



LAW opinion

## 'Piracy' and 'plagiarism': My Experiences

SUBRATA KUMAR DAS

THE words 'piracy' or 'plagiarism' is not something much unknown to most of us though a true definition of it may not be that much available to everyone, not even to the literates. The general observation is that piracy befalls on people who have fame and popularity. But experiences say it may sometimes hover even over the unknown or less known ones. With humble approach, I want to present my experience in this regard before the readers.

We live in a country where piracy is a very common phenomenon. The whole print media has dived into it for about the last 30 years. Even the compulsory books published from the National Curriculum and Textbook Board (NCTB) get pirated without any monitoring. CDs and DVDs are no

materials on Bangla-language writers, suddenly I came across a link on Satyen Sen. Along side my own page in my web site on the novels of Bangladesh with the URL <http://bangladeshinovels.com>, the emergence of the link created huge enthusiasm in me. Clicking the link, my heart jumped up seeing a long write-up. Finding the root of the link of a national daily's from Bangladesh, I got more interested as I was, by then planning to add the link at the bottom of my own page on this veteran litterateur. But alas! What a horrendous incident!

Why was the language of that article looking the same of my own! But the name of the writer showed someone Iftakher Hossain! To cease my doubt, I opened my own write-up in a separate window that I could compare the languages of the two texts. And to my

Shamsuddin Abul Kalam, Rabeya Khatun, Shahidulla Kaiser, Satyen Sen and Akteruzzaman Elias (serialized according to publication) on dates 08 July, 22 July, 29 July, 12 August, 19 August and 26 August of 2005. The articles were simply downloaded from online, copied and sent to the newspaper for publishing, in a few cases with slight changes.

What to do in such a situation was the main question that began to torment me. Being an ordinary teacher of an intermediate college, and with little credit of writing only some books and articles, did I have that organizational capacity to take any action against that big, politically supported, publishing house? "What to do? What to... what...?"

My better half plays the best sometimes. She opined to collect the hard copies first. And as per our discussion, she went to the amazing office, bought the hard copies and brought those to my availability. Articles cent-percent duplicated and the rest a bit cut and pasted dazzled me.

In the mean time, I began forming a letter to the editor of the daily. Moreover, I posted a common mail to some of my online friends and well wishers who, Bangali or non-Bangali, residing abroad but had developed good relationship with me to get their suggestions. Shower of wise words began flooding my email boxes everyday. Most of them sympathized from the core of heart. Some detailed their own-of-the-same-sort experience in Bangladesh context. Some suggested meeting the bigwigs, even some advised to seek for legal action. But many of them politely requested not to let out any howl, as the country is Bangladesh, and as similar incidents have rarely been punished, exemplarily, in our history.

But one thing they all agreed to be done was that a letter should be sent to the editor and publisher of the news daily that they publish at least a corrigendum on the incident and that the fake writer could be exposed to people. With this view, I wrote a letter, multiplied it, substantiated it with necessary photocopies of my previously published hardcopies and sent the letters to the Editor as well as the people

responsible for the page.

What was the reaction? A few lines that were printed in the letters column saying that someone was lifting etc. Under the heading 'Highly regrettable' it read: "I am a regular reader of your magazine and consider the Weekend among the best of its kind in Bangladesh. However, here I would like touch upon an uncomfortable subject.

One of your contributors has been writing on famous Bangladeshi novelists for a number of weeks. I believe some of his writings are copied from somewhere else. As a matter of fact I found striking similarities of his pieces on Nasreen Jahan with a profile on the writer by Subrata Kumar Das which was published in another daily. I am tempted to say the matter reeks of share plagiarism. I am sure you will agree with me that the writers like Iftakher Hossain are not to be given the chance to carry on their nefarious activities in your esteemed magazine." And no further corrigendum or nothing.

When I am writing this article, on 2 January, the curiosity came to my mind if there is any further similar blunder that has befallen on my online effort. And I got one web site, without any bewilderment, called Bangladesh.wetpaint.com which has added all my thirty two articles intact from the 'Articles' link of my site. Can I request my readers to click at <http://bangladesh.wetpaint.com/page/Bengali+Articles> and prove it? Even the same pictures taken from my site that I keep enliven at the cost of my writing, patience, time and even money as well.

Do you need further examples? Let's browse <http://www.southasianmedia.net> and you will find almost all the texts added there to some of the leading personalities of literature in Bangladesh section have been lifted from Bangladeshi Novels. Especially articles on Syed Waliullah, Akhtaruzzaman Elias, Shahidul Zahir, Nasreen Jahan, are some few to mention. Should I extend my tragedy more? Please visit Wikipedia where you will find many articles on the brightest figures of our fiction zone of which very few deserve to be recognized as original.

A teacher and author Subrata Kumar Das's web site is [www.bangladeshinovels.com](http://www.bangladeshinovels.com)

LAW Tribute

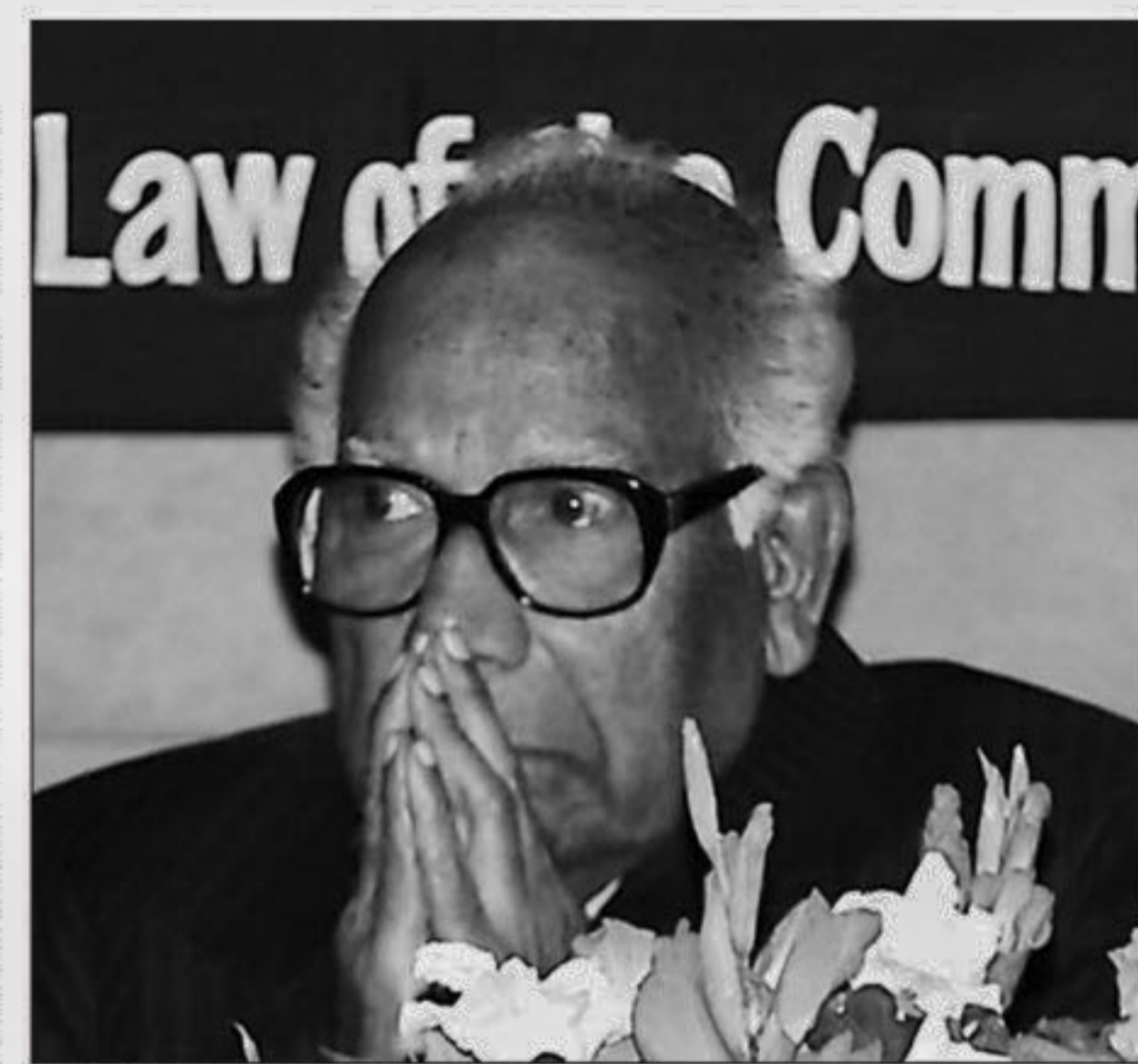
## Homage to a maverick Judge

S. M. MASUM BILLAH

TWO years passed without Justice K. M. Subhan in the legal and human rights campaign! I had the fortune to come in contact with Justice Subhan for several times. The last time I met with Justice K. M. Subhan at Human Rights Summer School organized by ELCOP on 10 December 2007 in PROSHIKA Centre Manikgonj. Justice Subhan went there to preside over the moot court session. When I met with him he inquired of my well being addressing me by name. I was startled a bit. Because I thought that he might have identified my face but recalling the name would be a remote possibility. I informed him that I was thinking to opt for judicial service. He discouraged me and said, "You are quite perfect for academic discipline." I told, "You are always campaigning for rebellious judging and lawyering then do you not think that I would be of use for that purpose?" "Good academicians are also not out of the ambit of anti-generic lawyering" - he retorted. He worked with us to imbibe a dream inside the law students to be 'rebellious lawyers' - a term with which I was struggling for a proper Bangla synonym. I asked him should its Bangla translation would be 'bidrohee ainjibi'? He smiled and said, "No, dear, it should be 'drohee ainjibi' - a lawyer who burns inside himself to battle for the causes of the poor and the deprived. Such was Justice K. M. Subhan. I did not contemplate then that we, as a last bite of 2007 (31 December 2007), would lose a refulgent star of progressive movement, a relentless campaigner of human rights and a loud voice to try the War Criminals and their aides of 1971.

I had no scope to see Justice Subhan sitting at the Bench. But the picture can be visualized from a remark while he was presiding over a moot court session. After the Counsel for the respondent had finished his submission, the Appellant's lawyer stood and deposed, "My Lord, my opponent counsel has given all his intelligence to mislead this court." Then Justice Subhan commented with anguish, "Do you think that the court is seated here to be misled?"

The justice philosophy of K. M. Subhan was simple--'people's essence is the highest law'. He believed constitutionalism should always be

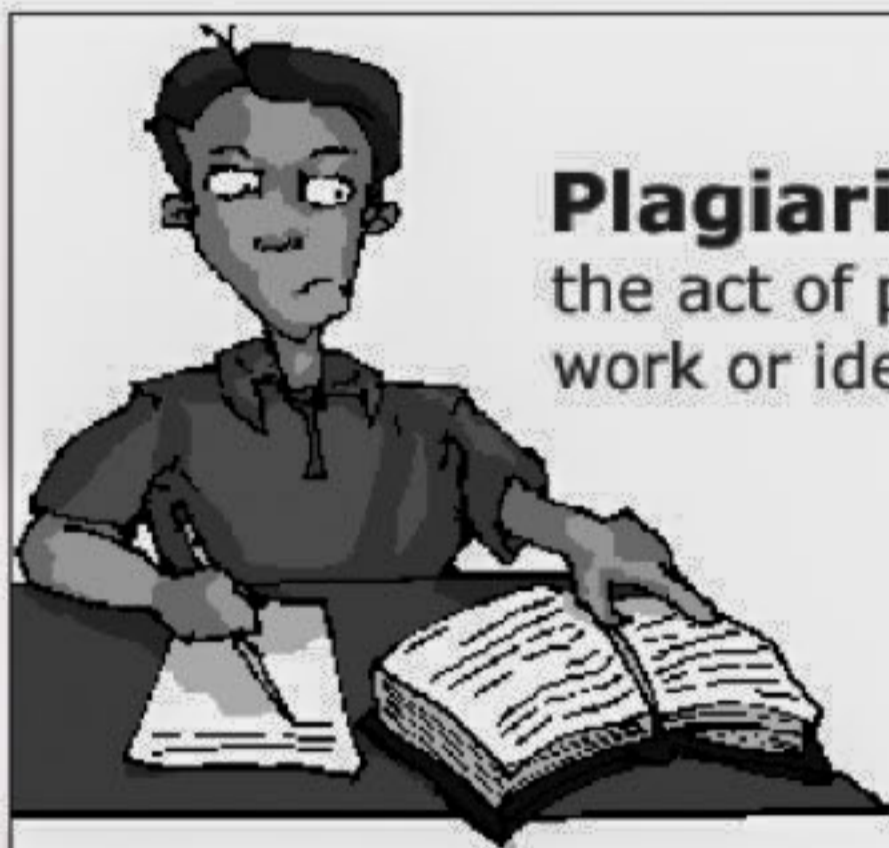


triumphant over martial law and despotism. Indeed Justice Subhan has been a name in the way of constitutionalism of Bangladesh especially when we witnessed several times the military autocracy and constitution being slandered. When at his time some other judges were competing to gratify martial law by their legal wisdom to make the constitution subservient to the military proclamations Subhan stood in the way with a difference. His strong dissenting opinion in the *Case of Hazi Joyal Abedin 32 DLR (AD) (1980) p. 129*, was a first smack on the military regime where he upheld that the quorum non-judice military courts are amenable to the jurisdiction of the Supreme Court.

In this way he, for the first time in independent Bangladesh, established the supremacy of the constitution over martial law regulations. Interestingly, the latter decisions of the Appellate Division were rendered relying on his dissenting judgment. In this sense he is a trend setter of constitutionalism in Bangladesh. Justice Subhan had to pay for 'protecting, supporting, and defending' the constitution. He was removed from Judgeship by the military rulers.

Justice Subhan dismantled himself from judge-syndrome. He could not keep himself aloof from the social movements. We would definitely miss his legal expertise in forwarding and consolidating the ongoing movement for the trials of the war criminals. But he is and would be a constant source of inspiration for human rights movement.

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**Plagiarism:** the act of presenting another's work or ideas as your own.

back runner also. Internet has helped to run after it with more cunningness. Without any hesitation we copy materials from the online sources and place those as our own. A repeated victim of such incidents is the present contributor. Might be, the source of inspiration to write the present has been aroused out of the huge growl from the government corner against any sort of piracy in the recent days.

It was around the month of September in the year 2005. During those days I had much zeal to keep myself sitting outline till midnight. Once while searching thus, with the view of finding English-language

horror, I found a replica! The same article which got published in The Bangladesh Observer Magazine on 1 August 2003, which I posted later in my site with the link!

Curiosity in me began to jump up. Has Mr. Iftakher Hossain been satisfied with the single one? One who had lifted so long a piece without any agony might have tried some more!! I started searching the novelists on whom I made articles earlier and posted in my web site, through the Google, AltaVista and Yahoo search engines.

Surprisingly, I discovered my writings credited by that great pirate on the authors including Nasreen Jahan,

LAWS FOR everyday life

