



LAW REVIEW

# LOOKING BACK at the laws passed in 2021

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In the year of 2021, a good number of laws were amended in the National Parliament of Bangladesh in order to cope with the onslaught in connection with the ongoing Covid-19 pandemic. Several new laws were also passed in the fields of higher education, public health, religious practices, child welfare, finance, public transport and communication, tourism, evidence law, election law and so on. In the paragraphs that follow, a brief discussion is made focusing the important laws which were either amended or passed in the Parliament.

Due to the Covid-19 pandemic, educational institutions in Bangladesh were closed since March 2020. To facilitate the Higher Secondary Certificate (HSC) and Secondary School Certificate (SSC) examinations, the Parliament enacted the Intermediate & Secondary Education (Amendment) Act, 2021. For equivalent examinations of other Boards, the Parliament also enacted the Bangladesh Technical Education Board (Amendment) Act, 2021 and the Bangladesh Madrasah Education Board (Amendment) Act, 2021. As per the amended provisions, in case of any difficulty in relation to conducting or holding examination at the end of the Intermediate and Secondary stage or equivalent examinations of the Technical and Vocational Board or the Madrasah Board due to pandemic, epidemic, Act of God or for any other inevitable circumstances as determined by the Government from time to time,

the Government may issue instructions for assessment to grant certificates without holding examination or holding examination with short syllabus, in the prescribed manner, for the students of the particular year.

The Bangladesh Travel Agencies (Registration and Control) Act, 2013 was amended to include travel by water, land route and air within the meaning of travel. Under section 7, an extension of six months was given beyond the period given for renewal of license of travel agencies. Besides, some substitutions were brought in section 8 for the purpose of handing over of certificate in occasion of death of registration holder or other health issues incapacitating the same to conduct the formalities of the travel agency or for other reasons as the registration authority deems fit.

The Civil Courts Act, 1887 was amended to bring changes in the pecuniary jurisdictions of the courts. As per the amended section 19, the pecuniary jurisdiction of an Assistant Judge is up to BDT 15 lac and a Senior Assistant Judge is above BDT 15 lac and up to BDT 25 lac. Section 21 was amended to state that, appeals from the Court of Joint District Judge would lay to the District Judge if

the suit valuation was not above BDT 5 crore. If the suit valuation was above BDT 5 crore, it would have to be filed before the High Court Division.

The Bangladesh House Building Finance Corporation Order, 1973 was amended to include granting of loans for purchasing of apartments and flats. The paid-up capital and the authorised capital were also increased.

The Bangladesh Legal Practitioners and Bar Council Order, 1972 was amended to allow the formation and operation of an Ad-Hoc Bar Council in the event elections could not be held due to pandemic, epidemic, Act of God, or any other unavoidable circumstances.

The Parliament brought an amendment to the Power and Energy Increase of Quick Supply (Special Provisions) Act, 2010, to increase the time of the quick rental power plants from 11 years to 16 years.

The Parliament amended the Territorial Waters and Maritime Zones Act, 1974 to make it more time befitting. The Act was given an extraterritorial application. It also contained penal provisions for maritime pollution and other offenses within the territorial waters, continental shelf, and exclusive economic zone of Bangladesh. The Act also stated that the photographs and videos could be used as evidence.

The Banker's Book Evidence Act, 1891 was repealed to introduce provisions for digital evidence and the new Act defined the jurisdiction of the courts, which was completely absent in the previous Act.

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Umrah Management Act, 2021 making it mandatory for Hajj & Umrah agencies to have registration. The Act also empowered the Government to slap fines on the agencies and/or cancel their registration if they committed irregularities. Provisions for filing criminal proceedings for mismanagement in Hajj and Umrah were also included in the Act.

In addition, the Parliament enacted the following laws: the Child Daycare Centre Act, 2021; the Bangladesh Children's Hospital and Institute Act, 2021; the Bangladesh Film Artists Welfare Trust Act, 2021; the Kurigram Agriculture University Act, 2021; the Sheikh Hasina Medical University Khulna Act, 2021; the Prevention of the Iodine Deficiency Diseases Act, 2021 (repealing the Act of 1989); the Highways Act, 1925 (repealing the Act of 1925); the House of the Nation Election Constituencies Delimitation Act, 2021 (repealing the Delimitation of Constituencies Ordinance, 1976); the Bangladesh National Archives Act, 2021 (repealing the National Archives Ordinance, 1983); the Leader and Deputy Leader of Opposition (Remuneration and Privileges) Act, 2021 (repealing the Ordinance of 1979); the Special Security Force Act, 2021 (repealing the Ordinance of 1986); the Bangladesh Tour Operators and Tour Guides (Registration and Operation) Act, 2021; the Supreme Court Judges (Remuneration and Privileges) Act, 2021; and the Supreme Court Judges (Travelling Allowance) Act, 2021.

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COURT CORRIDOR

# The notable Supreme Court decisions held last year

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This write-up curates the notable pronouncements of the Appellate Division (AD) and the High Court Division (HCD) of the Supreme Court of Bangladesh in 2021.

Making submission of identity documents mandatory for filing criminal cases

Md Akramul Ahsan Kanchan (a businessman and resident of Shantibagh) filed a writ petition to the HCD sharing his plight of spending 1465 days in jail in 20 baseless cases filed in 13 districts across the country. He asked the court to investigate the identity of the persons involved in filing these baseless cases. Following a preliminary hearing, the HCD directed the Criminal Investigation Department of the police to identify the person involved in this incident, take legal actions against them and report the progress to the HCD within 60 days. It further asked the concerned authorities to take the necessary steps to ascertain the identity of individuals filing criminal cases to curb false and vexatious cases.

Granting copyright of the books in Masud Rana-Kuasha series

The HCD asked the concerned authorities to explain why it should not declare their inaction to ban harmful games and applications as illegal.



to Sheikh Abdul Hakim

In 2019, the now-deceased Sheikh Abdul Hakim, the ghostwriter of the famous Masud Rana and Kuasha series, filed a complaint to the Bangladesh Copyright Office (BCO) alleging violation of sections 71 and 89 of the Copyright Act, 2000 against Sheba Prokashoni's owner and the series' initial author, Kazi Anwar Hossain. Afterward, in 2020, the BCO granted the copyright of 260 books in the Masud Rana series and 50 books in the Kuasha series to Mr. Hakim. Mr. Hossain then filed a writ petition to the HCD challenging this order. After hearing the parties, the HCD dismissed the writ and upheld the BCO's

decision conferring the copyright of these 310 books to Mr. Hakim posthumously.

Banning harmful games and applications for three months

In June, rights organisation Law and Life Foundation sent a legal notice to the Government seeking a ban on dangerous online games and social media-based mobile applications such as TikTok, PUBG, Free Fire, Bigo Live, and Likee. After receiving no response from the Government, the petitioners filed a writ petition to the HCD. During the hearing in August, the HCD ordered the Government to ban all types of violent games and applications, including the ones mentioned

above, for the next three months. It also asked the concerned authorities to explain why it should not declare their inaction to ban such harmful games and applications as illegal. The HCD is yet to dispose of the writ.

Ordering to form independent commission for investigating alleged crimes against law enforcement officials

102 lawyers jointly filed a writ petition seeking the formation of an independent commission to investigate complaints against law enforcement officials. They submitted that from January 2007 to June 2021, newspapers reported 584 complaints against law enforcement officials, a growing trend in Bangladesh. Being a signatory to the seven major UN Conventions and owing to a rise in allegations against law enforcement officials, Bangladesh too should form such an independent investigation body. In opposing the petition, the Government submitted how citizens could file complaints against police in the Inspector General of Police's complaint cell. The HCD then issued a rule asking the concerned authorities to explain why they should not establish an independent commission to facilitate aggrieved persons to lodge complaints against alleged crimes and corruption of police and other law enforcement officials. The HCD is yet to dispose of the writ.

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GLOBAL LAW UPDATES

## The significant UN resolutions in 2021

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Each year, the United Nations (UN) expresses its opinion on issues pertaining to the fulfillment of its purpose through adopting a number of resolutions. These resolutions reflect global consensus on the appropriate course of action to pursue in response to a given situation. This write-up contains a collection of a few significant resolutions which were adopted by the United Nations General Assembly (UNGA) in 2021.

Concern regarding the plight of the Rohingya community

The situation of Rohingya and other minorities in Myanmar was addressed in the resolution titled 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar'. The UNGA voiced severe concern about the egregious human rights violations perpetrated by the government security forces in Myanmar, particularly against Rohingya Muslims. It urged the Myanmar's leadership to uphold the people's democratic aspirations. Furthermore, the Myanmar's authorities were asked to assist the safe and voluntary return of the Rohingya Muslims from Bangladesh by fostering trust through confidence-building initiatives such as sending representatives from the Rohingya camps in Bangladesh to Rakhine state.

Graduation of Bangladesh from the Least Developed country (LDC)

The UNGA unanimously adopted a resolution affirming the recommendation of the UN Economic and Social Council that Bangladesh, Laos and Nepal be granted graduation from the LDC status with a five-year transition period. The preparatory period was allowed to facilitate



a seamless transition for these nations as they survive the post-covid social and economic turmoil.

Recognition of the right to self-determination  
Despite the negative votes of five states including that of Israel and the United States, the UNGA adopted the resolution titled 'The right of the Palestinian people to self-determination'. It pleaded all the states and the agencies of the UN to respect the right of Palestinian to self-determination. It also asserted support for the idea of an independent state of Palestine. Apart from this, the UNGA also adopted another resolution titled 'The universal realisation of the right of peoples to self-determination' which reaffirmed the UNGA's support for the refugees and displaced persons and its sustained opposition to the act of intervention and occupation by the foreign forces.

Combating the trafficking in person  
The UNGA adopted a resolution titled 'Improving the coordination of efforts against trafficking in person' where it emphasised the need of showing utmost respect for the human rights of the trafficking victims. In another resolution titled 'Protection of and assistance to internally displaced persons' the UNGA encouraged states to ensure the safety and reintegration of those who were internally displaced as a result of sexual violence, human trafficking, or forced labour, among other reasons. Furthermore, the UNGA adopted the Political Declaration on the Implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons 2021.

Protection of the environment  
The UNGA expressed its concern on the decline in biodiversity due to the pollution, climate change, exploitation of marine and land resources in the resolution titled 'Implementation of the Convention on Biological Diversity and its contribution to sustainable development'. Another resolution titled 'Protection of global climate for present and future generations of humankind' was adopted stressing the dangers of global warming and establishing mitigation and adaptation to climate change as a worldwide priority.

Additionally, the UNGA adopted a resolution titled 'Preventing and combating crimes that affect the environment' with a view to insisting the state to take actions against illegal trafficking in wildlife including that of protected flora and fauna, timber, minerals, etc.

Safeguard of freedom of religion and expression

The resolution titled 'Freedom of religion or belief' encouraged all nations to take proactive steps to safeguard religious minorities from all forms of violence and terrorism by appropriate constitutional and legislative safeguards. Moreover, the UNGA adopted a resolution on 'The safety of journalists and the issue of impunity' denouncing impunity for journalist assault. It asked all members to adopt necessary legislative frameworks to end such impunity and to foster an atmosphere favourable to media covering events and publishing news without fear.

Food security and eradicating poverty  
The UNGA adopted a resolution titled 'The right to food' and expressed serious concern that the number of people without access to adequate food rose by 320 millions in 2020. It reaffirmed its stance that hunger goes directly against human dignity and called for national, regional and international efforts to eradicate hunger from the world.

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