

FOR LAW STUDENTS

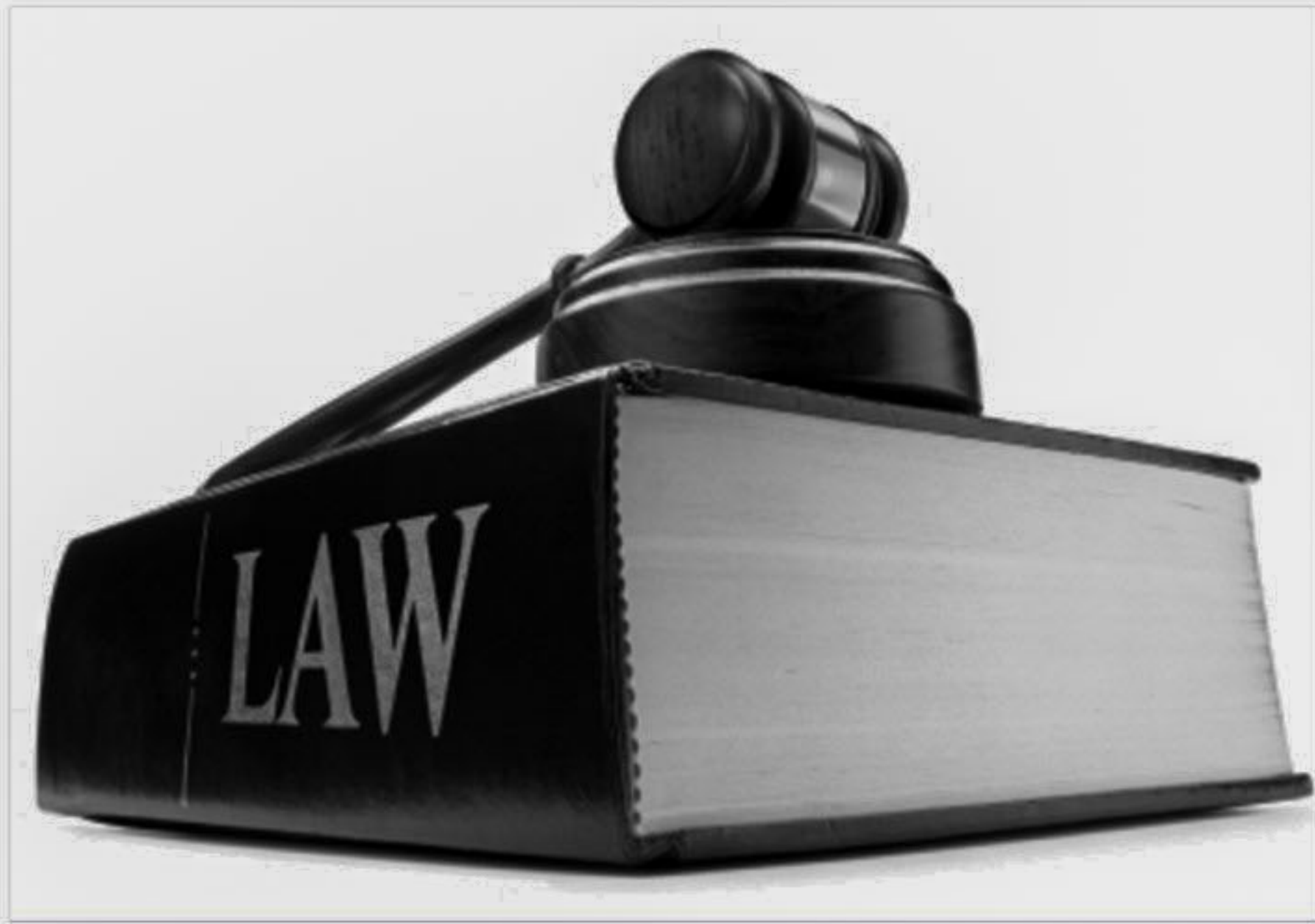


Learning the Law

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It is often said that, a good lawyer should not be concerned with what is the law on any point but with where the relevant law could be found. This adage tells you half the truth; you must know both 'the law' and where it can be found. That said, it is undeniable that it is impossible for every lawyer (a law student is a lawyer) to know every law. Every law can be known, however, in a rather different way. If you can master the basic attributes of 'the law' and learn about how and for whom it is made, how it is interpreted and what is the end-purpose of the law, then you can say that you 'know' the law. The question of knowing the exact provision of the law comes only later. Let me give you an example. In a case involving the offence of taking a second wife without permission of the 'arbitration council', a High Court Division bench ordered that the amount of fine imposed be paid to the victim first wife. While handing down this judgment, the concerned judge was quite oblivious of section 545 of the Code of Criminal Procedure, where this 'law' was written but knew that (knew the law) he had the discretion to order a criminal fine to be paid to the victim. This is an example of knowing the law. On the question of knowing the law, note the following praise posted on the website of a UK law school perhaps intending to attract new students to them: 'The best thing about [B] Law School is [that law here is] being taught by academic staff who know their subjects inside out and are able to explain complex terms in an understandable way.' Take special note of the words - know their subjects.

Studying law has two prongs: (i) reading (or listening to) the law and (ii) researching the law that involves searching followed by reading and writing. Searching law is an inevitable task



in the study of law. To effectively read the law, or to make a difference, every lawyer/student should undertake 'legal research' everyday and in all cases, which does not necessarily mean doing a formal research. They must search for something new either in the form of a case law or statute or scholarly writing. Because of the era of e-information, searching law has become a daunting task. In almost every university, not in Bangladesh though, instructions are provided on how to use e-resources to study law. There are indeed certain techniques in searching law in journals, books, law reporters, and in electronic resources. Gradually, electronic sources of 'law' are increasing in Bangladesh, too. So there should be a corresponding supply-side of this demand.

