

CRIME & PUNISHMENT

Assault



Section 351 of the Penal Code defines assault as such: Whoever makes any gesture, or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation- Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Illustration: A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

**Punishment:** For assaulting to any person otherwise than on grave and sudden provocation given by that person- imprisonment of either description for 3 months or fine which may extend to five hundred taka or both. (Sec.352)

On grave and sudden provocation given by that person- Simple imprisonment for one month or fine of taka 200 or both. (Sec. 358)

**Points that must be proved in order to convict a person of the offence of assault-**

1. That the accused made a gesture or preparation to use criminal force.
2. That it was made in the presence of the complainant.
3. That he intended or knew that it was likely that such gesture etc. would cause the complainant to apprehend that such criminal force would be used.
4. That such gesture or preparation did cause the complainant to apprehend it.
5. That the accused received no grave and sudden provocation from the complainant.

Source: Penal Code by L. Kabir.  
-Compiled by Law Desk.

MIGRANT rights  
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HUMAN RIGHTS MONITOR



Helping migrant Bangladeshi workers abroad

**F**OREIGN remittances sent by our migrant workers from abroad now account for the largest chunk of our foreign earnings. The money sent home by migrant workers in Bangladesh play a crucial role in the country's economy. Since the 1990s, remittances have played an increasingly important role in the national economy of Bangladesh. These are earnings of our workers, close to seven million of them, spread over 140 countries of the world.

But the foreign employment sector is fraught with fraud. Migrant workers struggle every step along the way, from finding honest recruiting agents to securing decent jobs abroad.

They don't have direct links with employers. They have to go through middlemen, whose fee is taken from migrant workers. Moreover, many manpower agencies are not recognised for their work. Instead they have to face the charge of cheating aspiring migrant workers.

A number of fraudsters in Bangladesh are cheating innocent job seekers by offering them baseless job in exchange of a hefty amount of fee. Recently two Bangladeshis had been stranded in Brasilia, Brazil, according to a story titled, 'Bangladesh in the Brazilian Amazon' written by Gabriel Elizona of Al Zazeera on January 11, 2012. The two Bangladeshi victims are AHM Sultan Ahmed and Abdul Awal. Ahmed is a trained painter and once worked in Greece while Awal worked in Malaysia as an electrician. The two arrived at one of the most remote corners of the Amazon in Brazil after a long, dangerous journey from Dhaka 21 days ago.

As the story goes, they paid about \$9,000 to a broker to arrange the journey. The trickster also promised easy and high-paying jobs in Ecuador. Ahmed and Awal paid up and flew from Dhaka to Dubai (4 hours, 30 minutes). In the UAE, they boarded a flight that brought them non-stop from Dubai to Sao Paulo. It was about a 15-hour flight. Because they didn't have a visa for Brazil, when they landed in Sao Paulo where they could not leave the airport and had to transfer to another flight to Santiago, Chile (3 hours, 15 minutes). After a long lay-over in Santiago, another flight to Quito, Ecuador, (5 hours) where they stayed for a few days.

But there was no work for them in Ecuador. So they sharpened their focus on Brazil, a country recently named the world's sixth largest economy by a consulting firm. But because they didn't know the logistics how to get to Brazil without a visa, they were forced to pay

\$5,400 to another "middle man" who basically said: 'It's complicated, but don't worry, I'll arrange it all.'

Soon they found themselves on a public bus for a 26 hours journey from Quito to Lima, Peru. From there they transferred to another bus and another 12-hour journey over mountain passes to Inapari, Peru, a dusty border town with Brazil. Still with no visa for Brazil and in a far away land and culture they didn't know, another local shady character demanded \$600, saying to secretly drive them to the Bolivian side of the border and then guide them the few kilometres through the jungle into Brazil. But the two Bangladeshis only had \$300 in cash left. So the man asked for Ahmed's cellphone to cover the rest. Having no other choice, he handed it over. Twenty-one days after leaving Dhaka, the two straggled into Brasilia.

