

GOOD NEWS

## Dr. Mizan wins “Best Law Teacher in SAARC Region Award 2010”

Dhaka University Law Professor Dr. Mizanur Rahman has been awarded the coveted “Professor N.R. Madhava Menon Best Law Teacher Award, 2010”. This is considered to be the best law teacher award in the SAARC region. Dr. Mizanur Rahman is the exponent of the concept of Human Rights Summer School in Bangladesh which has gained international character over the last ten years. Professor Rahman is an ardent advocate of pro-poor lawyering which he terms as ‘rebellious lawyering’. Named after legendary Prof. N.R. Madhava Menon who made a revolution in the legal education in India, the award is given jointly by the Society of Indian Law Firms and the Menon Institute of Legal Advocacy to teachers who have contributed substantially to the development of legal education in the SAARC region. The Jury Board headed by Mr. Justice J.S. Verma, former Chief Justice of India selected Dr. Mizan for this prestigious award. In addition to the citation and a plaque of honour the award carries one Lakh rupees. The Awardee is to be one of the keynote speakers at the special seminar on “Ethical Lawyering: Role of Law Schools”



to be held on 4 September 2010 in Delhi.

It may be added that Dr. Mizan’s teaching style and charisma has been a “role model” for the entire legal fraternity in home and abroad. Pioneer in introduction of Clinical Legal Education and Street Law in Bangladesh he is acclaimed as one of the Best Human Rights educationists in the country by lawyers, judges, law teachers and students. Ten years ago Dr. Mizan, who believes in social transformation through rule of law and democracy mobilized a group of teachers and students for a Summer School to look at the status of human rights in the country and to explore how it can be improved even in adverse circumstances. Today the initiative has assumed the dimensions of a movement for civil liberties and good governance involving several hundred law students, teachers, activists and legal practitioners spread over several countries in South Asia. It is now being reckoned as a unique academic endeavour in public service in the cause of liberal democracy and rule of law besides being an instrument for strengthening human rights awareness in society.

-Law Desk.

RIGHTS corner

## World makes progress against slavery

The US State Department’s annual report on modern-day slavery cites greater determination worldwide to stamp it out. But 13 nations are on the list of sluggards neglecting the issue.

The United States is hailing growing determination in most corners of the globe to combat modern-day slavery through stepped-up law enforcement and legislative action.

But the State Department’s annual report on human trafficking nevertheless brands 13 countries as standouts for failure to address rampant cases of sex trading, indentured domestic work, forced field labor, and other varieties of slavery within their borders.

The global scofflaws range from Kuwait and Saudi Arabia to North Korea and Cuba. The bright spots include Pakistan, Malaysia, Syria, Egypt, and Bosnia-Herzegovina countries that don’t always shine in annual human-rights ratings but that the State Department found have acted to address human-trafficking issues over the past year.

“We saw overall improvement,” with 116 countries enacting legislation of some form in 2009 to combat human trafficking, says Luis CdeBaca, senior adviser on modern slavery issues to Secretary of State Hillary Rodham Clinton.

The report estimates that more than 12 million people are trafficked globally every year.

For the first time, the US rated itself in the report, giving itself a “tier one,” or top-tier, rating (along with most Western countries and Nigeria, which stands out in Africa as a tier one country) but recommending more training for federal, state, and local law enforcement officials to better detect and prosecute cases ranging from debt bondage to child prostitution.

Source: UN Wire.

LAW lexicon

**Comparative fault** - A rule in admiralty law where each vessel involved in a collision is required to pay a share of the total damages in proportion to its percentage of fault.

**Comparative negligence** - The rule under which negligence is measured by percentage, and damages are diminished in proportion to the amount of negligence attributable to the person seeking recovery.

**Competency** - A witness’s ability to observe, recall and recount under other what happened. Criminal defendants must also be competent to stand trial; they must understand the nature of the proceedings and have the ability to assist their lawyers.

**Complainant** - The party who complains or sues; one who applies to the court for legal redress.

**Complaint** - 1. The legal document that usually begins a civil lawsuit. It states the facts and identifies the action the court is asked to take. 2. Formal written charge that a person has committed a criminal offence.

**Conciliation** - A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps lower tensions, improve communications, and explore possible solutions. Conciliation is similar to mediation, but is may be less formal.

Source: 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.

### Reader’s query

I have been separated from my wife for more than a year now. I would like to get a divorce as she clearly does not want to adjust with my family. Under the circumstances I cannot leave my family and live with her abroad. I would really like a divorce on mutual grounds but she threatens to file case on me if I divorce her. this really scares me. I do not know what to do. Is there any way I can prevent her from filing a case against me? Please clarify if possible how a woman can file a case after the divorce when her ‘denmahr’ and conditions in the ‘nikah nama’ have been fulfilled? It just does not seem fair to me.

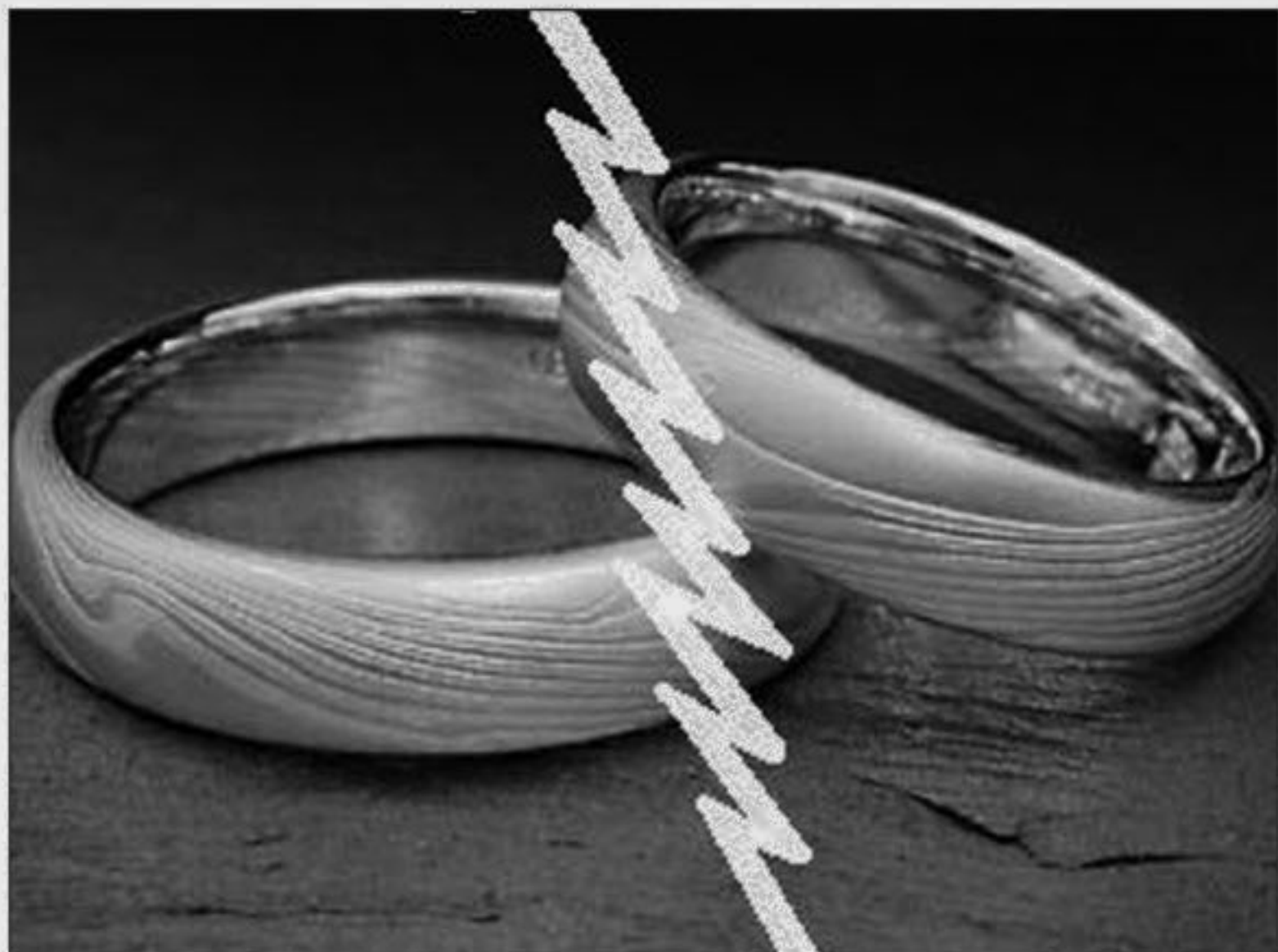
Regards,  
Shamsuddin,Wari

### Response

Thank you very much for your query to the *Daily Star’s* Your Advocate column. Yes, I have fully understood your situation and I must say that this is a very generic problem for many married men now-a-days.

So far as the divorce is concerned, you have every right to divorce your wife. Under the Muslim law, the husband has the inherent right to divorce. In case of a mutually agreed divorce, it is actually a very easy administrative process that can be commenced by both of you by going to a Quazi office. In case when your wife is not willing to divorce you, you may unilaterally initiate the process of divorce by serving her a notice through the Quazi. Once the process is started it will take around 100 days to complete the total process and get the divorce registered as per law. I have on several other occasions, explained the detailed process so far as the divorce is concerned.

However, I am mostly concerned with the second part of your query. This is now very unfortunate that several legal provisions that we enacted to protect legitimate protection to women have been misused to cause illegitimate oppression to men! For example, Nari-O-Shishu Nirjatan Daman Ain is one of them. The provisions relating to nari nirjatan are relatively stronger and it is not very difficult that the accused may have to go to custody. Though bail may be obtained from the court, but going to custody sometimes hampers the reputation and going through the criminal proceedings in the court is definitely not very pleasant for anyone.



Taking the advantage of these laws, sometimes the wife or her family uses the same to threaten the husband and his family and make unwarranted demands. I must say that no one can compel you to continue with a marriage that you are not willing to continue. Of course, if you have properly paid the den mohor and give maintenance to your wife after the divorce as per law, then there cannot be any lawful claim against you arising out of the divorce. It is, however, sad but true that allegations of nari nirjatan can be brought against you; though in a false and fabricated manner only with an ulterior motive of harassing you. There is neither any legal way in which you can protect yourself from such malicious prosecution nor can you take any protective measure. At best, while affecting your divorce, say after serving the notice of divorce to your wife, you may lodge a General Diary (G.D.) before the concerned police station stating the fact of threats of false prosecution by your wife. Since the provisions under the Nari- O- Shishu Nirjatan Daman Ain are considerably harsh against the accused, to protect malicious prosecution, section 17 provides for rigorous imprisonment for a term not exceeding seven years and fine in case if someone lodges a false complain or files a false case with intent to cause harm to other person. If you see that your wife is

really serious in materializing her threats, you may mention the aforesaid provision to her with a view to convince her not to do anything imprudent and put herself into jeopardy of prosecution as well.

The family matters are best suited to be discussed inside the families! That’s why, going beyond the pure legality, I would like to take this opportunity to advice you and other readers having the similar problems, to talk with an open mind with their spouses and try to settle the same internally. If, you cannot mutually reach a decision, invite a common friend or a mutually trusted person, who can give some positive inputs to facilitate your discussion. If nothing helps or where one of the partners is determined to get out of the relationship or when it is impossible to continue the relationship, then again discussion will help. The couple should understand what their best interest is. If their best interest lies in divorce, then each partner shall help the other in completing the process. Since life is one, there is no point of continuing with something which causes pain everyday and cannot do any good. Filing malicious and false case against the partner? Let’s not even think about it! I wish you will have a nice life. Take care.

For detailed query contact [omar@legalcounselbd.com](mailto:omar@legalcounselbd.com).

LAW letter

## Nimtali tragedy: Questions for enforcement of law



Many men, women and children have been killed or scared. Some families have become extinct. The Nimtali tragedy masquerades the critical question as to whether urban planning has any meaning in this capital, which we pompously celebrate as a modern capital and continue adding accompaniments to it without giving a thought to the safety of the residents trapped in its the back of beyond.

In less than 48 hours time from the Begunbari building collapse that claimed more than 24 lives, yet another tragedy of far greater magnitude struck the capital city Thursday night. More than 119, mostly women and children, were charred to death and 200 others received severe burn injuries in the country’s worst ever fire incident involving eight

residential buildings and more than 20 shops at the densely populated Nawab Katra and Nimtali of the old part of the city.

The origin of the fire remains a mystery. Some residents of the locality claimed the fire had originated from the power transformer explosion while others said it started from a place storing chemicals. The source of the fire matters little now since the disaster has completely devastated many families, in terms of life and property.

There were numerous plastic and chemical factories in the narrow lane. How was it allowed? The Dhaka City Corporation and industries department must be called to account. Firstly, housing in a metropolitan city was reduced to a cruel joke. Another atrocity committed

upon municipal laws was to permit hazardous plants in a crowded locality. When ponds and water-filled ditches of the city were filled up one after the other some thought should have been given to future eventualities.

The seminal question is not how the fire originated but how it spread so fast and so devastatingly. The reason is that the area is completely unplanned. The residents of the area were reported as saying that taking into accounts the physical surrounding they had been anticipating an accident. The lane is so narrow as would hardly admit a rickshaw. Firemen have a point when they say their vehicles could not penetrate close to the scene because of inadequate access. However, fire service will have to update their skill and equipment in the light of the city’s limitations. Their problem may have been compounded due to load shedding.

Of course, the fire service must not be dependent on light from other sources. And after the calamity struck why did the Power Development Board not restore electricity in the area on an emergency basis? Why did the victims and their rescuers have to wait for the normal stretch of darkness to end?

But the key question is whether building codes are being observed in old Dhaka. It is well known that new illegal structures chaotically constructed cheek by jowl with old dilapidated buildings is still coming up. The problem was best exemplified during the current tragedy, when fire tenders could not enter the affected parts in time to douse the flames. This could have saved more lives. The unadvisable and potentially dangerous co-existence of residential quarters with shops storing inflammable chemicals is something the administration should now look into seriously.

To enforce tough rules and laws is the job of the government, and it should be held liable for defaulting in that respect. But what is about our own sense of responsibility as law-abiding citizens? Or must we have to be forever chased by the big stick to follow the rules?

**Mohammad Shahidul Islam**  
Hospitality-training consultant, Dhaka.

LAW week

### Mother sent back to jail hour after son's death

Four-year-old Mohammad Mustafa who had spent the past three years of his life in prison with his convicted mother died at Dhaka Medical College Hospital (DMCH) early yesterday. His mother Rojina Begum was taken back to Dhaka Central Jail from the hospital only an hour after the death of her son.

Usually prisoners are released on parole to attend burials of their near ones if approved by the Home Ministry but some inmates do not know how to avail the parole.

Inspector General of Police (Prison) Brig Gen Ashraful Islam Khan said they brought her back to jail as they were not authorised to release her on parole without prior permission from the Home Ministry. Rojina along with her husband Mohammad Motaheer were charged with murder and had been serving a term of six years in Rangpur along with their child Mustafa. - *The Daily Star*, June 18, 2010.

### SQ Chy held, freed

BNP leader Salauddin Quader Chowdhury was released after the police arrested him in a case filed against him for making false statement on the voter list before the media. He was released from Bakolia Police Station around 12 midnight following a request from the Election Commission, Abdul Jalil Mondal, additional commission of Chittagong metropolitan police (CMP), told *The Daily Star*. Earlier Farhad Hossain, returning officer for Chittagong City Corporation (CCC) polls, said they sent a letter to Deputy Commissioner (North) of CMP Bonoj Kumar Majumder requesting him to release Chowdhury for the sake of fair election. - *The Daily Star*, June 17, 2010.

