

LAW amusements



Surreal law facts

The truth is always stranger than fiction.

The hanging judge

Benedict Carpzow (1595-1666) was a criminal law professor at the law school at Leipzig but it was customary for law professors to also sit as judges. He became the most prolific death penalty judge that ever lived. He signed more than 30,000 death warrants, most against women convicted of witchcraft. In his 45 years as a judge in Leipzig, Germany, that equals 450 a year.

As a law professor, he convinced Germans that for witchcraft, suspects could be readily tortured based on suspicion.

Ironically, Carpzow was a devout Protestant who went to church regularly and his favourite book, the Bible and his favourite passage must have been Jeremiah 21:12 "administer justice every morning".

Last meal: cake

Frances "Frankie" Silvers lived with her husband Charlie near the Toe River, North Carolina.

For reasons that have never been explained, Frankie killed her husband while he snoozed in front of a fire at around Christmas, 1831. Then, she cut up and burned the body.

Suspicious family members searched the farm and found bits of teeth and rotting internal organs. Frankie was arrested and faced a North Carolina law that denied her the right to testify. She was sentenced to be hung while her lawyer confidently told the press that "they don't hang women" (in N.C.).

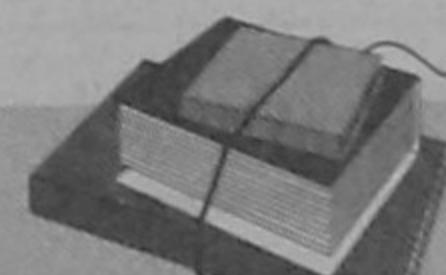
Just before her date with the hangman, she managed to escape from prison but was quickly caught.

Her last request was for a piece of cake which on the gallows on July 12, 1833, in full view of the spectators that had come for miles to witness the execution, she slowly ate, while the executioner waited. A popular ballad came out after her death known as Frankie Silvers.

She remains the only woman ever hung in North Carolina.

Source: www.duhame.org

LAW lexicon



Admonish - To advise or caution. For example the court may caution or admonish counsel for wrong practices.

Adversary proceeding - One having opposing parties such as a plaintiff and a defendant. Individual lawsuit(s) brought within a bankruptcy proceeding.

Adverse possession - Method of acquiring real property under certain conditions by possession for a statutory period.

Affiant - The person who makes and subscribes an affidavit.

Affidavit - A voluntary, written, or printed declaration of facts, confirmed by oath of the party making it before a person with authority to administer the oath.

Affirmation - A solemn and formal declaration that an affidavit is true. This is substituted for an oath in certain cases.

Affirmative defence - A defence raised in a responsive pleading (answer) relating a new matter as a defence to the complaint; affirmative defences might include contributory negligence or estoppel in civil actions; in criminal cases insanity, duress, or self-defence might be used.

Source: Jurist International.

RIGHTS corner

Slums: Human rights live here

More than 1 billion people across all continents live in slums. These communities, characterized by inadequate housing, lack of basic services, overcrowding, and high levels of violence and insecurity, are also places where residents live, work, and raise their children. Yet, many governments are failing in their duty to protect the rights of these people.

Global slum populations are growing at alarming rates. Disinvestment in rural areas, conflict, natural disasters, climate change, forced evictions and corporate land grabbing continue to force people to migrate to cities where affordable housing is scarce.

People living in slums experience a staggering number of human rights violations. They are routinely denied their right to adequate housing, safe water, sanitation and drainage, electricity, health and education, and face the constant threat of police and gang violence, and forced eviction.

Slum residents pay disproportionately high rents because rent control legislation is rarely imposed in areas considered by the authorities to be "unregularised". Access to justice is denied because of discrimination and residents have no say in the upgrading of homes or services.

The absence of health facilities and schools within many slums severely restricts access to health care and education. Malnutrition and child mortality rates in slums often match rural areas.

Many urban residents in the developing world lack legal papers guaranteeing security of tenure, increasing their susceptibility to forced eviction and restricting access to services and formal employment. Often, people who live in slums without official documentation are also denied the right to vote.

