



LAW amusements



Surreal law facts

The truth is always stranger than fiction.

31 year sentence for a joke

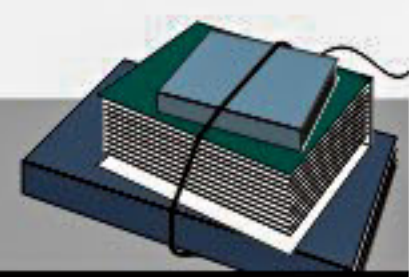
Francis Seldon (the French called him François) was imprisoned in the Bastille, Paris (pictured), for 31 years just because he had plastered a small poster criticizing his Jesuit teachers for holding the king above God.

He was only 16 at the time and a student at a Jesuit College in Clermont when the king came to visit, in 1674. The poster had embarrassed the king. Even though Seldon was from a rich Irish family, sent to France to get an education, the king issued a lettre de cachet and the young boy was arrested and secreted to the Bastille in Paris. Louis XIV (1638-1715) later issued a further lettre de cachet, this time a life sentence to the brash young Irishman, while Seldon's heart-broken parents were told that the child had just disappeared. Seldon was transferred to another prison (Îles Sainte-Marguerite) until 1691 when he was returned to the Bastille. In 1705, Seldon was freed after a Jesuit priest took up his cause in exchange for 98% of Seldon's assets (Seldon did not know he was rich). The king was finally convinced to free Seldon.

Seldon returned to Ireland broken physically but wealthy beyond his wildest imagination. His parents had died, heart-broken, but he was heir to the family fortune which had been wisely administered in his absence. He belatedly honored his contract with Jesuits.

Source: www.duhaime.org

LAW lexicon



Bail - Money or other security (such as a bail bond) provided to the court to temporarily allow a person's release from jail and assure their appearance in court. "Bail" and "Bond" are often used interchangeably.

Bail bond - An obligation signed by the accused to secure his or her presence at the trial. This obligation means that the accused may lose money by not properly appearing for the trial. Often referred to simply as "bond."

Bailiff - An officer of the court responsible for keeping order and maintaining appropriate courtroom decorum and has custody of the jury.

Bankruptcy - Refers to statutes and judicial proceedings involving persons or businesses that cannot pay their debts and seek the assistance of the court in getting a fresh start. Under the protection of the bankruptcy court, debtors may be released from or "discharged" from their debts, perhaps by paying a portion of each debt. Bankruptcy judges preside over these proceedings. The person with the debts is called the debtor and the people or companies to whom the debtor owes money are called creditors.

Source: The Jurist 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.

Query:

Mr. A is the producer of a TV serial (natok). He sold his serial to TV Channel X. Among other clauses in the contract paper between Mr. A and TV Channel X, one stated that Mr. A could not sell the serial to any other TV Channel. However, there was no clause regarding copyright rights or as such.

Please advise whether Mr. A would be able to make DVD and VCDs of his serial and put them up for sale without being in breach of the contract with TV Channel X. - Reader.

mentioned laws of the country.

The contract executed between you and X channel will be governed by the Contract Act -1972 and for getting any sort of legal remedy arising out of this contract so far it relates to enforcement of the said contract, one has to follow the provisions of Specific Relief Act-1877 (SR Act). You have stated that in the contract between you and X, there is a provision to the effect that you would not be able to sell this drama to any other TV channel and you are now desirous to reproduce it into DVD, VCD etc to sell it commercially.

contract and there is no clause in the said contract regarding copyright or any Intellectual Property Right issue. Now, the question is whether you can produce DVD and VCDs of his serial and put them up for sale without being in breach of the contract with TV Channel X. As being the producer, as per the Copyright Act, you are the owner of copyright of the drama subject to the fact that you have produced this drama as being the entrepreneur and investor of the same and you haven't any other reverse agreement with the artists of this drama so far the copyright is concerned.

As per the Copyright Act 2000, the copyright can be transmitted in two ways i.e. through license or through assignment. Please note that the license is a permission given by the copyright owner to any person for exercising the copyright owned by the copyright owner. And at the same time, being the copyright owner, he/she has every right to exercise his copyright ownership (to reproduce, copy, sell etc.) in separate or similar mode of which the license is given earlier. On the other hand, assignment is such a mode of transmitting the copyright by the copyright owner (assignor) in favor of the assignee, by which the copyright owner transfers all his rights/any individual right on the artistic work to the assignee with or without any condition.