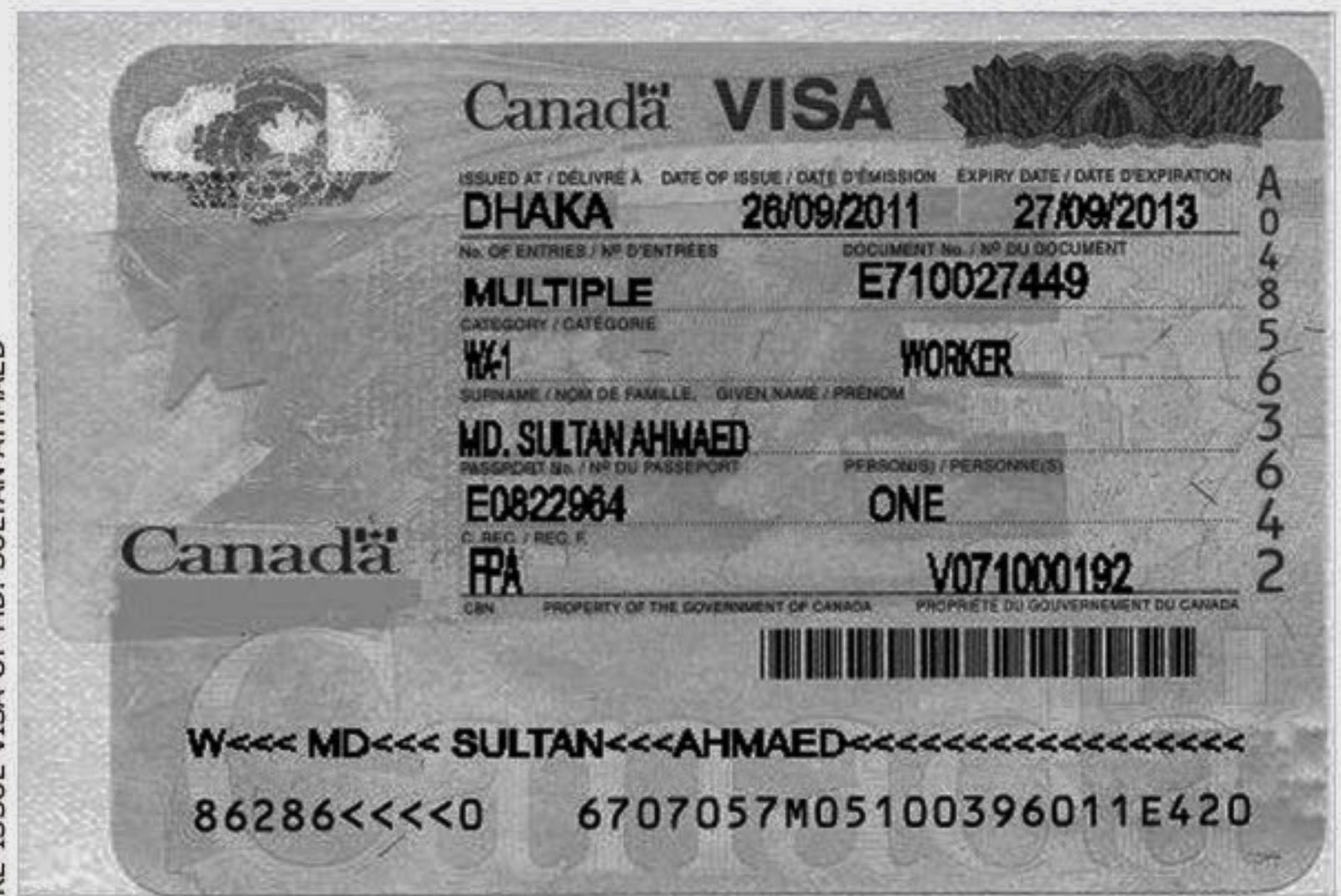
Ahmed had \$20 in cash and a few loose coins in Brazilian money. And no cell phone to call home. They bought a snack and some water after their arrival. Then they had only \$10. They delivered their passports to the local federal police offices for processing for a work permit. The story says their wait time is averaging four weeks. Certainly, the two Bangladeshis face an uncertain future in a distant land.

Rezaur Rahman, an International Human Rights activist and celebrated Bangladesh born Canadian Barrister and Solicitor has recently revealed an alarming story. According to him, a few fraudsters are offering jobs to innocent Bangladeshi job seekers in Canada that does not exist at all.

Recently an imposter posing as a Canadian lawyer swindled CAD \$ 12000.00 from poor Bangladeshis in Dhaka with a promise to issue Canadian Work Permit, Barrister Rezaur Rahman said. He extended his readiness to help save thousands of Bangladeshis from the clutches of the fraudsters. Responding to a question Barrister Rahman said, "Canada does not have any specific policy for Bangladeshi temporary foreign workers. Anyone who meets the general requirements and standard for hiring a temporary foreign worker by the Canadian employers can apply for the jobs."

In the year 2001-2010, about 2192 Bangladeshi work-

ers came to Canada in comparison to 261985 from the Philippines, 68065 from India and 3348 from Pakistan. What needs to be done to protect the rights of Bangladeshi migrant workers? "There is a great need for a national awareness campaign through news media, social networking sites and social organizations. People should be made aware of the strategies of the fraudsters and be given the tools to identify a fraudulent job offer. I wish the Bangladesh High Commission



in Canada had enough resources to verify the genuineness of any job offer. Alternatively, the local Bangladeshi organizations in Canada might come forward to verify the genuineness of a job offer that is made by a Canadian employer of a specific province", Rahman suggested.

Asked about the current situation of Bangladeshi migrant workers in Canada, Barrister Rezaur Rahman said, "many of them don't know that after working in Canada for two years they can apply for the permanent resident status. However one of the requirements to become a permanent resident is to score certain point on the basis of proficiency in English and French. Almost all the Bangladeshi migrant workers that I have met in Canada have no knowledge of French and most of them have poor knowledge of English. So, even if they work for two years in Canada they may not be successful in getting the Permanent Resident status".

-Compiled by LAW DESK.



LAW ANALYSIS



Anti Porn law tabled at the parliament

**A**NTI Porn law was finally tabled at the Parliament on 29th January 2012. This law can be said to be another step towards modernity.

Previously, matters of pornography were dealt with under the Cinematograph Act 1918 which prohibit of exhibition of unauthorized and unlicensed films, cassettes, cinematographs, video cassette recorder etc, which has not been certified as suitable for public exhibition by the authority constituted under the Censorship of Films Act' 1963. The Censorship of Films Act how-

shall be punished with six months imprisonment on with fine or with both". There are even provisions under Totho O Jogajog Projukti Ain 2006 whereby restrictions are imposed on broadcasting any pornographic or indecent materials through website or by any other electronic means.

These laws were not sufficient to protect the victims in this modern age as the Penal Code and Cinematograph Act were very old in themselves and the Totho O Jogajog Projukti Ain 2006 despite being new addressed the matter of pornography in confusing terms.

Thus with new hopes we welcome the newly proposed Act which defines pornography as any dialogue, acting, posture, unclothed or partially unclothed dance in cinema, video, photography, graphics, audio-visual image or imagery otherwise captured and displayable, which causes sexual arousal and has no artistic or educational value. The definition of pornography also includes such books, magazines, sculptures, cartoons and leaflets which cause the sexual arousal, and their negatives and soft copies.

The proposal includes provisions so as to punish those who produce pornography on children up to 10 years imprisonment or fine up to Tk. 500,000. It has also been proposed that anyone who lure a person, with or without their knowledge and film or photograph them shall be punishable with a maximum term of 7 years in prison or a fine of Tk. 200,000. People who blackmail another with pornography, two to five years of jail and Tk 1-200,000 fine has been proposed against them. It has also been proposed that matters of pornography shall be dealt with by special tribunals. According to the proposed Act, trial of such crimes would be carried out under CrPC and the crimes would be cognizable and non-bailable.

The bill has been sent to the standing committee already and we hope and expect the enactment of the bill as soon as possible.

-Compiled by Law Desk.



ever, addressed only the censorship of cinematograph films and for the decertification of certified films in the interest of law and order, or in the interest of local film industry, or in any other national interest, and matters incidental thereto or connected therewith. The word 'in any other national interest' was used in the sense to maintain the fabric of the society and for which it can without any doubt, be said that no pornographic material can get permission for exhibition. In addition to this, the Penal Code also referred to prohibition of pornographic contents within Sections 292, 293 and 294. Section 292 of the Penal Code states- whoever sells, distributes, publicly, exhibits, imports, exports, conveys, advertises, offer etc, or produce of has in his possession any obscene book, pamphlet, paper, drawing, painting, figure etc, shall be punished with imprisonment for three months or with fine or with both and under section 293- "whoever does offence to any persons under the age of twenty years, he



YOUR ADVOCATE

*This week Your Advocate is Barrister Tanjib-ul Alam Advocate, Supreme Court of Bangladesh. He is the head of the chamber of a renowned law firm, namely, 'Tanjib-ul Alam and Associates', which has expertise mainly in commercial law, corporate law, admiralty, employment and labor law, land law, banking law, constitutional law, telecom law, energy law, Alternative Dispute Resolution, Intellectual Property Rights and in conducting litigations before courts of different hierarchies.*

Query

Can a foreign national buy and lease land in Bangladesh?

What are the consequences, when someone has dual citizenship? Or someone who inherited something from his great grand parents?

Anonymous

Response

Thank you for your question. With regard to your first query, whether a foreign national can buy and lease land in Bangladesh, there is no straight forward answer to this question. As you may be aware that there are myriad categories of land all over

Property Act or the Registration Act in selling or registering any land in favour of a foreign national.

Therefore, it can be safely said that unless there is specific restriction applicable for a particular category of land, the laws of Bangladesh do not prohibit acquisition of land property by foreign nationals.

With regard to your second query is concerned, it is not clear what you meant by "the consequence" of having dual citizenship. As far as the laws of Bangladesh is concerned, dual citizenship is allowed only for certain specified countries such as Europe



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the country, ownership, alienation rights, right to create encumbrance and exercising other form of property rights of which will depend on the nature of the land.

For example, if a foreign national wishes to purchase a plot of land from RAJUK owned land, it will not be possible to do so as the RAJUK has imposed a restriction against selling its property to any foreign national. On the other hand, there is no restriction under the Transfer of

and North America. If a person acquires citizen of another country which is eligible for dual citizenship, such person shall be enjoy all rights and privileges as any other citizen of Bangladesh. Therefore, if such a dual citizen inherits any property from his great grandfather, he will be treated at par with any other citizen of Bangladesh.

For detailed query contact: info@tanjibalalam.com.

LAW WEEK

Khoka sued for graft

The Anti-Corruption Commission on February 15 sued former Dhaka City Corporation mayor Sadeque Hossain Khoka and three others for misappropriating Tk 26 lakh from public fund and causing loss of another Tk 11 lakh to it. Mahbubul Alam, ACC's assistant director, filed the case with Shahbagh Police Station, said Sirajul Islam, officer-in-charge of the station. In 2003 and 2005, tenders were invited for leasing out the market's car park. But after completion of all the procedures for awarding the work, including selection of the highest bidder, Khoka cancelled the tender, Alam said. -The Daily Star February 16 2012.

HC summons two Comilla cops

The High Court, over a newspaper report on February 15, summoned the officer-in-charge and a sub-inspector of Meghna Police Station in Comilla on February 23 for not recording a case over a housewife's murder. The daily Prothom Alo on February 15 reported that housewife Soma Aktar, 20, from Narayanganj, was tortured to death over dowry on February 5 by her in-laws at Chalibhanga village of Meghna upazila in Comilla. But, police did not record any case after hearing the incident, says the report. - The Daily Star February 16 2012.

HC to Protect Tagore's Kuthibari

The High Court on February 15 directed the government to take necessary steps immediately to preserve and protect the historic Kuthibari of Poet Rabindranath Tagore at Shilaidaha in Kushtia. Delivering a verdict on a writ petition, the court also ordered the authorities concerned to evict all people from the surrounding area of Kuthibari as soon as possible to build a museum there in Rabindranath Tagore's name. The HC bench comprising Justice Manik and Justice Jahangir Hossain Selim rejected the writ petition that was filed by one Md Alauddin of Kushtia challenging the government decision to acquire six acres of land adjacent to Kuthibari area. - The Daily Star February 16 2012.

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: