



This week Your Advocate is Barrister Omar Khan Joy, Advocate, Supreme Court of Bangladesh. He is the head of the chambers of a renowned law firm, namely, 'Legal Counsel', which has expertise mainly in commercial law, corporate law, family law, employment and labor law, land law, banking law, constitutional law, criminal law, IPR and in conducting litigations before courts of different hierarchies. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.

Query
I use to work in Australia and due to some family crisis I had to come back to Dhaka. The problem occurred with my younger brother (25 years) whom used to study in Australia but didn't complete his studies. He was never serious with his career and after returning to Dhaka he started taking drugs, involved with bad company and demanding unnecessary money from my parents. This situation led to an uncontrollable violence against my family. There was an incident when he took a kitchen knife and stabbed on his left hand and threatened my family to do further violence.

He used to have some physical problem and we took him to Bombay for treatment. Even after that my brother being ungrateful, continued with his unwanted behaviour. My dada don't have any business income he runs his family with rental income and had some saving. But to maintain my brother's expenses we started facing financial crisis. Due to my father's poor health condition, I could not go back and join my work and as a result lost my job in Australia.

Now my parent wants to live in peace with out any family violence and want my brother to leave the house for their safety. In this situation what we can do.

Muhammad Imtiaz Banani, Dhaka.

Response

Dear reader, thank you very much for your query. I fully understand the pain,

suffering and agony of your family members and express my deepest and genuine compassion. Honestly speaking, since it is a matter regarding your own younger brother, the matter can be best resolved through the members of the family as opposed to by legal interven-

of your extended family or a close family friend. In addition, you can seek the help of some of his close friends to counsel him. You may tell him that in case he does not rectify his behaviour and completely give up his addiction to drugs, you may have no other option but to involve the

stating the facts of his violent behaviour and his addiction to drugs. However, please note that even if you only lodge a GD and not a complaint, it is very likely that the police will start a case on their own volition against him as he has committed crimes by violating several provisions of the Penal Code. In case if a case starts, the police may arrest him and if the crimes are proved in the court, which are very likely in the instant scenario, he will have to face imprisonment. For this reason, you should consider a legal solution to the problem only as a last resort, when all the other sincere efforts fail.

Through this advice, I would also like to warn the other parents to learn lesson from your unhappy and most unwanted situation. All the parents must take good and proper care of their children and must know what their children are doing and with whom they are mixing with. The matters can be very well handled, if the same come to the knowledge of the parents at an early stage. In our society the young children are particularly vulnerable and can easily get involved with bad company and destroy their lives bringing endless sufferings and disgrace to their family. Parental supervision shall continue even after when the child attains majority and at least till the age when the parents can reasonably rely on the child's own judgment. Indeed prevention is better than cure, isn't it?

For detailed query contact: omar@legalcounselbd.com.



tion. Consequently, I would like to advice that you continue your effort to sit with him and try to make him understand what is good and what is bad for him and for the family as a whole. In case he does not sit with you or your parents, you can decide to involve other senior members

police. Furthermore, he may be caught by the police anyway in any given day. This will only destroy his bright future bring no good to anyone.

In case all your efforts fail, you may lodge a general diary (GD) or even a complaint to the concerned police station

FOR LAW STUDENTS

How to study law?

RIDWANUL HOQUE

LIKE a criminal case, law is a frightening subject. Like a civil lawsuit, specially the one for compensation, law is both frightening and interesting. As such, to remember the great jurist HLA Hart, in no other subjects such an enormous volume of books and articles has been written as in the law, questioning what is it? Unlike the question of what law is, how to study law does not have a sheer volume of writing. However, there are concerns about, and books have been written on how to study law? Take, eg, Anthony Bradney's How to Study Law, claimed to be a functional book laying vital foundations for the successful study of law. To study law means a number of things; we study law for both degree and other purposes - professional and non-professional. We have to 'read' the law before we can effectively take any examination or can apply/enforce the law to or in a certain situation or before we can teach and research law or interpret it. This short write-up, however, is chiefly meant for the students planning to undertake or are already in the law course.

The first approach to be taken to law is to take the law course seriously, i.e., by developing a sense of belonging to the subject. Start thinking that law is for you and you are for the law. By making reference to law, start thinking over why things happen the way as they do; what would be the consequence, good or bad, if these things would have happened just the other way round. That is, rather than beginning with complex, mundane statutes, try to read the law from everyday happenings. You can call it 'street law', the law that you find in the streets or along with you at all times. Take the example of seeing the police arresting someone by handcuffing or by using force or of seeing the police carrying an accused to the court in a very gentleman-like way. Ask, where is the law and what is it? Ask why does the accused in a court of law with heavy pockets get bail more easily and in lesser time than the accused that is poor, despite the fact the

concerned courts had been impartial and honest? Ask yourself how can a poor beggar arrested for the offence of begging in the street seek bail in exchange of monetary surety (bail bond)? And, ask, for this matter, can begging be criminalised as an offence in Bangladesh, or do the penniless people have a right not to be criminalised? By asking you to go into these sorts of questions I am urging you to develop an inquisitive legal mind, a critical mind

dent you must cast doubt on what text-authors, your teachers, judges, and lawyers are saying and arguing about the law. In studying law, you must continue to ask, every day and with regard to every law, what is the law? One should never forget the link between law and philosophy and other disciplines like politics, economics and sociology. How could one understand, make, apply and interpret the constitutional law properly without being imbibed in the country's

jurisprudence or books on it. Did you ask for yourself whether Austin was right in saying that law is the command of sovereign backed by sanction? Or, did you ask your teacher what do naturalists actually mean saying that law is the reason and justice, or, is that meaning equally applicable to all nations? I heard of the term 'legal pluralism' for the first time in 2003 when I just began my doctoral study, and then realised that I had latently encountered the idea in my law school. These examples are drawn in order to make a point that law must be studied in a society-specific way, which invariably leads one to indulge in some amount of comparative legal materials and experiences.

To read the law effectively, one should develop the skills to find, understand, critique, and contextualise the primary legal materials in particular. How to study a given statute or a court decision is an art mixed with certain techniques. For example, special skills are needed to read a court decision and an Act of parliament. There are rules as to how not to judge a judge and how to read a statute. In particular, you must 'compare and contrast' while reading it. A very effective way of studying law is to study it through 'cases and materials', in doing which you must apply, as said above, the critical mind. For example, you can read/learn about 'the independence of judiciary in Bangladesh' by talking to some judges, by reading a constitutional law book, or by reading only the Constitution or only a judgment that deals with the issue. You have to strategise what matters you should first consult, or whether you should read only one or more than one of those matters. My hunch is that, you would do much better by beginning with a judgment and then read the statutes/constitutional provisions referenced in that judgment. Finally, you can read books and listen to the experts on the subject. Having said this, must remember to effectively pursue the technique you adopt.

[This was originally written for a students' souvenir]

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which is a must for the study of law. Of all techniques of studying the law, memorization should be the most useless for, in the first place, by memorizing you do not know the law (explained below), and secondly, the law has grown so enormously beyond the black and white laws that you cannot not memorize them all. To understand the law, you must develop the critical reasoning (or comprehension) skills.

In this context, you should constantly remind yourself of the fact that, no legal argument can be said to be absolutely right or wrong; nor is there any single image or definition of law. As a law stu-

social and political history and make-ups? Law must not be taken only as a vocation; it is much more than that - it brings out justice and helps people including those reading and practising it to pursue happiness. Law should be studied in the context of a given society. One of the major gaps in the legal education in Bangladesh is that, law here is studied, taught and researched with inadequate or no reference to societal needs. Say, for example, in no university you will find a subject 'law and society' or the 'sociology of law', whereas this is a very popular subject in overseas universities. Also, remember the lectures on



JCD president Tuku arrested

Detective Branch (DB) of police arrested Jatiyatabadi Chhatra Dal (JCD) president Sultan Salahuddin Tuku from a house at Gulshan in the capital on July 5. A police officer requesting anonymity informed that a team of DB police raided a relative's house of Tuku and detained him. - *Unb, Dhaka July 5 2011.*

Pirate leader Nasir killed in 'shootout'

Chief of notorious pirate gang 'Nasir Bahini', which operates in the Sundarbans area, was killed in a 'shootout' between his cohorts and the law enforcers in Botiaghata upazila in Khulna on July 5. Nasir, 32, was accused a number of cases, according to police. A joint team of police and Rab-6, acting on a tip-off, conducted a raid in Narayankhali area while Nasir and his gang members were allegedly holding a clandestine meeting. Nasir was caught in the line of fire and died on the spot receiving bullets, police claimed, adding that his cohorts managed to flee the scene. - *The Daily star online edition July 5 2011.*

3 ex-IGPs sent to jail on surrender

A Dhaka court on July 3 in August 21 grenade attack cases issued arrest warrant for Tarique and 17 others, all of whom are among the 30 named in supplementary charge sheets of the cases. Of the 18, former police chiefs--Ashraf Huda, Khoda Baksh Chowdhury and Shahudul Haque-- surrendered before the Court of Chief Metropolitan Magistrate, Dhaka on July 4, which later sent them to jail. The attack left 24 leaders and workers dead and 300 others, including the then opposition leader Sheikh Hasina, injured. Surrendering before the court, the trio sought bail in a case filed for the killing of 24 people. But the court rejected their plea. Earlier, the Criminal Investigation Department (CID) submitted the supplementary charge sheets on July 3. - *The Daily star July 5 2011.*

HC asks govt to protect hills in

Chittagong

The High Court on July 4 issued a rule upon seven government officials to show cause within three weeks as to why their inaction to protect the hills of Chittagong would not be declared illegal and without lawful authority. It directed the superintendent of police of Chittagong and officer-in-charge of Banshkhali Police Station to file cases against the people involved in cutting hills in Banshkhali and other upazilas. They were also asked to submit a compliance report to the court through the registrar within 10 days. The HC bench of Justice Quamrul Islam Siddiqui and Justice M Moazzam Husain came up with the directions following a writ petition filed by the Secretary of Human Rights and Peace for Bangladesh (HRPB) Asaduzzaman Siddique. - *The Daily star July 5 2011.*

4 factories fined for Buriganga pollution

The Department of Environment (DoE) on July 4 fined four textile and washing factories in Keraniganj Tk 31.60 lakh in total for releasing untreated liquid waste into the river Buriganga. A DoE team led by Director (monitoring and enforcement) Munir Chowdhury, along with Rab-2 members raided Bilashi Textile Mill, Global Washing, Eden Trade and Minto Dyeing in Keraniganj on the west side of the Buriganga, said DoE officials. The team found that all the four factories discharge toxic waste into the river. Bilashi Textile Mill has an Effluent Treatment Plant (ETP) but that is not functioning properly. The three other factories have no ETPs. Also, none of the factories obtained any environmental clearance certificate. Earlier, the DoE in February 2010 filed a case against the factories for environment pollution under Bangladesh Environment Protection Act. But their production did not stop, nor did the pollution. - *The Daily star July 5 2011.*

Limon's Arms Case, Hearing on charge framing deferred

A special tribunal of Jhalakathion July 3 deferred the hearing on charge framing against Limon Hossain and seven others in an arms case to September 15. Faruk Ahmed, judge of the special tribunal-1, recorded the attendance of Limon after he appeared before it and transferred the case to the special tribunal-2 of the district. After hearing arguments of both sides, Md Siddikul Arefin Chowdhury, judge of the special tribunal-2, deferred the hearing on charge framing to September 15. M Alam Khan Kamal, special public prosecutor of tribunal-2, appealed to the court to defer the date as seven other accused in the case did not surrender to the court. Earlier, Limon, shot and maimed by a Rab team on March 23. - *The Daily star July 4 2011.*

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