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"ALL CITIZENS ARE EQUAL BEFORE LAW AND ARE ENTITLED TO EQUAL PROTECTION OF LAW"-ARTICLE 27 OF THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH ● dslawdesk@yahoo.co.uk

**LAW VISION**

# THE APPLICATION OF ARTIFICIAL INTELLIGENCE IN LAW

**MOHAMMAD ERSHADUL KARIM**

ARTIFICIAL Intelligence (AI) or cognitive computing simply refers to machine learning technology where computer programs are developed to identify patterns in data for subsequent purposive evaluation. Since specially designed computer programmes are used to understand and replicate human intelligence, AI is hailed as an important breakthrough in the era of Fourth Industrial Revolution. AI application can be 'hard' or 'soft'. In 'hard AI', the machines can theoretically think like humans, whereas in 'soft AI' the machines should be able to do the works that are normally done by human beings. Due to unprecedented projected prospects, technopreneurs around the world have been experimenting the applications of AI in diversified areas. A decade ago, IBM's Deep Blue defeated chess maestro Garry Kasparov. Apple's Siri, Amazon's Alexa, Tesla's automated car, Cogito's phone conversation analysis and real-time guidance, and Google's translation are some of the most powerful AI applications of the present time.

In 1946, an English mathematician, Alan Turing shared the idea of developing intelligence using programming computers. Fifteen years later, California based Patent Lawyer and American Bar Association's Electronic Data Retrieval Committee Chairman, Reed C. Lawlor envisaged that one-day computer would be able to analyse and predict the outcomes of juridical decisions. Legal world powered by AI applications is very close to his prediction in advanced economies as 'soft AI' in the legal sector is widely used there.

In 2016, the researchers applied AI techniques to study 600 judgments of the European Court of Human Rights and revealed that the system could predict the final judgment with 79% accuracy. In the USA, different studies on prediction of court judgments confirmed accuracy between 70-83%, whereas legal experts were accurate by 66% in predicting such cases. Nevertheless, even with such strong accuracy rate, the researchers confirmed that the AI technology, in its present state, can neither replace the human judgment nor be able to work as the substitute of lawyers.

The apprehension that the AI applications will replace the lawyers seems to be a routine negative reaction identical to the previous instances whenever enabling technologies were introduced. For instance, when initiatives were taken to introduce robots in the USA, a census result found in 1950 that around 270 professions would totally be obsolete. However, in the last sixty years, it is found that only one job, i.e. the job of lift operator is completely eliminated, whereas automation has actually increased performance in other jobs in many folds. Thus, the concern that the lawyer will have to sacrifice their works if AI applications are introduced is somehow baseless, rather it has already been demonstrated that it will enable the competent lawyers to work more productively and to do more higher-level and intellectually satisfying task along with the creation of new jobs for the junior lawyers.

Automated decision-making can promote consistency, accuracy, cost-effectiveness and timeliness in the government's decision making. As the application of AI techniques promise to introduce some epoch-making changes, its application is the demand of the time in a country like Bangladesh where hundreds of thousands of cases are pending in different courts of law. A mature AI technology in the legal arena that can analyse the fact and merit of the case and predict the judgment may control the floodgate of bringing trivial matters to the court. Similarly, entry level judges to get an idea of the possible outcome of the cases too.

It is widely circulated that with the vision to become a developed nation, the government has started automation process at various scalein different sectors including law and judiciary. Automation process promises to assist the judiciary work faster and provide speed remedy. Thus, it seems to be a favourable time to actively consider to introduce the AI applications in our legal system so that repeated time and cost can be reduced. Some pilot projects on specific areas, e.g. family, intellectual property, traffic offence or taxation matters can be initiated right now.

But still a long way to go. The policymakers have to face some obvious immediate challenges. For better functioning and performance, relevant data, i.e. various types of legal materials should be digitalised,as the more semi-structured and unstructured data can be made structured, the precise the result can be expected. Language is another serious concern as Bengali is mainly used in the subordinate courts and significant amount of legal materials are still in Bengali. The problem may be solved by using the natural language processing technique. Idea can be taken from the technique developed by Google which has already invented its own language to translate between languages. Regulatory updates and latest court decisions should be incorporated into the system to get better result. Uniform system to deliver judgments may be considered. Most of the government statutory rules and orders are available in pdf format. These should be released in web text format using possibly the same font and size. A concerted and holistic move including all relevant stakeholders is the key behind the success here.

Finally, whatever the immediate reactions of the local law firms or lawyers, the reality is that the future of the legal world like all other sectors will be shaped by the applications of AI even though the technology is still in its infancy. Therefore, the sooner the local legal community will welcome and appreciate this new technology by developing expertise, the better it will be for them. Good to be convinced that the AI techniques are not to replace them but to turn them super charged.

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THE WRITER IS SENIOR LECTURER IN LAW, UNIVERSITY OF MALAYA, MALAYSIA.

