

CRIME & PUNISHMENT

Criminal conspiracy

WHEN two or more persons agree to do, or cause to be done (i) an illegal act or (ii) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy: provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

**Explanation**-It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object. (Section 120-A of the penal code 1860)



The ingredients of the offence of criminal conspiracy are:

- (1) that there must be an agreement between the persons who are alleged to conspire;
- (2) that the agreement should be (i) for doing an illegal act, (ii) for doing by illegal means an act which may not itself be illegal.

The gist of the offence of criminal conspiracy is the bare engagement of association to break the law, whether any act be done in pursuance thereof by the conspirators or not.

**Punishment for criminal conspiracy.**-Section 120-B deals with the punishment for criminal conspiracy. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence. (2) Where is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six month, or which fine or with both.

Source: Penal code by L Kabir.

LEGAL MAXIM



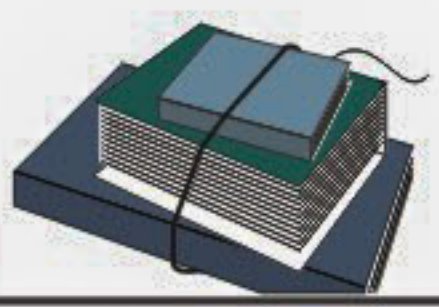
- Inter alia** - Amongst other things.
- Interest reipublicae res judicatas non rescindi** - It is in the interest of the State that things adjudged be not rescinded.
- Interest reipublicae suprema hominum testamenta rata haberi** - It is in the interest of the State that men's last wills be sustained.

- Interest reipublicae ut quilibet re sua bene utatur** - It is in the interest of the State that every one use properly his own property.
- Interest reipublicae ut sit finis litium** - It is in the interest of the State that there be an end to litigation.

- Interim** - Temporary, in the meanwhile.
- Interpretare et concordare leges legibus est optimus interpretandi modus** - To interpret and harmonize laws is the best method of interpretation.

- Interpretatio fienda est ut res magis valeat quam pereat** - Such a construction is to be made that the thing may have effect rather than it should fail.

LAW LEXICON



- Lapsed gift** - A gift made in a will to a person who has died prior to the will-makers death.
- Larceny** - Obtaining property by fraud or deceit.
- Law** - The combination of those rules and principles of conduct promulgated by legislative authority, derived from court decisions and established by local custom.
- Law Blank** - A printed legal form available for preparing documents.
- Law Clerk** - Usually a law school student employed by a law firm to do research and other tasks. In the courts, a lawyer (or law school student) employed to do legal research.
- Lawsuit** - An action or proceeding in a civil court; term used for a suit or action between two private parties in a court of law.
- Leading question** - A question that suggests the answer desired of the witness. A party generally may not ask one's own witness leading questions. Leading questions may be asked only of hostile witnesses and on cross-examination.
- Legal aid** - Professional legal services available usually to persons or organizations unable to afford such services.
- Legal process** - A formal paper that is legally valid; something issuing from the court, usually a command such as a writ or mandate.

Source: Jurist International.

LAW WATCH

Separate trial system for juveniles

OLI MD. ABDULLAH CHOWDHURY

BEFORE separation of judiciary from executive, magistrates dealing with juvenile justice used to make mistakes while trying juveniles coming in contact with law. Since they mostly did not have a legal background, separate trial system for juveniles was almost unknown to them. When the judiciary was finally separated in 2007 as directed in the Article 22 of the constitution, administration of juvenile justice improved slightly. A separate trial system for juveniles is still to become a reality.

National Taskforce (NTF) on children in conflict with the law demonstrated commendable progress in ensuring release of children from jail. NTF also contributed in developing a coordination mechanism among different stakeholders at the district level through district task force (DTF). With the separation of judiciary from executive, the role of DTF has become shrunk. Still, members of the DTF monitor status of children in jail and guide jail authorities regarding cases against juveniles.

Previously, magistrates from the administrative service had the authority to grant bail for juveniles accused of delinquency. As the Deputy Commissioner (DC) is the chair of DTF, it has been quite easy to facilitate release of children from jail through the responsible magistrates working under DC. Largely due to activation of DTF, it has been possible to ensure release of significant children from jail.

However, judicial magistrates

have now been performing the duty of judge in the juvenile courts since 2007. Magistrates from administrative service are no longer responsible for juvenile court as judiciary was finally separated from executive. Since magistrates from judicial service are not represented in the DTF, release of children from prison is sometimes delayed due to lack of coordination.

