



### LAW amusements

**Some absurd things ever said in court**  
The following questions were actually posed by real-life lawyers and are taken from official court records.

Now, in all fairness to the poor lawyers immortalised below as unintelligent, readers should be aware that recorders operate at all times in courts of law, so that the slightest inadvertence is on record for posterity.

\*Was that the same nose you broke as a child?

\*Now, doctor, isn't it true that when a person dies in his sleep, in most cases he just passes quietly away and doesn't know anything about it until the next morning?

\*What happened then?  
He told me, he says, "I have to kill you because you can identify me."  
Did he kill you?

\*Was it you or your brother that was killed in the war?

\*The youngest son, the 20-year-old, how old is he?

\*Were you alone or by yourself?

\*What is the meaning of sperm being present?  
It indicates intercourse.  
Male sperm?  
That is the only kind I know.

\*Can you describe the individual?  
He was about medium height and had a beard.  
Was this a male or female?

\*How long have you been a French Canadian?

\*How far apart were the vehicles at the time of collision?

\*Mr. Clark, you went on a rather elaborate honeymoon, didn't you?  
I went to Europe, sir.  
And did you take your new wife?

Source: www.duhaime.org

### LAW alter views

## Professional safeguards for the lawyers

DR BELAL HUSAIN JOY

THE Advocates, are under solemn promise to uphold at all times the dignity and high standing of legal profession... to safeguard, protect and defend the constitution... be vigilant in the protection of human rights and thus work towards building 'a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social will be secured for all citizens'.

Lawyers' duties & responsibilities and rights & obligations are regulated by the 'Bangladesh Legal Practitioners and Bar Council Order 1972, Rules and Cannons of Profession. In the process of professional duties and actions, lawyers are under constant monitoring, and in case of any breach of them, the Bangladesh Bar Council has a number of tribunals to take necessary disciplinary action with provisions of appeal up to the Appellate Division of the Supreme Court of Bangladesh. Hundreds of such examples are there in the form of fine, suspension of 'Sanad' and removal of names from the Advocates' Register.

There are recent incidents, where Advocates are facing challenges, with regard to false and fabricated documents, submitted in the courts of law, especially in the High Court Division of the Supreme Court of Bangladesh. Questions did arise, who should be held responsible for production, authentication, verification, supply and filing of such documents. Is it just the Advocates? Or the others as well, either individually or collectively.

The advocates quite often deal with documents like: Power of Attorneys, Deeds, First Information Reports (FIR), Charge Sheets, s161s, s164s, Judgements and Orders, Medical Reports and Certificates etc. All these documents are submitted to the Courts concerned, which are supplied by the clients and/or their representatives. Instant verification of these documents supplied as certified copies, especially from the sub-ordinate courts, may not necessarily detect any tampering or overwriting or change/s of any form made, by the Advocates of the High Court Division of the Supreme Court of Bangladesh. We do not prepare the documents. Lawyers are not signatories of the documents. They do not authenticate the documents. They only enclose and file the relevant documents to the concerning courts, supplied to them by our clients or their representatives or tadbirkars. This view is reflected in the case Md. Mostafa v. The State (Criminal Misc. No. 3138 of 2004), judgement passed by Mr Justice Sharifuddin Chaklader and Mr Justice Md Emdadul Haque Azad on 14 February 2008.

A good number of individuals are involved in the preparation, checking, authentication, signing, accepting, submitting, and studying up-to the stage of giving judgements and orders on the basis of those documents. Every individual has the duty to do his own part of the job, and responsible to discharge his duties as accurately as possible and honestly, and finally, again individually accountable, for any faults, false, fabrication and fraudulent activities ultimately detected in the whole process. And that starts from Clients, Stamp-Reporters, and Affidavit Commissions to Assistant and Deputy Registrars.

In recent past, many lawyers have experienced a number of cases, where medical certificates were reported to be forged, particularly, in cases like Ramna Botomul and Babar's bail matter. It is even worse to see that the highest court of the country, heard a case where the appellant himself was of non-existent. Who are responsible for such incidents? Is it the clients concern, or the personnel in the respective court offices, or the authentication officers who signed the documents, or the filing lawyers, or also the judges who deliver judgements and orders on the basis of forged documents? Who decides who should be held responsible for such false & fraudulent actions and activities?