### Mahmudur remanded in sedition case

A Dhaka court directed Detective Branch (DB) of police to take Mahmudur Rahman on a four-day remand, subject to his recovery from illness, in connection with a sedition case. Mahmudur, acting editor of recently closed daily Amar Desh, was remanded earlier for a total of seven days in three other cases. Metropolitan Magistrate Ismail Hossain directed the jail authorities to take necessary steps for his treatment following a petition submitted by his lawyers, and passed the remand order. - *The Daily Star*, June 17, 2010.

### SC order stalls Amar Desh publication

The Supreme Court stayed for four weeks the HC stay order on the government action to cancel the declaration of publication of the daily Amar Desh. Chamber judge of the Appellate Division Justice SK Sinha passed the SC order after hearing a petition moved by Attorney General Mahbubey Alam seeking stay on the HC stay order. He also directed the government to file a regular leave to appeal petition against the HC order with the SC within this period. On June 10, HC stayed the government action that cancelled the declaration of publication of the daily. - *The Daily Star*, June 16, 2010.

### SC not interested

Eleven serving and two retired bureaucrats keep on enjoying High Court bail in a sedition case known as Uttara Conspiracy, as the Appellate Division turned a deaf ear to a government plea. Vacation chamber judge SK Sinha did not entertain the petition moved by the Attorney General (AG) seeking stay on the operation of a High Court order granting interim anticipatory bail to the 13 accused. “The chamber judge passed no order on the petition keeping the HC order in force,” said AG Mahbubey Alam as he emerged from the court. On June 10, the High Court upon a petition filed by the accused granted ad interim anticipatory bail for four months on surrender before it. - *The Daily Star*, June 16, 2010.

### 'Outsiders' in campaign despite ban

A number of Awami League and BNP leaders from Dhaka were seen on the campaign trail in Chittagong for two mayoral candidates of CCC polls, violating an earlier decision by the Election Commission. The EC had decided not to allow any outsider in the port city until the June 17 elections are held. However, the central leaders said the decision was not well circulated. “It was not known to me as Election Commission did not circulate this decision. I heard about the decision from journalists. I am leaving the area right now as I am a law abiding person,” said Asaduzzaman Noor MP while talking to *The Daily Star*. Former lawmaker and Jatiyatabadi Juba Dal president Moazzem Hossain Alal said the Election Commission created the confusion by not publicising the decision. - *The Daily Star*, June 15, 2010.

### Telecom law amendment bill placed

A bill was placed in parliament for amending the telecommunication law with a provision of stern action against individuals using telecom or radio apparatus for malicious purposes. An individual could face imprisonment of up to five years, or a maximum fine of Tk 300 crore or both for “activities against national harmony, public security and friendly relations with neighbouring countries” through use of telecom or radio apparatus, said the bill. If any posting or exchange of message against national harmony appears on the web, the Bangladesh Telecommunication Regulatory Commission (BTRC) would ask the telecom service provider to remove it before taking any tough action. But if the directive is not complied with, stern actions would be taken against individuals or organisations responsible, it said. - *The Daily Star*, June 14, 2010.

### PM for 6-month maternity leave

Prime Minister Sheikh Hasina said maternity leave should be increased to six months from the present four months. “Maternity leave should be increased to six months. I think four months’ maternity leave is not enough for the mothers to take best care of their new born babies,” the premier said while speaking at a function at Osmani Memorial auditorium in the capital. Bangladesh government and Unicef jointly arranged the function marking the Safe Motherhood Day observed on May 28. A total of 27 health facilities from seven divisions have received best performance awards. The prime minister distributed the awards among the recipients. - *The Daily Star*, June 14, 2010.

### Tough law on way for errant telcos

The government has moved to amend the telecommunication law to punish telecom operators for wrongdoings without giving them scope for challenging the regulator’s decision. Bangladesh Telecommunication (Amendment) Act 2010, already approved by the cabinet, will be placed in parliament today to have a stringent legal framework for telecom operators. The bill proposes provisions of a fine up to Tk 300 crore for an offence, unilateral changes in clauses in an operator’s licence by the regulator and arrest of telecom stakeholders without any warrant. - *The Daily Star*, June 13, 2010.

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