Juveniles coming in conflict with law often face financial difficulty. Coordination between DTF and Legal Aid Committee would help juveniles from disadvantaged households getting access to justice. Children from extreme poor households mostly come in contact with law and their parents seldom have the capacity to meet the costs associated with a judicial process. On the other hand, legal aid fund is under-used in many districts. If the cost associated with law suit of the juveniles is funded from the legal aid fund, trial process would be speedier.

Scope of probation needs to be broadened. Probation officers are employed by DSS and they are often burdened with multiple tasks. Due to absence of adequate fund, they often face difficulties in facilitating rehabilitation process of juveniles having conflict with law. If there are specific allocations in the national budget for the purpose of rehabilitation of the juveniles, probation officers would be able to commit necessary resources. If there is a gap in provision, juveniles become more prone to delinquency once they come in contact with law.

To conclude, reforming taskforces at different levels has become essential in the new context. Inclusion of judicial services in the taskforce would pave the way of establishing separate justice system for children. Apparently the number of children staying in jails though dropped, children in growing numbers are still coming in conflict with law. As the risk remains high, commitment of the defenders must sustain.

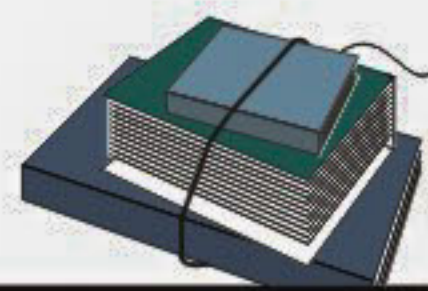
Oli Md. Abdullah Chowdhury is a human



Problem remains in other areas of juvenile justice administration as well. Even if children get released from police station or court, they are often tried along with adult offenders. Mixing with adult offenders has an adverse effect on juveniles. Although there is specific instruction for separate trial in the Children Act 1974, children are hardly separated from adult offenders during trial period.

It has been stated in Article 109 of the constitution, "The High Court shall have superintendence and control over all court and tribunals subordinate to it". Therefore, the High Court should monitor subordinate courts while judicial magistrates try juveniles.

