



**LAW INTERVIEW**

Once again our country is being cursed by a man-made disaster and killed hundreds of people. Without saying many more are seriously injured. This is not a human folly but an intentional killing which is happening in this country repeatedly. This time the tragedy is being titled as "Rana Plaza Tragedy". The reasons are manifold for such disaster. In this condition The Daily Star- 'Law Desk talks with **Dr. Abdullah Al Faruque** Professor and Dean Faculty of Law University of Chittagong Bangladesh.

**Law Desk (LD): Whether the existing law is sufficient enough to address the safety and security of workers?**  
**Dr. Abdullah Al Faruque (AAF):** The existing laws on safety and security of the workers but these are not implemented or enforced due to lack of inspection, prosecution and other legal measures.

**LD: Whether the provisions for compensation and penal sanctions are adequate enough?**

**AAF:** The existing provisions for compensation are not enough and can hardly meet the cost of lives or physical injury. Penal sanctions are more or less OK.

**LD: What are the reasons for non-enforcement of the workers right to work in a safe environment and right to get compensation in case of grievance?**

**AAF:** Reasons for non-enforcement of provisions: inadequate number of inspectors in labour inspection office, lack of compliance with building code, lack of political willingness, corruption, nepotism, political influence, lack of proper monitoring of the safety and health measures;

**LD: What are the impediments towards the effective functioning of Trade Union in Bangladesh?**

**AAF:** Trade unions are hardly allowed in RMG sectors despite enabling legal provisions. Only few RMG industries allow trade union. So many restrictions are imposed by the government on registration of trade union; some labour federations and trade unions are highly politicised and as a result, they cannot fulfill the expectation of the workers.

**LD: What would be your suggestion to come out from this backdrop by ensuring safety of workers at workplace?**

**AAF:** For ensuring safety and security of workers, the existing laws should be enforced and owners in breach of laws should be prosecuted and punished. All stakeholders including buyers, government, trade unions and employers should play their role. In particular, government institutions, - Department of Labour, Office of Labour Inspection, labour court should be strengthened and should be made accountable for non-compliance with labour laws.



**LAW CAMPAIGN**

## Fight against child labour



**T**HE implementation of social protection measures can play a key role in rescuing minors from occupational bondage, a new report by the United Nations International Labour Organization (ILO) has found. According to the World Report on Child Labour, varying types of social protection measures such as cash transfer schemes, social health protection and providing income security in old age, can help reduce the number of children around the world who are forced to work. The ILO estimates that the phenomenon has trapped 215 million children worldwide.

"This report contributes to a better understanding of the underlying economic and social vulnerabilities that generate child labour," said Constance Thomas, the Director of the ILO's International Programme on the Elimination of Child Labour (IPEC) which authored the report. The report notes for example that Brazil's Bolsa Familia cash transfer programme, which provides families with a monthly allowance to send their children to school, has played a prime role in reducing child labour in both rural and urban areas across the Latin American nation. Likewise, the introduction of a scholarship programme in Cambodia, which also involves cash transfers, has reduced child labour there by 10 per cent. In African countries such as Botswana, Malawi, Namibia, South Africa, Tanzania, and Zimbabwe, where 50 to 60 per cent of orphans live with their grandparents, income security in old age plays an equally significant role in diminishing the presence of child labour. The ILO has estimated that more than 5 billion people, or around 75 per cent of the global population, do not have effective access to comprehensive social protection. The figures largely contribute to the vast numbers of child labourers around the world, including the 115 million involved in the worst forms of child labour, such as debt bondage and prostitution, and the 15.5 million involved in domestic work.

"Investing in social protection through nationally-defined social protection floors is a crucial part of the response in the fight against child labour, which also includes access to decent jobs for adults and education for children," concludes Ms. Thomas.

Source: UN.org.  
For details- <http://www.un.org/apps/news/story.asp?News>.



**LAW LETTER**

## No more mourning days

Last week is gone, but it was harrowing for most of us. The collapse of eight-story building named, 'Rana Plaza' in Savar scoring over 350 deaths and many other with injuries. Among which most of them were garment workers as there were four garments placed in that building. When a casualty takes place, many questions arises, many problems are identified, media always remains full of talk-shows and news, and many promises are abjured. Blame game is amused; sometime the authorities in charge become too barmy to go off the rails. But most of the time the real victim remains behind the closed doors.

The respective authority did not perform their duty correctly, Rana Plaza construction started from land acquisition without soil testing and no earth filing and no proper guidelines were followed. As Rana Plaza was built on a pathway which was one of the traffic routes for which the owner of the Plaza had no permission to construct anything leave alone an eight story shopping cum factory complex. How an illegal establishment like that, was allowed for so long? Why Rajuk never put its oar in this matter so



long?