Of course, the ultimate authority is the Hon'ble Judge concern, although the Judge himself, as a prudent, ought to examine the documents placed before him for disposal of issues, hence, he himself also can not avoid his own responsibilities. If the lawyer is found to be guilty, s/he should be punished. But where it is difficult to ascertain the definite responsibility of any of the parties, lawyers must not be punished just because he filed the case before the court. There must be some provisions available in the 'Bangladesh Bar Council' laws to protect the individual lawyers and to safeguard the image of the legal profession.

To prevent the preparation and submission of false and fabri-



cated documents, a number of suggestions are made for the consideration of the authorities and individuals concern:

(a) Specimen signatures of the authorised issuers of the certified copies of the district courts must be kept up-to-date in the Stamp Reporters' and Affidavit Commissions' offices, Assistant & Deputy Registrars to instantly verify the documents and signatures of the issuing authorities; like checking signatures of the cheque issuers in standard banking system.

(b) High Court Rules may be up-dated in relation to signing the Affidavits, by producing National Identity Cards and/or attaching passport size photographs of the deponents.

(c) Affidavit Commissions, Stamp Reporters, Assistant and Deputy Registrars must verify the principal documents along with all enclosures to be filed to the courts by the lawyers.

(d) In most of the criminal cases, Case Diaries (CD) containing police report are also needed to be checked and verified by Public Prosecutors (PP), in particular, statements under s161, s164 etc. to check and marry with police investigation reports either in the form of charge sheets or final reports. This is a must, because most of the cases are put in jeopardy at these stages of the criminal proceedings.

(e) To ensure effective justice system, we, in Bangladesh, may initiate to establish Criminal Prosecution Service (as opposed to Crown Prosecution Service in the UK), where a separate brigade of experts, independent to the police investigators, will verify all documents (including police documents) to substantiate further court proceedings. In such way, false and fabricated documents and cases may be detected and innocent parties may be protected.

Of course, in the mean time, High Court bails are confirmed by the jail authorities through sub-ordinate courts over telephone once written orders are received to make sure that the bail, release, imprisonment and acquittal orders were actually enlarged by the bench concern. This must be made on all cases without exception.

Finally, Bangladesh Bar Council laws may be changed to protect its members by incorporating a provision under s.32A of the Bangladesh Legal Practitioners and Bar Council Order 1972, saying that "No Advocates shall be liable for presentation and attestation of certified documents which may later be found false and/or fabricated. If in case, an Advocate is found involved in such process, he may be referred to the Bar Council Tribunal instead of other legal forum".

The writer is a Barrister-at-Law and Advocate of the Supreme Court of Bangladesh.

### RIGHTS corner

## Repression of ethnic minorities before elections

MYANMAR'S government must halt its repression of ethnic minority activists before forthcoming national and local elections, Amnesty International warned in a major report released on February 16, 2010.

The 58-page report, The Repression of ethnic minority activists in Myanmar, draws on accounts from more than 700 activists from the seven largest ethnic minorities, including the Rakhine, Shan, Kachin, and Chin, covering a two-year period from August 2007.

The authorities have arrested, imprisoned, and in some cases tortured or even killed ethnic minority activists. Minority groups have also faced extensive surveillance, harassment and discrimination when trying to carry out their legitimate activities.

Many activists told Amnesty International that they faced repression as part of a larger movement, as in Rakhine and Kachin States during the 2007 Buddhist monk-led 'Saffron Revolution'. Witnesses described the killings and torture of monks and others by the security forces during its violent suppression of peaceful demonstrations in those states.

Others said they were pursued for specific actions, such as



organizing an anti-dam signature campaign in Kachin State. More than 2,100 political prisoners, including many from ethnic minorities, languish in Myanmar's jails in deplorable conditions. Most are prisoners of conscience who have expressed their beliefs peacefully.

Amnesty International urged the government to lift restrictions on freedom of association, assembly, and religion in the run-up to the elections; to release immediately and unconditionally all prisoners of conscience and to remove restrictions on independent media to cover the campaigning and election process.

Amnesty International called on Myanmar's neighbours in the Association of South East Asian Nations (ASEAN), as well as China, Myanmar's biggest international supporter, to push the government to ensure that the people of Myanmar will be able to freely express their opinions, gather peacefully, and participate openly in the political process.

This year, Myanmar will hold its first national and local elections in two decades.

In 1990, two years after mostly peaceful anti-government protests resulted in the deaths of at least 3,000 demonstrators, the National League for Democracy (NLD) and a coalition of ethnic minority parties resoundingly won national elections.