LAW BOOK REVIEW

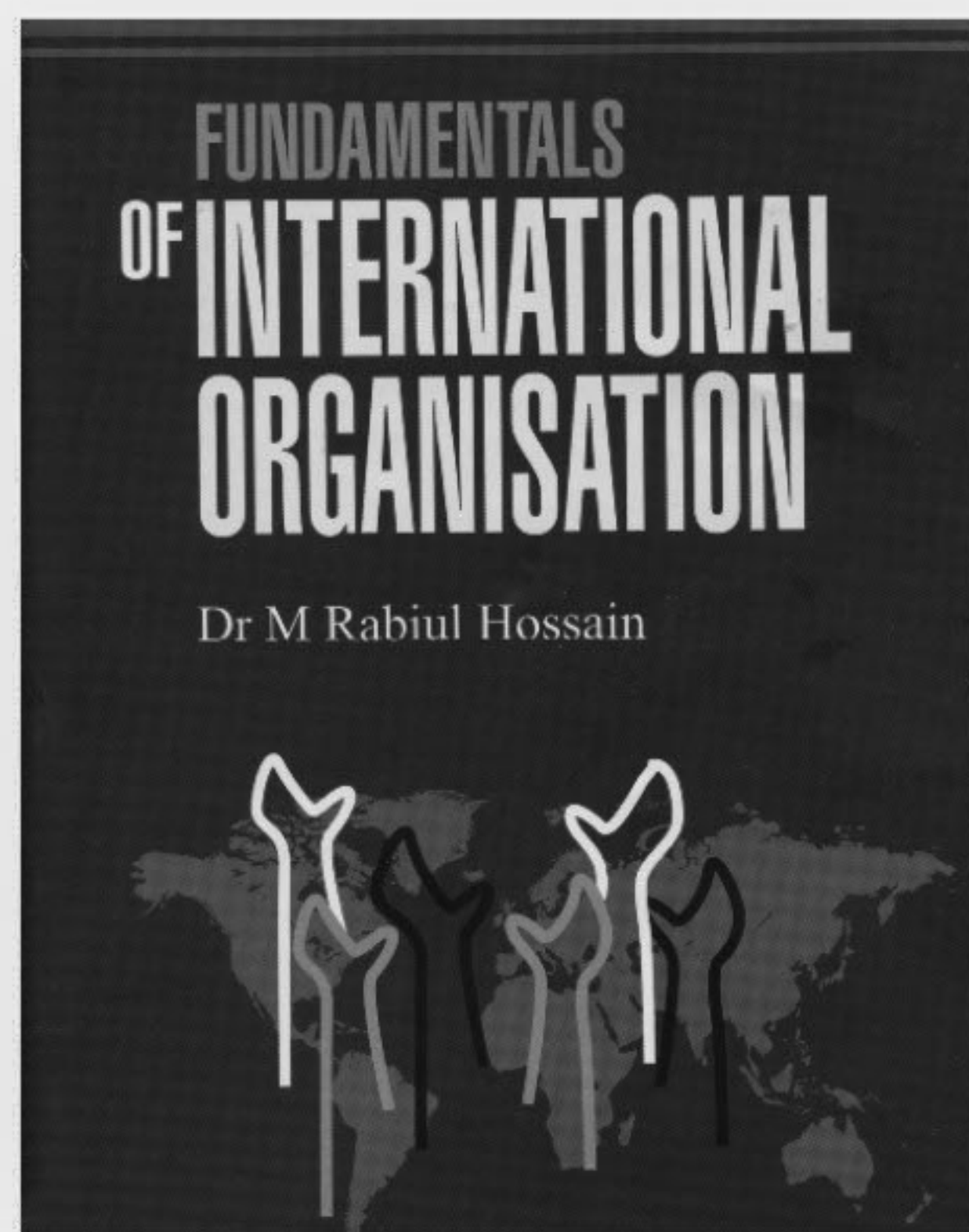


Law of international organizations

LAW of international organizations has occupied a prominent place in the corpus of international law. The legal curricula of Bangladeshi universities have laid emphasis on this branch of law. But for a long time there is a vacuum of authenticated books on this subject. The recent publication by Dr Rabiul Hossain on international organization would fulfill this vacancy to a large extent. Dr. M Rabiul Hossain is a well known academician in the legal arena. He has been serving as a teacher of law at the University of Rajshahi for many years with his prominent approach. As he has taught the subject 'International Organisation' for more than two decades, the book under review "Fundamentals of International Organisation" is the production his illustrious knowledge on this subject.

This book deserves appreciation from the very fact that it has written by an author who has close affiliation and vast experience on the particular subject. The book overall contains 8 chapters. Chapters are designed in accordance with updated information as much as possible relating to the Organisations. Chapter 1 deals with elementary discussion and basic structure of international organisation. Chapter 2 deals with elaborate discussion about 'League of Nations' and United Nations in Chapter 3. Chapter 4 discusses 'Specialised Agencies.' Regional organizations have been depicted in a lucid manner. Chapter 5 has emphasized generally on 'Continental Regional Organizations and 'Inter Continental Organisations has been included in Chapter 6. Rule of Law is an essential part of the Judiciary. The role of International Court of Justice has been evaluated from a critical point of view as the chief organ of the United Nations. There are some more international courts beyond the frame work of the United Nations which are dealt separately. Some Prominent Non-governmental organizations (NGOs) have been accommodated in the content of chapter 8.

It is a matter of pleasure that not because of the fact books are sufficiently available on the subject, but materials are gettable through internets. But the book cover-



ing all the requirements of the subject is still unavailable. Law students would perk up such a painstaking publication as the book has covered the entirety of the subject. Though some books by Indian authors relating to the subject are available in the market but this book is an exception to those as the author has incorporated all the materials required to be desired for the exclusiveness of the subject. The readers would get a thorough grasp of functioning of international organizations from this book with recent developments. Indeed this book may be a reference for Legal learners, practitioners and examinee of the BCS and JSC examinations.

From Law Desk.

LAW WEEK

HC asks law secy to probe allegations

A High Court bench on June 2 directed the law secretary to investigate the allegations against the solicitor's office of not supplying relevant files, records and papers of cases involving the government to the attorney general's office timely. The bench of Justice AHM Shamsuddin Chowdhury Manik and Justice Gobinda Chandra Tagore passed the order pointing out that the attorney general's office could not submit the relevant files of some cases before it on time, as it did not get those from the solicitor's office. The bench also asked the law secretary to place the allegations against the solicitor's office before the law minister, and submit the investigation report to it within a month. -The Daily star June 3 2011.