Under section 81 and 86, 85 of the Labor Act-2006 there are provisions of giving notice to the employer of any dangerous building and machineries, and within three days the employer shall send the notice to inspector. After that, inspector should take immediate steps to justify the gravity of the situation including removal of danger or prohibiting the employment etc. Now the question is did the respective owner of the building and owners of the garments paid any attention heed to such danger? Did the inspector perform his duty correctly? Rather they induce people to enter upon it saying 'it is mere cracks' costing us so many lives.

The Bangladesh National Building Code (BNBC) of 1993 came into effect with a gazette notification

issued on November 15, 2006. It has been made obligatory to comply with in any building construction under the Building Construction Act. As per section 2.1 of chapter 2 of part 1 of the BNBC 1993 the Government is under obligation to establish a new or designate an existing agency responsible for the enforcement of this Code with a given area of jurisdiction. However, the Government is yet to set up any Code Enforcement Authority. Thus, absence of regulatory authority to care for all safety aspects of building need to be linked to Savar tragedy.

BGMEA Committed to protect the interests garments workers. BMGEA has set up a Crisis Management Committee for emergencies. But where is the committee. Where is the protection of garment workers?

We all scream for punishing the owner and increasing the punishment, but the problem is not in punishment, rather in the implementation of the same, as we have experienced earlier that none of the owners of the establishments in question (Tazreen, Spectrum, Rana Plaza) have been punished. The common man feels cheated when he

finds that those making illegal and unauthorised constructions are supported by the people entrusted with the duty of preparing and executing master plan or development plan or zonal plan.

In famous case of *Dipak Kumar Mukherjee v. Kolkata Mun. Corp. & Ors* The bench shows its zero judicial tolerance for unauthorized constructions. Like *BLAST v. BANGLADESH* -2008 we need some more guidelines in respect of buildings in real dangerous situation.

It has become a norm bumping our voice up when an incident took place, we all know that accident cannot be avoided but at least it can be prevented with the guidance of intellectual heads of the country.

**Shekh Md. Muhibbullah**  
*Student of Law, university of Dhaka*



## 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

One of my close relatives living in my village is getting married. To the best of my knowledge she is only around 15-16. Her parents are saying that a very good marriage proposal has come for her and they do not want to wait and have arranged for the marriage. It appears that the girl herself does not have any say in this matter. Please let us know will the marriage be lawful and is there any way to prevent the said marriage.

### Response

Thank you for your query. Child marriages are a very delicate matter in our country and it is unfortunate that many people, especially in the rural areas are unaware of the laws governing the prohibition of such marriages. Despite the fact that a lot of awareness has been created over many years from government and by a good number of NGOs, child marriage has not been uprooted from our society yet. It must, however, be appreciated that both the parents and their children have become more concerned and aware of the negative sides of child marriage and most of the people at least know that it is not lawful. Nevertheless, unfortunate situation arises like the instant one of your relative.

The Child Marriage Restraint Act, 1929 (the 'Act') prohibits child marriage. From the year of enactment of the Act one can surely assume that such prohibition on child marriage is not new at all, though the age limit of remaining within the definition of 'child' has been increased subsequently. The Act has defined 'child' as a male under 21 (twenty-one) years and a female under 18 (eighteen) years of age and prohibits marriage between anyone falling below the abovementioned age range the same being a crime. It is an offence punishable with imprisonment not exceeding one month or fine not

exceeding the amount of one thousand taka or both if either an adult male or an adult female marries anyone falling under the definition of a child. Furthermore, the same is applicable for anyone who performs, conducts or directs a child marriage (e.g. a Kazi etc.). It should also be noted that under the Act any parent or guardian or any other person in any other capacity who permits or assists the marriage to take place or fails to prevent it from taking place also commits an offence and is liable to a maximum imprisonment of one month or a fine not exceeding one thousand taka or both, however, no woman can be punished with imprisonment.

Courts shall also not entertain any case after the expiry of one year of the commission of the offence. Hence, the offence should be reported to the police or to the court within a relatively shorter period of time to commence the legal process for commission of the crime of child marriage. However, it is also possible to get an injunction prohibiting such a marriage from taking place, if the same has not yet been taken place. In your relative's scenario, since the marriage has not yet been taken place you should first try to make their parents understand that it is not only jeopardizing their daughter's future and health it will also tantamount to crime by the bride, the Kazi and by them. In case if they do not understand and decides to go ahead with the marriage, you may obtain an injunction over the marriage from the court. Lastly, it should be noted that while a marriage that has already taken place between underage individual/individuals is an offence, the marriage itself will not become illegal.

I hope this adequately explains your query and you would be able to convince your relatives from pursuing a child marriage.

For detailed query contact: [omar@legalcounselbd.com](mailto:omar@legalcounselbd.com).



**LAW WEEK**

## HC orders confiscation of Rana, factory owners' property

The High Court on April 30 directed the government to immediately confiscate all the movable and immovable property of Sohel Rana, owner of Rana Plaza, and the proprietors of five garment factories housed in the Savar building that collapsed on April 24. The HC however said that it may modify its order when the bench will release its full text. The HC also ordered the inspector general of registration to issue a circular to all the registrars across the country to take step so that their properties are not transferred or sold. The four other accused are: Anisur Rahman chairman of Ether Tex; Aminul Islam, chairman of Phantom Apparels Ltd and Phantom Tack Ltd; Bazlul Samad Adnan, chairman of New Wave Buttons; and its managing director Mahbubur Rahman Tapash. The court fixed May 8 for further order on the issue. -*The Daily Star online edition April 30, 2013.*

## Hearing in case against Limon

### deferred again

Hearing of charge framing in the case under Arms Act against college student Limon Hossain was deferred for the ninth time on April 29. The Special Tribunal-2 of Jhalakathi fixed the next date for charge framing hearing in the case on May 29. Judge A Rab team allegedly shot in the leg of Limon, who used to work at a brick kiln to bear his educational expenses, taking him to a place near his house at Jamaddarhat in Rajapur upazila of Jhalakathi on March 23, 2011. Limon's left leg was amputated from the thigh on March 27 and later he was arrested. Rab on March 23, 2011 filed two cases with local PS against Limon, seven others under the Arms Act and another on charge of obstructing official duty, attempt to murder and injuring Rab personnel. -*The Daily Star April 30 2013.*

## HC directs govt to conduct river erosion survey at Phulchuri

The High Court on April 29 directed the government to conduct a survey on how river erosion at Phulchuri upazila in Gaibandha can be stopped permanently and to submit a report in this regard in a month. Director general and chief engineer of Water Development Board, deputy commissioner of Gaibandha and upazila nirbahi officer of Phulchuri have been asked to prepare the survey report after inspecting the area. Responding to a writ petition filed by Bangladesh Environmental Lawyers Association, the HC also issued a rule upon the government to explain in four weeks why it should not be directed to take effective steps to stop river erosion at Phulchuri permanently. -*The Daily Star April 30 2013.*

## Ashiyani Medical College

### HC bars construction of building

The High Court on April 29 has imposed an injunction on construction of structures for Ashiyani Medical College in Khilkhet area of the capital till further order. In response to a writ petition, the court also stayed the government decision to give approval to Ashyian Medical College for constructing its structures. It also issued a rule upon the government to explain in four weeks why its decision should not be declared illegal. On April 29, Swadesh Properties Limited filed the petition challenging the legality of government's approval. -*The Daily Star April 30 2013.*

## HC rejects petition against Hasnat for his story

The High Court on April 28 rejected a writ petition which sought its directives upon the government to apprehend and prosecute author Hasnat Abdul Hye for writing a story in a Bangla daily. The court said that if it issues a show-cause order against Hasnat for the story titled "TV Camerar Shamne Meyeti" [The girl in front of the TV camera], other people may come to this court against other write-ups. The petition was also rejected as it was not submitted before the court for hearing, the court said. Prof M Wahiduzzaman of Institute of Education and Research of Dhaka University filed the petition on April 21 saying that the story, written by Hasnat in Prothom Alo, is provocative and insulting to the women. He also prayed to the court to summon Hasnat before it for his explanation. -*The Daily Star April 29 2013.*

## HC judge feels embarrassed to hear

### Fakhrul's bail petitions

A High Court judge on April 28 felt embarrassed to hear the bail petitions filed by BNP acting secretary general Mirza Fakrul Islam Alamgir in five separate cases. Sheikh Md Zakir Hossain, junior judge of a bench, felt embarrassed after the petitions were placed before the bench for hearing since a lawyer for the petitioner recently made an unexpected comment about him at a television talk show, court sources said. Justice Quamrul Islam Siddiqui is the senior judge of the bench. Attorney General Mahbubey Alam told that the HC bench would now send the petitions to the chief justice. Chief Justice Md Muzammil Hossain will then refer the petitions to another HC bench for their hearings and disposals. -*The Daily Star April 29 2013.*

### 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:9144330, 8124944, fax: 9144332; email: [dslawdesk@yahoo.co.uk](mailto:dslawdesk@yahoo.co.uk).