Writing/researching on law and speaking about law are important parts of legal studies. Anyone aspiring to study law effectively must start saying about the law before audience and must start writing on legal issues in newspapers, law journals or through exam-

essays. While writing, one must remember the importance of being critical and creative, which is ground rule of studying law indeed. Most importantly, when the question of 'researching' law comes, students must avoid emulating others or doing 'copy-paste'. Instead, you must learn the rules or techniques of doing legal research (ie skills of using others' materials lawfully). Plagiarism in term-papers or research monographs is an academic offence of thievery, and hence legally prohibited and morally reprehensible.

The students who had written and spoken on law frequently at their law schools have arguably turned out to be the best legal minds in their respective professional life. So there is great virtue in taking part in moots or in attending summer schools and legal workshops. Accordingly, law students must also be effective listeners to legal speakers including their lecturers. If you try to effectively listen even to a speaker who might seem 'boring' or difficult-to-

understand you would be able to make profit at the end of the day.

Another major issue is what law books you should read. This is a difficult choice to make, which depends on the availability and economic factors. Good law books in Bangladesh are rarely written. By contrast, whatever good writing are there, they are largely out of access for the students for a number of reasons. Nevertheless, difference can be made by serious and committed law students. Best books and original statutes and decisions have to be studied first. 'Made-easy'-type books, written commercially, may help you pass the examinations (the system of examinations is not free from creeping faults, which might allow both non-reading students pass and widely read students get a low score) but will significantly retard your creativity and the critical mindset. In every legal subject, including those typical and mundane like the law of recovery of public demands, you should combine materials (e.g., best books, case-laws, and comparative materials) to study it effectively.

A successful legal career is not always easily achieved. In every walk of legal life, be you a practitioner, judge, academic, development activist, retained law officer or whatever, you have to continually strive and put much hard labour to achieve the best. Whether you acknowledge or not, and despite exceptions, a great deal of that success comes from your law school, not in terms of what grade you could earn but of how effectively you read the law. To conclude, law should always be read with a critical mind and in constant reference to one's own society.