**LAW IN-DEPTH**

# PROTECTION OF TRADE SECRET

## *under IP Law*

*As Bangladesh continues to grow in terms of a hotbed for investment from both local and international ventures, those looking forward to take root in these fertile climes will want a greater assurance that their most valuable assets - ideas, information, and or intellectual input - are effectively protected against those who would venture to break invested trust for frivolous gain.*

**ALFRED CHRISTOPHER D'SILVA**

TRADE secrets are by far the most fascinating and mystifying forms of Intellectual Property (IP), with stories invoking in the imagination, cloak-and-dagger conspiracies, high-walled enclosures, with round-the-clock , "1984" level surveillance. There is a great benefit when a regime recognises the value of providing adequate protection to IP in this day and age, and one of the most important things that we can do is learn to respect and protect the value inherent within a secret.

According to Section 7, Article 39 , paragraph 2 of the Trade Related Aspects of Intellectual Property Rights (TRIPs) Agreement, information is capable of being protected as a trade secret, if firstly, the information was secret in the sense that it is not something that is ordinarily known among the circles that deal with normally deal with such information in that particular industry; secondly, the information possesses commercial value because it is secret ; and thirdly, that those in lawful possession of the information have taken steps to ensure its secrecy.

An important feature of trade secret protection is the absence of a specified time limit for which protection is afforded. That is why we have long-standing secrets such as the formula for WD-40 and Coca-Cola. The apparent problem however is that trade secret protection is not the safest means of protection and neither is it cheap. The examples mentioned earlier, go through great lengths to ensure that their secrets are kept that way and ensure that they reap the benefits of such protection. In 1997, Coca-Cola refused to set up shop in India unless the then Indian Government lifted the prerequisite that they release their ingredients. It is said, that at any given time, only two employees ever really know about the secret recipe which was conceived in the late 1800's and that the recipe is locked up in a state-of-the-art vault in Atlanta. The makers of WD-40, a staple in every household and industrial establishment ensure that their formula is kept secret by assembling the formula separately in three cities around the world.

In Bangladesh, the legal protection of trade secrets exists but is scattered. The protection of trade secrets is afforded through the exercise of Section 49 of the Patent and Designs Act, 1911 which prevents disclosures of information about industrial designs and such in bad faith. In addition, the exercise of the Section 73 of the Contract Act, 1872 entitles a party to receive compensation for breaches of contractual obligations (Confidentiality Agreements and/or Non-Disclosure Agreements are commonly used to protect confidential information). Further, the Preamble of the Competition Act, 2012 can be read to extend the ambit of anti-trust practices to mala fide disclosures of information. In addition, penal action may be brought under Section 405 of the Penal Code, 1860 for the offence of Criminal Breach of Trust, which under Section 406 is punishable with up to 3 years imprisonment and/or fine.
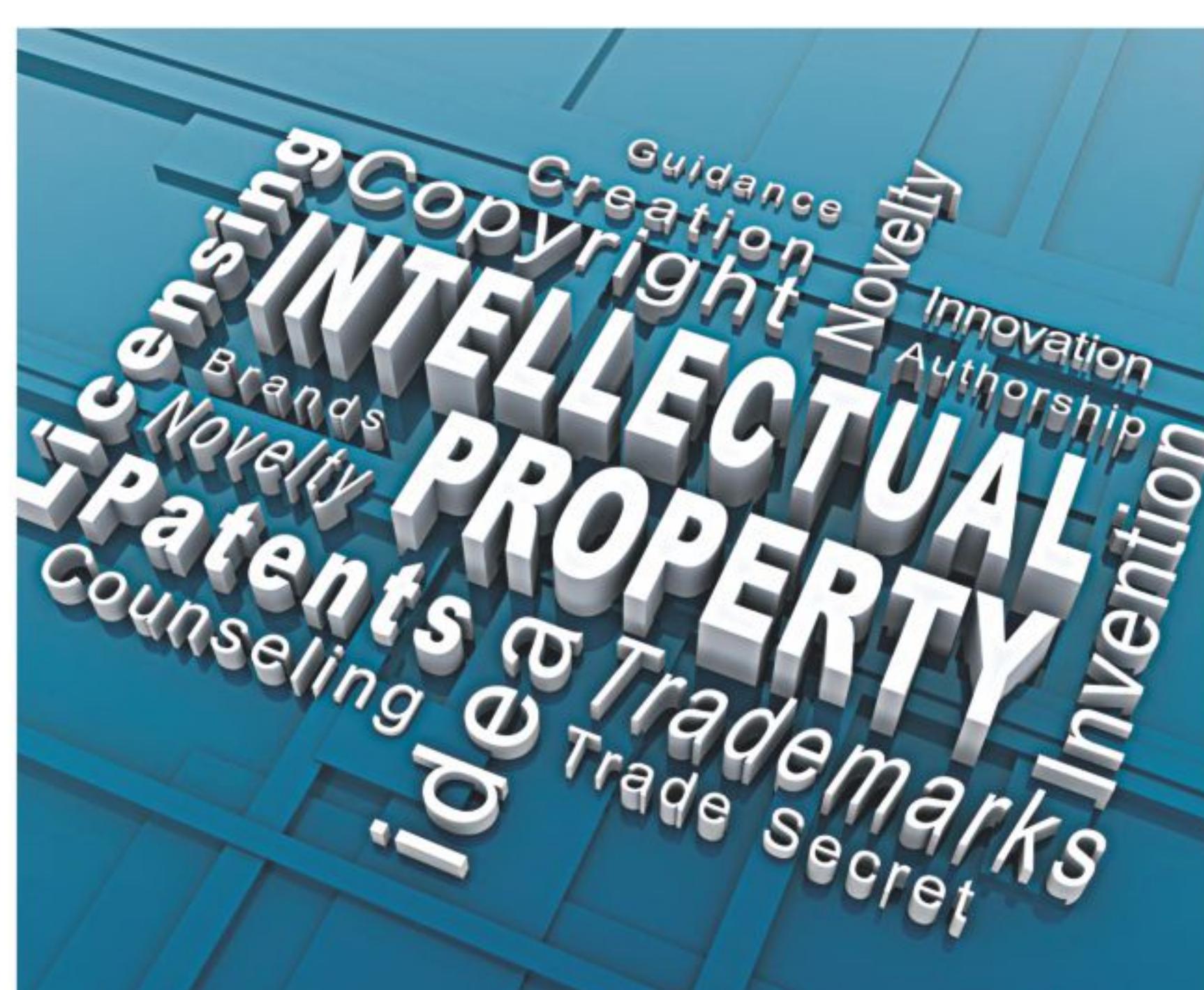
Clients who have trade secrets are generally informed to have systems in place that identify not only existing information that amount to information best kept secret, but also to identify any new pieces of information that could be classified as such. Apart from labeling and water-marking documents containing confidential information, limited disclosure of privileged information has proved handy in not only ensuring that not everybody knows about what makes the business tick, but also in the event of a leak, it may be made a lot more easier to spot a culprit. If the trade secret is a recipe or composition, the assembly of this can be shared among a number of assembly points which know of the existence of the other and then finally brought together at another point. Along with these myriad measures, it may be found helpful to improve employee and management ethics training to ensure that they understand the value of confidential information.

Trade secret protection in Bangladesh can be significantly improved. Perhaps what we require is a more consolidated definition alongside stronger consequences in the event of breach of good faith. As Bangladesh continues to grow in terms of a hotbed for investment from both local and international ventures, those looking forward to take root in these fertile climes will want a greater assurance that their most valuable assets - ideas, information, and or intellectual input - are effectively protected against those who would venture to break invested trust for frivolous gain.

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THE WRITER IS ASSOCIATE, THE LEGAL CIRCLE.

**LAW EVENT**

# SDG Lab's 2nd workshop held

SDG Lab, an initiative to bring youths across the globe in a platform to gather and discuss the SDGs, organized its second workshop in collaboration with Eastern University on 'Embracing SDGs: Sustainable Consumption and Production' on November 25, 2017, at Eastern University, Dhaka. 40 students from different universities and young professionals participated in this daylong workshop.

Debra Efroymson, Co-founder and Acting Executive Director of Institute of Wellbeing (IWB) and Md Obaidul Haque, Associate Professor Department of International Relations, University of Dhaka presented two thematic papers addressing the Goal 12 of SDGs. In her paper on "Achieving Goal 12 of the SDGs: Let's Aim High", Debra discussed about the conceptual framework of Sustainable consumption along with few practical approaches in achieving the Goal 12. Md. Obaidul Haque emphasized on the lazy person's guide prepared by United Nations in order to attain the targets of SDGs.

Mahmudul Hoque Moni, Senior Assistant Secretary at the Bangladesh Civil Service Administration Academy while conducting a session on "The brief history of 'Development'" clarified the evolution of the concept of Sustainable Development. Md Rezwan Siddiqui, who is currently the Local Pathway Fellow of the UN Sustainable Development Solution Network, showed the participants the timeline of the situation of Lake Balkhas and how degrading environmental condition and urbanization resulted into its gradual demise.

Mohammad Golam Sarwar, Lecturer in Law at University of Dhaka, analyzed the dilemma between environmental economics and corporate accountability to comprehend the discourse of sustainable production and consumption. Parisa Islam, Assistant Professor, Faculty of Business Administration, Eastern University in her concluding remarks, expressed gratitude and showed interest to work further with SDG Lab.

SDG Lab is a cohort of 5 Chevening Scholars (Md. Rezwan Siddiqui, Sekander Zulker Nayeen, Mohammad Golam Sarwar, Shahed Aziz, and Mahmudul Hoque Moni) who are generating and sharing knowledge on SDGs with a view to helping national and international communities to attain the goals.

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THE EVENT WAS COVERED BY MD. AZHAR UDDIN BHUIYAN, STUDENT OF LAW, UNIVERSITY OF DHAKA.