

LAW REVIEW

# Reflecting on the Anti-Terrorism Act 2009

2019 Global Terrorism Index says that Bangladesh is the most successful South Asian country in countering terrorism. The observations made by the Global Studies require an analysis of the legislative endeavours made by Bangladesh in combating terrorism.

The Anti-Terrorism Act was enacted in 2009 and subsequently it got amended in 2012 and 2013. In 2012, a major amendment was brought in by providing capital punishment for certain crimes committed under the Act. The amendment made in 2013 provided that any discussion and conversation through Facebook, Skype, Twitter or any other internet site by the terrorist person or entity or still picture or video involving their offence, presented by the police or law enforcement agency to the Court for the purpose of investigation, shall be treated as evidence to the Court. The Act fixes time limit for completion of investigation by saying that any police officer shall complete the investigation of any case within sixty days of the date on which information is received or recorded under section 154 of the Code of Criminal Procedure.

Section 6 of the Act defines terrorist activities. Among others, it says that if any person, entity or foreigner - for the purposes of threatening the unity, integration, public security or sovereignty of Bangladesh by creating panic among the public or a section of the public with a view to compelling the Government or any entity or any person to do any act or preventing them from doing any act - kills, causes grievous hurt, confines or kidnaps any person or attempts to do so, then the person, entity or foreigner shall commit the offence of 'terrorist activities'.

The section further says that if any person, entity or foreigner, for the foregoing purposes, damages or attempts to damage any property of



Bangladesh Financial Intelligence Unit (BFIU), leads the State's efforts in order to comply with the international anti-money laundering or countering the Financing of Terrorism (AML/CFT) standards and international legal sanctions regimes. In the year 2013, Bangladesh Government also enacted the Rules to combat terrorism, namely the Anti-Terrorism Rules 2013. The Rules lay down the procedure of freezing of accounts, funds and assets of individuals and groups in connection with terrorism. The Rules also have a provision (rule no. 15) that provides for the procedure for unfreezing of funds, financial assets or related services of individuals or entities inadvertently affected by the freezing mechanisms upon verification that the person, entity or group is not a listed as a terrorist individual as such.

The Anti-Terrorism Act of Bangladesh outlaws the receipt and collection of money, services or support where 'there are reasonable grounds to believe that the same has been used or may be used for any purpose by a terrorist entity'. The Act prohibits membership in or support of internationally listed terrorist entities (under the UN Security Council ISIL or ISIS and al-Qai'da sanctions regime). The Act also provides for a wide and comprehensive framework providing for mutual legal cooperation among nations on matters in relation with terrorism and to have an international forfeiture mechanism with regard to assets involved in terrorist activities.

Section 28 of the Act states that the Government may constitute one or more Anti-terrorism Special Tribunals for speedy and effective trial of the offences committed under the Act. Fourth chapter of the Act is dedicated towards the proscription, enlistment and implementation of the United Nations Security Council Resolutions with regard to terrorism.

Even though Bangladesh has come up to be a poster child in the region in setting major examples in combating and countering terrorism with a multidimensional approach featuring legislation, law enforcement and the Central Bank, certain human rights organisations opine that the broad definition of terrorism as it appears in the Act of 2009, makes the law prone to 'abuses and repression against political opponents, journalists and certain other dissenting voices'.

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any person, entity or the State; abets or instigates any person to murder, injure seriously, confine or kidnap any person; or abets or instigates to damage any property of any person or entity or the State; or uses or keeps in possession any explosive substance, inflammable substance and arms for the purposes mentioned, then the person, entity or foreigner shall commit the offence of 'terrorist activities'.

The Act does not explicitly outlaw recruitment and travel in connection with terrorism; however an array of mechanisms comes within the purview of the broad language of the Act in order for Bangladesh to implement UN Security Council Resolution 2178 (2014) on dealing with the Foreign Terrorist Fighters. If not under the domestic anti-terrorism law, Bangladesh can press other charges under other existing laws against the Foreign Terrorist Fighters.

Bangladesh is a member of the Asia Pacific Group on Money Laundering. The Central Bank of Bangladesh (Bangladesh Bank), alongside the

FROM LAW DESK.

BOOK REVIEW

## Alternative Dispute Resolution and justice in civil courts

A paradigmatic stroke of genius on ADR

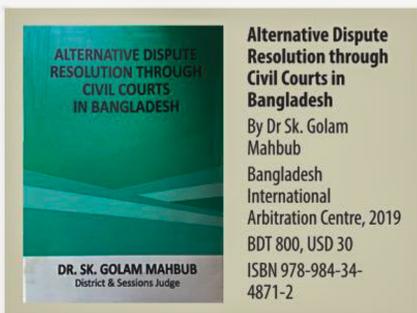
SHEKH MD. MUHIBULLAH

ALTERNATIVE Dispute Resolution (ADR) through civil courts in Bangladesh is a painstaking appraisal of court-based ADR regarding civil disputes in the context of Bangladesh. The primary object of the book is to deal with the ADR system that operates in Bangladesh in reducing the huge backlog of cases currently subsisting in our judiciary. That the book is greatly influenced by the author's (a District and Session Judge, currently serving as a Deputy Secretary-01 (Administration) at the Ministry of Law, Justice and Parliamentary Affairs) doctoral research eventually offering an empirical work on the topic, is the most treasurable contraption about the book.

First, second, and third chapters are designed for the researchers and academics; in those chapters, the author has elaborated the framework of his research (by giving an outline to the disputes worthy of being compromised) and set out to capture systematically the dynamic contours of the historical evolution of ADR into our current legal system.

Any searching for academic discussion on ADR can directly start from chapter four. Different forms of ADR mechanisms along with the basic concepts and limitations of those mechanisms have been critically dissected in this chapter. How traditional approach of adversarial system gives birth to more litigation instead of reducing them has also been explained profoundly in this chapter.

Chapter five explains the basic concept of court-based ADR and illustrates various existing forms of court-based ADR in Bangladesh. A healthy review of the existing ADR laws on Civil, Family, Artha Rin (Money Loan) and Tax matters have also been made.



**Alternative Dispute Resolution through Civil Courts in Bangladesh**

By Dr Sk. Golam Mahub  
Bangladesh International Arbitration Centre, 2019  
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While reviewing the ADR provisions, the chapter attempts to assess the existing proposition of the court-based ADR and its efficacy in settling disputes in accord with the quasi-formal ADR system.

Comparative analysis of ADR mechanism in different countries and applicability issues are the topics of chapter six. The prime effort of this chapter is to weigh whether we can adopt those foreign experiences into our legal arena.

The existing court-based ADR systems accompanied by its demerits have been discussed in chapter seven. For assessing the efficiency of current ADR system, the author puts his primary data collected during field study and responses of different stakeholders of the ADR process in action which strengthens the study to a remarkable extent. The outcome of the field study has been presented in this chapter through different figures, bar graphs, line graphs and charts. The prospects and problem of the current court-based ADR system and solutions to the same provided at the end of this chapter will definitely be gobbled by

the researches and academics.

In chapter eight, the author has critically analysed the 'auto-applicability of ADR system' - which has been brought to the Code of Civil Procedure in 2012 by an amendment to all kinds of suits. Not all the suits are suitable for disposal through the ADR system, owing to which most of the referred disputes are found to be unsuccessful. A filtering system of the suits regarding its nature and characteristics from which only ADR-open disputes would be referred to the court could serve the purpose. Engaging more legal aid officers in resolving disputes docile to the alternative solutions, in the author's opinion, could be a feasible method to put a halt to the overflow of civil suits to the civil courts as well. The author has also emphasised on the cooperative role of the lawyers and NGOs to make court-based ADR process a success. These valuable findings came in the form of suggestion and recommendations under this chapter.

This book, authored by a person who is a judge, academic and an independent researcher, offers a touch for every section of targeted readers, e.g. researchers, academicians, students, and policymakers etc. But while the author's endeavour is on the whole well-written and the book itself is attractively designed and produced, it could have been somewhat shorter and less costly. Nevertheless, this is an important book for researchers, academics, students of law, lawyers, trainers and litigants seriously interested in court based ADR system regarding civil disputes in Bangladesh will find well worth reading and keeping in their bookshelves.

THE REVIEWER IS A MEMBER OF BANGLADESH JUDICIAL SERVICES.

FOR LAW STUDENTS

## 2nd DUMCS-TIB Anti-Corruption Moot Competition held

THE 2nd DUMCS-TIB Anti-Corruption Moot Competition was held from 28-30 November 2019 at the Faculty of Law, University of Dhaka. With 26 law schools participating, this was one of the biggest national moot court competitions. The University of Dhaka became the champion, while BRAC University became the runner-up.

The event started on Thursday with the inauguration ceremony. The preliminary rounds and the quarterfinals took place on Friday, while the semifinals, the grand finale and the closing ceremony took place on Saturday.

The grand finale was adjudged by Justice Md. Abdul Matin, Justice Shamim Hasnain and Justice Mamnoon Rahman. The final was followed by a Closing Ceremony. Justice Md. Abdul Matin and Justice Shamim Hasnain shared their thoughts about the finals. Professor



Dr. Md. Rahmat Ullah, Dean of the Faculty of Law, University of Dhaka, Professor Dr. Mohammad Nazmuzzaman Bhuiyan, Moderator of the Dhaka University Moot Court Society (DUMCS), Dr. Iftekharuzzaman, Executive Director of Transparency International - Bangladesh (TIB), and Professor Dr. Sumaiya Khair, Department of Law, University of Dhaka, graced the

valedictory ceremony.

The team from the University of Dhaka, comprising of Ali Mahraf and Sal Sabil Chowdhury as oralists and Md. Azhar Uddin Bhuiyan as researcher emerged as champion of the competition. BRAC University team comprising of Rakibul Islam Bhuiyan and Md. Mosabbir Hossain as oralists and Ayan Rahman Khan as researcher became the runner-up

of the competition. Ali Mashraf from the University of Dhaka became the Best Mooter, while Tahsin Bin Zafar from the University of Rajshahi and Sal Sabil Chowdhury from the University of Dhaka became the second and third Best Mooters respectively. Md. Azhar Uddin Bhuiyan from the University of Dhaka became the Best Researcher, while Muhammad Sajid Hasan from Jagannath University and Rabeya Dewan from Jahangirnagar University became the second and third Best Researchers respectively. The University of Dhaka team also won the Best Memorial Award while Jahangirnagar University and the University of Chittagong won the second and third Best Memorial Awards respectively. The Spirit of the Moot Award was presented to Jatiya Kabi Kazi Nazrul Islam University, Trishal, Mymensingh.

EVENT COVERED BY JALAL UDDIN AHMED, STUDENT OF LAW, UNIVERSITY OF DHAKA.

GLOBAL LAW UPDATES



## COP25 and its relevance for Bangladesh

STATE representatives of the world are uniting in Madrid, Spain for the 25th Conference of Parties (COP25) under the United Nations Framework Convention on Climate Change (UNFCCC). COP25 is an important event as it is the final COP before the States parties submit their new plans of action in 2020. Alongside this, the conference will include discussions on long-term climate goals such as reducing emissions 45 per cent by 2030, achieving climate neutrality by 2050 (which means a net zero carbon footprint), and stabilising global temperature rise at 1.5°C by the end of the century.

The Conference incorporates the discussion of the subsidiary bodies under UNFCCC, i.e. the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI). The function of SBSTA is to suggest changes to the policies based on the findings of scientific bodies such as the IPCC (Intergovernmental Panel on Climate Change) whereas the SBI works at enhancing and examining the implementation ambitions of the parties.

As one of the most vulnerable countries to climate change, Bangladesh has an important role to play at COP25. So far, it has played a proactive role in addressing climate change- it was one of the first countries to submit its Nationally Determined Contribution (NDC). Last month, the Parliament of Bangladesh declared climate change a 'planetary emergency'. The COP25 is an appropriate platform in which the concerns addressed in the resolution can be presented before the international stakeholders.

Another important point of discussion will likely be on funding. The developed countries have agreed to contribute an annual amount of 100 USD funding from 2020 onwards - the aspect of financial support from developed countries is crucial and the implementation of this agreement will be pertinent for Bangladesh and other developing countries. The Green Climate Fund (GCF) formed under the UNFCCC currently has about 10 billion USD of funding. With the withdrawal of the United States from the Paris Agreement and some other developed nations shying away from financially contributing to climate adaptation and mitigation efforts in developing nations, COP25 would have to address the way forward in raising and replenishing GCF and other financial mechanisms aimed at building climate resilience in vulnerable communities.

Saleemul Huq, the director of International Centre for Climate Change and Development, Independent University, Bangladesh attended the meeting of the subsidiary bodies in June this year and from his experience, stated that Bangladesh, along with LDCs, decided to focus on the topic of loss and damage in the agenda for this year's COP. This matter has been politically sensitive since its inception. Developing and vulnerable nations have been consistently advocating for ensuring liability of industrialised nations in anthropogenic climate change and its resultant harm in vulnerable countries. However, this has been strongly opposed by developed nations. The Paris Agreement, although providing for a continuation of the Warsaw Mechanism for Loss and Damage, states that it does not 'provide a basis for compensation'. Therefore, it is easy to assume that the negotiations will be difficult at the least.

Bangladesh would also benefit from discussions on easier access to finance and technology for a smooth transition to a sustainable energy system. Being one of the most densely populated country heading towards urbanisation and experiencing a great rise in GDP, it is natural that the government will want to ensure that its national interests regarding economic growth is protected. At the same time, it should also strive to meet its agreement to contribute in mitigation efforts and reduction of GHG emission.

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