

REVIEWING 2012

Laws in 2012



A good number of laws have been legislated in 2012 considering various important issues which reflect utmost commitment of the government of Bangladesh towards the creation of effective legal regime. But this commitment will get into light "if" proper implementation followed. Law desk portraying some of the significant legislative developments in the previous year.

Graffiti Writing and Poster Sticking Control Act 2012

Under this Act None will be allowed to deface walls with graffiti and posters. People or organisations will only be allowed to put up posters in the government-designated spots by paying required fees, This Act has recognised unauthorised posters sticking and scrawling graffiti as an offence. If any person or institution violates the aforesaid procedure of posters sticking and graffiti writing, the punishment is estimated at minimum 5 but maximum 10 thousand taka fine and in default simple imprisonment of 15 days.

Public Servants (Retirement) (Amendment) Act 2012

This Act extended the retirement age of government employees to 59 years from 57 years by amending section 4 of Public Servants (Retirement) Act, 1974.

Bangladesh Workers Welfare Foundation (Amendment) Act 2012

This Act makes it mandatory for companies to deposit 5 percent of profit to workers' welfare funds' in case of their failure punishment will be followed.

Human Trafficking Deterrence and Suppression Act 2012

This Act is comprehensive in nature which provides an inclusive definition of human-trafficking and makes the punishment of human trafficking more rationale. It aims to provide an integrated package of protective measures for the victims and witnesses of trafficking; The Act has provided for the establishment of an Anti-Human-Trafficking Offence Tribunal for the speedy trial of the trafficking offence. The prescribed timeline for trial is 180 days from the date of framing a charge.

Mutual Legal Assistance in Crimes Act 2012

This Act provides detailed procedure for inter-country cooperation in carrying out enquiries, prosecutions and trial of criminal activities. It also empowers the Bangladesh government to freeze or attach properties of criminals and their equipment used in criminal activities in line with the request of a foreign country.

Money Laundering Prevention Act

Under this Act, banks and other financial institutions, nongovernmental organisations, stock dealers, and other organisations must regularly send information about suspected transactions to the central bank, and in case of failure fine may be imposed. It also pledges for a separate financial intelligence unit at Bangladesh Bank to monitor and take necessary action against money laundering activities.

Anti-Terrorism (Amendment) Act 2012

This Act amended The Anti-terrorism Act, 2009 to prevent terrorism like killing, threatening, carrying or possessing illegal arms and ammunition, abduction, creating panic, using Bangladesh's soil for carrying out terrorist activities in or outside the country.

Pornography Control Act 2012

This Act contains various provisions banning production, preservation, carrying and marketing, export and import of pornographies It provides for 10 years' rigorous imprisonment or Tk 5 lakh fine or both for pornography-related offences.

Hindu Marriage Registration Act 2012

This Act pledges for registration of Hindu Marriage. Though it is optional, if someone want to register their marriage will get some benefits, including getting visas for their spouses and children.

Others at a glance

The Dhaka Transport Coordination Authority (amendment) Act, 2012, Bangladesh Agricultural Research Council Act 2012, Bangabandhu Poverty Alleviation and Rural Development Academy Act 2012, The Competition Act 2012, Prime Minister's Education Assistance Trust Fund Act 2012, Bangladesh Applied Nutrition Research and Training Institute Act 2012, Atomic Energy Control Act-2012, Public University Teachers' (retirement) (special rules) Act, 2012, The Wildlife (protection and safety) Act 2012, Disaster Management Act 2012, Power of Attorney Act 2012.

From Law Desk.

LAW INTERVIEW

'It is a fantastic privilege to understand the depths of another country like Bangladesh'

The first woman director of Oxfam, Barbara Stocking also a philanthropist, believes that the most rewarding part of her entire career is to engage herself in communities 'it is a fantastic privilege to understand the depths of another country like Bangladesh' in an exclusive interview, Barbara shared her views on international development and how far Bangladesh has gone. Zahid Al Amin, on behalf of Law Desk, talks with Barbara.



Dame Barbara Mary Stocking joined Oxfam GB in 2001 and will retire in 2013 after successfully leading Oxfam's response to humanitarian crises in Afghanistan, Iraq and Sudan, South Asian tsunami, Bangladesh cyclones and Pakistan earthquake. Asking about her objectives for visiting Bangladesh for the second time she said, "I wanted to come to Bangladesh because Bangladesh is next to the small island states, the most affected country caused by the rich countries and see what Oxfam is doing to ensure justice for the victims of climate change. I had been here ten years ago and we were already working on disaster risk reduction but at that time had no thought of how bad climate change was going to hit Bangladesh so I wanted to come see for myself." Here are the gist of some more

conversation with Barbara Stocking:

Law Desk (LD): How do you view women's contribution in the process of development?

Barbara Stocking (BS): Discrimination and injustice are major causes of poverty worldwide. Women participation in decision making along with men is very significant. You're more likely to be poor if you're a woman and as a woman according to research you're likely to be doing most of the work. However, this discrimination does not start there it actually starts much earlier. Girls too often denied access to education, health and nutrition from birth. This has to change. The right to gender equality underpins all Oxfam's work across the world.

LD: How does Oxfam work to end discrimination against women?

BS: Bangladesh government has made progress in proliferation of women education. But more improvement in this sector is required. Oxfam is making its contribution, here in Bangladesh, to reduce the social acceptance of violence against women, through the 'WE CAN' campaign. Government and non-government organizations need to work together in future to uphold women rights, which is pre requisite, for development.

LD: What will you say about the changes in Bangladesh that have taken place between your two

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

I am indeed in want of help from an expert about a financial family matters. My Grandfather (Paternal) was a food inspector and he died on 29th November, 1998. I have three uncles and two aunts in my paternal side (including my father they are six siblings). My father is second among them. Since my grandfather's death my grandmother is getting the family pension as she is the nominee in this case. My father is mentally disordered since 1990 and he is the only disordered children of my paternal grandparents. I am a student of Dhaka University and I have heard from a BCS government officer that my father is an eligible candidate for family pension if my grandmother dies and my father survives. He also mentioned that it is clearly stated in Bangladesh Service Rule; as to confirm his information I have gone through BSR but I didn't make myself enough comprehensible in this regard. My father was not selected by my grandfather as a nominee but my grandmother wants to give the nomination to my father in her absence if there is any provision. Furthermore, if my father becomes a nominee by my grandmother then what would be the legal process to make the case happen? Moreover, if he gets the pension then does he not get equal proportions to other properties of my paternal grandparents?

Md. Tarekur Rahman Badda, Dhaka-1212.

Response

I would like to thank you very much for your queries. From your queries it appears that you are desirous to know about matters related to pension and inheritance of property. As far as your father's eligibility to become a nominee of the family pension is concerned, the concerned branch of the Finance Division under the Ministry of Finance issued an

Order dated 27.01.2009 making the provision regarding allocation and payment of pension to civilian Government employees easier. Article 3.04 of the concerned Order entitles a disable (i.e. Protibondhi) child of an employee to enjoy family pension for lifetime but not as nominee. This is significant as disable children have been rendered eligible to the enjoyment of such benefit when an able child is not entitled to the same. However, the Article also provides that in order to be entitled to such enjoyment the Child has to qualify as a disable in the manner defined under Section 3(1) of the

nominee your Grandmother is also supposed to provide the same in the prescribed form and manner. In case, none or any such certification in support of succession and/or disability have not been provided earlier, your Grandmother should provide copy of the Certificate(s) along with an application to the pension providing authority for procedural compliance.

Considering entitlement to proportion of your Grandparent's property, it is governed by the Muslim law of inheritance. The Muslim Law does not exclude someone of unsound mind from



Bangladesh Protibondhi Kollyan Ain 2001. As you have not mentioned the type of mental disorder your father has been suffering from, it may be assumed that he is entitled to the enjoyment of family pension having qualified as a disable under the 2001 Act.

As far as the procedure is concerned, Section 13 (b) of the 2001 Act also require to provide a copy of Identity Card supporting registration in favor of such disable person when applying for pension. In practice, such certificate is issued by the Social Welfare Officer. Your Grandfather should have provided list of his successors with certification confirming such succession and also in support of disability at the initial stage of allocation of pension. Subsequently, having been

inheriting property. As such, your father should also be entitled to his share. Please note that as far as the distribution of your Grandfather's property is concerned, his successors are already co owning his property following his death as the right to own such properties is automatically triggered with the death of your Grandfather. As your Grandmother is still alive, she is also entitled to a particular share of your Grandfather's property and upon the death of your Grandmother; her share to your Grandfather's property will be distributed among her successors.

I hope you will have answer to your queries from the aforesaid opinion.

For detailed query contact: omar@legalcounselbd.com.

visits to Bangladesh a decade apart?

BS: Ever-worsening traffic jam in Dhaka is a challenge. However, Bangladesh has made tremendous improvement in disaster management strategies. In 1991, lot of people were killed by cyclone due to lack of proper preparedness in rescue and rehabilitation initiatives but now with increased awareness and improved management system, situation has improved significantly. Passing of the Disaster Management Act in recent time is a good initiative. This was the outcome of more than two years of joint advocacy efforts, where Oxfam had also played a significant role. As an Oxfam agenda, we hope to move forward the case of Bangladesh and other countries vulnerable to climate change issues from Copenhagen Conference to other world bodies. Oxfam would continue working for the poor and vulnerable people in Bangladesh.

LD: Would you please comment on the Bangladesh's achievement over four decades since its liberation?

BS: At first, I want to thank Bangladesh government for recognizing Oxfam the 'Friend of Liberation War'. Bangladesh is still facing challenges mainly for climate change consequences. We know 30 million people at least are going to move out of coastal areas because of climate change. For me facing up to that issue and thinking how it to handle is really the biggest issue for Bangladesh and we must stand alongside Bangladesh in the international world to try to do something about this.

LD: What about achieving Millennium Development Goal?

BS: I think Bangladesh is on track to achieve some of the MDGs but there are still some issues, which need more attention. Oxfam will incessantly support Bangladesh to the attainment of the MDGs.

LD: You're concluding words...

BS: I express my hope that I would be visiting Bangladesh again in the future and work for the betterment of the underprivileged and marginalized people.

The interviewer is a freelance journalist.

LAW WEEK

Appeals for retrial rejected

The International Crimes Tribunal-1 on January 3 rejected three petitions of war crimes suspects Ghulam Azam, Motiur Rahman Nizami and Delawar Hossain Sayedee for retrial of their cases. The Jamaat leaders are facing the trial for committing crimes against humanity during the country's Liberation War in 1971. However, the three-member tribunal led by Justice ATM Fazle Kabir on January 03 decided to hear again the argument in the case filed against Jamaat leader Sayedee from January 13 to 17. After the completion of Sayedee's argument, both the prosecution and defence will get one-hour for argument only on law point, the tribunal said. Earlier on January 1, the tribunal fixed the date after holding hearing on the appeals filed by Ghulam Azam on December 19 last year while Nizami and Sayedee on December 23. - *The Daily Star online edition January 3 2013.*

HC again asks Rajuk to stop all activities

The High Court on January 2 once again directed Rajuk to immediately stop all activities of unauthorised housing projects including their filling of land, advertisements, and selling plots in and around Dhaka. In response to a writ petition, the court ordered the Rajdhani Unnayan Karttripakkha to stop such activities of Ashiyan City, a housing project, which had a conditional and partial approval from the housing ministry to develop land in Holan and Ashkona near Uttara in the capital. Ashiyan City is one of 78 private housing projects in and around Dhaka city which were declared illegal by another High Court bench in June, 2011. In December, 2011, the court banned publishing of advertisements of any unauthorised housing projects in the print and electronic media. The High Court then ordered the government to take stern legal action against publicity and filling of land for such projects. On January 2, the High Court stayed for three months the effectiveness of Ashiyan City's site clearance, issued by the Department of Environment, and the renewal of the certificate. - *The Daily Star January 3 2013.*

Fakhrul gets 6-month HC bail

The High Court on January 2, granted six months' ad interim bail to BNP acting secretary general Mirza Fakhrul Islam Alamgir in two cases filed for torching a car and blasting cocktails during the opposition's countrywide roadblock on December 9 last year. It also asked the government to explain in four weeks why Fakhrul should not be granted regular bail in the cases. An HC bench of Justice Quamrul Islam Siddiqui and Justice Sheikh Md Zakir Hossain came up with the order and rule after hearing two bail petitions filed by Fakhrul's lawyer Mahub Uddin Khokon. The cases had been filed with Paltan and Sher-e-Bangla Nagar police stations.

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, 64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel: