

LAW amusements



Surreal law facts

The truth is always stranger than fiction.

Yerger, Yerger, Yerger, Yerger, Yerger and Yerger

In the mid-1800s, seven of the ten Yerger brothers from Lebanon, Tennessee, were practising attorneys in the state of Tennessee and Mississippi (there was an eighth brother who was not an attorney).

They were all the sons of Edwin Michael Yerger, born in Reading, PA about 1780, but who moved to Tennessee in about 1813 and included:

- Orville "Norval" Yerger who moved to Mississippi to practise law in about 1845 but moved back to Tennessee;
- Edwin M. Yerger, a well-known criminal law lawyer;
- George S. Yerger, the eldest, a prominent member of the bar in Nashville and who served as Attorney General for the State of Tennessee;
- J. S. Yerger moved to, and later served as a circuit judge in the County of Bolivar, Mississippi;
- William Yerger, the youngest, also moved to Mississippi and like his older brother, J. S., was also elevated to the bench. William lived in Jackson, Mississippi.

Noble spends 22-years in jail without trial

Leonara Christine (1621-1698) was the daughter of the Queen of Denmark but that did not stop kings in England, Sweden and Denmark from holding her a prisoner for almost 22 years.

In 1636, she was married to Corfits Ulfeldt for political reasons but in the result, they fell in love. But she and her husband had to flee Denmark to save their lives in 1651, often wandering through Europe in disguise. They managed to ransom themselves out of a first prison term from 1660-1661 by selling off most of their properties. Then the Danes formally charged Ulfeldt with treason and Christina promptly sailed to England hoping to collect on money owed to her husband by Charles II.

The English king arrested her and turned her over to the Danes. Ulfeldt escaped Danish custody with their children but not so Christina, who never saw her husband again, languishing for 22 years without trial in solitary confinement and very difficult conditions Denmark's infamous Blue Tower of Copenhagen Castle prison.

She was finally freed in May of 1685 and published her prison memoirs (Jammersminde).

Source: www.duhaime.org

LAW lexicon



Affirmed - In the practice of appellate courts, the word means that the decision of the trial court is correct.

Aggravated assault - An attempt to cause serious bodily injury to another or purposely, knowingly or recklessly causing such injury, or an attempt to cause or purposely or knowingly cause bodily injury to another with a deadly weapon.

Aggravated battery - The unlawful use of force against another with unusual or serious consequences such as the use of a dangerous weapon.

Agent - One who has authority to act for another.

Agreement - Mutual consent.

Aid and Abet - To actively, knowingly, or intentionally assist another person in the commission or attempted commission of a crime.

Alibi - A defence claim that the accused was somewhere else at the time a crime was committed.

Alien - A foreign-born person who has not qualified as a citizen of the country.

Allegation - A statement of the issues in a written document (a pleading), which a person is prepared to prove in court.

Source: Jurist International.

LAW news



UN seeks \$7.1 billion for emergency relief in 2010

The United Nations called on richer governments on November 30, to provide a total of \$7.1 billion in 2010 to fund urgent humanitarian assistance for 48 million people in 25 countries.

It was the largest sum sought for such aid, in what is known as the annual Humanitarian Appeal, since the world body started making consolidated calls for funding to tackle crises in different parts of the world in 1991.

"Our aim is to help people survive the coming year, and start working their way out of vulnerability towards the dignity, safety and self-sufficiency to which every human being has a right," said U.N. Secretary-General Ban Ki Moon.

Ban's remarks, in a foreword to the text of the appeal issued in Geneva, was coupled with a call from his top humanitarian relief coordinator John Holmes for major governments not to cut aid because of the economic crisis.

Funds collected in the Consolidated Appeal Process are shared among some 380 aid organisations, including U.N. agencies, non-governmental organisations (NGOs) and other international bodies working in the relief field.

All have worked together to compile the appeal and detail the needs of the countries and regions it targets, which include Afghanistan, the Democratic Republic of Congo, Kenya, the occupied Palestinian territories, Somalia, Sudan and Yemen.

"We are here to ask for a response to the urgent call of people whose lives have been wrecked by conflict and natural disasters," Holmes, U.N. Under-Secretary-General for Humanitarian Affairs, told a Geneva news conference.

He noted that many governments were engaged in financial bail-outs and economic stimulus packages on the domestic front, putting pressure on other budget needs.

"My most important message for you here today is that humanitarian aid should be insulated from these budget pressures," declared Holmes, a Briton.

If financial assistance for humanitarian crises were cut, he added, "the people desperately affected by the severest natural disasters and conflicts will pay the price for a recession not of their making."

The \$7.1 billion being sought for 2010, Holmes declared, "is far less than one percent of the amount spent (in developed countries) on financial bailouts and economic stimulus."

Source: UN Wire

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

My father expired in 1996. Still we have some of his savings in a well-reputed bank. My siblings are not alive and residents in different countries. As per Bank's requirement we need a succession certificate and still in 2009 we didn't make that. Could



you please advise how we can make it and collect the amount what my father deposited in Bank? Or it is too late?

We are three sisters (one lives outside of the country) and two brothers who are not alive now but their successors are present and live in different countries. Please suggest me.

Response

Thank you for asking me to provide opinion in this regard. It has been understood that your father expired in 1996. Since then almost 13 years have passed but you could not manage to obtain a 'succession certificate' yet. Please note that the requirement from the bank to produce a success certificate is certainly a valid demand from the banker's side. The bank

cannot and should not pay you or any other successor any amount from your deceased father's account without the succession certificate. You may feel relieved from your worry to some extent to learn that you can still obtain a succession certificate. The fact that 13 years have passed will not be a bar in obtaining the same. However, you are requested not to make any further delay. The more the delay the more difficult it becomes practically to obtain the said certificate. Because, delay may increase the number of successors. Your father's successor will include your two sisters, your mother, all the successors of your two deceased brothers and yourself. Further delay will widen the possibility of death of any of the existing successors and consequent increase of numbers of successors as his/her successor will also before successor of said amount.

The succession certificate has to be obtained from the Court of Joint District Judge, Dhaka under the purview of the Succession Act 1925. I understand that most of the successors of your deceased father are now staying abroad. Consequently, it may be virtually impossible that all of you will move before the court together to obtain the certificate. To meet this problem, few alternatives can be suggested. Firstly, the best course of action would be to obtain 'Power of Attorney' from all the successors whereby they will authorize you to file the application before the court to issue a succession certificate and also to withdraw their respective shares on their behalf as per the said certificate. Please note that if someone executes the power of attorney while in abroad, then he/she will have to execute the same before the designated officer of the High Commission of Bangladesh situated in that country. Thereafter, proper stamp has to be affixed after verification of the same from the Ministry of Foreign Affairs in Dhaka. Apparently, it may appear to be a cumbersome task but actually is not so difficult to execute. Alternatively, they may authorize you only to file the application for the certificate and to obtain the certificate accordingly. In such a scenario they will withdraw their portions when they will be in Bangladesh. In the most difficult scenario, if some of the successors agree to empower you as an attorney and some disagree or all disagree, in such a situation you can still process with the application. But, you have to name the disagreeing successors as the opposite parties to the case.

The aforesaid discussion on law makes it clear that it is very much possible for you to obtain a succession certificate from the court and to withdraw the money from the bank accordingly. All you need to do is to start the process with the help of your appointed lawyer. So, nothing much to be worried about!

For detailed query contact omar@legalcounselbd.com

HUMAN RIGHTS monitor



WORLD AIDS DAY

Punitive drug laws, policing practices impede HIV/AIDS response

GOVERNMENTS worldwide should take urgent action to reform punitive drug laws, disproportionate penalties, and harsh and discriminatory law enforcement practices as part of their efforts to address HIV among people who use drugs, Human Rights Watch and the International Harm Reduction Association said today, World AIDS Day. Current policies also cause needless suffering among people living with HIV/AIDS, the two groups said in a joint briefing note released today.

"The 'war on drugs' is fueling HIV epidemics among people who use drugs around the world, and condemning millions of people with terminal cancer and with HIV/AIDS to needless suffering," said Professor Gerry Stimson, Executive Director of the International Harm Reduction Association.

In many countries, drug control efforts block lifesaving HIV services to people who use drugs, even where they are legal, Human Rights Watch and the International Harm Reduction Association said. Overly strict, complex drug laws and regulations block access to cheap, effective pain medications, like morphine, relegating hundreds of thousands of people living with HIV/AIDS, and millions with terminal cancer, to suffer severe pain.

Outside of sub-Saharan Africa, as many as 30 percent of all new HIV infections occur among people who inject drugs and within sub-Saharan Africa, injection drug use is increasing. In some countries, in particular in Central and Eastern Europe and East Asia, injecting drug use is the primary driver of HIV epidemics.

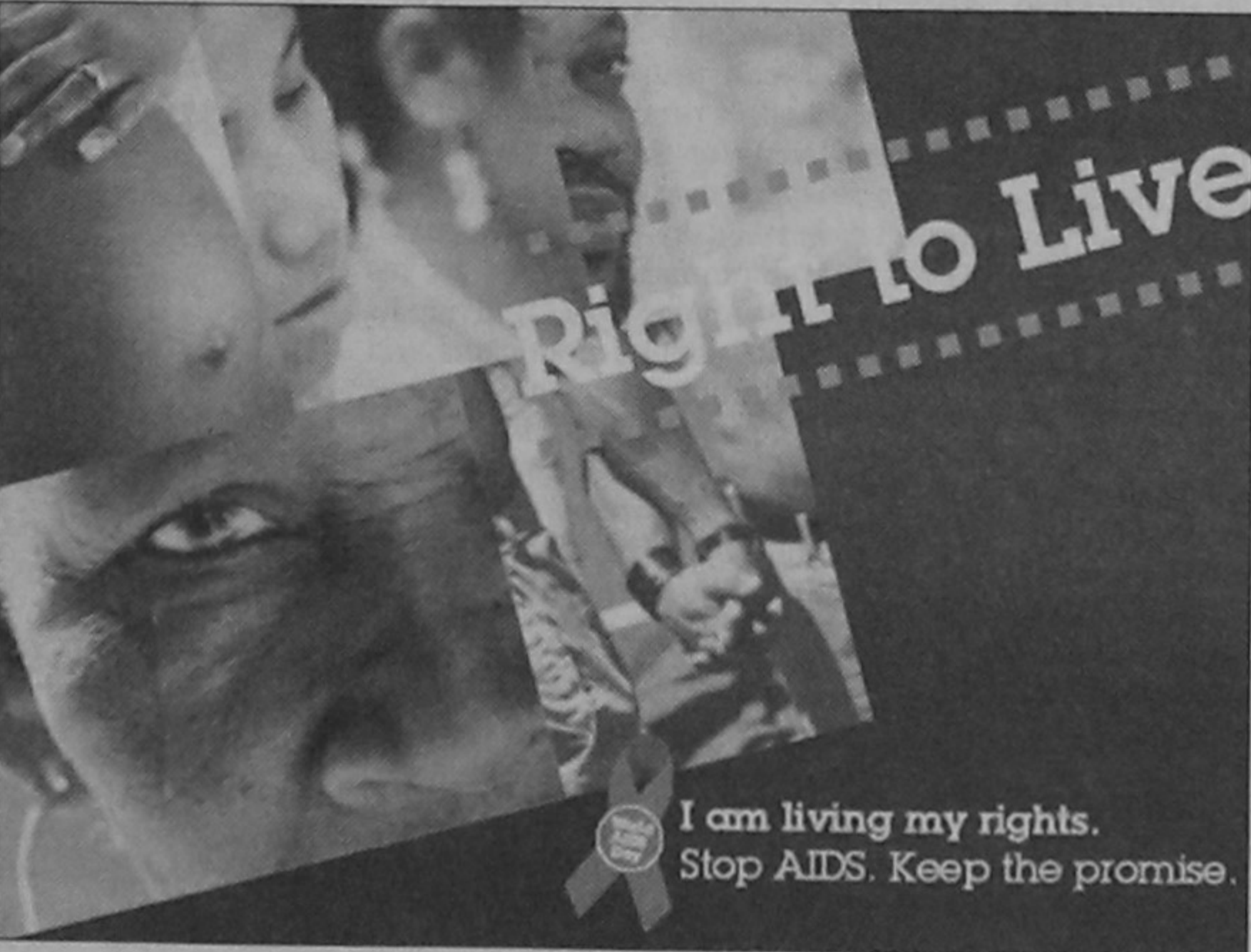
International health and drug control agencies - including the UN Office on Drugs and Crime, UNAIDS, UNICEF, the United Nations Development Program, and the World Health Organization - all endorse comprehensive harm reduction services as the best ways to address HIV among people who use drugs, including those in detention. These services include needle and syringe exchange, medication-assisted therapy (for example, with methadone), and peer outreach and education programs. Notwithstanding broad endorsement and overwhelming scientific evidence that these approaches work, they are out

of reach for the vast majority of people who need them.

In the joint briefing note, Human Rights Watch and the International Harm Reduction Association also expressed concern that criminal laws, disproportionate penalties, and law enforcement practices drive people away from lifesaving HIV services that do exist, and impede access to pain treatment for tens of millions of people who need it. Some laws concerning the possession and use of drugs, and the possession of drug paraphernalia, can keep many people who use drugs from carrying sterile syringes or other injecting equipment, even where it is legal to do so, and cause them to avoid drug treatment or harm reduction ser-

in locked facilities for "drug treatment," regardless of whether they need treatment and without due process of law. Basic medical services are often unavailable, and "treatment" often consists of forced, unpaid labor, and in some cases, physical and psychological abuse. The impact of drug control is often disproportionately focused on vulnerable groups and marginalized communities, such as African Americans in the United States.

Human Rights Watch and the International Harm Reduction Association also expressed concern that laws concerning drugs and syringe possession, together with associated policing practices targeting people who use drugs, may increase HIV risk. The organizations



vices altogether out of fear of arrest and conviction.

Laws creating criminal penalties for incitement to use drugs or facilitating/encouraging drug use likewise interfere with peer outreach services. The pressure on police officers to meet arrest quotas as a measure of success exacerbates police abuse of drug users by encouraging them to seek out easy targets, like drug users, for arrest.

In some countries, people who are identified as, or suspected to be, drug users are detained, sometimes for years,

called for greater discussion among governments and relevant United Nations agencies on these issues.

"Of course these are complex and controversial issues," Rebecca Schleifer, advocacy director of Human Rights Watch's Health and Human Rights Division said. "But we must have the courage to discuss them openly if we are to fully understand what is needed to halt and begin to reverse drug-related HIV/AIDS."

Source: Human Rights Watch.

LAW week



Tarique, Koko, Mamun sued for launch capsiz

The government has filed a case against Tarique Rahman, Arafat Rahman Koko, and their associate Giasuddin Al Mamun of Messrs Rahman Shippers Bangladesh Ltd in connection with the recent launch capsizing in the Tentulia river. The company's Managing Director Tarique Rahman and its director Arafat Rahman Koko are sons of Opposition Leader also BNP Chairperson Khaleda Zia, while its another Director Mamun is a close associate of Tarique. The company owns MV Coco-4 that sank in the Tentulia near Nazirpur launch terminal in Lalmohon of Bhola on November 27 with around 2,000 holiday passengers on board. - The Daily Star, December 3, 2009.

HC bench's orders to be reviewed

The attorney general's office has taken initiatives to review the orders passed by a High Court bench in the last six months granting bail to persons convicted and sentenced to imprisonment in different criminal cases. Sources said the High Court bench comprising Justice AFM Abdur Rahman and Justice Md Emdadul Haque Azad recently granted bail to a number of persons including 40 convicts sentenced to life term imprisonment by the lower courts in 90 criminal cases. They got bail as the attorney general's office could not properly follow the hearings and orders on the bail petitions, the sources added. - The Daily Star, December 3, 2009.

Ombudsman for good governance likely in January

The government will appoint an ombudsman by next January in order to establish good governance in the country. "We have already started looking for a competent person for the position of ombudsman to probe allegations against any government, semi-government or statutory office or organisation and recommend that the government take proper steps against them," Law Minister Shafique Ahmed said. He was talking to reporters after a meeting with Asian Development Bank Country Director Paul J Heytens at his secretariat office. - The Daily Star, December 2, 2009.

Land remains root cause of conflicts

Disputes over land, the root cause of the crises in Chittagong Hill Tracts, still exist even after 12 years of signing of the CHT Peace Accord. Indigenous and Bangalee people in Khagrachhari, Rangamati and Bandarban have had to bear the brunt of the land disputes since 1979 when the then government rehabilitated Bangalee families from the plains in the area. Locals and people concerned say only a political decision of the government after discussions with all quarters can resolve these disputes. - The Daily Star, December 2, 2009.

Canada to deport convicted Nur

The Canadian government has decided to deport Lt Col (ret'd) SHMB Nur Chowdhury, a convicted fugitive killer of Bangabandhu Sheikh Mujibur Rahman, to Bangladesh, Law Minister Shafique Ahmed told journalists. "The Canadian police have seized the passport of Nur Chowdhury since he has been illegally staying in Canada," he told a press briefing at his Secretariat office after his return from Canada. "The Canadian police have submitted Nur Chowdhury's passport to the Bangladesh High Commission in Canada in July last year. The police also kept him under a security vigil as part of deportation process," he said. - The Daily Star, December 1, 2009.

Red tape stalls HIV project

As the international community observes World AIDS Day, sources said bureaucratic tangles have stalled the HIV/AIDS Targeted Intervention (HATI) project in Bangladesh for the last 11 months. Sex workers and drug addicts in Bangladesh remain highly vulnerable to HIV infection. For the last eleven months, bureaucratic tangles have stalled the HIV/AIDS Targeted Intervention (HATI) project. An estimated Tk 10 crore worth of contraceptives and medicines are gathering dust in NGO inventories rather than being distributed to the 169,000 sex workers and drug injecting users in Bangladesh. - The Daily Star, December 1, 2009.

3 Rid officials still in hiding

A Brahmanbaria court again issued an order to attach the properties of three absconding persons accused in a case against Rid Pharmaceutical Ltd. The court of Brahmanbaria District and Sessions Judge AFM Mustafa fixed January 20 for the next date of hearing. Abdul Khayer Chowdhury, Comilla zone assistant director of Bangladesh Drug Administration, filed the case against five persons of Rid Pharma on August 11 on charge of manufacturing drugs lacking specified standards. - The Daily Star, November 27, 2009.

17 houses of indigenous people ransacked

At least five women were injured as a local influential person and his men attacked and ransacked 17 houses in an attempt to illegally evict indigenous people in Shialor village in Haripur upazila. Of the injured indigenous women, Baramai Maddi, 46, was committed to Haripur Upazila Health Complex in a critical state. Police said Abdul Alim and his men attacked the indigenous people around 11:30am and badly damaged 17 thatched houses. President of Jatiya Adibashi Parishad of Haripur unit Soniram Hemrom told The Daily Star about 50 people led by Alim launched the attack for illegally evicting them from Som Maddi's ancestral land. - The Daily Star, November 27, 2009.

175 more cases to be dropped

The government decided to drop 175 more 'politically motivated' cases. The decision was taken at the 10th meeting of the inter-ministerial committee formed to deal with cases filed with the intention of political harassment. A total of 675 cases were placed at the meeting but these included no case against BNP-Jamaat leaders and workers. Of the 175 cases recommended for withdrawal, nine are against Chittagong City Corporation Mayor ABM Mohiuddin Ahmed, one each against Jatiya Party secretary general Ruhul Amin Hawlader, Awami League lawmakers Kamal Ahmed Majumder and Ilias Mollah, and two cases each against former legislator Haji Selim and Proshika chief Qazi Faruque Ahmed. - The Daily Star, November 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; email: dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net