

FOR YOUR INFORMATION



# Street Law

## Imparting the Basic legal knowledge to the Future Leaders of the Nation

MAHDY HASSAN and EMRAN AZAD

"Do you support death penalty or not?" - a very simple response to this query from Saraf, a student of class ten of Holy Cross Girls' High School was this: "We can not take one's life as we can not give life to someone". Before answering she thought for some moment about humanity, and then she thought that one must not wipe out the smile from the face of humanity. On the second week of March, 10 law students from the University of Dhaka visited the Holy Cross School as part of "Street Law" program, which is only one of the many people oriented socio-legal projects conducted by ELCOP (Empowerment Through the Law of Common People). ELCOP is a Student-Teacher run Organization which provides Legal Aid service to the common people and the law students from the various corners from home and abroad. As part of the "Street Law" program, ELCOP sends Law students to different schools of the capital all round the year. The purpose of this program is to provide the secondary and higher secondary level students with a first glimpse of legal knowledge which is a part and parcel of our everyday life. The programme is structured in a manner that gives out the basic legal education which can make the students aware of not only their rights but also duties towards their family, society, community, country and the universal humanity. The majority of the people of our country do not have the minimum knowledge about their rights and duties individually as well as collectively. The Constitution of our country spells out eighteen fundamental rights which have been adopted in 1972 having been inspired by the Universal Declaration of Human Rights (UDHR) 1948. Right to know one's the fundamental rights is thus a core human right of a person. As a member of this present modern world and as an ideal citizen of an independent democratic State, every person should have some realistic legal knowledge of their daily life. Law exists in our personal, family, societal and political life in some form or other, and we resort to legal knowledge with our subconscious mind. But unfortunately the students of our country at the school and college levels are not flourished with the



Lawyers enrich ourselves through this whole process which only class room learning can never achieve. From our experience at the Holy Cross School while conducting Street Law program we were astonished to know that sometimes people not connected with the legal arena interpret certain aspects with such novelty that the legal minds might never even conceive. ELCOP started the program named "Street Law" (Protidiner Ain) since more than a decade. It started as the Law review programme by the law students from the University of Dhaka. Since 1998, Prof. Dr. Mizanur Rahman with the help of Ford Foundation as well as the USAID formally launched this programme which is run in more than 77 countries worldwide. The inception of the Street Law was in

Georgetown University of USA in 1970 where the law students as part of their academic curriculum went to the Ghetto areas to share legal knowledge with the backward sects of a society suffering from the vice of apartheid. Thereafter it flourished in its best form in South Africa, and Professor David MacQuaid Mason from Natal University of South Africa is considered one of the most successful proponents of Street law. In South Africa, Street Law is a major part of acquiring a formal law graduation degree. In the Subcontinent, Bangladesh with the help of ELCOP is the pioneer of Street law which we the Street Lawyers love to call Protidiner Ain, as it is necessary to cross the paths of out everyday life smoothly. The last two Street law Programs at the Nilkhet High School and the Holy Cross have been a real booster to reenergize our strife for quenching the thirst for sound jurisprudential knowledge and sensible ways to implement that I the practical life. We believe that the motto that "Each One, Teach one" shall one day establish the Shonar Bangla we all crave for, and hence we carry forward the motto of ELCOP: Lawyering with the Poor, Lawyering for Justice; and that is the essence of pro-bono education, empowering the toiling mass of Bangladesh.

The Street Law programme is designed to introduce the young minds with the primary ideas of human rights, fundamental rights, equality before law, rights of children, crime and sin, law and morality, civil rights, court structures, justice system, family matters such as marriage, divorce, maintenance, succession etc., suppression of domestic violence, juvenile justice system consumer rights, the sanctity of the constitution etc. If the students of every corner of our country become conscious about their legal and moral rights and duties, ultimately our society will be changed and law of the State will be pro-people. Everyone will enjoy his rights and perform his duties equally. As we have already recognized the students as the future of the nation, their thinking will be more developed only when legal based education such as Street Law program will be continuing. This is what ELCOP calls making Future Conscious Citizens. The most fascinating aspect of this whole project is that, this helps not only the trainees, but we the Street

The Writers are Street Lawyers, Students of law, University of Dhaka.