The military government ignored the results, however, and continued their long-standing campaign against the political opposition.

Myanmar's most well-known human rights activist, Daw Aung San Suu Kyi, leader of the NLD, has been under some form of detention for over 15 of the last 20 years.

In May 2008, a week after Cyclone Nargis devastated the country, the government insisted on holding a referendum on the draft constitution. The official results were that 99 percent of the electorate had gone to the polls, 92.4 percent of whom had voted in favour. While the 2008 Constitution potentially allows for greater representation in local government, it ensures that the military will continue to dominate the national government.

Ethnic minorities constitute some 35-40 percent of the country's population, and form the majority in the seven ethnic minority states. Each of the country's largest seven ethnic minorities has engaged in armed insurgencies against the government, some of which continue to date.

Amnesty International has documented serious human rights violations and crimes against humanity by the government in the context of the Myanmar army's campaigns against ethnic minority insurgent groups and civilians.

Source: Amnesty International.

### LAW letter

## Police-public relationship requires to be developed

IN every country, police is one of the important law enforcing forces, which renders security services to the people and Bangladesh is not an exception. From the early inception of this institution, this force is trying to fulfill its making cause, but unfortunately the performance of this institution has been questioned. Have we ever tried to find out the reasons of dismal performance of the police? We don't even think about it rather often criticize their role. We use to forget that these public servants are also human being having some basic human rights, expectations, dreams and so on.

In our country, police-public relationship is not good enough. It is believed that they have the habit of taking bribe, they exposes rude behavior and somewhat stone hearted. If the reasons of police psychology are scrutinized the real truth would be revealed and the public-police relationship will become stronger than ever.

The usual complaints against police officers are that they don't do their duties in a right manner. As they don't get their deserving facilities from the government such as accommodation, health care, enough salary, suitable social status etc, they always remain dissatisfied with their carrier. This frustration makes them rude and rigid hearted. Because of bearing critical pressures in mind such as, security of people, security of family, betterment of their own leading life, they can not play the exact role in their job. If a person is satisfied to his/her own life, he/she will be able to satisfy his/her surroundings by his good deeds. On the other hand, to do a good job, they need sufficient equipments which they really don't have. Moreover, they have to spend

their own money for the sake of different purposes related with cases in the police station. But, when they ask this money from the family member of the victim, they consider it as bribe. So, how could they serve us the true service like?

I am not saying that, all police officers are innocent. But like one rotten apple, some evil minded police officer spoils the reputation of the total police department. If we pick up and throw out these rotten apples from the basket, then their will be no chance of corruption in the center



point of the whole security service, then everyone will be benefited. Reformation campaign in this service can also be seriously thought of. When their necessity would be heard of and they would be provided with scientific and modern equipments, when the recruitment process in police force will be fair, then the allegations against the police personnel

will be lessened. To get better service, general people also should practice their solemn duty to co-operate with the police officers in carrying out their investigation.

Faith and trust can keep anyone away from crime and corruption and also can make anyone responsible, honest and devotee to his/her job. We should keep full confidence on them because the police force is the force, which truly wants to serve us but some concerns as stated

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### LAW week



#### Cop faces music over inaction

The drug court will decide over the fate of the officer-in-charge of Brahmanbaria Sadar Police Station, as he did not submit any report on execution of the arrest warrant against three absconding accused of Rid Pharma Ltd even six months after the case was filed. The drug court fixed for giving order against the police officer after the special public prosecutor appealed to the court to take stringent action against the officer-in-charge. Special Public Prosecutor Mahmud Hossain Jahangir in his petition said the court had earlier asked the OC to submit reports on execution of the arrest warrants against the three on seven consecutive dates. - *The Daily Star, February 18, 2010.*

#### DCC polls in May if HC okays area demarcation

The Dhaka City Corporation elections would be held late in May if the High Court approves demarcation of the areas under DCC, said Chief Election Commissioner (CEC) ATM Shamsul Huda. Talking to reporters at the Election Commission he, said the city dwellers are being deprived of various facilities, as the DCC polls is pending for two-and-a-half years, reported private television channel ATN Bangla. The CEC said the EC is interested in demarcating the city corporation areas after holding the elections. - *The Daily Star, February 18, 2010.*

