sources said. As a result, extra-judicial killings continue unabated despite widespread criticism by human rights organisations. There have also been instances of killing wrong people, often innocent, just because of flawed tip-offs from Rab's sources. The death of Kaiser Mahmud Bappi is a clear enough evidence of this. Rab picked Bappi after a source had identified the BCom graduate as a notorious criminal. The elite force killed Bappi in its own controversial style on September 9. - *The Daily Star, November 9, 2008.*

Bashundhara's out-of-court settlement bid rejected

The National Board of Revenue (NBR) didn't accept the appeal of Bashundhara Industrial Complex Ltd for negotiating their tax-evasion case outside court, as the company's owners have already been convicted while on the run abroad. Official sources said the NBR in its 20th board meeting held with its chairman Dr Nasiruddin Ahmed in the chair stopped short of entertaining the company's plea. The NBR sources said the meeting ended inconclusively without a decision regarding the Bashundhara issue, which was on top of the meeting agenda. - *The Daily Star, November 9, 2008.*

149 out on bail, stay ominous

Law enforcers fear around 150 suspected or convicted militants who are now out of jail may embrace militancy again as there were no motivational programmes in the prisons. Police sources say 149 of those released either on bail or on completion of jail terms were arrested on charge of their link to banned Islamist outfit Jama'at ul Mujahideen Bangladesh (JMB). The sources add some of them were acquitted of the charges as investigators either did not get any evidence of their involvement or failed to prove the charges in the court. - *The Daily Star, November 8, 2008.*

Cell phone crime goes unabated

All efforts of detectives to track down criminals involved in extortions and issuing various threats over cellphones are going in vain due to their use of fake registration for mobile SIM cards and fake international mobile equipment identity (IMEI) numbers. Despite rise of extortions and death threats using cellphones by criminals, law-enforcers and Bangladesh Telecommunication Regulatory Commission (BTRC) can do nothing against them as the authorities concerned can only lock those SIMs. Detective Branch (DB) officials said they were forced to request the BTRC authorities for taking immediate measures to deal with the problem when it turned alarming. - *The Daily Star, November 8, 2008.*

Lawmakers form action group on climate change

Lawmakers from coastal constituencies formed "Bangladesh Climate Change Action Group" in a move to address the adverse impact of climate change. "People in the coastal areas are bearing the brunt of natural disasters that prompted us to form the forum in the face of the inevitable consequences of climate change," said ASM Firoz, whip of parliament and an elected member from Patuakhali. Firoz has been selected as convener of the forum. The group is expected to have around 50 members, all elected from the southern region. - *The Daily Star, November 7, 2008.*

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: ds_lawdesk@yahoo.co.uk, lawdesk@thedailystar.net