So far I can understand, it appears that in the contract between you and X, there is no such arrangement of assignment of the copyright in question rather it is a mere license given by you to X for broadcasting the same in X channel. And, if the understanding is correct, then you have every right to reproduce it by your own in similar or separate mode and sell it to the market. But, it is strongly advisable that before going into production of the VCD/DVDs of your said drama serial, you should consult with a lawyer along with a copy of the sale agreement. There may be other clauses in the agreement, which may have contrary implications. I hope the above explanations will help you to ascertain your legal position and act accordingly.

Reply:

Thanks for your query. Upon perusal of the facts forwarded by you it appears that you have produced a drama serial and subsequently sold it to a TV channel ('X'). In the sale agreement of the said drama serial, there is a clause, which created a bar on your part to sell it to any other TV channel. But the said agreement is silent regarding the copyright of the said produced works.

Here, from legal perspective, three statutes may be of ready reference. They are the Contract Act-1972, the Specific Relief Act-1877 and the other one is the Copyright Act-2000. Now, we shall briefly discuss your issue in light with the above

Please note it carefully that if the contents of the said provision contains bar only to sell it to any other TV channel then you can sell it in the market to mass consumer as there is no such bar in the contract. But if you sell the same to any TV channel, then X-channel may sue against you and seek either compensation for breach of contract or injunction against you so that you cannot sell it to any other TV channel. But X cannot obtain any injunction against you to prevent you from selling it to anyone other than any TV channel.

Having said the same, I would now like to discuss on the Copyright Act 2000. It appears from your issue that you sold your drama to a TV channel by executing a

HUMAN RIGHTS watch

WARS AND DISPUTED ELECTIONS

Sad stories for journalists

A total of around 160 journalists in all continents were forced to go into exile to escape prison or death, often in very dangerous circumstances. The Iranian press photographers crossing the Turkish border to escape arrest or the Somali radio journalists fleeing to neighbouring countries to avoid certain death had all reported essential news and information that some people would go to any lengths to suppress.

Wars and elections constituted the chief threat to journalists in 2009. It is becoming more and more risky to cover wars as journalists themselves are being targeted and face the possibility of being murdered or kidnapped. But it can turn out to be just as dangerous to do your job as a reporter at election time and can lead directly to prison or hospital. Violence before and after elections was particularly prevalent in 2009 in countries with poor demo-

countries such as Iran and Sri Lanka. The authorities in these countries have understood that by pushing journalists into exile, they can drastically reduce pluralism of ideas and the amount of criticism they attract. "This is a dangerous tendency and it must be very strongly condemned," Reporters Without Borders secretary-general Jean-François Julliard said as this review of 2009 was released.

Number of journalists killed up by 26 per cent

Almost every journalist killed in 2009 died in their own country. The exception was Franco-Spanish documentary film-maker Christian Poveda, who was murdered in El Salvador. "Less known to international public opinion than the foreign correspondents, it is these local journalists who pay the highest price

Russian Caucasus went through a terrifying year. The witnesses to the dirty war waged by Moscow and its local allies to be "eliminated" with complete impunity included Natalia Estemirova in Chechnya and Malik Akhmedilov in Dagestan. Radical Islamist groups caused the death of at least 15 journalists worldwide. Nine reporters were killed in Somalia, where the Al-Shabaab militia carried out constant targeted killings and suicide attacks. Four of these journalists worked for Radio Shabelle, which does its best to provide news amidst the surrounding chaos. Reporters in Pakistan have increasingly been targeted by the Taliban in the northwest of the country.

Kidnappings have also continued to rise

Most cases are concentrated in Afghanistan, Mexico and Somalia. New York Times journalist David Rohde and his fixer managed to escape from the Taliban but Afghan reporter Sultan Munadi was killed in the military operation launched to rescue him.

"Three years have passed since the UN Security Council adopted Resolution 1738 on the protection of journalists in conflict zones but governments still seem incapable of protecting reporters," Reporters Without Borders said.

Other forms of violence

Journalists are most at risk in the Americas (501 cases), particularly when they expose drug-trafficking or local potentates. Asia comes next with 364 cases of this kind, chiefly in Pakistan, Sri Lanka and Nepal. The number of censored media is escalating alarmingly with nearly 570 cases of newspapers, radio or TV stations banned from putting out news or forced to close. This happened to a satirical magazine in Malaysia, a score of reformist newspapers in Iran, Radio France Internationale in the Democratic Republic of the Congo and the BBC World Service in Rwanda.