#### 28 Bangladeshi detainees to return from Thailand today

Thailand repatriates 28 Bangladeshis detained along with some 200 Rohingyas from the sea by Thai authorities over a year ago. "When the Thai authorities came to know there were some Bangladeshis they approached the Bangladesh mission in Bangkok. The embassy visited them and sent a list of their names and identities to the foreign ministry. Our police then verified the identities. And now they are returning," said Saida Muna Tasneem, director general for external publicity of the foreign ministry. - *The Daily Star, February 17, 2010.*

#### HC stays DCC poll schedule till Feb 23

The High Court stayed till February 23 the Election Commission's declaration of schedule for holding elections to Dhaka City Corporation. The EC was reportedly due to announce the schedule this week. The court also issued a rule upon the government, DCC and EC asking them to explain within the time frame why they should not be directed to demarcate areas of DCC wards on the basis of population. Besides, the court asked them to explain why they should not be directed to bring the new 17 mouzas into DCC wards. - *The Daily Star, February 16, 2010.*

#### Stop saline water flow to farmland

The High Court directed the government to take effective measures to stop flow of saline water for shrimp cultivation in agricultural lands in four coastal districts. The directive was issued as a writ petition sought it for saving farm lands from salinity and for protecting environment in the districts of Khulna, Stakhira, Bagerhat, Noakhali, and Chakaria Sundarban and Sonadia islands. Besides, the HC ordered the Dhaka City Corporation (DCC) authorities to submit a report to it within four months on the damage caused to soil, water and air due to dumping of industrial waste at Amin Bazar in Savar. - *The Daily Star, February 16, 2010.*

#### EU pledges climate help

The European community will always stand by Bangladesh in protecting its people from the disastrous impacts of increasing global warming and climate change. The assurance came when a six-member high-level delegation from the European Union Headquarters led by Jean Lambert, a member of the European parliament, met Prime Minister Sheikh Hasina at her official residence Jamuna. Briefing newsmen after the meeting, PM's Press Secretary Abul Kalam Azad said the European delegation eulogised the PM for her strong and visionary role in the international conferences on climate change. - *The Daily Star, February 15, 2010.*

#### Nine BDR men claim innocence

The nine BDR men accused of mutiny claimed themselves innocent in written statements submitted to the Special Court-4 of Bangladesh Rifles in Rangamati. The jawans of 12 Rifles Battalion at Rajnagar in the district submitted the statements following a court directive, reports our Rangamati correspondent. They also said the allegations brought against them by their officers (prosecutors) are completely fabricated and untrue. They claimed that they are not guilty. - *The Daily Star, February 15, 2010.*

#### JS boost for judiciary

A parliamentary sub-committee has recommended introduction of judicial allowances and increased salaries and other benefits for judges of the Supreme Court and subordinate courts. It termed their existing salaries "inconsistent" with the socio-economic situation in the country. Salaries and allowances of SC judges should be increased by more than three times and those of subordinate court judges should also be raised significantly, the House body proposed. - *The Daily Star, February 14, 2010.*

#### Tarique's cases against Hasina, Quader dismissed

Two defamation cases filed by Tarique Rahman against Prime Minister Sheikh Hasina and her party colleague Obaidul Quader were dismissed last year upon a judicial inquiry.

It however could be known only recently. Tarique, now senior vice-chairman of BNP, filed three defamation cases against Awami League President Hasina, the then AL general secretary Abdul Jalil and Obaidul Quader on November 19, 2006. - *The Daily Star, February 14, 2010.*

#### Fresh encroachment on Gulshan Lake

Despite High Court directives not to fill any portion of Gulshan-Banani Lake, an influential quarter is out to grab around 10 kathas of the lake land. On February 11, 2010, Thursday night, a hired gang of youths and labourers cut down 15 big flowering trees by the lakeside at the end of roads-23 and -23/B in Gulshan. The same night they fenced in a 10-katha stretch of land with corrugated iron sheets and filled up part of that with rubble. They also put up a signboard that reads 'The owner of this land is Hasena Banu', said people living nearby. - *The Daily Star, February 13, 2010.*

#### Recruitment of 15 judges this week

The government is going to appoint around 15 new judges to the High Court division of the Supreme Court within this week. Sources said these judges would be appointed as part of the government's plan to appoint a total of 50 more judges to the HC to deal with a huge backlog of pending cases. The government has already completed the process of appointment of the new judges, and arranged logistics for them, Law Minister Shafique Ahmed said. While talking to The Daily Star on February 8, the minister said the government will appoint judges to the Appellate Division of the SC in order to fill up the four vacant posts of the apex court judge. - *The Daily Star, February 13, 2010.*

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