SC rejects Tarique's review plea

The Supreme Court (SC) on June 2 upheld a High Court order saying that the money laundering case against BNP leader Tarique Rahman can run under Money Laundering Prevention Act 2002. A seven-member bench of the Appellate Division led by Chief Justice Md Muzammel Hossain dismissed a review petition filed by Tarique against its February 9 order. The Anti-Corruption Commission filed the case on October 26, 2009 against Tarique and his business partner Giasuddin Al Mamun under Money Laundering Prevention Act 2009. They were charged for illegally sending Tk 20.41 crore to Singapore between 2003 and 2007. -The Daily star June 3 2011.

5 acquitted in MiG-29 graft case

A Dhaka court acquitted Biman Chairman Air Marshal (ret'd) Jamal Uddin Ahmed and four others of the much-talked-about MiG-29 graft case June 1. Judge Mohammad Abdul Majid of the Special Court for Dhaka Division gave the verdict in presence of the five accused, saying the prosecution has failed to prove the charges against them. The four others are former defence secretary Syed Yusuf Hossain, Air Commodore (ret'd) Mirza Akhter Maruf, former joint secretary Mohammad Hossain Serniabat and Unique Group Managing Director Nur Ali. Special Public Prosecutor (PP) Shaheen Ahmed Khan told reporters the accused were discharged, as the process of charge framing and case filing was flawed. -The Daily star June 2 2011.

Sayedee's probe report placed

Investigators On June 1 handed over to the prosecution team the final report on the allegations against detained Jamaat-e-Islami Nayeb-e-Ameer Delawar Hossain Sayedee in connection with committing crimes against humanity during the 1971 Liberation War. During the hearing of Sayedee's bail petition, the prosecutors informed the International Crimes Tribunal about the report. The tribunal directed the prosecutors to press charges against Sayedee through filing a petition with it by July 11 on the basis of the investigation report, provided there is any element of charge in it. The court also fixed July 11 for hearing the petition. It also rejected Sayedee's bail petition filed by his lawyers on May 30 on medical and humanitarian grounds. -The Daily star June 2 2011.

HC rejects convicted BGB jawan's plea

The High Court (HC) on May 31 upheld a Border Guard Bangladesh (BGB) court verdict regarding a convicted jawan of the paramilitary force for his involvement in the Pilkhana massacre in February 2009. The HC bench comprising Justice AHM Shamsuddin Chowdhury Manik and Justice Gobinda Chandra Tagore summarily rejected a writ petition filed by Nayek Md Ibrahim. On February 24 this year, he was sentenced to six years' imprisonment and fined Tk 100 by a special BGB court in Chittagong. On May 22, Ibrahim filed the writ petition stating that he was deprived of a proper trial as he was not allowed to engage a lawyer to defend him. -The Daily Star June 1 2011.

Mohiuddin's Case, Verdict on June 12

A Dhaka court on May 30 fixed June 12 for verdict of a graft case filed against Awami League (AL) lawmaker and former state minister for civil aviation and tourism Dr Mohiuddin Khan Alamgir and four others. After completion of arguments from the prosecution and the defence, Judge Mohammad Abdul Majid of Special Court for Dhaka Division set the date. Others accused are air commodore (ret'd) M Manzur Alam; civil aviation authority of Bangladesh former chairman (Caab) Sakiruddin Ahmad; Caab member group captain M Iqbal Hussain; and former AL lawmaker and proprietor of Mutual Trading Company MA Sattar. Earlier, Now defunct Bureau of Anti-Corruption filed the case on April 26, 2003. -The Daily star May 31 2011.

Dead in Handcuffs, HC asks for explanation

The High Court on Ma 29 issued a rule upon the authorities concerned to explain within 10 days why they should not be given exemplary punishment for leaving a dead person in handcuffs for hours after his death at Dhaka Medical College Hospital morgue. It issued the rule following a writ petition filed on the basis of a newspaper report that Chunnu Miah, 58, a prisoner of Dhaka Central Jail, was kept handcuffed for hours at DMCH morgue on May 20 after he died at the hospital. The HC bench of Justice AHM Shamsuddin Chowdhury Manik and Justice Gobinda Chandra Tagore reached the decision after hearing the writ petition filed by a Supreme Court lawyer. -The Daily

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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: Law Desk, The Daily Star 64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel: