LAW REVIEW

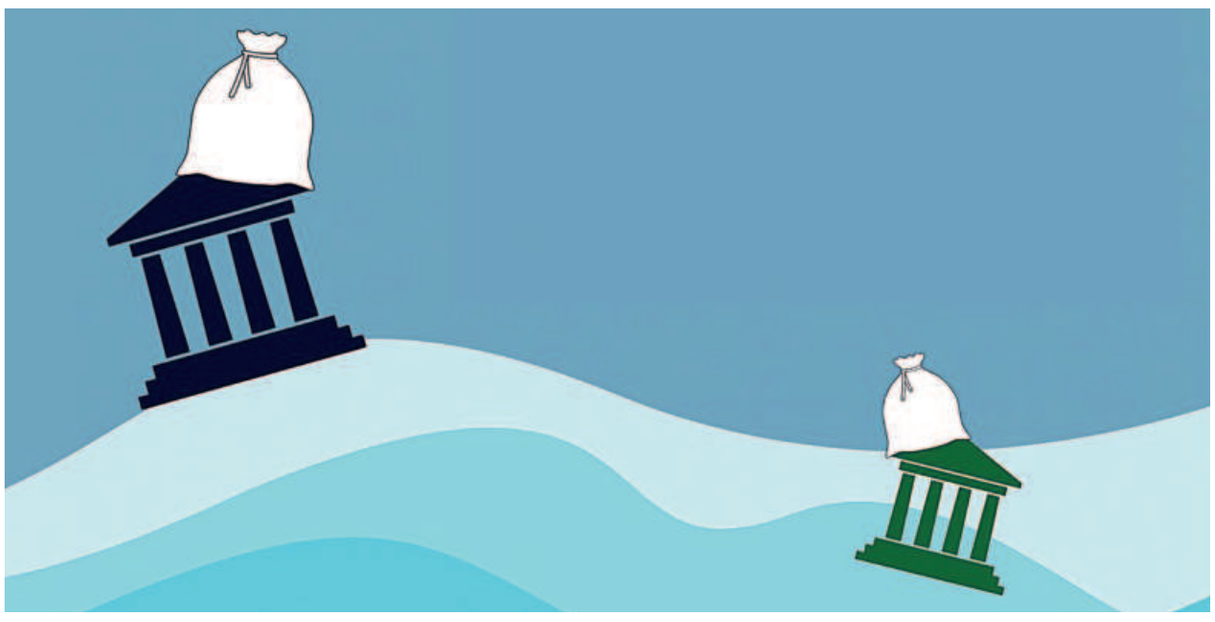
How our law holds loan defaulters accountable

Credit Information Bureau (CIB) is responsible for collecting, analysing, and maintaining credit information of individuals and entities. The Bureau was set up with the objective of reducing the volume of defaulted loans in the banking sector by disseminating such credit information to banks and non-bank financial institutions. The CIB reports enable lending institutions to assess credit risk by providing a comprehensive picture of a potential borrower's financial position, including past repayment history.

MD. NAFIS ANOWAR SANTO

By June 2025, Bangladesh had seen an exponential rise in defaulted loans, marking the highest level since 2000. During the general election this year, the surge gave birth to a public concern regarding the eligibility of election candidates with allegations of loan default. True that the Representation of the People Order, 1972 clearly states that a person cannot be elected as a Member of Parliament (MP) if he/she is a bank borrower (except for borrowing small agricultural loans) and has defaulted on repayment before submitting the nomination paper. Nevertheless, how the law treats loan defaulters is a question that always intrigues the public mind.

First of all, Bangladesh Bank has a specialised bureau, known as Credit Information Bureau (CIB), which is responsible for collecting, analysing, and maintaining credit information of individuals and entities. The Bureau was set up with the objective of reducing the volume of defaulted loans in the banking sector by disseminating such credit information to banks and non-bank financial institutions to assist them in making informed lending decisions and to prevent lending to default borrowers. The CIB reports enable lending institutions to assess credit risk by providing a comprehensive picture of a potential borrower's financial position, including past repayment history. Moreover, the CIB provides information on defaulted bank loans of candidates participating in national and local elections to the Election Commission whenever such information is formally requested.



Apart from the CIB, the Bank Company Act 1991 is the key law that operates to hold the defaulters accountable. The Act classifies loan defaulters into two categories: (i) defaulter borrowers, and (ii) intentional defaulter borrowers. Under section 5(cc) of the Act, a 'defaulter borrower' refers to any individual, organisation, or company who has failed to repay, either in full or in part, an advance, loan, or any other financial facility—granted to them or to an affiliated entity—including the interest or profit on such facility, for a period of six months after it has become overdue, as defined by the regulations issued by Bangladesh Bank.

In contrast, section 5(aaaa) of the Act defines an 'intentional defaulter borrower' as a person, organisation, or company who takes a loan from a bank or financial institution, has the capacity to repay, but does not repay the loan or interest. The term also includes borrowers who obtain any loan or financial benefit through forgery, fraud, or by providing false information. An intentional defaulter borrower further includes any person or entity that uses the loan or financial facility for a purpose other than that for which it was sanctioned. Additionally, a borrower who disposes of the collateral or security without the prior consent of the concerned bank or financial institution falls within the scope of this definition. Bangladesh Bank is empowered to issue necessary directions from time to time for the application, interpretation, and enforcement of the provisions relating to intentional defaulter borrowers.

As per section 27AA of the Act, every bank company and financial institution is required to submit, from time to time, a list of its default loan borrowers to Bangladesh Bank in accordance with Articles 43 and 44 of the Bangladesh Bank Order 1972. Bangladesh Bank shall then, pursuant to Article 45 of the said Order, circulate the received list among all bank companies and financial institutions operating in the country. The object is to prevent banks and financial institutions from giving further loans to the listed persons.

On the other hand, under section 27B(11) of the Act, if banks and financial institutions fail to submit lists of intentional defaulter borrowers to Bangladesh Bank, they may be fined Tk. 50 lakh to Tk. 1 crore, and in the case of a continuing violation, an additional fine of up to Tk. 1 lakh for each day after the first day may be imposed. Thus, the law ensures that the banks and financial organisations comply with the provision. Notably, a circular from the Banking Regulation and Policy Department of Bangladesh Bank, dated 16 April 2025, all banks are now directed to submit detailed information on intentional defaulter borrowers in a special format.

However, before finalising the name of an intentional defaulter borrower, the concerned borrower must be given an opportunity to present their explanation. After the name is finalised, every bank company and financial institution shall inform the concerned borrower within seven working days. Any person or institution aggrieved by being identified as an intentional defaulter borrower may appeal to Bangladesh Bank within 30 days, and the decision of Bangladesh Bank shall be final. In conclusion, loan defaulting is an acute problem for Bangladesh. Our entire economy is getting crippled due to the greed and corruption of some business and political elites. However, despite having many safeguards in the law, we are unable to tackle this problem due to their non-implementation.

The writer is Advocate enrolled with the Bangladesh Bar Council.

YOUR ADVOCATE

The right to resign under the Labour Act

This week, Your Advocate is Barrister Omar H. Khan, Advocate of the Supreme Court of Bangladesh. He is the head of the chambers of the renowned law firm 'Legal Counsel', which has expertise mainly in commercial law, family law, labor law, land law, constitutional law, criminal law, and IPR.

Query

I have been working at an IT firm in Chittagong for about one and a half years. Recently, after receiving a better job offer, I have decided to resign. However, my employer is insisting that I must serve a full three-month notice period. Additionally, he has warned to withhold my provident fund and to not provide me with a certificate of service until all pending tasks are completed. In this context, what are my available legal rights and remedies under the Labour Law?

Tasnim, Chittagong.

Response

Dear Ms Tasnim, thank you for your query. First of all, congratulations on your new job opportunity. Moving forward in your career is a natural and positive step and you have every right to do so. I understand that resigning can feel stressful, especially when your employer is insisting on a three-month notice period, warning about withholding your provident fund and linking your service certificate to pending tasks. These are serious concerns, but the laws in Bangladesh do protect employees in such situations

Firstly, you mentioned that your employer is insisting on a three-month notice period. However, you specified neither your employment category nor whether this duration is actually mentioned in your employment contract. Nonetheless, regarding the procedure of resignation under section 27 of the Act, an employee may resign by giving written notice or by paying wages in lieu of the notice period. But the notice period varies depending on the category of employment (for instance, 60 days for permanent workers and 30 or 14 days for temporary workers). In fact, section 123 ensures that all wages due upon resignation, must be paid within 30 working days. Secondly, the right to receive a service certificate for all workers except temporary and substitute workers is also provided under section 31. Hence, I believe, our labour law has already sufficiently recognised and strengthened the employees' right in terms of resignation.

Needless to say, employees cannot be coerced into remaining in a job through threats, intimidation or withholding of financial entitlements or service certificates. Rather, their rights to fair treatment during resignation, including protection against retaliation and the prompt issuance of service certificates, are explicitly recognised in our law. It is important to note here that even though employers may have their own internal policies, they cannot override statutory protections or create policies that offer less than what the law provides.

Speaking of provident fund, it is crucial to understand that these are your contributions, often matched by the employer and cannot be withheld as leverage. The same applies to earned salary, leave encashment or other contractual benefits. Any attempt to delay or withhold these payments to pressure you into serving additional months or as a form of intimidation is unlawful.

Employers are, of course, allowed to request reasonable cooperation during the notice period, such as completing ongoing projects, transferring responsibilities and returning company property. These are professional obligations, but they do not justify threats or coercion. Under the law, any attempt to use intimidation such as withholding provident fund, salary or service certificates to force an employee to remain beyond their legal notice period is illegal.

Practically speaking, the best way to protect yourself is to submit a written resignation specifying your intended last working day according to the lawful notice period. Avoid relying solely on verbal communication. Email or hand-delivered letters with acknowledgment are safest, as they provide proof in case of future disputes. Keep records of all communication, including emails or acknowledgment receipts, to strengthen your position. Completing reasonable handover tasks professionally, while documenting them, shows good faith and makes it difficult for the employer to claim non-cooperation.

If your employer continues to pressurise you, delays settlement of the provident fund or salary, or refuses to issue your service certificate, you have certain remedies. Under section 33, the worker can initiate a grievance procedure by submitting a written complaint to the employer within 30 days from the date of knowledge of the issue. If the worker is dissatisfied with the decision or if the employer fails to give any decision, they may refer the matter by filing a written complaint before the Labour Court within the next 30 days. Moreover, section 124A allows a worker to recover unpaid wages and other legal dues through settlement by applying to the Labour Inspector. The authority acts as a mediator and attempts to resolve the matter within 20 days. If mediation fails, you can once again approach the Labour Court to enforce your rights, including the payment of dues and issuance of your service certificate.

In short, you have a legal right to resign. Your provident fund, salary and service certificate are all protected by law.

I hope the above gives you clarity about your concerns and wish you all the best.

LAW AND POLITICS

Unequal sovereignty and international law

FARIHA NOWSHIN TASFIA

On 3 January 2026, the United States (US) captured and detained Venezuelan president Nicolás Maduro and his wife, Cilia Flores, with charges of narco-terrorism conspiracy, cocaine importation, and weapons possession. Meanwhile, President Trump stated that the US would take control of Venezuela until a new government is installed. This is one of the rarest incidents in modern history where a sitting head of state is forcibly taken off his own land by a foreign military force and subjected to criminal charges in a foreign land.

The idea that each state is entitled to manage its own affairs without outside interference is one of the oldest and cardinal principles of international law, dating back to the Westphalian Treaty of 1648. The United Nations Charter also recognises this principle in its articles 2(1) and 2(4) refraining member states from interfering in the internal affairs of another, and from threatening or using force against the territorial integrity of any other state. However, recent events in Venezuela have once again demonstrated that sovereignty is not a right evenly granted to all states but a privilege of a selective few.

The sovereignty, immunity, and non-interference rules exist on papers only. In practice, states who do not yield to the powerful ones, get sanctioned, isolated or invaded, and the Security Council turns a blind eye. The rule of sovereignty in the contemporary international order has only become prerogative of the strong.

The Third World Approaches to International Law (TWAIL) scholars have long argued that the international legal order was never designed to equally protect weaker states. Thus, when the International Court of Justice (ICJ), in the *Nicaragua* v *United States of America* (1986) case, ruled against the US for its breach of customary international law obligation pertaining to not using force against another state, which they did by assisting the Contra rebels, the US blocked the enforcement of the court decision by exercising its veto power. When any of the five states with veto powers is a party to a dispute, the Council is effectively paralysed. Similarly, in 2019, the US had simply declared the Venezuelan government headed by Nicolas Maduro an illegitimate one without passing any UN Resolution. Instead, the US and the United Kingdom (UK) recognised the rival leader Juan Guaidó as the legitimate president of Venezuela. Moreover, the UK Supreme Court, in December 2021, ruled that Britain's recognition of Guaidó was clear and unequivocal, and thereby approving Guaidó's board to control the Venezuelan assets held in the Bank of England.

However, what makes the recent arrest of Maduro particularly worrying is the wholesale disregard of a well-established rule of customary international law, namely *immunity ratione personae*. According to this doctrine, a sitting head of state is granted absolute immunity from the criminal jurisdiction of foreign courts, as well as personal inviolability, *i.e.*,, immunity from any measure of physical constraint. It is a binding rule of international law affirmed by the ICJ in the landmark *Arrest Warrant case,* where the Court decided that the heads of state, the heads of government and the foreign ministers have complete immunity against foreign criminal prosecutions, irrespective of the seriousness of the alleged offences.

It is true that some argue that there are a few exceptions to this rule of immunirty for the most serious crimes, *ie, jus cogens* violations. However, Maduro's alleged offences of narco-terrorism and drug trafficking clearly do not meet this threshold. Unsurprisingly, the western governments and the vast majority of the allied states opted to keep quiet on this gross violation of international law. Again, the UN Security Council was supposed to prevent this kind of intervention. But it failed to do so due to its structural limitation, namely: veto power. On the other hand, the doctrine of Responsibility to Protect (R2P) has also been abusively used to find justifications for such interventions. The doctrine was initially endorsed by UN member states in 2005, aiming to prevent mass atrocities where a state has unreasonably failed to protect its citizens.

The latest turn of events in Iran further exemplifies this tendency. On 28 February 2026, the US and Israeli forces jointly attacked Tehran and killed Supreme Leader Ali Khamenei. In the aftermath, President Trump publicly asserted that Iran's new supreme leader would not last long without US approval. Needless to say, such a pronouncement is *prima facie* inconsistent with international law as no provision of international law confers upon any State the authority to approve, veto, or otherwise determine the political leadership of another sovereign State. And yet the statement was made openly, without legal justification.

Taken together, the sanctions regime in Venezuela, the arrest of an incumbent president, and open political pressure on leadership succession in Iran tell a coherent story that TWAIL scholars have long been narrating. The sovereignty, immunity, and non-interference rules exist on papers only. In practice, states who do not yield to the powerful ones, get sanctioned, isolated or invaded, and the Security Council turns a blind eye. The rule of sovereignty in the contemporary international order has only become prerogative of the strong.

The writer is student of law at the University of Dhaka.