The number of journalists arrested fell slightly (from 673 in 2008 to 573 in 2009) above all because there were fewer cases in Asia. The largest number of cases was in the Middle East.

Election violence

The 30 journalists killed in the Mindanao Island bloodbath in Philippines had been covering an attempt by a local governor's opponent to run as a candidate for regional elections in 2010. Tunisian journalist Taoufik Ben Brik was imprisoned in the days following President Ben Ali's reelection, while his colleague, Slim Boukhdhir, was brutally

assaulted. Several journalists were attacked and others received death threats in Gabon following President Ali Bongo's reelection. Around six media were also temporarily shut down for reporting on the post-election violence and criticising members of the new government. Protests about President Mahmoud Ahmadinejad's controversial reelection in Iran prompted a horrifying wave of repression against the media.

Pluralist elections that should be a symbol of democracy and free expression can turn into a nightmare for journalists. State media are too often prevented from giving fair and balanced coverage of all the candidates' campaigns. Such was the case during the contentious Afghan elections and the travesty of an election in Equatorial Guinea. The most committed journalists can be exposed to reprisals from a rival camp. Media access is not always properly observed, as evidenced in provincial polling in the Tamil areas of Sri Lanka.

The most serious problems arise when results are announced. Overwhelmed by an opposition movement that was relayed online and in the reformist press, Ahmadinejad's supporters launched an ultra-violent crackdown on hundreds of journalists and bloggers, accusing them of being spies in the pay of foreigners or bent on destabilising the country.

The courage shown by journalists this year before and after elections earned them periods in custody, mistreatment and prison sentences that were in some cases extremely harsh. These post-election crackdowns should stimulate the international community to seek better ways of protecting the press after rigged election results are announced. "This wave of violence bodes ill for 2010, when crucial elections are scheduled in Côte d'Ivoire, Sri Lanka, Burma, Iraq and the Palestinian Territories" said Reporters Without Borders, which often carries out media monitoring during election campaigns.

Media on trial

At least 167 journalists are in prison around the world at the end of 2009. One would need to go back to the 1990s to find so many of them in jail. Although the UN special rapporteur on freedom of expression keeps reiterating that imprisonment is a disproportionate punishment for press offences, many governments keep laws that allow them to jail journalists, and continue to abuse these laws. The sentences given to journalists in Cuba, China, Sri Lanka and Iran are as harsh as those imposed for terrorism or violent crime.

Source: Reporters without Borders.

LAW week



First Mutiny Trial -- 9 charged

First charges were framed in connection with the Bangladesh Rifles mutiny on February 25-26 against nine soldiers at a BDR special court in Rangamati yesterday. After hearing both the prosecution and the defence, the three-member court decided to frame charges against the nine of 12 Rifle Battalion under the Rangamati Sector. The special court-4 led by BDR Director General Maj Gen M Mainul Islam adjourned its proceedings till tomorrow. The other members of the court are Lt Col Md Abdur Rouf and Maj Golam Mostafa Al-Mamun. At the beginning of yesterday's proceedings, prosecutor Lt Col Habibur Karim produced evidence against the accused before the court set at Mechanical Transport Shed at the sector headquarters. The complainant, Deputy Assistant Director (DAD) Reaz Uddin Ahmed of 12 Rifle Battalion, also presented allegations in details against the accused. After this, the head of the court asked all the nine one by one whether they were guilty or not. The accused all denied the allegations brought against them and claimed to have been innocent. - The Daily Star, December 28, 2009.

6 sued over ship blast

The owner and five labour contractors of Rahim Steel were sued in connection with Saturday's blast that left four people dead and 13 others injured at its ship-breaking yard. Sub-inspector (SI) Azam of Sitakunda Police Station filed the case under sections 285/287 and 304 on Saturday night. The accused are: Owner of the yard Mohammad Israfil and labour contractors Mohammad Alam (1), Jafor Ahmed, Mohammad Yusuf, Abu Saleh and Mohammad Alam (2). SI Azam told The Daily Star the six were sued for their negligence as they failed to ensure safety measures before the use of fire in the highly combustible oil tank that led to the explosion causing casualties at the yard. However, confusion arose over the name of the owner in the case as police wrote the name as Mohammad Israfil while the employees at the Rahim Steel Mills Company (Pvt) Limited head office in Dhaka and those at the ship-breaking yard in Chittagong identified the owner as Abdur Rahim. - The Daily Star, December 28, 2009.