[This was originally written for a students' souvenir]

The writer is Associate Professor, Department of Law, University of Dhaka.

LAW WEEK

HC bail to Duke stayed

The Supreme Court on July 21 stayed a High Court order that granted bail to Saiful Islam Duke, nephew of BNP Chairperson Khaleda Zia, in August 21 grenade attack case. An eight-member bench of Appellate Division headed by Chief Justice Md Mozammel Hossain stayed the HC order after granting a leave-to-appeal petition recently filed by the government against the order. The stay order will continue till disposal of the appeal, the bench said. Earlier, the HC granted bail to Duke in the case on May 14 this year. The chamber judge of the Appellate Division on May 8 stayed the HC order and later on extended it till July 10. The Appellate Division on July 21 passed the order after scrutinising the charge sheet of the case submitted by police to the lower court. - *The Daily star online edition July 21 2011.*

BDR carnage trial

A court on July 20 framed charges against 430 of 850 accused in a carnage case filed in connection with the 2009 Pilkhana mutiny. Arson, lootings, dumping bodies, burying people in mass graves and theft are the other charges brought against the accused. Of the 430, 409 are members of Border Guard Bangladesh (BGB) while the rest include former BNP lawmaker Nasiruddin Ahmed Pintu, Awami League leader Torab Ali and 17 civilians. The court will frame charges against the remaining 420 people on July 27. A total of 74 people including 57 army officers were killed at Pilkhana, the headquarters of Bangladesh Rifles (BDR), now renamed BGB, in the mutiny on February 25-26, 2009. Judge Mohammad Zohurul Hoque of Metropolitan Sessions Judge's Court began framing charges after rejecting discharge pleas of the accused. - *The Daily star July 21 2011.*

Aminbazar Tragedy, Govt asked to explain in 10 days

The High Court on July 20 issued a rule upon the government to explain in 10 days why it should not be directed to punish the people including law enforcers liable for the loss of lives of six students in Aminbazar on July 18. In response to a writ petition, the court in the rule also asked the officials concerned to explain why they should not be directed to compensate the families of the victims beaten to death. It asked why inaction and failure of the law enforcers concerned should not be declared illegal and unconstitutional. The HC bench of Justice Farid Ahmed and Justice Sheikh Hassan Arif came up with the rule following a writ filed by Advocate Tajul Islam, secretary general of National Forum for Protection of Human Rights. - *The Daily star July 21 2011.*

HC summoned Amini

The High Court on July 20 summoned Fazlul Haque Amini, chief of an Islami Oikya Jote faction, to explain his derogatory comment on the constitution. The court also issued a rule upon the government to explain within two weeks why its avoiding legal steps against Amini should not be declared illegal. Amini reportedly told a meeting in the city's Labagh area on July 14 that the recently amended constitution will be thrown in the dustbin. The Daily Amar Desh published the comment on July 15. In response to a writ petition filed by writer-columnist Shahriar Kabir, an HC bench directed Amini to appear before it at 10:30am on July 27 with an explanation. The bench of Justice AHM Shamsuddin Chowdhury Manik and Justice Gobinda Chandra Tagore ordered the Dhaka Metropolitan Police commissioner to take legal steps against the IOJ leader for making the comment. - *The Daily star July 21 2011.*

More mobile courts to rein back prices

The High Court on July 19 directed the government to set up immediately adequate number of mobile courts in Dhaka and Chittagong cities to monitor wholesale markets and rein in soaring prices of essentials. The HC issued a rule upon the government also to explain within 10 days its inaction to check the price hike. An HC bench comprised of Justice AHM Shamsuddin Chowdhury Manik and Justice Gobinda Chandra Tagore came up with the rule after hearing public interest litigation filed on July 17 by Human Rights and Peace for Bangladesh (HRPB), a rights body. The bench ordered the secretaries to the ministries of commerce and food to take appropriate legal actions against the businessmen responsible for increasing the prices and creating an artificial crisis of essentials. It ordered the police to assist the mobile courts as per their requirements. - *The Daily star July 20 2011.*

Viqarunnisa student gives statement to court

The Viqarunnisa student, who was allegedly molested by her teacher, gave a statement to a Dhaka court on July 17. Metropolitan Magistrate Shamima Parvin recorded it under section 22 of the Women and Children Repression Prevention Act, 2000. Details of her statement could not be known immediately. The court gave the victim to her grandfather's custody. Earlier, Porimol Joydhor, a Bangla teacher of Viqarunnisa Noon School and College's Bashundhara branch, allegedly molested her at his coaching centre on May 28. - *The Daily star July 19*



YOUR ADVOCATE

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
We wanted to give our entire property to our uncle (my father's brother). For that we all have to be present for a mutation process at our hometown.

Because of my busy schedule of work I cannot go there. Is there any way that I can give my sister the authority to act on behalf of me?

Foridul Alam
Notun Dhara, Dhaka

Response
I would like to thank you very much for your queries. From the fact it appears that you are desirous to give your entire property to your uncle. From your queries it is not clear whether or not you have mutated your names in relation to the properties. Thus, you cannot transfer the properties to your uncle unless you have mutated your names in the government record. This is because valid transfer of any immovable

property requires a person to mutate his name regarding the same.

Once the mutation is completed, you can transfer all the properties by executing a Deed of Declaration of Heba. It is necessary to register the Declaration of Heba as required by the recent amendments of the Registration Act 1908 and Transfer of Property Act 1882 which have come into force from 1st July 2005. Besides, as part of the

amendment, registration fee in relation to Declaration of gift under Muslim law has also been reduced remarkably. Prior to the abovementioned amendments registration of such document was not compulsory and such transfer was valid if the document was sworn before Notary Public. You can appoint your sister as the constituted Attorney by executing a registered Irrevocable General Power of Attorney thereby giving her the authority to act on your behalf.

I hope that the aforesaid opinion will help you to take appropriate step towards a solution of your problem.

For detailed query contact: omar@legalcounselbd.com.

LAW EVENT



LCLS(S) organises legal career fair



THE prospective law graduates in Bangladesh remain in a state of uncertainty that how they can start their legal career. Keeping this matter in mind, on 21 July 2011 London College of Legal Studies South (LCLS South) organised a career fair aiming to create positive opportunities by linking up between academic learning and practical world.

The event took place at LCLS(S) premise at Kalabagan, Dhaka. More than 27 Law Chambers and organisations were present to unfold opportunities for those who are freshly called Barristers, English law graduates from any institution and those who have completed LLB Yr 2 and Yr 3 in May 2011 by providing them full/part time employment, internship/pupillage etc. to have some practical experiences in legal area.

The prospective employers were: Dr. Kamal Hossain and Associates, Chowdhury & Ullas and Associates, Legal Counsel, Rahman's Chambers, Farook and Associates, FM Associates, A Hossain and Associates, The Lawyers and Jurists, Lex Council, The Legal Minds, Abdul

Matin Khasru and Associates, Legal Home, Justice A.K. Badrul Hoque and Companions, Ruhul Kuddus and Associates, Temple Court Chambers Dhaka Annex, Rahat Khalil and partners, Bangladesh Environmental Lawyers Association, British American Tobacco, City Bank Ltd., Shahjalal Islami Bank, One Bank, Grameen Phone, GP IT and others. The participating students in the fair were of the opinion that it was a great opportunity for them to meet 18 to 20 Legal Chambers and companies at a same span of time.

This was the first legal career fair organised by LCLS South and the Head of Law Barrister Khaled Hamid Cowdhury is very positive about its outcome and ensure that this kind of fair will be organised more often to link up between the Law Chambers and prospective graduates.

This workshop would act as a catalyst for the legal learners to face the challenges of actual scenario of practicing law.

By Law desk.