Forced evictions are a violation of human rights and often result in people losing their possessions, social networks, and access to work and services. Mass forced evictions are increasingly carried out by governments so that slums can be cleared for urban development, city beautification or national projects, such as the Beijing Olympics.

Women are particularly vulnerable in slums, where lack of facilities place them at greater risk of sexual assault and harassment, and where the reporting of domestic violence is often not treated seriously by police. Property law also frequently discriminates against women.

The negative perceptions of people living in slums have contributed directly to a serious deterioration in public security in these communities. In Brazil and Jamaica, this failure by the state has allowed criminal gangs and drug factions to dominate virtually every aspect of life.

Governments have failed to address these issues at both national and international levels. Amnesty International is calling on governments to end forced evictions, ensure equal access to public services for people living in slums, and ensure their active participation in all plans directed at slum upgrading.

Source: Amnesty International.

YOUR Advocate



This week your advocate is Barrister Omar Khan Joy of the Supreme Court of Bangladesh and Head of 'The Legal Counsel'. His professional interests include commercial law, corporate law, family law, land law, constitutional law, banking law, arbitration and intellectual property laws. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.

Reader's query

I joined a company few years back and have been thinking about paying my income tax. Could you please suggest where and how I can get help? I am afraid of lawyers, as my friends have warned me in case of income tax sometimes the lawyers can mislead you.

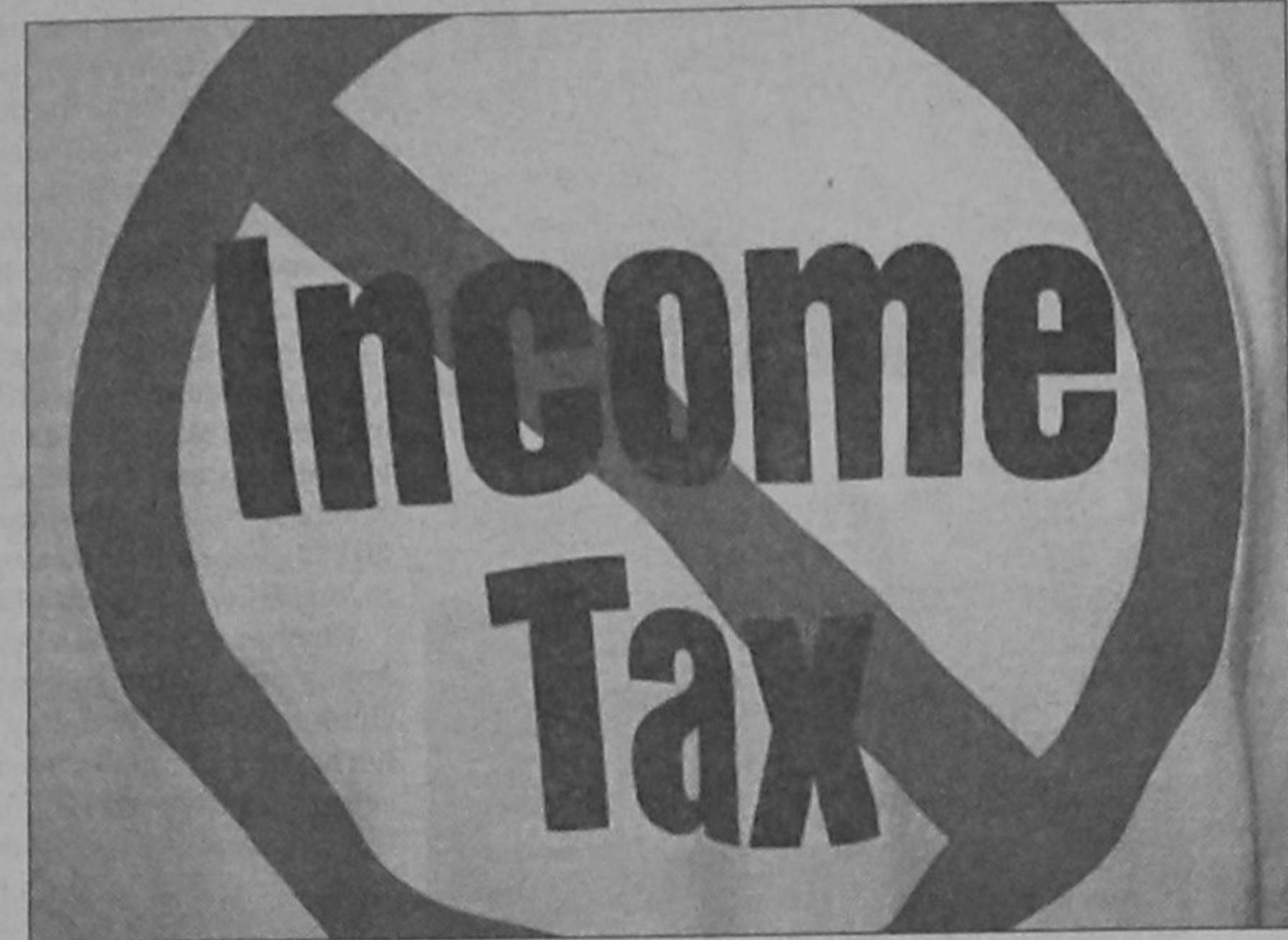
I don't feel comfortable doing the whole process by myself cause I think it is really complicated. Please suggest.

Thanks
Sabrina, Gulshan-1

Response

Dear Sabrina,

Thanks for writing to Your Advocate. I am very glad to know that you are desirous to pay the income tax. Despite the fact that it is a legal obligation, it is a matter of great regret that many people of our country are still ignorant on this income tax payment obligation and many are just intentionally not paying the same. Since you are employed for few years now and have been earning salaries, you are strongly advised start payment of income tax without any further delay. So far as the lawyer's involvement is concerned, I am not saying that your friend was wrong, but he was not right either. Lawyers are there to help you out with your legal issues and to protect, defend and support your legal rights. There are some very good income tax lawyers, who will certainly help you in paying your income tax and submit your return in the appropriate manner. However, if you are willing to do it by yourself, then you can collect the assessment form from the income tax office and can do the self-assessment of your taxable incomes and make the payment of tax accordingly. If you have never paid income tax before, then you will first have



to have a TIN (Tax Identification Number) to pay the tax. You are advised to collect a certificate/reference letter from your employer stating, inter alia, your name, designation, monthly salary, joining date etc. This will be needed for opening the TIN. As per the law, your employer's office is supposed to deduct income tax from your salary every month while paying the same to you. Some portion of your salary may be exempted from tax liability. Your employer's office shall make the proper calculation while deducting the tax from your salary. In such a case they will make the payment of the tax deducted from your salary and will provide you with a 'tax certificate' by June-July each year certifying that the stated amount has been deducted from your salary and has been deposited to the government treasury stating the challan number. If this is so, then you are already paying tax on your income generated from your salary and you will just have to submit the return annually enclosing the said certificate provided by your office. If your office is not deducting the tax while paying you the salary as per law, then please request them to comply with the law and to deduct the tax. Meanwhile, you can do the self-assessment of your taxable income. Please note that while doing the assessment, you will have to take into account not only your salary but also any and every other income that you generate in Bangladesh. I hope that the above explanation will help you to instruct and deal with an income tax lawyer and/or to pay the income tax by yourself.

For detailed query contact omar@legalcounselbd.com

HUMAN RIGHTS monitor



Internally displaced need more protection, says ICRC



MORE action is needed to assist and protect people displaced within their own countries by armed conflict, the International Committee of the Red Cross (ICRC) said November 12, 2009.

Unveiling a special report on internally displaced people (IDPs), the ICRC drew attention to the fact that most displaced people do not end up in camps but are taken in by host communities and families.

Launching the report, ICRC President Jakob Kellenberger described internal displacement as one of the most serious humanitarian consequences of armed conflict and other violence worldwide. He said many of the estimated 26 million* internally displaced people endured extreme hardship, including direct attacks, ill-treatment, sexual violence and the loss of their property or livelihood, and that many displaced were forced to leave their homes because of violations of international humanitarian law committed by conflict parties.

"When people think of internally displaced people they automatically think of tents and camps. Yet the report shows that huge camps like Gereida in the Darfur region of Sudan, which hosts around 148,000 people, are but one part of the problem," said Mr Kellenberger.

"The focus on camps means that what happens to the majority of displaced people who seek refuge with host communities is often ignored," added the ICRC president. "In Pakistan, for example, the vast majority of the two million people displaced by the fighting this year did not go to camps. The report argues that these people are often the most vulnerable as they rely on the support of host communities that may already be extremely poor. The challenge, therefore, is to help not only the displaced but also the people who take them in."

Mr Kellenberger said the ICRC was in favour of setting up camps as a temporary measure to address urgent needs. However, he added that the ICRC's experience had shown that camps often create new problems that compound the vulnerabilities and risks facing displaced people. According to the ICRC president, camps can promote dependency and

discourage the displaced from returning to their homes when conditions permit. In addition, tensions may arise between camp residents and people in nearby communities who do not enjoy services like those provided in the camps.

The ICRC considers it important to help displaced people to resume their normal lives and preserve their independence and livelihood. The aim of enabling them to live as nearly as possible as they did prior to displacement is most likely to be achieved in host communities.

"The aim of this report is to call on the government authorities and conflict parties concerned, and on humanitarian organizations and donors, to look beyond camps. They should pay more attention to the needs of the majority of displaced people and the communities that host them outside of camp structures," said Mr Kellenberger. "We also appeal for greater respect for international humanitarian law as a means of preventing displacement and enhancing the protection of those who have had to flee their homes."

The findings of an opinion survey carried out by the ICRC in eight countries, published in a report entitled *Our world*. Views from the field, show that over half of those directly affected by armed conflict have been displaced. The survey reveals that displacement, separation from family members and economic hardship are among the most common experiences and greatest fears of those surveyed.

In 2008, some 3.77 million internally displaced people benefited from humanitarian activities carried out by the ICRC, often in partnership with National Red Cross and Red Crescent Societies, in 36 countries including Afghanistan, Colombia, the Democratic Republic of the Congo, Georgia, Pakistan, the Philippines and Sudan. From January to May 2009, 1.4 million benefited. The ICRC provides displaced people with food and essential household items, livelihood and agriculture support, and emergency water, sanitation and health-care services.

*Number of people internally displaced by conflict or violence as of December 2008 according to an Internally Displaced Monitoring Centre estimate.

Source: International Committee of the Red Cross Press release.

LAW week



12 to die for killing Bangabandhu, family

The Supreme Court on upheld the High Court verdict that confirmed death sentences of 12 retired and dismissed army men in Bangabandhu Sheikh Mujibur Rahman assassination case. The five-member bench comprising Justice Md Tafazzul Islam, Justice Md Abdul Aziz, Justice BK Das, Justice Md Muzammel Hossain, and Justice SK Sinha delivered the verdict dismissing the appeals filed by five convicts against their death sentences in this case. In his immediate reaction to the justice, chief counsel for the state Anisul Huq told *The Daily Star*, "The nation has got the justice." - *The Daily Star*, November 19, 2008.

Security tightened around SC

The government has deployed several hundred law enforcers on and around the Supreme Court premises to effect foolproof security for the historic judgment proceedings at the Appellate Division. Close-circuit cameras have been installed at different corners. From two monitoring rooms set up at the entrances to the apex court, security personnel are keeping a close watch on the movement of the people. A five-member special bench that has heard for 29 days the appeals by five death-row convicts in Bangabandhu murder case is scheduled to start reading out the long-awaited judgment at 11:00am at Court No.1. - *The Daily Star*, November 19, 2008.