## Online Banking: How to ensure secure transaction?

MD. EKRAM UDDIN KHAN CHOWDHURY and MD. IQBAL HOSSAIN

RECENTLY Governor of Bangladesh Bank declared that within very short span of time Bangladesh will enter into the Online Banking System. Bangladesh Bank offered broad use of online banking service facilitating subscribers of all the commercial banks of the country. According to that announcement, the online customers now will be able to pay utility bill from the customers' savings or daily transaction accounts. They can transfer funds to another bank as well as can trade by online. It also announced that monetary transaction within the country now is also possible through the credit card by using internet. But online transaction will pose huge threat for customers and banking system if not guided by proper legal and extra legal measures. In this short write up we will try to sum up legal and extra legal measures to ensure security of online transaction.

The IT law in Bangladesh

Bangladesh adopted Information Technology Law, 2006 for regulating Information Technology (IT) related disputes and to meet global requirements. Chapter-1, Sec-2 of the Act defines certain IT related definitions, but it has not specifically mentioned about online transaction related crime. In Part-1 of Chapter-8, Sec-54 to 67 mentioned certain acts which can be well applied in case of fraud or crime during online banking transaction.

According to sec. 54 (1) if any person, without permission of the owner or any other person who is in charge of a computer, computer system or computer network would commit crime if he: a) accesses to any computer or computer network or system, to damage data, computer database or information from such computer, computer system or computer network or provides any assistance to any person to facilitate access to a computer, computer system or computer network; b)

downloads, copies or extracts any data, computer database or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium; c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network; d) maliciously or with sound knowledge, damages or causes to be damaged any computer, computer system or computer network, data, computer database or any other programmes residing in such computer, computer system or computer network; e) maliciously or with sound knowledge, disrupts or causes disruption of any computer, computer system or computer network; f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means; g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, or rules and regulations made there under; h) maliciously or with sound knowledge, without permission of sender or subscriber, having intention for marketing, spam producing or send unexpected email; i) charging the services availed of by a person to the account of another person by tampering with or manipulating any computer or computer network.

The scope of the section is rather pervasive. The above harmful acts shall be treated as 'crime'. If anyone commits any act mentioned under sub sec (1) as stated above, then he or she shall be liable to pay to the person affected compensation not exceeding Taka Ten Lack or imprisonment not exceeding 10 years or both. Again in sec. 56(1) of the Act states that if any person occurred any act with malice and having sound knowledge that the act will be harmful for mass people or any specific person (natural or legal) and access to any computer or computer network or system, to



damage or change data, computer database or information from such computer, computer system or computer network and tempering or manipulating any data, computer database or information of any computer system or computer network, for which its utility and purpose will be destroyed or having possibility to be destroyed. (2) or accessed to any computer network or system where the is not authorized to access and cause damage that computer system or network; then the act shall be treated as 'Hacking' and the punishment of this type act is fine which is not exceeding taka 1 crore or imprisonment, which is not exceeding 10 years or both.

Sec.66 attempts to define crime which is committed by using computer or computer system or network. As internet is a borderless world, anyone from any territory can commit crime. In this case, juris-

prudence, applicable law and recognition of foreign judgment will be vital factor to try a foreign subject. Sec.4 of the 1st Chapter of the IT Act briefly describes about cross border issues. However, it should be mentioned that concerned Court and police officer should have sound IT knowledge to deal with IT related crime. But the most important thing to prevent online transaction related crime is to increase awareness among the users and online banking service providers regarding some potential threat and good practices to avoid these threats.

Types of electronic fraud

Several types of electronic fraud specifically target online banking. Some of the more popular types are as follows: **Phishing attacks**- use fake email messages from an agency or individual pretending to

represent your bank or financial institution. The email asks you to provide sensitive information (name, password, account number, and so forth) and provides links to a counterfeit web site.

**Malware**- It is the term for maliciously crafted software code. Special computer programs now exist that enable intruders to fool you into believing that traditional security is protecting you during online banking transactions.

**Account information theft**- Malware can capture the keystrokes for your login information. Malware can also monitor and capture other data you use to authenticate your identity (for example, special images that you selected or "magic words" you chose).

**Fake web site substitution**- Malware can generate web pages that appear to be legitimate but are not. They replace your bank's legitimate web site with a page that can look identical, except that the web address will vary in some way. Such a "man-in-the-middle attack" site enables an attacker to intercept your user information. The attacker adds additional fields to the copy of the web page opened in your browser. When you submit the information, it is sent to both the bank and the malicious attacker without your knowledge.

**Account hijacking**- Malware can hijack your browser and transfer funds without your knowledge. When you attempt to login at a bank web site, the software launches a hidden browser window on your computer, logs in to your bank, reads your account balance, and creates a secret fund transfer to the intruder-owned account.

**Pharming attacks**- It involves the installation of malicious code on your computer; however, they can take place without any conscious action on your part. In one type of pharming attack, you open an email, or an email attachment, that installs malicious code on your computer. Later, you go to a fake web site that closely resem-

bles your bank or financial institution. Any information you provide during a visit to the fake site is made available to malicious users.

Measures suggested

All the attack types listed above share one characteristic; they are created using technology but, in order to succeed, they need you to provide information. When it comes to online banking, there is no way to absolutely guarantee your safety. However, good practices do exist that can reduce the risks posed to your online accounts. The following points may be of immense help:

- Review your bank's information about its online privacy policies and practices. By law, banks are required to send you a copy of their privacy policies and practices annually; you may also request a copy of this information.
- Before setting up any online bill payment, check the privacy policy of the company or service you will be sending payment to.
- For security purposes, choose an online personal identification number (PIN) that is unique and hard to guess.
- Install anti-virus, firewall, and anti-spyware programs on your computer and keep them up to date.
- Regularly check your online account balance for identifying unauthorized activity.
- Use a credit card to pay for online goods and services. Credit cards usually have stronger protection against personal liability claims than debit cards.
- Avoid situations where personal information can be intercepted, retrieved, or viewed by unauthorized individuals.
- If you receive email correspondence about a financial account, verify its authenticity by contacting your bank or financial institution.

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