Appointment of prosecutors, investigators by March for war trial

Investigators and prosecutors involved in the trial of war criminals from the 1971 Liberation War will be appointed by the government by March next year. Law Minister Shafique Ahmed made the announcement yesterday at the Judicial Administration Training Institute (JATI), after visiting the Old High Court building. The minister also confirmed that the construction of the courtroom and other offices will be completed by January. "The tribunal will be set up at the Old High Court building, which is where the chief justice of the Pakistani regime discharged his judicial functions," he said. The minister added that the existing offices of the Judicial Service Commission will be shifted to the Judicial Administration Training Institute (JATI). Replying to a question he said, "Nobody involved in the war crimes trials will be harassed for political purposes. "International organisations want the trials be held in a transparent and acceptable manner." Shafique Ahmed added, "So far, no country in the world has objected to the government's move to hold the trial of the war criminals." - The Daily Star, December 28, 2009.

No nat'l river protection commission as yet

The government may face a contempt of court charge for not constituting "National River Protection Commission" according to the High Court directives. The High Court in a verdict last June directed the government to form the commission consisting of experts concerned within three months to preserve and protect the country's rivers. The court also urged the government to make long-term and short-term plans based on the commission's recommendations. The full text of the verdict was pronounced on June 25 and published on July 15. The judgment was delivered upon a public interest writ petition filed by the Human Rights and Peace for Bangladesh (HRPB).

President of HRPB Advocate Manzill Murshid on December 25 told The Daily Star that he would take legal action against the government for not forming the National River Protection Commission in line with the High Court decision. "The High Court deadline for constituting the commission has expired about three months ago, but the government has not yet informed the court or us about its steps regarding the formation of the commission, which is similar to contempt of court," he said. He said that he would soon serve a legal notice on the government to constitute the commission in line with the High Court directives. "If the government does not respond to this, I will file a contempt of court petition with the High Court against the government," Murshid persisted.

Shipping Minister Shahjahan Khan, however, told The Daily Star on December 25 that the government has already formed a 50-member taskforce committee for protecting and developing the rivers of the country. "We will soon inform the High Court about formation of the high powered taskforce committee and seek opinion from the court about it," he said. - The Daily Star, December 30, 2009.

60 killed in 'crossfire'

Rapid Action Battalion yesterday said this year 60 people have been killed in 57 incidents in which Rab used firearms but the use was not proved unlawful in the investigation. Addressing a press conference at its headquarters, Rab Director General Hassan Mahmood Khandkar claimed that the magistrates investigated the incidents and no unlawful use of firearms in the incidents was found. "We have to use government firearms under the legal framework and after use of the arms we have to prove that the use was logical. So far I know, there is no incident where the government arms have been used illogically," the Rab chief said. He said the number of incidents relating to the use of firearms by Rab men has come down compared to such incidents in 2008 as the law and order marked an improvement. The number of deaths in 'crossfire' was 83 in 2008. The High Court issued a suo moto rule on November 17 asking the government to explain extra-judicial killings within 48 hours. The HC on December 14 expressed grave concern over persistence of extra-judicial killings as 11 people were killed in custody since issuance of the suo moto rule. Since then no such incident has taken place. - The Daily Star, December 30, 2009.

Anti-graft boss seeks fast legal proceedings

Anti-Corruption Commission Chairman Ghulam Rahman requested Attorney General Mahbubey Alam yesterday to constitute a separate High Court bench for quick disposal of graft cases. In response, the attorney general assured the ACC chief that he would bring the issue to the notice of the chief justice. The request was made during a meeting at the attorney general's office. - The Daily Star, December 30, 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

credentials.

No one should be surprised that, as bloggers and websites continue to flourish, censorship and repression have surged proportionately. There is almost no country nowadays that has entirely escaped this phenomenon. As soon as the Internet or new media (social networking, mobile phones etc) start to play a leading role in the spread of news and information, a serious clampdown follows. Bloggers are now watched as closely as journalists from the traditional media.

Our major concern in 2009 has been the mass exodus of journalists from repressive

every year to guarantee our right to be informed about wars, corruption or the destruction of the environment," Julliard said.

The year began very badly with the Israeli military offensive in the Gaza Strip. As well as refusing to allow foreign media into this territory, the Israeli government carried out military strikes against buildings housing media, in violation of international humanitarian law.

Two reporters were killed in these attacks
Journalists and human rights defenders in the