Explain 'crossfire' in 48 hours

The High Court issued a suo moto rule asking the government to explain extra-judicial killings within 48 hours. Home Minister Sahara Khutun however claimed that no such killings are being carried out in the country. "We are not carrying out any crossfire right now. No such incident has taken place since our government assumed office," she told journalists after a special meeting on law and order at the home ministry. The High Court bench of Justice AFM Abdur Rahman and Justice Md Emdadul Haque Azad issued the rule following a newspaper report on the killings. - *The Daily Star*, November 18, 2008.

Govt asked not to pay Niko

The High Court in a verdict directed the government to refrain from making any payment to Niko, a Canadian oil and gas exploration company in Bangladesh, which probe bodies found responsible for the damage of Tengatila gas field in Chhata. As per the HC verdict, the government cannot make any payment to Niko until the case, filed by the government seeking compensation for the damage, is settled or any agreement is made between both parties in connection with the compensation. - *The Daily Star*, November 18, 2008.

River grabbing goes unabated

The High Court has issued several directives to free four Dhaka rivers from encroachment and pollution. The government too has declared a war against the grabbers, cancelling all riverbank leases. But nothing could stop these river grabbers who by their covetous acts are nearly blocking the arteries of Dhaka. They seem unstoppable. Restaurants frequented by dating couples are now sprouting up by Turag River adding to the nuisance. - *The Daily Star*, November 17, 2008.

HC asks govt to report its actions

The High Court (HC) asked the government to submit by December 12 the actions taken following recommendations by the designated commission on giving autonomy to state-run Bangladesh Betar and Bangladesh Television (BTV). The previous Awami League government had constituted the 16-member 'Commission for Framing Rules and Regulations for the Autonomy of Bangladesh Television (Radio-TV Autonomy Commission)' in September 1996. - *The Daily Star*, November 17, 2008.

Police inaction irks court

A Dhaka court asked the officer-in-charge of Brahmanbaria Sadar police station to appear before it in person by January 5 next year to explain his failure to submit reports on execution of property attachment of three defendants in a case against Rid Pharmaceutical. On October 14 this year, the court ordered the attachment of movable and immovable properties of five Rid officials -- Managing Director Mizanur Rahman, directors Sheuli Rahman and Abdul Gani, and pharmacists Mahbubul Islam and Enamul Haque -- in the case filed against them for manufacturing toxic paracetamol syrup that claimed the lives of at least 28 children. - *The Daily Star*, November 16, 2008.

6 special courts set up for trial

BDR headquarters constituted six special courts, two of them in Dhaka, as per the Bangladesh Rifles Order 1972 to initiate trials of the February 25-26 mutineers. The BDR director general will head each of the three-member courts that will have a lieutenant colonel and a major as the two other members, says a BDR press release. Lawyers nominated by the attorney general will assist the special courts, which will only conduct mutiny trial, the release says. The courts will be set up at the scenes of occurrence or near them for the benefit of conducting the trial, says the BDR press release. - *The Daily Star*, November 16, 2008.

EU not happy with rights records

The European Union might intervene to prevent human rights violations in Bangladesh unless the scenario improves, head of the delegation of European Commission to Bangladesh Stefan Frowein said. "If need be, we will intervene through dialogues and diplomatic means to defend human rights," he said at a national advocacy meeting organised by rights group Odhikar in the city. "However, we would like the Bangladesh government to address the issue at national level," he said. Frowein said that extra-judicial killings, torture in custody, cruelty, inhuman and degrading treatment are just unacceptable and no one should be subjected to any of those abuses. - *The Daily Star*, November 15, 2008.

Dubious deposits for 'destitute'

The lawmaker of Netrakona-1 constituency has reportedly been realising huge amounts of money from local contractors, coal importers, dealers in white clay, two sub-registry offices and market lessees in the name of an unregistered destitute welfare fund. Locals and sources at the LGED and the Roads and Highways Department said all contractors have to pay lawmaker Mostaque Ahmed Ruhi one percent of the money they draw against any work. Requesting anonymity, coal importers of Bijoypur LC station alleged that they have to contribute Tk 1,000 to the destitute welfare fund against each letter of credit. - *The Daily Star*, November 15, 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: dslawdesk@yahoo.co.uk, lawdesk@thelawdesk.net