### CRIME & PUNISHMENT

## Criminal Breach of trust



UNDER section 405 of the Penal Code a person commits criminal breach of trust if he (i) being in any manner entrusted with property or with any dominion over property (ii) dishonestly misappropriates or converts to his own use that property, or (iii) dishonestly uses or disposes of that property in violation (a) of any direction of law prescribing the mode in which such trust is to be discharged, or (b) of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person to do so. Punishment: -Imprisonment of either description for three years or fine or both. (S.406) In the case of *Babaji Bin Bhau* (1967) 4 B.H.C. (Cr) 16, the accused were entrusted with some silver for the purposes of making ornaments and they introduced copper into the ornaments. It was held that they were guilty of criminal breach of trust. In the case of *Shakir Hossain v. State* 9 DLR (SC) 14, it was held that where the charges against a person is that of criminal breach of trust, the prosecution must prove not only entrustment of or dominion over property but also that the accused either dishonestly misappropriated, convicted, or used, that he willfully suffered some other person to do so. In the case of *Shamsul Alam & others v. AFR Hasan & others* 40 DLR 46, it has been observed that violation of contract will hold good for an offence of criminal breach of trust if the condition as to "entrustment" within the meaning of section 405 is satisfied.

### 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**  
From a small-sized Property Developing Company owned by a Bangladesi-Canadian Architect of respectable background, we purchased one Apartment from one of their advertised projects in Sector- 4 in Uttara Model Town in 1998. We made full payment by cheque on 22.12.1998. When the Project was nearing completion, One "Agreement for Sale" was drafted on Stamp Paper of Tk 150 and it was signed by both the Property Developer and the Purchaser. The date was 31.12.1998. The possession of the Apartment was handed over to the Purchaser in early October of 2000 after making full payment of VAT, Utility Connections and Collective Fund. Then on 31.12.2002, the Developer, asked for deposits for obtaining Rajuk Clearance prior to Registration. The Purchaser duly deposited the fund with the Developer. For nearly two years the Developer showed no activity. Then on 17.10.2005, the Developer refunded the money to the Purchaser on the pretext that they were unable to make any progress as the other Apartment Owners were not co-operating with them. The matter has been hanging like this since then and no progress made. It is worth mentioning that the Developer and his brother, a Lawyer, live in two Apartments on the top floor and they are not on good term with the other 11 Apartment owners.

**OUR QUERIES;**

1. In the absence of Registration, does the original Agreement for Sale give the Purchaser any legal right.
2. Can the Agreement for Sale be Registered or notarised to safeguard the Property
3. If the Developer does not co-operate, could the Purchaser can seek Court Order either individually or collectively for Registration.

**Iskander Meah**  
H#20A, Road# 82, Gulshan

**Response**  
I would like to thank you very much for your queries. From the given fact it appears that an Agreement for Sale was executed and registration of the flat is yet to be completed. As far as your first query is concerned, the "Agreement for Sale" renders contractual rights upon the parties to the Agreement but you will not

become the owner of the same by way of this agreement. Considering your second query, notarizing the Agreement is unlikely to have any significance and the parties will have contractual rights emanating from the Agreement. In the light of your third query, the purchaser can have recourse to the Court individually or collectively for breach of the aforesaid Agreement against the developer. As the registration of the flat is an important term of the Agreement, the purchaser may go to the Court for breach of the Agreement and ask for specific performance of the Contract. The Court may order specific performance by way of registration of the flat. The purchaser should make sure that the Sale Deed is registered at the time of registration as the title will not pass to him otherwise even if he is in possession of the flat. Besides, it will be necessary to accomplish mutation in the name of the purchaser after registration. I always advise to settle any dispute amicably as litigation involves use of valuable time and money. Therefore, the issues in the given fact should also be settled beyond the Court and the purchaser should try his best in this regard. You may try out sending a legal notice through a lawyer. I hope that the aforesaid opinion will help you to take appropriate steps towards a solution. For detailed query contact: omar@legalcounselbd.com.

### LAW WEEK

**Charges against Alim accepted**  
The International Crimes Tribunal-1 on March 27 took into cognisance the war crimes charges brought against former BNP lawmaker Abdul Alim. The tribunal--the first of two set up to deal with war crimes committed during the 1971 Liberation War--ordered the prosecution to place formal charges against Alim on April 24. It also extended bail to the BNP leader until that day. Arrested on March 27 last year in Joypurhat, the BNP leader is now facing 74 counts of crimes against humanity allegedly committed during the Liberation War of 1971. After the three-judge tribunal took the charges into cognisance, Munshi Ahsan Kabir, a defence counsel of Alim, appealed for his client's bail to be extended as he had not violated any of the conditions of the bail. -The Daily Star March 28 2012.

**Mahmudur Rahman, three others indicted**  
A Dhaka court on March 27 framed charges against the acting editor, publisher, chief reporter and a reporter of the daily Amar Desh in a defamation case. The accused are acting editor Mahmudur Rahman, publisher Alhaj Md Hasmat Ali, chief reporter Syed Abdal Ahmed and reporter Oliullah Noman. The court fixed May 21 to start trail of the case. On October 28, 2009, BTRC Deputy Director Tarek Hassan Siddiqui filed the defamation case against the accused with the Chief Metropolitan Magistrate's Court of Dhaka for running "defamatory reports and cartoon" in the newspaper on October 2, 3 and 8 of 2009. -The Daily Star March 28 2012.

**DoE sues 3 KEPZ officials**  
The Department of Environment (DoE) filed a case against three officials of Korean Export Processing Zone (KEPZ) on March 24 for razing hills to develop industrial plots in Anwara upazila of the district. They are KEPZ adviser Brig Gen (ret'd) Hasan Nasir, General Manager Col (ret'd) Mohammad Shajahan and Manager Abul Kalam Azad. The DoE in the case also accused 10 unnamed others of KEPZ. The case was filed with Karnaphuli Police Station under the environment preservation act, 1995 (amendment-2010) for illegally cutting hills, filling water bodies, felling trees, and violating the provisions of the environment clearance KEPZ had got from the DoE for developing industrial plots in that area. Earlier in the day, a DoE team led by Director Munir Chowdhury seized 10 bulldozers from KEPZ. -The Daily Star March 26 2012.

**ETV chairmen, MD get bail**  
The chairman and managing director of Ekushey Television (ETV) were granted bail in a case filed against them for not submitting their tax returns within a stipulated time. Judge Mohammad Zahurul Haque of the Senior Special Judge's Court granted the bail to ETV Chairman Abdus Salam and Managing Director Ashrafur Alam when they appeared before the court seeking bail. Abu Sayeed Sohel, deputy tax commissioner of the National Board of Revenue (NBR), filed the case against them on March 20 and asked the duo to appear before it on April 10. -The Daily Star March 26

### LAW LEXICON

- Quash** - To vacate or void a summons, subpoena, etc. \*\*\*
- Quasi-contract** - An obligation created by the law in the absence of an agreement or contract; not based upon the intentions or expressions of the parties. \*\*\*
- Quasi-criminal action** A classification of actions such as violation of a city ordinance that is not also violation of a criminal statute, which are wrongs against the public punishable through fines but are not usually indictable offenses. \*\*\*
- Quiet title action** - A court proceeding to remove a cloud on the title to real property. \*\*\*
- Quitclaim deed** - A deed without warranty of title which passes whatever title the grantor has to another. \*\*\*
- Ratification** - The confirmation or adoption of a previous act done either by the party himself or by another. \*\*\*
- Ratio decidendi** - The ground or reason of the decision in a case. \*\*\*
- Real property** - Land, buildings, and whatever is attached or affixed to the land. Generally synonymous with the words "real estate." \*\*\*
- Record** - All the documents and evidence plus transcripts of oral proceedings in a case. \*\*\*
- Recuse** - The process by which a judge is disqualified from hearing a case, on his or her own motion or upon the objection of either party. \*\*\*
- Re-direct examination** - opportunity to present rebuttal evidence after one's evidence has been subjected to cross-examination. \*\*\*
- Redress** - To set right; to remedy; to compensate; to remove the causes of a grievance. \*\*\*

Source: Jurist International

**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: [phone number]