



SUPREME COURT OF BANGLADESH



**ANNUAL
REPORT
2019**



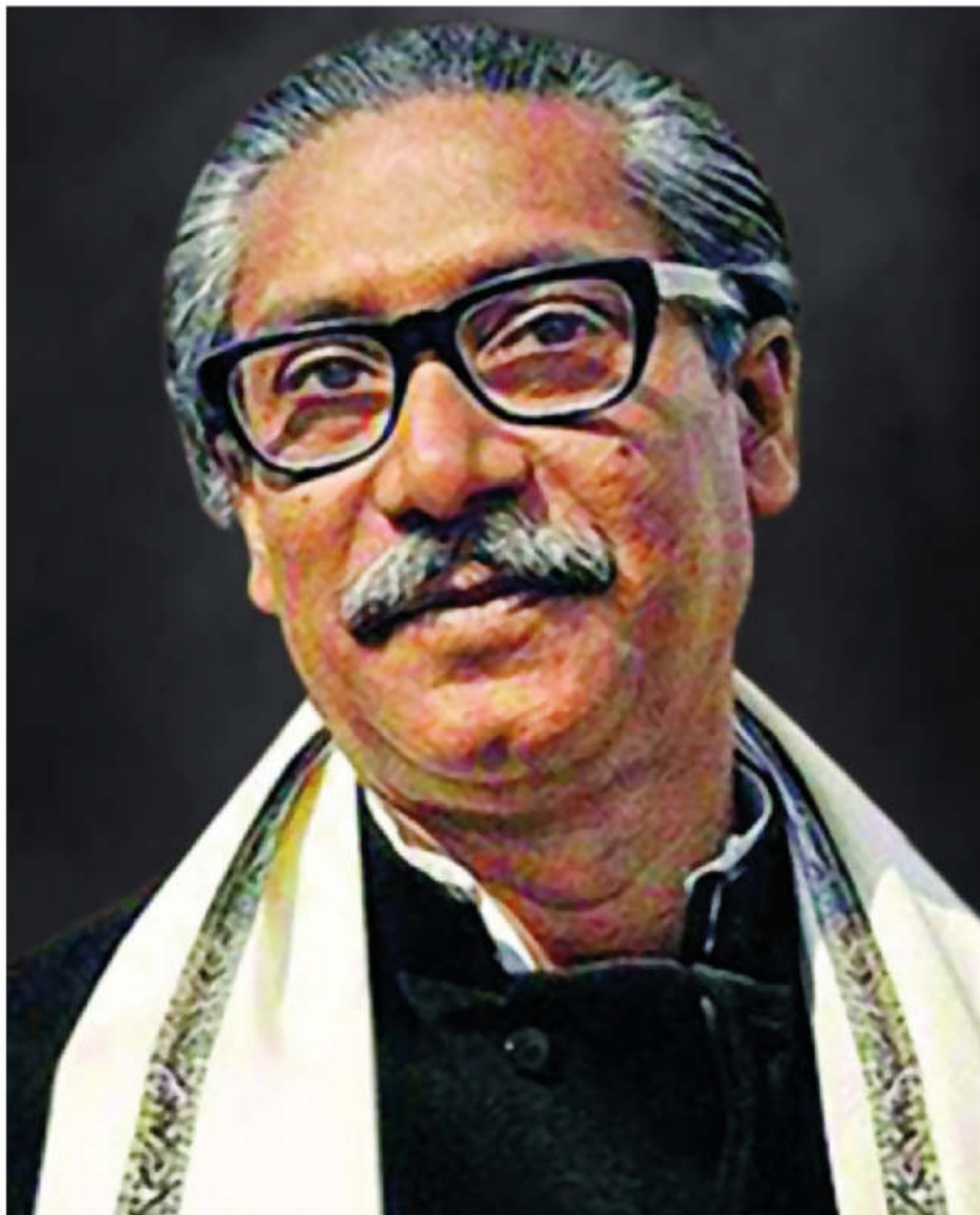
Annual Report 2019

SUPREME COURT OF BANGLADESH

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Mr. Justice Tariq ul Hakim
Mr. Justice Syed Refaat Ahmed
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- Chairman
- Member
- Member
- Member
- Member
- Member
- Member



Father of the Nation Bangabandhu Sheikh Mujibur Rahman inaugurated the Supreme Court of Bangladesh on 18 December 1972

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Supreme Court of Bangladesh

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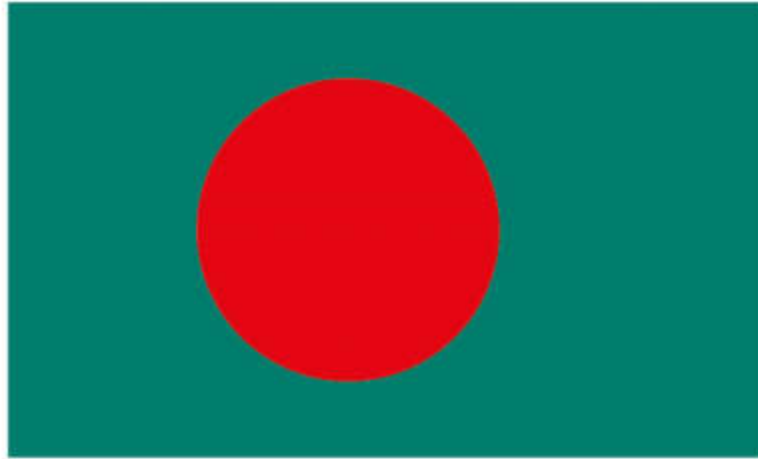
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National Flag of Bangladesh



Emblem of the Supreme Court of Bangladesh



Flag of the Honourable Chief Justice of Bangladesh



Flag of the Honourable Judges of the Supreme Court of Bangladesh



The Supreme Court of Bangladesh at a Glance

Established	: On 16.12.1972 A.D. under article 94 of the Constitution of the People's Republic of Bangladesh. Commenced functioning on 18.12.1972.
Authorized by	: Part VI, Chapter I of the Constitution of the People's Republic of Bangladesh.
Territorial Jurisdiction	: Whole of Bangladesh
Location/Permanent Seat	: Dhaka, the Capital of the Republic.
Area	: <div style="display: flex; justify-content: space-between;"> <div>55.05 Acres of Land.</div> <div> Floor Area: (i) Main Building 1,65026.54 Sft. (ii) Annex Building 83,684.00 Sft. (iii) Old Building 78,81.83 Sft. (iv) Three Administrative Buildings 1,57000.00 Sft. (v) Judges Sports Complex 10,800.00 Sft. </div> </div>
Composition of Court	: As per article 94(2) of the Constitution, the Supreme Court, comprising the Appellate Division and the High Court Division, consists of the Chief Justice and such number of other Judges as the President may deem it necessary for each Division.
Appointment of Judges	: (i) The Chief Justice and Judges of both the Divisions of the Supreme Court are appointed as per article 95 of the Constitution; (ii) Additional Judges of the High Court Division and ad hoc Judges of the Appellate Division of the Supreme Court are appointed as per article 98 of the Constitution.
Maximum Number of Judges in each Division during 2019	: (i) Appellate Division: 07 (Seven) Judges including the Chief Justice. (ii) High Court Division: 100 (One Hundred) Judges.
Tenure of Office of the Judges	: Until attaining the age of 67 years; unless (i) removed by the President of the Republic on the basis of the report of the Supreme Judicial Council; or (ii) resigns his office by writing under his hand addressed to the Hon'ble President of the Republic, (Article 96 of the Constitution)
Jurisdiction	: (A) The Appellate Division has jurisdiction to hear and determine appeals from judgments, decrees, orders or sentences of the (i) High Court Division, (ii) Administrative Appellate Tribunal, (iii) International Crimes Tribunals. An appeal to the Appellate Division from a judgment, decree, order or sentence of the High Court Division lies; (a) as of right where the High Court Division- (i) certifies that the case involves a substantial question of law as to the interpretation of the Constitution; or (ii) has sentenced a person to death or to imprisonment for life; or (iii) has imposed punishment on a person for contempt of that Division; and in such other cases as may be provided for by Act of Parliament; [article 103(1) and (2) of the Constitution]; and (b) by leave of the Appellate Division. (B) The Appellate Division also has advisory jurisdiction under article 106 of the Constitution. (C) The High Court Division has such original, appellate and other jurisdictions, powers and functions as are or may be conferred on it by the Constitution or any other law. (Article 101 of the constitution)
Court Rooms	: <div style="display: flex; justify-content: space-between;"> <div> The Appellate Division The High Court Division </div> <div> : 03 (Main Building) : 25 (Main Building) : 35 (Annex Building) : 04 (Old Building) Total = 67 </div> </div>
Contact	: The Registrar General, Supreme Court of Bangladesh, Shahbag, Dhaka-1000 Phone : (+88 02) 9562785 Fax : (+88 02) 9565058 Website : www.supremecourt.gov.bd Email : rg@supremecourt.gov.bd



Mr. Justice Syed Mahmud Hossain
Chief Justice of Bangladesh



From the Desk of the Chief Justice of Bangladesh Justice Syed Mahmud Hossain



Supreme Court
Dhaka-1000.

It is a matter of immense pleasure for me that the Annual Report of the Supreme Court of Bangladesh for the year 2019 is being published during the Mujib Centenary Year. We are well aware that the architect of independent Bangladesh, the greatest Bangalee of all time, Father of the Nation, Bangabandhu Sheikh Mujibur Rahman who had always envisioned equal rights and justice for all.

The Supreme Court of Bangladesh is constitutionally bound to secure justice for all at all stages of judicial dispensation inter alia with equal rights to life and personal liberty, equality before the law and entitlement to equal protection of law and the right to be treated in accordance with law. Whenever the Supreme Court of Bangladesh has found that the socio-economic rights of citizens are required to be enforced, but there was a vacuum on account of the absence of any law to protect and enforce such rights, the Supreme Court has invariably stepped in and evolved new mechanisms to protect and enforce such rights, to do complete justice. This has been done by re-fashioning remedies beyond those traditionally available under writ jurisdiction by issuing appropriate directions or guidelines to protect the fundamental rights and make them meaningful.

The Annual Report, 2019 depicts the jurisdiction of the courts with its administrative set up, judicial overview, statistics on filing of new cases, disposal and pending cases, technological initiatives and Practice Directions issued time to time by this Court. The Report contains ratio of some landmark judgments delivered by this Court in 2019. The statistics of the disposal of the cases by the Apex Court as appended to this Annual Report explicitly shows the commitment of the Judges for reducing the backlog of cases.

The people we serve have higher expectations and the legal issues that come before us for adjudication involve multi-disciplines. Therefore, the Judges today must not only have top-notch legal knowledge, they also need to develop new set of skills to be able to cope with difficult challenges in this complex legal and social environment of the twenty-first century. With the initiatives of the Supreme Court of Bangladesh, a number of Seminars, Symposiums, Workshops and Dialogue Exchange Sessions have been arranged in order to strengthen the capacity of the Judiciary.

The concept of justice has to remain embedded in spite of adversities. It should remain unshaken, unterrified, unperturbed and loyal to the Rule of law. Echoing the words of Martin Luther King, I must say that human progress is neither automatic nor inevitable... Every step toward the goal of justice requires sacrifice, suffering, and struggle, the tireless exertions and passionate concern of dedicated individuals.

I am deeply grateful to all my brother and sister Judges of the Supreme Court of Bangladesh for their unremitting, uncompromising dedication and commitment to serve the nation. I also extend my heartfelt thanks to the Chairman and Members of the Editorial Committee for their tireless efforts in publishing this Report. I will be failing in my duty unless I express my special thanks to the Members of the Bar for their co-operation and contribution to this Court in arriving at correct decision. The service rendered by the officers and staff of the Supreme Court Registry deserves appreciation.

In fine, it is my firm belief and conviction that the judiciary of Bangladesh will be able to rise to the occasion to achieve long cherished dream of the Father of the Nation, Bangabandhu Sheikh Mujibur Rahman that is justice for all.

(Justice Syed Mahmud Hossain)
Chief Justice of Bangladesh



Editorial Committee of the Annual Report, 2019 of the Supreme Court of Bangladesh (From left) Mr. Justice Obaidul Hassan, Mr. Justice Md. Ashfaul Islam, Mr. Justice Mirza Hussain Haider, Mr. Justice Muhammad Imman Ali, Mr. Justice Tariq ul Hakim, Mr. Justice Syed Refaat Ahmed and Madam Justice Naima Haider



Court Room of the Honourable Chief Justice of Bangladesh



Long view of the Court Room of the Honourable Chief Justice of Bangladesh



Court No. 2 of the Appellate Division of the Supreme Court of Bangladesh



Court No. 8 of the High Court Division of the Supreme Court of Bangladesh



***Profile of
the Honourable Chief Justice of Bangladesh and
Honourable Judges of the Appellate Division of the
Supreme Court of Bangladesh***





Mr. Justice Syed Mahmud Hossain
Chief Justice of Bangladesh

Father's name : Late Syed Mustafa Ali

Mother's name : Begum Kawsar Jahan

Date of birth : 31.12.1954

Obtained B.Sc., LL.B. and completed six months long "Commonwealth Young Lawyers Course" from the School of Oriental and African Studies (SOAS) and the Institute of Advanced Legal Studies, both part of University of London.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh in the year 1981 and 1983 respectively. Acted as Deputy Attorney General from December, 1999 till elevation to the Bench.

Elevated as Additional Judge of the High Court Division on 22.02.2001 and Judge of the High Court Division on 22.02.2003.

Elevated to the Appellate Division of the Supreme Court of Bangladesh on 23.02.2011.

Took oath as the 22nd Chief Justice of Bangladesh on 03.02.2018.

Attended the '4th International Summit of High Courts-Transparency in Judicial Process' organized by Court of Cassation, Turkey on 11-12 October 2018 in Istanbul, Turkey. Participated in the Panel Discussions among the Heads of Judiciaries of the BIMSTEC countries and attended the Constitution Day programme of India held in New Delhi in November 2018. Attended the 3rd Indonesian Constitutional Court International Symposium, held in Bali, Indonesia on 03-06 November 2019.

Visited Courts of Canada and the USA in 2012 under the Judicial Strengthening (JUST) Project supported by UNDP to share experience and exchange views with Judges of those countries for improving justice delivery system. Visited Russian Federation on 14-18 July 2019 by the invitation of Mr. Vyacheslav Lebedev, Chief Justice of the Supreme Court of the Russian Federation.

Participated in the International Seminars and Study Tours held in Penang- Malaysia, Norway, Denmark, Sweden, India, South Korea and Hong Kong.



Mr. Justice Muhammad Imman Ali

Father's name : Israil Ali

Mother's name : Alifjan Bibi

Date of birth : 01.01.1956

Obtained B.A. (Hons) Law, LL.M. and Barrister-at-Law.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 21.06.1979, 11.05.1982 and 21.08.1995 respectively.

Elevated as Additional Judge of the High Court Division on 22.02.2001 and appointed Judge of the same Division on 22.02.2003.

Elevated to the Appellate Division of the Supreme Court of Bangladesh on 23.02.2011.

Published book "Towards a Justice Delivery System for Children in Bangladesh."

Authored chapter on Children Act 2013 in book titled "Justice for Children in Bangladesh" by Najrana Imaan.

Received "Juvenile Justice Without Borders International Award" from IJJO, Brussels in December 2014.

Secretary General of Penal Reform International based in London. Council Member of the International Association of Youth Family Judges and Magistrates (IAYFJM).

Participated in the International Workshops, Conferences and Training Programmes held in South Korea, Austria, Indonesia and Czech Republic in 1997, 1998, 1999, 2000, India in 2003, Malaysia and New Zealand in 2008, United Kingdom and Malawi in 2009, Turks and Caicos Islands in 2009, Australia in 2010, New Delhi in 2011, Bangkok, USA, Scotland, Bulgaria and Kyrgyzstan in 2012, Conference on Global Constitutionalism at Yale University in September 2013, IJJO International Conference in Brussels-December 2014. Conference on Detention of Children, Geneva, January 2015; attended policy meeting as member of the IJJO network of professionals and experts in Bangkok in May 2015; Conference on Child Abuse in Kuala Lumpur, Malaysia in October 2015.

Attended the 2nd UNCITRAL Asia-Pacific Judicial Summit in October 2017.

Took part in U.N. Expert Group Meeting on "Children of Returning Terrorists Fighters" held in New York in April 2018.

Attended the 'Review Meeting on Children Affected by Foreign Fighters Phenomenon: Ensuring a Child Rights-Based Approach', in the United Nations conference room, New York on 11-12 April 2019. He also attended 'Judicial Symposium on Family Justice' on 28-30 September 2019 organised by the Maldives Judicial Academy in Maldives.

Led the 'Exposure Visit Programme' of the Supreme Court Special Committee on Child rights to Sri Lanka in April-May 2018 and delivered a lecture on "The effect of corporal punishment on children" in Jaffna, Sri Lanka.

Presented paper at the World Congress on "Justice for Children" held in Paris in May 2018.

Took part in the "Regional Judicial Dialogue on Women's Human Rights and the Right to a Safe, Clean, Healthy and Sustainable Environment" held in Nepal in September 2018.

Participated in 'Training of Trainers' on child rights for Judges in the Maldives in December 2017.

Delivered lecture at Cornell University on Child Marriage in Bangladesh in 2013.

Took part in training of judges, lawyers and prosecutors of Armenia on Juvenile Justice in December 2012.

Visited France, Germany, Belgium, Holland, Luxemburg, United Arab Emirates, Saudi Arabia, Jordan, Kenya, Singapore, Thailand, USA, Canada, UK, Qatar, Austria, Malawi, Malaysia, Indonesia, Australia, New Zealand, Italy and India.

Resource person for training of Judicial Officers (JATI), Lawyers, Police Personnel and Social Welfare Officers (LETI).





Mr. Justice Hasan Foez Siddique

Father's Name : Late Abdul Gofur Mollah

Mother's Name : Late Noorjahan Begom

Date of Birth : 26.09.1956

Obtained M.A., LL.B.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 21.08.1981, 04.09.1983 and 27.05.1999 respectively.

Acted as Legal Advisor to Khulna City Corporation, Kushtia Municipality, Jalalabad Gas Transmission Company and Chief Law Adviser of the Ministry of Home Affairs. Besides, he worked as Additional Attorney General for Bangladesh.

Elevated as Judge of the High Court Division on 25.03.2009 and as a Judge of the Appellate Division of the Supreme Court of Bangladesh on 31.03.2013.

Assumed the Office of the Chairman of Bangladesh Judicial Service Commission on 30.04.2015.

Participated in the conference of South Asian Judges Regional Forum on Economic and Financial Crime held in Sri Lanka in 2011; South Asian Conference on Environmental Justice in Pakistan in 2012; International Conference on Environment held in New Delhi, India in 2015; 17th International Conference of Chief Justices of the World held in Lucknow, India in 2016 and 2nd China ASEAN Justice Forum held in China in 2017.

Visited China, India, Saudi Arabia, Sri Lanka, Pakistan and Thailand.



Mr. Justice Mirza Hussain Haider

Father's name : Late Mirza Ashrafuddin Haider

Mother's name : Late Amina Khatoon

Date of birth : 01.03.1954

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh in the year 1979, 1981 and 1999 respectively.

Elevated as Additional Judge of the High Court Division on 03.07.2001 and appointed Judge of the same Division under Article 95 of the Constitution on 03.07.2003. Elevated to the Appellate Division of the Supreme Court of Bangladesh on 08.02.2016.

Participated in the World Environment Conference at New Delhi, India held in 1999; the 4th International Conference of Chief Justices of the World at Lucknow, India held in 2003; the Judicial Training Programme for foreign Judges at Seoul, South Korea held in 2006; the South Asian Judges Conference at Kolkata, India held in 2007; ADB Finance Programme namely "Asian Judges Symposium on Environmental, Decision Making, the Rule of Law and Environmental Justice" at Manila, the Philippines held in 2010.

Represented the Chief Justice of Bangladesh in the 14th SAARC Law Conference and 11th SAARC Chief Justices Conference held in Sri Lanka in October, 2017.

Visited Australia, Bahrain, Bhutan, China, France, India, Italy, Greece, Malaysia, the Maldives, Nepal, New Zealand, the Philippines, Kingdom of Saudi Arabia, Singapore, South Africa, South Korea, Sri Lanka, Thailand, Turkey, United Kingdom, United States of America and Uzbekistan.





Madam Justice Zinat Ara

Father's name : Late H.M.R. Siddiqui

Mother's name : Late Begum Ayesha Siddiqui

Date of birth : 15.03.1953

Obtained B.Sc. and LL.B. Joined the Judicial Service as Munsif on 03.11.1978 and promoted as District and Sessions Judge on 15.09.1995.

Elevated as Additional Judge of the High Court Division on 27.04.2003 and appointed Judge of the same Division on 27.04.2005. Elevated As Judge of the Appellate Division of the Supreme Court of Bangladesh on 09.10.2018.

Publications: Lead author of the monograph Bangladesh, which is an integral part of Labour Law and Industrial Relations in the International Encyclopedia of Law series published by Kluwer Law International, the Hague, Netherlands. A good number of articles written relating to labour laws have been published in various Bangladesh periodicals.

Participated in the International Seminars, Training Programmes, Certificate Course held at Harvard Law School, Cambridge, USA (1990), in Beijing and Shanghai, China (2001), Argentina, Australia, Germany, India, Nepal, Pakistan, Panama, the Philippines, Taiwan, Sri Lanka, Thailand and the Netherlands.

Visited Belgium, Iraq, Kuwait, Malaysia, Jordan, Syria, Singapore, U.K, South Africa, Botswana, France, Turkey, Czech Republic and Austria.



Mr. Justice Abu Bakar Siddiquee

Father's name : Late Abdul Gofur Mollah

Mother's name : Late Noor Zahan Begum

Date of birth : 29.07.1954

Obtained B.Sc. and LL.B. from the University of Rajshahi.

Enrolled as an Advocate of the Kushtia Bar Association in the year 1979.

Joined the Judicial Service as Munsif on 23.04.1980 and promoted as District and Sessions Judge on 07.05.1997.

Elevated as Additional Judge of the High Court Division on 30.06.2009 and appointed Judge of the same Division on 06.06.2011. Elevated as Judge of the Appellate Division of the Supreme Court of Bangladesh on 09.10.2018.

Participated in a course titled "Intellectual Property Right" organized by Japan International Co-operation Agency, in Tokyo, Japan. Participated in a seminar titled as "Access to Justice" organized by Judicial Studies Board in Warwick University, England. Participated in a Study Tour in respect of "Alternative Dispute Resolution" (ADR) organized by the legal and Judicial Capacity Building Project in California, Washington and England. Participated in a roundtable conference titled as Asia-Pacific Judicial Reform Forum-2009, in Singapore.

Visited Macca and Madina for performing Hajj.





Mr. Justice Md. Nuruzzaman

Father's name : Late Hazi Md. Bazlur Rahman

Mother's name : Late Alhaj Amena Begum

Date of birth : 01.07.1956

Obtained M.S.S. and LL.B. from the University of Dhaka. Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 04.09.1983 and 07.01.1987 respectively.

Elevated as Additional Judge of the High Court Division on 30.06.2009 and appointed Judge of the same Division on 06.06.2011.

Elevated as Judge of the Appellate Division of the Supreme Court of Bangladesh on 09.10.2018.

Appointed as the Chairman of enrolment Committee of the Bangladesh Bar Council in October 2018. The Honourable President of the People's Republic of Bangladesh, on 23 January, 2012 nominated him as a Member of Search Committee (first of this type) for selection of the Chief Election Commissioner and the Commissioners of the Election Commission. The Honourable President also appointed him as a Member of the Judicial Service Pay Commission on 17 December, 2014 and as a Member of Bangladesh Judicial Service Commission.

Participated in the Liberation War of Bangladesh 1971 as freedom fighter and liberated many places of the then Sunamganj, Netrokona and Kishoreganj Sub Division from the occupation of the Pakistan army.

Participated in Anti Corruption Laws seminar held in Hong Kong, 2011.

Visited India, Saudi Arabia, Hong Kong, Malaysia and Thailand.





Honourable Judges of the Appellate Division of the Supreme Court of Bangladesh

(From left) Mr. Justice Abu Bakar Siddiquee, Mr. Justice Mirza Hussain Haider, Mr. Justice Muhammad Imman Ali, Mr. Justice Syed Mahmud Hossain (Honourable Chief Justice of Bangladesh), Mr. Justice Hasn Foez Siddique, Madam Justice Zinat Ara and Mr. Justice Md. Nuruzzaman



Corridor of Supreme Court Registry



***Profile of
the Honourable Judges of the High Court Division
of the Supreme Court of Bangladesh***





Mr. Justice Tariq ul Hakim

Father's name : Late Justice Maksum-ul-Hakim

Mother's name : Late Mrs Nessima Hakim

Date of birth : 20.09.1953

Obtained B.A. from the Dhaka University and M.Sc from the University of London. Called to the Bar of England and Wales from the Hon'ble Society of Gray's Inn, London and published as a Barrister-at-law.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 09.03.1987 and 09.03.1989.

Acted as legal Adviser / Panel Lawyer of several Banks and Government Organisations including Bangladesh Bank, Sonali Bank Ltd, Agrani Bank Ltd, Janata Bank Ltd, Investment corporation of Bangladesh (Bangladesh Development Bank Ltd), Eastern Bank Ltd, Privatisation Board ect. Also worked as Deputy Attorney General.

Elevated as Additional Judge of the High Court Division of the Supreme Court of Bangladesh on 29.07.2002 and appointed Judge of the same Division on 29.07.2004.

Participated in international seminars and conferences including the 3rd Inter-Country Consultation on WHO Framework Convention on Tobacco Control held in Jaipur, India in 2002, World Health Organisation's Framework Convention on Tobacco Control held in Geneva, Switzerland in 2001, South-Asian Judges Conference for the Prevention of Trafficking of Women and Children held in Kathmandu, Nepal in 2005.

Visited Argentina, United States of America, United Kingdom, Sweden, Switzerland, France, Italy, Vatican City, Canada, China, Malaysia, Thailand, Hong Kong, Singapore, United Arab Emirates, Kingdom of Saudi Arabia, India, Pakistan, Nepal ect.



Madam Justice Salma Masud Chowdhury

Father's name : Mr. Justice Chowdhury A.T.M. Masud

Mother's name : Mrs. Aminun Nesa Khatun

Date of birth : 13.12.1957

Obtained LL.B. (Hons) and LL.M.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 22.08.1981, 21.09.1983 and 14.05.1996 respectively.

Elevated as Additional Judge of the High Court Division on 29.07.2002 and appointed Judge of the same Division on 29.07.2004.

Participated in the "Trial Advocacy Program" held in Kuala Lumpur, Malaysia. Completed Legislative Drafting Course, conducted by the Commonwealth Secretariat. Presented papers on "Muslim Family Laws relating to Women in Bangladesh" at an International Women Lawyers' Conference held at Lahore, Pakistan and on "Drug abuse and remedial measures in Bangladesh- a national report" at 23rd FIDA convention held at Brussels, Belgium. Attended the conference on Women, at the end of the Women decade, held in Nairobi, Kenya, as a Government delegate. After becoming a Judge, participated in several international conferences including workshops on Women and Islam, held in Kuala Lumpur, in Malaysia and at Jakarta, Cerabon and Yogyakarta, in Indonesia, along with the Islamic jurists of South East Asia. Participated at a regional conference on "Environmental Justice" held at Kathmandu, Nepal. Participated in International Association of Women Judges (IAWJ) Conference held in London, U.K.

Participated in the workshop for SAARC Judges held in National Judicial Academy, Bhopal, India in February 2016.

Member of the Board of Trustees and Executive Council of the National Heart Foundation of Bangladesh.





Mr. Justice Md. Abu Tariq

Father's name : Late Mr. M. A. Matin

Mother's name : Late Mrs. Anwara Begum

Date of birth : 11.09.1952

Obtained LL.B. from the University of Dhaka and Ph.D. from World University, Benson, ARIZONA, U.S.A.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 11.01.1977, 13.01.1979 and 02.01.1985 respectively.

Elevated as Additional Judge of the High Court Division on 27.04.2003 and appointed Judge of the same Division on 27.04.2005.

Visited Saudi Arabia, United Kingdom, United States of America, France, United Arab Emirates, Malaysia, Singapore, Thailand and India.

Participated in the War of Liberation as "Freedom Fighter".



Mr. Justice Muhammad Abdul Hafiz

Father's name : Al-haj Muhammad Abdul Jabbar

Mother's name : Rabeya Khanam

Date of birth : 01.06.1957

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the Dhaka District Court and the High Court Division of the Supreme Court of Bangladesh in the year 1982 and 1985 respectively.

Elevated as Additional Judge of the High Court Division on 27.04.2003 and appointed Judge of the same Division on 27.04.2005.

Participated in a Judicial Training Programme in Korea.





Mr. Justice Syed Refaat Ahmed

Father's name : Late Barrister Syed Ishtiaq Ahmed

Mother's name : National Professor Dr. Sufia Ahmed

Date of birth : 28.12.1958

Obtained LL.B. (Hons) (First Class, First in order of merit), University of Dhaka, B.A. and M.A., Wadham College, University of Oxford, UK, M.A. in Law and Diplomacy and Ph.D. from Fletcher School of Law and Diplomacy, Tufts University, USA.

Was Ford Foundation Fellow in Public International Law at The Fletcher School.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh in 1984, 1986 and 2002 respectively.

Elevated as Additional Judge of the High Court Division on 27.04.2003 and appointed Judge of the same Division on 27.04.2005.

Has a number of publications to his credit and lectures as invited speaker extensively at home and abroad.

Has previously worked as a Lawyer in the City of London and with the UNHCR in Hong Kong and Washington, D.C.

Is Founder Member, Global Judicial Institute on the Environment, Brazil.

Participated in International Roundtables, Workshops, Conferences, Study Tours and Courses held in UK, Germany, Malaysia, The Philippines, India, Nepal, Italy, Singapore, Thailand, USA, Brazil, Myanmar and Bahrain.

Visited Brazil, USA, UK, Ireland, The Netherlands, France, Monaco, Spain, Portugal, Germany, Switzerland, Italy, The Vatican City State, Greece, Turkey, Bahrain, Qatar, United Arab Emirates, Pakistan, India, Nepal, Sri Lanka, Myanmar, Thailand, Malaysia, Singapore, Cambodia, Macau, Hong Kong and The Philippines.



Mr. Justice Md. Miftah Uddin Choudhury

Father's name : Md. Abdul Ahad Choudhury

Mother's name : Rigia Begum Choudhury

Date of birth : 26.07.1955

Obtained LL.B. (Hons) and LL.M.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 21.08.1981, 24.01.1984 and 30.10.2001 respectively.

Elevated as Additional Judge of the High Court Division on 27.08.2003 and appointed Judge of the same Division on 27.08.2005.

Participated in a Judicial Training Program in Korea (2006).

Visited U.K., India, Thailand, United Arab Emirates, South Korea.





Mr. Justice A.K.M. Asaduzzaman

Father's name : Late M. A. Samad

Mother's name : Majeda Khatun

Date of birth : 01.03.1959

Obtained LL.B. (Hons) and LL.M. from the University of Rajshahi.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 05.09.1983, 05.09.1985 and 25.10.2001 respectively.

Elevated as Additional Judge of the High Court Division on 27.08.2003 and appointed Judge of the same Division on 27.08.2005.

Attended the Commonwealth Secretariat South Asian Judges Regional Forum on "Economic and Financial Crime" at Colombo, Sri Lanka from 13-15th May, 2011.

Visited India, Nepal, Bhutan, Sri Lanka, Singapore, China, Hong Kong, Macao, Malaysia, Indonesia, Saudi Arabia and USA.



Mr. Justice Md. Ashfaquul Islam

Father's name : Late Justice A.K.M. Nurul Islam

Former Vice-President, People's Republic of Bangladesh

Mother's name : Begum Jahanara Arjoo

A prolific poet of Bengali language and literature

Date of birth : 15.07.1959

Obtained LL.B. (Hons), LL.M. from the University of Dhaka and F.I.C.P.S.(India).

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh in 1983 and 1985 respectively.

Elevated as Additional Judge of the High Court Division on 27.08.2003 and appointed Judge of the same Division on 27.08.2005.

Participated in Judicial Development Programme held in South Korea in 2011 and 3rd South Asia Chief Justices' Roundtable on Environmental Justice held in Colombo, Sri Lanka in August, 2014.

Visited International Criminal Court in Hague, The Netherlands and held discussion with its Judges in a delegation led by the Chief Justice of Bangladesh in 2017.

Visited USA, Canada, UK, China, France, Italy, India, Turkey, Switzerland, Austria, Belgium, The Netherlands, Czech Republic, Indonesia, Malaysia, Singapore, Thailand, Pakistan, Nepal, Bhutan, United Arab Emirates and Kingdom of Saudi Arabia.





Mr. Justice Zubayer Rahman Chowdhury

Father's name : Late Justice A.F.M. Abdur Rahman Chowdhury

Mother's name : Begum Sitara Chowdhury

Date of birth : 18.05.1961

Obtained LL.B. (Hons), LL.M. from the University of Dhaka, LL.M. in International Law (UK).

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 03.03.1985 and 17.05.1987 respectively.

Elevated as Additional Judge of the High Court Division on 27.08.2003 and appointed Judge of the same Division on 27.08.2005.

Participated in the International Conferences, Seminars, Training Programmes and Courses held in Brussels, Belgium (1988), at Prince Edward University, Canada, (1990), Kuala Lumpur, Malaysia in the years 2000, 2002, 2006, Quebec, Canada, (2001), Singapore, (2007) and Nepal (2012).



Mr. Justice Moyeenul Islam Chowdhury

Father's name : Late Mr. Abdul Fattah Chowdhury

Mother's name : Late Mrs. Rownak-Ara-Begum

Date of birth : 09.01.1953

Obtained B.A. (Hons), MA., LL.B. under Dhaka University. Joined the Judicial Service as Assistant Judge on 17.03.1982 and was promoted as District and Session Judge on 01.03.1998.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006

Participated in International Seminars, Symposia, Workshops in Australia and Thailand and also participated in sharing of views and experiences with Canadian Judges in Ottawa, American Judges in New York, Malaysian Judges in Kuala Lumpur and Filipino Judges in Manila.

Visited India, Saudi Arabia, Singapore, Nepal and United Kingdom.





Mr. Justice Md. Emdadul Huq

Father's name : Late Sajjad Ahmed

Mother's name : Late Mst. Monwara Begum

Date of birth : 01.10.1953

Obtained B.Jur. (Hons), M.Jur. from the University of Rajshahi. Joined the Judicial Service as Munsif on 20.11.1978 and promoted as District and Sessions Judge in November, 1995.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Participated in the International Training Courses, Workshops and Seminars held in Zimbabwe, Canberra and Sydney, Australia etc.

Visited India, Malaysia, Thailand, the Philippines, Singapore, various countries of Europe, USA and Canada.



Mr. Justice Md. Rais Uddin

Father's name : Late Md. Afsar Uddin

Mother's name : Mrs. Jobeda Khatun

Date of birth : 30.06.1956

Obtained B.Sc. and LL.B.

Enrolled as an Advocate in the District Court and the High Court Division of the Supreme Court of Bangladesh on 22.08.1981 and 03.11.1983 respectively.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Visited Saudi Arabia, India, Singapore, Malaysia, Thailand, Indonesia and United Kingdom.





Mr. Justice Md. Emdadul Haque Azad

Father's name : Late Advocate Abul Kalam Azad

Mother's name : Late Jainab Azad

Date of birth : 16.10.1956

Obtained LL.B. (Hons) from the University of Rajshahi.

Enrolled as an Advocate of the Rajshahi District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 11.03.1985, 13.04.1987 and 27.02.2001 respectively.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.



Mr. Justice Md. Ataur Rahman Khan

Father's name : Late Mr. Abdul Gaffar Khan

Mother's name : Late Mrs. Amena Khanam

Date of birth : 01.12.1957

Obtained M.A., LL.B. Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 05.03.1984, 27.12.1989 and 06.06.1999 respectively.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Participated in the SAARC Law Conference, Delhi, India, 1994.

Visited India, Saudi Arabia, Yemen, U.K and Thailand.





Mr. Justice Syed Md. Ziaul Karim

Father's name : Late Syed Abdul Malek

Mother's name : Late Anowara Begum

Date of birth : 12.12.1957

Obtained B.Sc. (Hons) Chemistry, LL.B., LL.M. and Ph.D.

Enrolled as an Advocate in the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 18.03.1986, 18.04.1988 and 28.11.1996 respectively.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Participated in the SAARC Lawyer's Conference held in Sri Lanka in the year 1998.

Participated in South Asian Judges Regional Forum on Economic and Financial Crime held at Colombo, Sri Lanka, 13-15 May, 2011.

Visited Bhutan, India, Nepal, Sri Lanka, Thailand, Indonesia, Hong Kong, China, Macao, Singapore, Saudi Arabia, Malaysia, Myanmar, Canada and Morocco.



Mr. Justice Md. Rezaul Haque

Father's name : Late Md. Tazimul Hossain

Mother's name : Mrs. Umme Kulsum Hossain

Date of birth : 24.04.1960

Obtained M.A, LL.B. Enrolled as an Advocate of the District Court and High Court Division of the Supreme Court of Bangladesh on 08.04.1988 and 21.06.1990 respectively.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Visited India, Nepal and Thailand.





Mr. Justice Sheikh Abdul Awal

Father's name : Late Sheikh Yousuff Ali

Mother's name : Late Saleha Begum

Date of birth : 04.06.1960

Obtained M.A., M.S.S., LL.B. from the University of Dhaka.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 30.10.1986 and 26.02.1989 respectively.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Visited India, Pakistan, Singapore, Thailand, Malaysia, Indonesia, China, Hong Kong and Macao.



Mr. Justice S.M. Emdadul Hoque

Father's name : Late Alhaj Mohammad Moslem Uddin Sarder

Mother's name : Late Zobayda Akter

Date of birth : 07.11.1963

Obtained LL.B. (Hons), LL.M. from the University of Rajshahi.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 07.10.1990 and 26.11.1992 respectively.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Visited India, Saudi Arabia and USA.





Mr. Justice Mamnoon Rahman

Father's name : Late Advocate Rezaur Rahman

Mother's name : Late Afsari Rahman

Date of birth : 09.12.1965

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 26.11.1989, 29.05.1990 and 25.10.2001 respectively.

Elevated as an Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Participated in the International Conferences, Seminars and Study Session held in Strasbourg, France (1990), New Delhi, India (1997), Kolkata, India (2007), and London, UK (2009).

Visited Nepal, Pakistan, Malaysia, Singapore, Germany, Thailand, Indonesia, USA, UK, India, France and Canada.



Madam Justice Farah Mahbub

Father's name : Mahbubur Rahman

Mother's name : Late Mrs. Feroja Mahbub

Date of birth : 27.05.1966

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 15.09.1992, 09.04.1994 and 15.05.2002 respectively.

Elevated as Additional Judge of the High Court Division on 23.08.2004 and appointed Judge of the same Division on 23.08.2006.

Visited India, China, Pakistan, Thailand, Malaysia, Dubai, Germany, Saudi Arabia, South Korea, The Philippines and United Kingdom.





Mr. Justice A.K.M. Abdul Hakim

Father's name : Late Al-Haj Abdul Hamid

Mother's name : Late Roushan-Ara-Begum

Date of birth : 19.12.1954

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate in the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 05.04.1979, 27.08.1981 and 06.06.1999 respectively.

Elevated as Additional Judge of the High Court Division on 16.11.2008 and appointed Judge of the same Division on 11.11.2010.

Participated in International Conferences and Seminars "Asia Pacific Judicial Colloquium on Climate Change" held in Lahore, Pakistan 2018.

Visited Nepal, Pakistan, India, Malaysia, Singapore, Australia, UK, France, Turkey, Switzerland, Sri Lanka and Iceland.



Mr. Justice Borhanuddin

Father's name : Late Advocate Abdus Sabur

Mother's name : Late Momtaz Sabur

Date of birth : 28.02.1957

Obtained LL.B. from the University of Chittagong.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 03.03.1985, 16.06.1988 and 27.11.2002 respectively.

Elevated as Additional Judge of the High Court Division on 16.11.2008 and appointed Judge of the same Division on 11.11.2010.

Visited India, China, Kingdom of Thailand, Singapore, Malaysia, Saudi Arabia, Bhutan, Myanmar and Federal Republic of Germany.





Mr. Justice Soumendra Sarker

Father's name : Late Mr. Sitanath Sarker

Mother's name : Late Mrs. Parimal Sarker

Date of birth : 31.10.1953

Obtained Bachelor of Jurisprudence (Honours) and Master of Jurisprudence.

Joined the Judicial Service as Munsif on 06.11.1978 and promoted as District and Sessions Judge on 20.11.1995.

Elevated as Additional Judge of the High Court Division on 30.06.2009 and appointed Judge of the same Division on 06.06.2011.

Participated in the South Asia Judicial Conference on Environment and Climate Change, 2016.

Visited India, Bhutan, Thailand and United Kingdom.



Mr. Justice Md. Moinul Islam Chowdhury

Father's name : Late Alhaj Nurul Islam Chowdhury

Mother's name : Late Alhaj Jahanara Chowdhury

Date of birth : 07.04.1957

Obtained B.A. (Hons), M.A. (Philosophy), LL.B. from the University of Dhaka and LL.B. (Hons) from Essex, UK, and Barrister-at-Law from the Hon'ble Society of Lincoln's Inn, London, UK.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh in the year 1984, 1986 and 2002 respectively.

Elevated as Additional Judge of the High Court Division on 30.06.2009 and appointed Judge of the same Division on 06.06.2011.

Appointed as the Member of the Bangladesh Judicial Service Commission on 04.09.2013 by the Honourable President of the People's Republic of Bangladesh.

Visited India, France, United States of America, Singapore, Malaysia, Nepal, Bhutan, United Kingdom and Middle East Countries.





Mr. Justice Obaidul Hassan

Father's name : Dr. Akhlaqul Hossain Ahmed

Mother's name : Begum Hosnara Hossain

Date of birth : 11.01.1959

Obtained B.S.S. (Hons), M.S.S. (Economics) and LL.B from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 18.03.1986, 18.10.1988 and 15.08.2005 respectively.

Elevated as Additional Judge of the High Court Division on 30.06.2009 and appointed Judge of the same Division on 06.06.2011. During 23.03.2012 to 12.12.2012 and 13.12.2012 to 15.09.2015 worked as Member and Chairman respectively of International Crimes Tribunal-2.

Participated in an international conference held in Hong Kong (1991).

Participated in a training programme namely "Judicial Governance Programme" held in Singapore in July 2015.

Attended an International Conference on "International Crimes/State Crimes" held in Buenos Aires, Argentina in August 2015.

And also attended in a view exchange programme with the Judges of International Criminal Court (ICC) and International Crimes Tribunals for former Yugoslavia (ICTY) in the Hague, Netherlands in August 2015.

Visited China, India, Pakistan, Nepal, Malaysia, Singapore, Thailand, Saudi Arabia, France, Netherlands, Belgium, Argentina, United Kingdom, Switzerland, Turkey, United Arab Emirates and Indonesia.



Mr. Justice M. Enayetur Rahim

Father's name : M. Abdur Rahim

Mother's name : Mrs. Nazma Rahim

Date of birth : 11.08.1960

Obtained M. A. (Mass Communication and Journalism) and LL.B. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 30.10.1986, 02.01.1989 and 15.05.2002 respectively.

Elevated as Additional Judge of the High Court Division on 30.06.2009 and appointed Judge of the same Division on 06.06.2011.

Worked as the Chairman of International Crimes Tribunal-1 [From 24.02.2014 to 15.09.2015].

Appointed as Additional Attorney General for Bangladesh [January, 2009].

Elected as the Secretary of the Bar Association of the Supreme Court of Bangladesh [2005-2006] and Member of Bangladesh Bar Council from General Seat [2008] and General Secretary, Rangpur Cirmichel College Student Union [1981-1982 & 1982-1983]. Served as a Member of Board of Governors and Managing Committee of Bangladesh Open University and Dhaka Shishu [Child] Hospital respectively.

Participated in the International Seminars held in Hong Kong [2006] Cairo, Egypt [2009] and Manila, Philippines [2013], and Buenos Aires, Argentina [August, 2015]. Attended in a view exchange programme with the judges of International Criminal Court (ICC) and International Crimes Tribunals for former Yugoslavia (ICTY) in the Hague, Netherlands in August, 2015.

Visited India, Nepal, Malaysia, Singapore, Egypt and Saudi Arabia.





Madam Justice Naima Haider

Father's Name : Late Chief Justice Badrul Haider Chowdhury
former Chief Justice of Bangladesh

Mother's Name : Mrs. Anwara Haider

Date of birth : 19.03.1962

Justice Haider went to Holy Cross School and Holy Cross College. She obtained LL.B. (Honours), Master of Laws (LL.M) from University of Dhaka and the second Master of Laws (LL.M) from Columbia University, New York, USA.

Obtained Diplomas in International Cooperation in Criminal Matters from Christ Church College, Oxford University, in Alternative Dispute Resolution from the University of Berkeley, California, USA and attended Commonwealth Lawyer's Diploma under the Institute of Advanced Legal Studies, University of London. She also has to her credit a Diploma in International Humanitarian Law from the International Institute of Humanitarian Law, San Remo, Italy.

Justice Haider started her career as a Lecturer of the Department of Law and of the Islamic University. She was also the Chairman of the Department. She, thereafter, joined the Faculty of Law of the University of Dhaka. She left her teaching career and joined the Bar in 1989 and was thereafter enrolled in the Appellate Division of Supreme Court of Bangladesh.

Justice Naima Haider joined the Office of the Attorney General and served the office as an Assistant Attorney General and Deputy Attorney General for Bangladesh. Justice Haider was elevated to the Bench as an Additional Judge of the High Court Division on 30.06.2009 and was appointed Judge of the same Division on 06.06.2011.

Justice Haider has attended International Visitor's Programme of the United States of America in 2001, was awarded the Chevening Scholarship by the British Council in 1995 and received the Javier Perez De Cuellar Award for academic excellence in 1992 while she was at the Columbia Law School, New York, USA.

Justice Haider has participated in International Roundtables, Study Tours, Courses and Workshops and presented papers at home and abroad. She has also written several articles published in different law journals and newspapers. Justice Haider has keen interest in access to justice, advancement and empowerment of women, juvenile justice, child rights, rights of refugee women and ethnic minorities, gender based violence against women.





Mr. Justice Md. Rezaul Hasan (M.R. Hasan)

Father's name : Late Abul Kalam Azad (Advocate)

Mother's name : Hosneara Begum

Date of birth : 17.12.1962

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 03.03.1985, 17.06.1989 and 21.07.2004 respectively.

Elevated as Additional Judge of the High Court Division on 30.06.2009 and appointed Judge of the same Division on 06.06.2011.

Author of the "Index of Bangladesh Laws"; 1st edition 1992 and 2nd edition in 2004, with a foreword written by Hon'ble Mr. Justice Mustafa Kamal, the former Hon'ble Chief Justice of Bangladesh, and the 3rd edition published in 2014.

Copies of these books are preserved in the Libraries of the US Congress, of the US Supreme Court, of Columbia University Law School, Harvard Law School, Cornell University, University of Chicago, University of Iowa, University of Pennsylvania, Yale University and Alibris, Emeryville, USA. (Source-Google)

He has also acted as a resource person for the World Bank Group (2009) by contributing to a treatise "Investing Across Borders 2010," published by World Bank Group, from Austria, and was a Short Term Consultant of World Bank, Dhaka Office (2003).

Visited Washington DC and the U.S. Supreme Court (twice), State of New York, State of New Jersey, State of Pennsylvania, Turkey, UK, Thailand and India (visited Supreme Court of India and the High Courts at Mumbai and Calcutta).

He has attended "Conference on Corporate Governance" held at Manila organized by the ADB. Besides, he has attended and spoke at important seminars on legal issues.

He has contributed many articles (on legal matters) in the journal section of the law reporters and in the reputed weeklies etc, from 1990 onward.



Mr. Justice Md. Faruque (M. Faruque)

Father's name : Late Mafiz Uddin

Mother's name : Late Urchander Nessa

Date of birth : 01.01.1953

Obtained B.A.(Hons), M.A. and LL.B. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 03.02.1979, 04.06.1982 and 27.11.2002 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed as Judge of the same Division on 15.04.2012.

Participated in the Liberation War of Bangladesh in 1971 as Freedom Fighter.

Participated in the International Seminars held in Germany, France, China and Sri Lanka.

Visited Saudi Arabia and performed the "Haj, 2011".





Mr. Justice Md. Shawkat Hossain

Father's name : Late Abdus Sobhan

Mother's name : Late Sahida Begum

Date of birth : 10.01.1953

Obtained B.A. (Hons), M.A. (in English) and LL.B. from the University of Rajshahi.

Joined the Judicial Service as Munsif on 04.12.1981 and promoted as District & Sessions Judge in 1998.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Participated 3rd UNCITRAL Asia Pacific Judicial Summit 2019 held in Thailand and Honkong.

Visited London, Scotland, Indonesia, Australia, Saudi Arabia, Thailand and Hong Kong.



Mr. Justice F.R.M. Nazmul Ahasan

Father's name : Late Md. Anwar Hossain

Mother's name : Mrs. Jahanara Begum

Date of birth : 15.02.1955

Obtained B.A. (Hons), M.A. and LL.B.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 18.03.1986, 22.01.1994 and 13.12.2009 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Participated in the International Seminars held in India (2007) and Vietnam (2009).

Visited Russia, Vietnam, India, Nepal and Thailand.





Madam Justice Krishna Debnath

Father's name : Late Sree Dinesh Chandra Debnath

Mother's name : Late Sreemoti Benu Debnath

Date of birth : 10.10.1955

Obtained B.Jur (Hons) and M.Jur from the University of Rajshahi.

Joined the Judicial Service as Munsif on 08.12.1981 and promoted as District and Sessions Judge on 01.11.1998.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Attended a certificate course at Harvard Law School, USA in 1990. Participated in the conference of the International Women Judges Association, Canada in 1996. Participated in the conference of the National Women Judges Association of U.S.A. in 2012.



Mr. Justice A.N.M. Bashir Ullah

Father's name : Late Alhaj Abdul Mazid Howlader

Mother's name : Late Mrs. Jamila Khatun

Date of birth : 31.03.19 56

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the Dhaka District Court in the year 1980.

Joined the Judicial Service as Munsif on 01.12.1981 and promoted as District and Sessions Judge on 21.10.1997.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Visited India, Indonesia, Malaysia, Singapore, Saudi Arabia (KSA) and Thailand.





Mr. Justice Abdur Rob

Father's name : Late Din Mohammad Mia

Mother's name : Mst. Safia Khatun

Date of birth : 10.09.1958

Obtained B.A. (Hons), M.A. in Political Science and LL.B. from the University of Chittagong.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh in 1987, 1990 and 2002 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.



Mr. Justice Quazi Reza-ul Hoque

Father's name : Late Quazi Azizul Haque

Mother's name : Late Fazilatunnessa Chowdhury

Date of birth : 28.11.1958

Obtained LL.B. (Hons), LL.M. from the University of Dhaka, LL.M. in International Human Rights Law from Essex University, UK, MBA from American International University, USA and Ph.D. from Nottingham Trent University.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 06.10.1985 and 06.04.1989 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Has a number of publications to his credit.





Mr. Justice Md. Abu Zafor Siddique

Father's name : Late Dr. Kawsher Uddin Ahamed

Mother's name : Late Mrs. Majida Khatun

Date of birth : 02.01.1959

Obtained LL.B. (Hons) and LL.M from the University of Rajshahi.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh in 1985 and 1998 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Participated in the Judicial Development Programme in Seoul, South Korea, (2010).

Visited United Kingdom, USA, Canada, New Zeland, Australia, Indonesia, China, Vietnam, Combodia, Mayanmar, Saudi Arabia, United Arab Emirates, India, South Korea, Malaysia, Thailand, Singapore, Sri Lanka, the Maldives, Nepal and Bhutan.



Mr. Justice A.K.M. Zahirul Hoque

Father's name : Late Alhaj Abdur Rashid Howlader

Mother's name : Late Mrs. Safura Khatun

Date of birth : 31.01.1959

Obtained B.Sc. and LL.B.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 07.10.1984, 11.07.1990 and 27.12.2002 respectively.

Elevated as an Additional Judge of the High Court Division on 18.04.2010 and appoiated as a Judge of the same Division on 15.04.2012.

Participated in performing the Holy Hajj held in 2013 at Mecca and Medina of Saudi Arabia. Participated in the International Criminal Justice Conference at Sydney on 7-9 September, 2011, organized by Australian Institute of Judicial Administration (AIJA); and also in the International Criminal Justice Conference held on 23-25 August, 2012 at Brisbane, Australia organized by AIJA.

Visited India, Sydney, Rockhampton and Brisbane of Australia.





Mr. Justice Jahangir Hossain

Father's name : Late Md. Abdul Latif

Mother's name : Late Ms. Masuda Khatun

Date of birth : 31.12.1959

Obtained M. Com. and LL.B.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 31.10.1986 and 31.12.1991 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Participated in SAARC Law Conference in Delhi (1995).

Visited Australia, UK, Singapore, Nepal, Thailand, Sri Lanka, India, Malaysia, Bhutan, The Maldives, Saudi Arabia, France, Belgium, the Netherlands, Argentina, Myanmar, Cambodia and Vietnam.



Mr. Justice Sheikh Md. Zakir Hossain

Father's name : Late Kanchan Sheikh

Mother's name : Late Noorjahan Begum

Date of birth : 02.03.1962

Obtained LL.B. from the University of Dhaka.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 05.10.1988 and 17.07.1993 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.





Mr. Justice Md. Habibul Gani

Father's name : Alhaj Jahurul Huq Chowdhury

Mother's name : Late Julekha Begum

Date of birth : 31.05.1962

Obtained M.S.S. and LL.B. from the University of Chittagong.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 03.04.1989 and 11.04.1992 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Participated in the International Seminars, Symposiums and Workshops on Law and Justice organized by World Peace Forum.

Visited Canada, Japan, Korea, China, Hong Kong, India, Malaysia, Singapore, Nepal, Bhutan, United Arab Emirates, Saudi Arabia, Thailand, Vietnam, Cambodia and Myanmar.



Mr. Justice Gobinda Chandra Tagore

Father's name : Late Gurubar Tagore

Mother's name : Madhumala Tagore

Date of birth : 15.05.1963

Obtained M.A. in Mass Communication & Journalism and LL.B. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 30.04.1994, 29.09.1996 and 13.12.2009 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Visited the then Union of Soviet Socialist Republic (USSR) in 1989, participated in 'Proclamation Ceremony of the Declaration on the Cessation of War and Achievement of World Peace' held on March 14, 2016 in Seoul, South Korea and also visited India and Singapore.





Mr. Justice Sheikh Hassan Arif

Father's name : Faizur Rahman

Mother's name : Hosne Ara Begum

Date of birth : 20.04.1967

Justice Sheikh Hassan Arif was elevated as the Judge of the Supreme Court of Bangladesh, High Court Division in 2010. He has delivered various constitutionally important judgments and orders touching human rights, child rights, environmental issues and fiscal laws.

Justice Arif participated in various international conferences including the SAARC Law Conference, Dhaka in 1996, Bangladesh Human Rights Convention of 2005 held in London, UK, AIJA 'Child Protection Conference, Brisbane, Australia in 2011, Second International Summit of the High Courts at Istanbul, Turkey in 2013, the South Asia Judicial Conference on Environment and Climate Change, Dhaka in 2016, and the first South Asia Regional Judicial Colloquium on Reproductive Rights, Nepal in 2019, and made remarkable contributions through his research, deliberations and speeches. He takes special interest in child rights, human rights and climate change issues and, accordingly, delivers speeches on those issues in national and international seminars, symposium and conferences on a regular basis. He is now serving as a member of the Special Committee of the Supreme Court of Bangladesh on Child Rights and has been contributing in implementation of the UN Child Rights Convention (CRC) in Bangladesh. He is the co-editor of 'Supreme Court Online Bulletin (SCOB)', the only online law journal/report published by the Supreme Court of Bangladesh.

Justice Arif did his LL.B. and M.S.S from the University of Chittagong, LL.B. (Honors) from the University of Wolverhampton, UK and Postgraduate Diploma in Professional and Legal Skills from the then ICSL, City University, London, UK before being called to the Hon'ble Society of Lincoln's Inn, London, UK as a Barrister-At-Law.



Mr. Justice J.B.M. Hassan

Father's name : Late A.F.M. Shamsuddin

Mother's name : Late Nur Mohal Begum

Date of birth : 10.01.1968

Obtained LL.B. (Hons) and LL.M. from the University of Rajshahi.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 10.05.1992, 22.01.1994 and 21.07.2004 respectively.

Elevated as Additional Judge of the High Court Division on 18.04.2010 and appointed Judge of the same Division on 15.04.2012.

Participated in the International Workshop held in Bangkok, Thailand and workshop for SAARC High Court Judges held in the National Judicial Academy, Bhopal, India.





Mr. Justice Md. Ruhul Quddus

Father's name : A F M Azizur Rahman

Mother's name : Rahela Khatun

Date of birth : 07.12.1962

Justice Md. Ruhul Quddus was elevated as an Additional Judge of the High Court Division of the Supreme Court of Bangladesh on 04.11.2010 and as a Judge thereof on 15.10.2012.

Justice Quddus did his B.A. and M.S.S. from the University of Rajshahi, and LL.B. under the same University. He was elected as the General Secretary of Rajshahi University Central Students Union for consecutive two terms. He was enrolled with Bangladesh Bar Council as an Advocate on 19.04.1993 and started law practice. He was permitted to practice in the High Court Division on 29.09.1996 and the Appellate Division on 15.01.2009. He was the Legal Adviser to Bangladesh Legal Aid and Services Trust (BLAST), a leading human rights and legal aid organization, and also to the Board of Intermediate and Secondary Education, Rajshahi till his elevation. He was an active public interest litigant and General Secretary of the Association for Democratic and Constitutional Advancement of Bangladesh (ADCAB).

Justice Quddus participated in International conferences, workshops, trainings and orientation programmes on Human Rights, Public Interest Litigation and Police Reform held in India, Nepal and USA. He represented the Supreme Court of Bangladesh as one of its two delegates in the 2nd China-ASEAN Justice Forum held on 6-10 June, 2017 in Nanning, China.



Mr. Justice Md. Khasruzzaman

Father's name : Md. Shamsul Haque

Mother's name : Saria Begum

Date of birth : 28.10.1968

Obtained LL.B. (Hons) and LL.M.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 16.08.1994 and 29.09.1996 respectively.

Elevated as Additional Judge of the High Court Division on 04.11.2010 and appointed Judge of the same Division on 15.10.2012.

Participated in the Training Programme on "Mutual Legal Assistance" Conducted by US Department of Justice.

Visited India and Malaysia.





Mr. Justice Farid Ahmed

Father's name : Late Md. Mahar Ali

Mother's name : Late Bana Bibi

Date of birth : 01.01.1960

Obtained B.A. and LL.B. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and Appellate Division of the Supreme Court of Bangladesh on 17.10.1985, 06.10.1988 and 08.11.2006 respectively.

Elevated as Additional Judge of the High Court Division on 04.11.2010 and appointed Judge of the same Division on 15.10.2012.

Participated Common Wealth Young Lawyers Course (1993) held in UK and Regional Consultation held in Pakistan (2008).



Mr. Justice Md. Nazrul Islam Talukder

Father's name : Late Sajibuddin Talukder

Mother's name : Late Sahidan Bibi

Date of birth : 01.12.1964

Obtained LL.B. (Hons) and LL.M. from the University of Rajshahi.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 16.10.1991, 21.08.1993 and 12.05.2008 respectively.

Elevated as Additional Judge of the High Court Division on 04.11.2010 and appointed Judge of the same Division on 15.10.2012.

Participated in the International Training on Trans-border Money Laundering held in University of Wollongong, Australia in 2009.

Participated in the Launching Event of the Global Judicial Integrity Network, a platform to assist judiciaries in strengthening judicial integrity and preventing corruption within the Judicial system, held in Vienna, Austria in 2018.

Participated in the Exposure Visit Programme of the Supreme Court Special Committee on Child Rights to Sri Lanka in April-May 2018.

Visited India, Egypt, Libya, Qatar, Australia, Thailand, Malaysia, Sri Lanka, Singapore, Austria, France, Germany and Turkey.





Mr. Justice Bhabani Prasad Singha

Father's name : Late Sudhir Chandra Singha

Mother's name : Late Brishabhanu Rajkumari

Date of birth : 08.08.1953

Obtained M.A. in English and LL.B.

Enrolled as an Advocate of the District Court on 01.03.1979.

Joined the Judicial Service as Munsif on 20.04.1983 and promoted as District and Sessions Judge on 24.02.2000.

Elevated as Additional Judge of the High Court Division on 12.12.2010 and appointed Judge of the same Division on 10.12.2012.

Was a Lecturer in the Department of Law, Prime University, Kishoreganj Centre.

Before elevation as an Additional Judge of the High Court Division was the Dean, Faculty of law, Premier University, Chattogram.

Participated in the UNCITRAL Asia Pacific Judicial Summit held in Hong Kong from 26 to 29 October, 2015.

Visited India.



Mr. Justice Md. Akram Hossain Chowdhury

Father's name : Md. Belayet Hossain Chowdhury

Mother's name : Begum Shamsunnahar

Date of birth : 25.04.1959

Obtained LL.B. from the University of Dhaka.

Enrolled as an Advocate of Dhaka District Court and the High Court Division of the Supreme Court of Bangladesh on 26.10.1987 and 30.10.1989 respectively. Acted as Deputy Attorney General since 21.02.2009 until elevation to the Bench.

Elevated as Additional Judge of the High Court Division on 12.12.2010 and appointed Judge of the same Division on 10.12.2012.

Successfully completed the "Mutual Legal Assistance Training" conducted by the US Department of Justice, held in May-2009.

Visited India, Bhutan, Nepal and Saudi Arabia.





Mr. Justice Md. Ashraful Kamal

Father's name : Abdul Gofran

Mother's name : Ashraf Jahan Begum

Date of birth : 30.11.1964

Obtained M. Com. in Management and LL.B. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 30.04.1994, 26.09.1996 and 24.08.2010 respectively.

As a Lawyer of the Supreme Court of Bangladesh, Justice Kamal also participated in the 16th Edition of the International Association of Democratic Lawyers Congress in Paris, France in 2005 on the theme of "Law and Lawyers in the Service of the People for Peace, Justice and Development".

He was the counsel in an International Arbitration Case at Karachi in 2005.

Elevated as Additional Judge of the High Court Division on 12.12.2010 and appointed Judge of the same Division on 10.12.2012.

He has participated in a range of international colloquia including the Second Asian Judges' Symposium on Environment, on the theme of Natural Capital and the Rule of Law, held Manila, the Philippines in 2013.

Much more recently, Justice Kamal participated in the Commonwealth Asia High Level Regional Dialogue in November 2013, held in Kuala Lumpur, Malaysia on the issue of "Strengthening Equality and Equal Protection of the Law: Reforming Laws that Discriminate".

Justice Kamal has also been invited for working visit to various courts in foreign jurisdictions, such as one to the Palace of Justice in Malaysia (which houses both the Malaysian Court of Appeal and the Federal Court) on the 21st of November 2019, as well as a working visit to the Tripura High Court in India in 2013.

Justice Kamal has delivered various constitutionally important judgements and orders regarding human rights, health rights, company law, trademark and patent law. His speciality is however constitutional law, with his most landmark judgement being regarding the 16th Amendment in "Advocate Asaduzzaman Siddiqui and others v Bangladesh (Writ Petition Number 9989/2014)" where he gave the dissenting opinion, and environmental law regarding legal personhood of rivers in the case of "Human Rights and Peace for Bangladesh v Bangladesh (Writ Petition Number 13989/2016)" where he was the author of the judgment.

He also gave a significant judgment regarding Article 70 of the Constitution of Bangladesh.

Visited India, Pakistan, Nepal, Bhutan, Malaysia, Singapore, England, Scotland, The Netherlands, Italy, France, Belgium, USA and the Philippines.





Mr. Justice K.M. Kamrul Kader

Father's name : Late Advocate K.M. Fazlul Kader

Mother's name : Bagum Aysha Kader

Date of birth : 09.06.1964

Obtained LL.B. (Hons.), LL.M. from the University of Rajshahi, LL.B. (Hons.) from University of Wolverhampton, U.K., Barrister-at-law, Lincoln's Inn, London, U.K.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 26.10.1987 and 09.10.1990 respectively.

Elevated as Additional Judge of the High Court Division on 20.10.2011 and appointed Judge of the same Division on 07.10.2013.

Visited India, Nepal, Kingdom of Saudi Arabia, United Kingdom and United Arab Emirates.



Mr. Justice Md. Mozibur Rahman Miah

Father's name : Late Md. Yusuf Ali Miah

Mother's name : Late Mst. Sharifa Khatun

Date of birth : 04.07.1965

Obtained LL.B. (Hons.) and LL.M. from the University of Rajshahi.

Enrolled as an Advocate at Dhaka Judge Court and the High Court Division of Supreme Court of Bangladesh on 09.02.1992 and 24.04.1993 respectively.

Performed as Deputy Attorney General from 09.02.2009 till elevation to the Bench.

Elevated as Additional Judge of the High Court Division on 20.10.2011 and appointed Judge of the same Division on 07.10.2013.

Appointed Member of the International Crimes Tribunal-2 (ICT-2) on 13.12.2012 and discharged function therein till 15.09.2015.

Participated in SAARC Law Conference held in Dhaka, Bangladesh in 1996.

Also participated in the Mutual Legal Assistance Training Program as Deputy Attorney General held in Dhaka, Bangladesh in 2009 conducted by the U.S. Department of Justice.

Attended in "the 20th International conference of Chief Justices of the world" organized by City Montessorie School Lucknow, India held in New Delhi and Lucknow, India from 6th November to 12th November-2019.

Visited India, Singapore, Malaysia, Thailand, Canada and USA.





Mr. Justice Mustafa Zaman Islam

Father's name : Late Muzaharul Islam

Mother's name : Rokeya Khaton

Date of birth : 10.02.1968

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 19.05.1991, 13.03.1993 and 28.12.2010 respectively.

Elevated as Additional Judge of the High Court Division on 20.10.2011 and appointed Judge of the same Division on 07.10.2013.

Participated in SARRC Law conference, 1996, held in Bangladesh and in the Mutual Legal Assistance Training as Deputy Attorney General conducted by the U.S Department of Justice held in Bangladesh in 2009.

Participated in the Working procedure of Customs, VAT, and Income Tax under the National Board of Revenue in 2015.

Participated in the Bangladesh-United States Judicial education exchange programme in Washington D.C in 2016.

Participated in the South Asia Judicial conference on Environment and Climate Change, held in Bangladesh in 2016.



Mr. Justice Mohammad Ullah

Father's name : Late Shakhawat Ullah

Mother's name : Mst. Afrazunnessa

Date of birth : 18.03.1970

Obtained LL. B. (Hons) and LL. M. from the University of Rajshahi.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 30.04.1994, 12.08.1995 and 13.01.2011 respectively.

Elevated as Additional Judge of the High Court Division on 20.10.2011 and appointed Judge of the same Division on 07.10.2013.

Participated in an international seminar "Bangladesh-US Legal Seminar-2003" on Operational Law held in Dhaka, Bangladesh 25-29 May, 2003.





Mr. Justice Muhammad Khurshid Alam Sarkar

Father's name : Alhaj M.A. Sattar Sarkar

Mother's name : Begum Asma Sattar

Date of birth : 01.03.1972

Obtained LL.B. (Hons), LL.M. from the University of Dhaka and also further LL.B. (Hons) from the United Kingdom. Achieved the professional qualification of Barrister-at-Law from Gray's Inn.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 01.04.1995, 07.03.1996 and 24.08.2010 respectively.

Elevated as an Additional Judge of the High Court Division on 20.10.2011 and appointed Judge of the same Division on 07.10.2013.

Visited USA, UK, Switzerland, France, Germany, Italy, India, Pakistan, Thailand, Malaysia and Nepal.



Mr. Justice A.K.M. Shahidul Huq

Father's name : Late Alhaj Mohammad Nurul Huq

Senior Advocate Supreme Court of Bangladesh

Mother's name : Late Alhejja Jahan Ara Begum

Date of birth : 29.12.1955

Obtained LL.B. (Hons) and LL.M. the University of Dhaka. Ex BCS (Judicial).

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 22.08.1981, 04.09.1983 and 04.07.1993 respectively.

Elevated as Additional Judge of the High Court Division on 20.10.2011 and appointed Judge of the same Division on 07.10.2013.

Visited India, UK, Thailand, Singapore and Kingdom of Saudi Arabia.





Mr. Justice Shahidul Karim

Father's name : A.K.M. Rezaul Karim

Mother's name : Mst. Saleha Begum

Date of birth : 11.03.1958

Obtained LL.B. (Hons), LL.M. from the University of Dhaka.

Joined the Judicial Service as Munsif on 20.04.1983 and promoted as District and Sessions Judge on 24.02.2000.

Elevated as Additional Judge of the High Court Division on 20.10.2011 and appointed Judge of the same Division on 07.10.2013.

Participated in international level workshops on Human Rights held in the Philippines and Sri Lanka, 1999. Obtained Diploma on Human Rights and Environment Law from the American University in Washington D.C in 2000. Also participated in a number of International Seminars on law and justice in India, UK and the Netherlands and visited Canada and England to get acquainted with their legal aid activities.



Mr. Justice Md. Jahangir Hossain

Father's name : Late Dr. Md. Helal Uddin Hossain

Mother's name : Sakina Begum

Date of birth : 01.02.1959

Place of birth : Kishoregonj, Bangladesh

Obtained LL.B. (Hons), LL.M from the University of Dhaka.

Joined the Judicial Service as Munsif (Assistant Judge) on 22.02.1984.

Promoted as District & Session Judge on 28.04.2009.

Worked as Joint District Judge, Additional District Judge and Judge of Artha-Rin Adalat, Judge of Nari-O-Shishu Nirjatan Daman Adalat, District and Session's Judge of Dhaka, D.G (Director General) of Anti-Corruption Commission.

Worked as Regional Administrator and as Judge in the Court of (UNTAET) under United Nation's. While working as the Regional Administrator of East Timor, ran general administration of the region and supervised the functions of GO'S and NGO's working in the areas of development. Maintained liaison between relevant GO'S (Police, Army, Civil Administrator) of United Nations.

Elevated as Additional Judge of the High Court Division, Supreme Court of Bangladesh on 20.10.2011 and appointed Judge of the same Division on 20.10.2013.

Foreign Training under (UNTAET) UN: Case Management and Court Administration, Juvenile Justice & UN Convention on the Rights of the Child, Gender Issue and Human Rights and Rule of Law, Settlement of Minor Crimes thorough Diversion Process, Domestic Violence & Family Dispute; Fast Track Justice.

Participated in the international seminars held in UN, Qatar, Bhutan and Nepal.

Visited France, England, Italy, Vatican, America, Canada, Australia, Indonesia, Malaysia, Singapore, Thailand, East Timor and India.

Justice Md. Jahangir Hossain recruited by United Nations through a World wide competitive process and deployed in East Timor to the position of Administrator and as the legal and judicial Affairs Officer. While working as the Regional Administrator of East Timor, responsibility was to run the general administration of the region and supervise the functions of GO'S and NGO's working in the areas of development, law & order and dispensation of justice. Used to liaison between relevant GO'S (police, army, civil officers) of United Nations Transitional Administration in East Timor (UNTAET), on the one hand, International Agencies on the other.





Mr. Justice Abu Taher Md. Saifur Rahman

Father's name : Md. Abdul Jabber Sarker

Mother's name : Mrs. Umme Salma Khatun

Date of birth : 31.12.1966

Obtained LL.B. (Hons), LL.M from the University of Dhaka and LL.B. (Hons) from University of Wolverhampton, UK & Barrister-at-law (Hon'ble Society of Lincoln's Inn, London, UK.)

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 19.05.1991 and 12.12.1992 respectively.

Elevated as Additional Judge of the High Court Division on 20.10.2011 and appointed Judge of the same Division on 07.10.2013.

Visited UK and India.



Mr. Justice Ashish Ranjan Das

Father's Name : Late Jogesh Chandra Das

Mother's Name : Late Gayatri Das

Date of Birth : 29.01.1958

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Joined Judicial Service as Munsif on 20.04.1983 and promoted as District and Sessions Judge on 24.02.2000.

Promoted and worked as Secretary (In-charge), Law and Justice Division, Ministry of Law, Justice and Parliamentary Affairs (2011-2012).

Elevated as Additional Judge of the High Court Division on 14.06.2012 and appointed Judge of the same Division on 12.06.2014.





Mr. Justice Mahmudul Hoque

Father's Name : Late Noor Hossain

Mother's Name : Late Mabiya Khatun

Date of Birth : 13.12.1958

Obtained M.A. and LL.B. from the University of Chittagong.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 26.09.1984 and 08.01.1987 respectively.

Elevated as Additional Judge of the High Court Division on 14.06.2012 and appointed Judge of the same Division on 12.06.2014.

Visited India, Malaysia, Saudi Arabia, Thailand, Indonesia and United States of America.



Mr. Justice Md. Badruzzaman

Father's Name : Late Md. Sadar Uddin Mondal

Mother's Name : Mrs. Sahar Banu

Date of Birth : 06.09.1969

Obtained LL.B. (Hons) and LL.M.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 30.04.1994 and 29.09.1996 respectively.

Elevated as Additional Judge of the High Court Division on 14.06.2012 and appointed Judge of the same Division on 12.06.2014.

Visited India, Nepal, UK, USA, United Arab Emirates and Thailand.





Mr. Justice Zafar Ahmed

Father's Name : Nazir Ahmed Bhuiyan

Mother's Name : Rokey Begum

Date of Birth : 04.01.1970

Obtained LL.B. (Hons), LL.M from the University of Dhaka and LL.B. (Hons) from London Metropolitan University, UK & Bar Vocational Course (BVC), BPP Professional School, London, UK.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh in 1994 and 1995 respectively.

Elevated as Additional Judge of the High Court Division on 14.06.2012 and appointed Judge of the same Division on 12.06.2014.

Participated in Continuing Legal Education Programme (CELP) organized and conducted by the Bangladesh Bar Council and achieved "Excellent" grade.

Visited United Kingdom and United Arab Emirates.



Mr. Justice Kazi Md. Ejarul Haque Akondo

Father's Name : Late Md. Ismail Hossain Akondo

Mother's Name : Most. Hasina Begum

Date of Birth : 24.05.1971

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 01.04.1995 and 30.10.1997 respectively.

Acted as Deputy Attorney General from February 2009 till elevation to the Bench.

Elevated as Additional Judge of the High Court Division on 14.06.2012 and appointed Judge of the same Division on 12.06.2014.

Attended in the prosecution training workshop, organized by the Commonwealth Secretariat on "Investigation and Prosecution of Hi-Tech Crime-Technological Challenges and Practical Solutions", held in Male, The Maldives, in 2010.

Visited United Arab Emirates (UAE), The Maldives, India, Bhutan, Indonesia, Thailand, Singapore and Malaysia.





Mr. Justice Md. Shahinur Islam

Father's Name : Late Md. Serajul Islam
 Mother's Name : Late Shamsun Nahar Islam
 Date of Birth : 07.04.1958

Obtained LL.B. (Hons) from the University of Rajshahi. Joined the Judicial Service as Munsif on 20.4.1983 and promoted as District and Sessions Judge on 13.1.2001 and worked as District and Sessions Judge in Narail, Habiganj and Member, Administrative Tribunal Dhaka. After serving as the Registrar of International Crimes Tribunal [ICT-BD] since April 2010 he was appointed Member of the second Tribunal (ICT-2) on 22nd March 2012.

Elevated as Additional Judge of the High Court Division on 05.08.2013, under article 98 of the Constitution and later on re-appointed as a Member of International Crimes Tribunal-2.

Elevated as Judge of the High Court Division on 05.08.2015, under article 95 of the Constitution.

Since 11.10.2017 he has been working as the Chairman of International Crimes Tribunal (ICT-BD).

Participated a training course on 'economic development and regional development strategies' held in Seoul, South Korea [April 2001], '2nd biennial conference on war crimes' organized by IALS (Institute of Advanced Legal Studies), University of London, UK and SOLON [March, 2011].

He participated a regional expert symposium organized by the ICTJ, Asia Division on 'the challenges to prosecute war crimes' held in Jakarta, Indonesia [November 2011]. He visited the ICTY, ICC, STL in The Hague, Netherlands and had discussion with some distinguished Judges and experts of ICTJ [October 2011]. He also visited India.

On April 13-14, 2018 he attended conference on "Frontiers Prevention organized by the Institute for Genocide and Mass atrocity Prevention [IGMAP], Binghamton University, NY, USA and presented a paper titled "Prevention Through Prosecuting International Crimes in a Domestic Tribunal: Bangladesh".

He also presented a paper titled "Militarization in Bangladesh: How it Endorsed a Culture of Impunity and Abused the Rule of Law" in an international conference in November 2018 organised by the Institute for Asia Diasporas [IAAD], Binghamton University, NY, USA.



Madam Justice Kashefa Hussain

Father's Name : Late Justice Syed Muhammad Hussain
 Mother's Name : Mrs. Suraiya Hussain
 Date of Birth : 01.07.1958

Obtained B.A. (Honors) and M. A. in English Literature from Department of English, University of Dhaka; LL.B. from University of Dhaka, LL.M. from University of London; Diploma in French Language from Alliance Francaise, Dhaka.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 12.10.1995 and on 27.04.2003 respectively.

Elevated as Additional Judge of the High Court Division on 05.08.13. and appointed Judge of the same Division on 05.08.2015.

Visited USA, UK, France, Switzerland, Italy, Greece, Spain, Sweden, Finland, Turkey, Bahrain, Japan, Thailand, Singapore, China, Hong Kong, Malaysia, Indonesia, the Vatican, India, Nepal, Uzbekistan, Hungary, Czech Republic, Austria and Portugal.





Mr. Justice S.M. Mozibur Rahman

Father's Name : Late Fazlur Rahman

Mother's Name : Late Foyezun Nesa Begum

Date of Birth : 12.07.1955

Obtained B.A. (Hons) in Education, and LL.B. degree from the University of Chittagong. Joined the Judicial service as Munsif (Assistant Judge) on 22.02.1984 and promoted as District and Sessions Judge on 09.05.2007.

Elevated as Additional Judge of the High Court Division on 12.02.2015 and appointed Judge of the same Division on 12.02.2017.

Served as Senior Research Officer, Law Commission, Dhaka and Deputy Solicitor/Deputy Secretary, Ministry of Law, Justice and Parliamentary Affairs, Dhaka. Former Judge, Nari-O-Shishu Nirjatan Damon Tribunal, Jamalpur; Judge, Jono Nirapatta Bighnakari Aporadh Damon Tribunal, Chattogram; District and Sessions Judge, Potuakhali and Metropolitan Sessions Judge, Chattogram.



Mr. Justice Amir Hossain

Father's Name : Alhaj Abdus Samad

Mother's Name : Alhaj Syedunnesa

Date of Birth : 30.11.1957

Obtained LL.B. (Hons), LL.M. from the University of Dhaka. Joined the Judicial Service as Munsif (Assistant Judge) on 22.02.1984 and promoted as District and Sessions Judge on 06.05.2009.

Elevated as Additional Judge of the High Court Division on 12.02.2015 and appointed Judge of the same Division on 12.02.2017. On 11 October 2017, the Government of Bangladesh appointed him as a member of the International Crimes Tribunal-1, Bangladesh.

Participated in many seminars, workshops, law conferences and visited Australia, Switzerland, China, Indonesia, Singapore, South Korea, India, Dubai, Holy Mecca (Saudi Arabia), Turkey, Germany, Luxemburg, Belgium, France, United Kingdom, Canada and the Netherlands.





Mr. Justice Khizir Ahmed Choudhury

Father's Name : Late Aklakul Ambia Choudhury

Mother's Name : Late Jahanara Khanom Choudhury

Date of Birth : 24.11.1959

Obtained B.A. and LL.B. Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 18.03.1986, 30.04.1989 and 13.12.2009 respectively.

Elevated as Additional Judge of the High Court Division on 12.02.2015 and appointed Judge of the same Division on 12.02.2017.

Visited England, France, Belgium, Germany, Turkey, the Netherlands, Malaysia, Indonesia, Thailand, India, Nepal, Bhutan, Singapore, Vietnam, United Arab Emirates, U.S.A., Canada and Sri Lanka.



Mr. Justice Razik-Al-Jalil

Father's Name : Late Justice Md. Abdul Jalil

Mother's Name : Late Syeda Hazera Jalil

Date of Birth : 22.11.1962

Obtained BSS (Hons), MSS (Political Science) and LL.B. Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 15.09.1992 and 28.01.1995 respectively.

Elevated as Additional Judge of the High Court Division on 12.02.2015 and appointed Judge of the same Division on 12.02.2017.

Visited Russia, Singapore and India.





Mr. Justice Bhishmadev Chakrabortty

Father's Name : Keshab Chakrabortty

Mother's Name : Suniti Chakrabortty

Date of Birth : 02.07.1967

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka. Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 11.10.1993, 28.01.1995 and 24.08.2010 respectively.

Elevated as Additional Judge of the High Court Division on 12.02.2015 and appointed Judge of the same Division on 12.02.2017.

Participated in "ADB-CITES Conference: Innovative Enforcement Strategies to Combat Wildlife Crime and Uphold the Rule of Law" held in Thailand in 2013; "Mutual Legal Assistance Training" conducted by the US Department of Justice at the Office of the Attorney General for Bangladesh in May, 2009.

Visited Thailand and India.



Mr. Justice Md. Iqbal Kabir

Father's Name : Dr. Md. Tojammal Hoque

Mother's Name : Most. Ayasha Khatoon

Date of Birth : 10.11.1967

Obtained LL.M. from the University of Dhaka. Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 10.05.1992 and 24.01.1995 respectively.

Elevated as Additional Judge of the High Court Division on 12.02.2015 and appointed Judge of the same Division on 12.02.2017.

Acted as Vice Principal of Dhanmondi Law College.

Visited India, Pakistan, Nepal, Sri Lanka, Bhutan, Iran, Dubai, Kenya, Tanzania, Korea, the Philippines, Mexico, USA, Germany, Swaziland, Australia, Canada, Hong Kong, Finland, Sweden, Switzerland, Turkey, The Maldives, Singapore, Malaysia, Indonesia, Belgium and Myanmar.





Mr. Justice Md. Salim

Father's Name : Late Md. Jamal Uddin

Mother's Name : Late Asiyeh Khanum

Date of Birth : 11.09.1969

Obtained LL.B. (Hon's) and LL.M. Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 31.08.1996, 01.02.1997 and 24.08.2010 respectively.

Elevated as Additional Judge of the High Court Division on 12.02.2015 and appointed Judge of the same Division on 12.02.2017.

Participated in International Conference of "Hi-Tech Crime Technological Challenges and Practical Solution" conducted by Commonwealth Secretariat held in The Maldives, 2010.

Participated in the International Conferences of BIMSTEC, held in 2013.

Participated in Workshops on "Labour Law" conducted by (I.L.O) Department of Justice.

participated in Mutual Legal Assistance conducted by U.S Department of Justice. He also participated in Investigation and Prosecution of Financial Crimes Seminar conducted by U.S. Department of Justice.

He participated in South Asia Judicial Conference on "Environment and Climate Change", held in Dhaka, 2016.

Visited Canada, India, the Maldives, Nepal, Singapore, United Arab Emirates and USA.



Mr. Justice Md. Shohrowardi

Father's Name : Late Md. Edrish Ali

Mother's Name : Late Jumela Khatun

Date of Birth : 05.12.1970

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka. Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 16.08.1994, 29.09.1996 and 23.10.2014 respectively.

Acted as Deputy Attorney General for Bangladesh from 09.02.2009 till elevation to the Bench.

Elevated as Additional Judge of the High Court Division on 12.02.2015 and appointed Judge of the same Division on 12.02.2017.

Participated in training programme on Mutual Legal Assistance conducted by U.S. Department of Justice and completed the 'Investigating Terrorist Incidents Course' organized by Bureau of Diplomatic Security, U.S. Department of State. He participated in 'Investigation and Prosecution of Financial Crimes' seminar held on 10-11 April 2014, organized by United States Department of Justice.

He also participated Asia Pacific Judicial Conference on Environmental and Climate Change Adjudication held on 29-30 October 2018, Nay Pyi Taw, Myanmar.

Worked as a Member of International Crimes Tribunal-1, Bangladesh from 10.09.2015-11.10.2017. .





Mr. Justice Md. Abu Ahmed Jamadar

(He is a Freedom Fighter)

Father's Name : Alhaj Noor Hossain Jamadar

Mother's Name : Alhaj Ameena Khanam

Date of Birth : 16.06.1957

Obtained M.Sc./LL.B.

Enrolled as an Advocate of the Tangail Bar Association in the year 1983.

Joined the Judicial Service as Munsif on 22.02.1984 and promoted as District and Sessions Judge on 06.10.2008.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated 23 days long training program on Parliamentary Committee System arranged by the German Federal Parliament, Bundestag, Germany in 1994 when posted at the Bangladesh Parliament Secretariat as Assistant Secretary (Law) on Deputation.

Participated 7 days long training on Regional Food Security Program arranged by USAID, CARE, Thailand in 2010.

Participated in the 2nd Meeting of Governing Board of SAARC Arbitration Council (SARCO) at Islamabad, Pakistan from December 18 to December 23, 2011.

Participated in a 6 days long training program on International Arbitration System arranged by IFC, Singapore International Arbitration Center, Singapore in 2012.

Attended 15 days long exposure visit in United Kingdom on 'Improvement of the Real Situation of Overcrowding in prisons in Bangladesh' arranged by GIZ, United Kingdom in 2012.

(ii) He attended 12 days long Joint Study Mission in United Kingdom to look at rehabilitation of prisoners through sentence planning and skills development, restorative justice approaches by police and judiciary arranged by United Kingdom and German Development Cooperation (GIZ) in 2014.

Participated 9 days long 29th AAA/ICC/ICSID Joint Colloquium on International Arbitration in Washington DC, USA in 2012.

As Head of the Delegation, he participated 5 days long South Asia Workshop on "Countering Use of Internet for Terrorist Purposes" arranged by UNODC, New Delhi, India in 2012.

Attended 5 days long 4th ICC International Conference on Mediation arranged by ICC, Paris, France in 2013.

Attended 5 days long Study Tour on "To examine how the Independent Commission Against Corruption (ICAC) runs Corruption Prevention activities in Hong Kong" arranged by ICAC, Hong Kong in 2013.

Attended 5 days long training program on 'Court Annexed and Court Referred Mediation' arranged by IFC, Hong Kong in 2014.

Participated 8 days long IAACA 7th Annual Conference & General Meeting and 5th Conference of the State Parties to the United Nations Convention Against Corruption (UNCAC) arranged by UNCAC, Panama City, Republic of Panama in 2013.

As Head of the Delegation, he attended 4 days long Regional Workshop for South Asian Countries on Promoting and Strengthening National Frameworks for the Support of Victims of Terrorism and Related Cooperation arranged by United Nations Office on Drugs and Crime (UNODC), Kathmandu, Nepal in 2014.

Justice Jamadar visited the Netherlands, Malaysia, Saudi Arabia, United Arab Emirates and Qatar.

Technical Assistance (TA) Projects

(i) Justice Md. Abu Ahmed Jamadar was the National Project Director (NPD), Justice Reform and Corruption Prevention (JRCP) Project, German Development Cooperation, GIZ

(ii) Justice Jamadar served as Chairman, Program Implementation Committee (PIC), Digitization of Deed Registration Program (iii) Justice Jamadar was the Chairman, Program Implementation Committee, ADR Mechanism (Mediation), BICF, IFC, World Bank Group.

He likes playing Carom and Chess.





Mr. Justice A.S.M. Abdul Mobin

Father's Name : Late A. Hye, Advocate

Mother's Name : Musammat Shamsunnessa Khanam

Date of Birth : 05.02.1959

Obtained B.A., LL.B.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 08.03.1985, 26.02.1989 and 13.12.2009 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated in the International Seminars and Training Programmes held in India, Nepal, Bhutan, Thailand, Singapore, Malaysia, U.K., France, Switzerland and South Korea.

An article on criminal administration of justice was published in 48 DLR Journal 52.

Another article on Nari 'O' Shishu Nirjatan Daman (Bishesh Bidhan) Ain 1995 was published in 49 DLR Journal 55.



Mr. Justice Md. Mostafizur Rahman

Father's Name : Late Zainal Abedin

Mother's Name : Mrs. Monjuara Begum

Date of Birth : 13.02.1959

Obtained LL.B. (Hons) from the University of Rajshahi.

Enrolled as an Advocate of the District Court on 26.09.1984.

Joined the Judicial Service as Munsif on 15.01.1985 and promoted as District and Sessions Judge on 08.09.2011.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated in trainings, workshops and study tours held in India, Thailand, Cambodia, Malaysia, Singapore, South Korea, Malawi (Africa), England, Germany and Australia.





Madam Justice Fatema Najib

Father's Name : Md. Abdul Basir Chowdhury

Mother's Name : Late Hosne Ara Begum

Date of Birth : 11.07.1959

Obtained LL.B. (Hons) from University of Dhaka.

Joined the Judicial Service as Munsif on 12.11.1984 and promoted as District and Sessions Judge on 26.09.2011.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated in International Training in KOICA, Republic of Korea, participated in consultation Programmes 'on concept of violence against women' held in Netherland and India organized by 'International Womens' Judges Association'.

Visited India, Korea, Thailand, the Netherlands, Hong-Kong, Indonesia, the Maldives, Macau, Saudi Arabia and Sri Lanka.



Mr. Justice Md. Kamrul Hossain Mollah

Father's Name : Late Mizanur Rahaman Mollah

Mother's Name : Late Zebun Nesha Begum

Date of Birth : 01.01.1960

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court in the year 1983.

Joined the Judicial Service as Munsif on 22.02.1984 and promoted as District and Sessions Judge on 28.04.2009.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated in an international seminar on Law and Justice organized by United Nations Organization (UNO) at New York, USA in the year 1999. Attended in a training Programme on United Nations Convention against Corruption (UNCAC) at Kuala Lumpur, Malaysia in the year 2011.

Visited England, France, Germany, India, Italy, Saudi Arabia, Singapore, Switzerland and Thailand.





Mr. Justice S M Kuddus Zaman

Father's Name : S M Hamiz Uddin

Mother's Name : Hamida Begum

Date of Birth : 12.08.1960

Obtained LL.B. (Hons), LL.M.

Joined the Judicial Service as Munsif on 22.02.1984 and promoted as District & Sessions Judge on 09.10.2006.

Elevated as Additional Judge of the High Court Division on 01.06.2018.

Worked as an international judge of the United Nations in East Timor during 2000-2002 and Legal Adviser of UNDP in Sudan during 2007-2010.

Participated in the International Seminars and Training Programmes held in India, Singapore, Turkey, Thailand, USA, UK, Australia, New Zealand, Sudan, East Timor, United Arab Emirates, Kenya, Canada and Malawi.



Mr. Justice Md. Atoar Rahman

Father's Name : Late Alhaj Minhaj Uddin

Mother's Name : Late Lutfun Nesa

Date of Birth : 04.05.1961

Obtained LL.B. (Hons) and LL.M. in the year of 1983 and 1984 respectively from the University of Dhaka.

Joined the Judicial Service as Munsif on 22.02.1984 and promoted as District and Sessions Judge on 09.10.2006.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated in a study tour on 'Urban Management', organized by the Government of Thailand (2002).

Completed a course on 'Municipal Services Project' from the University of Malaya, Malaysia (2002).

Attended an International Conference, organized by the Government and Judiciary of Malta as well as permanent Bureau of Hague Conference on 'Private International Law' in Malta (2009).

Participated in a Training Programme on 'Strengthening Subordinate Judiciary Management', organized by Western Sydney University, Australia (2018).

Visited Australia, India, Kingdom of Saudia Arabia, Malaysia, Malta (Europe), Thailand and United Arab Emirates.





Mr. Justice Khizir Hayat

Father's Name : Shahid Abdul Kader Molla

Mother's Name : Late Jamila Khatun

Date of Birth : 24.01.1967

Obtained B.S.S. (Hons), M.S.S. (Political Science), DU, M.Phil (Human Rights and Rule of Law) DU, LL.B. (DU) and Ph.D fellow from Dhaka University.

Enrolled as an Advocate of the Dhaka District Court and the High Court Division of the Supreme Court of Bangladesh on 06.08.1997 and 09.02.2001 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.



Mr. Justice Sashanka Shekhar Sarkar

Father's Name : Manindra Nath Sarkar

Mother's Name : Sushila Prova Sarkar

Date of Birth : 06.06.1968

Obtained LL.B. (Hons), LL.M. from the University of Dhaka.

Enrolled as an Advocate of the Dhaka District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 15.09.1992, 22.01.1994 and 28.12.2010 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.





Mr. Justice Mohammad Ali

Father's Name : Mohammad Anwar

Mother's Name : Mrs. Badiuzzamel

Date of Birth : 15.12.1969

Obtained LL.B. (Hons), LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 16.08.1994, 07.03.1996 and 20.03.2018 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Visited United Kingdom for study.

Also visited Indonesia and India.



Mr. Justice Mohi Uddin Shamim

Father's Name : Late Tofail Ahmed Miah

Mother's Name : Late Umdatun Nesa

Date of Birth : 19.05.1970

Obtained LL.B. (Hons), LL.M. from the University of Dhaka, LL.B. (Hons) University of Wolverhampton, UK, Bar Vocational Course (BVC) from University of Northumbria, UK, Barrister-at-Law of Lincoln's Inn.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 01.04.1995 and 20.04.2005 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Visited UK, USA, Canada, Switzerland, India, Indonesia and Qatar.





Mr. Justice Md. Riaz Uddin Khan

Father's Name : Bazlur Rahman Khan

Mother's Name : Ummey Kulsum Anwara Begum

Date of Birth : 15.12.1970

Obtained LL.B. (Hons), LL.M. from the University of Dhaka.

Obtained Special Training on Human Rights and International Law, arranged by Humanist and Ethical Association of Bangladesh (HEAB) in 1996.

Enrolled as an Advocate of the Dhaka District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 01.04.1995, 29.09.1996 and May 2011 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Presented Keynote Papers on various subjects such as:- "200-years Bad Effect of Law of Permanent Settlement 1793 and Land Tenure System in Bangladesh" organized by Society for Legal Studies, University of Dhaka; "Human rights in Hindu Law: International, India, Pakistan and Bangladesh perspective".

Attended Seminars and Symposiums on "International conference on public interest Litigation", International conference on Economic, Social and Cultural Rights.

Visited Thailand and India.



Mr. Justice Md. Khairul Alam

Father's Name : Md. Abdul Mazed Miah

Mother's Name : Mst. Sufia Khatun

Date of Birth : 15.11.1971

Obtained LL.B. (Hons), LL.M.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 03.03.1997 and 30.10.1997 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.





Mr. Justice S.M. Maniruzzaman

Father's Name : Late Kosim Uddin

Mother's Name : Late Aklima Begum

Date of Birth : 01.02.1972

Obtained LL.B. (Hons), LL.M.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 13.04.1996, 30.10.1997 and 01.03.2018 respectively. Appointed as Assistant Attorney General and appointed as Deputy Attorney General for Bangladesh on 20.04.2009 and 10.04.2011 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Awarded "Certificate of Merit" by the World Customs Organization for rendering exceptional service to the International Customs Community, 2014.

Participated in the International Legal Consortium Seminar on "Tobacco Control Legal Issue" held on 28th-29th October, 2017, Bangalore, India.

Visited Nepal, Indonesia and India.



Mr. Justice Ahmed Soheli

Father's Name : Late Justice Muhammad Ansar Ali

Mother's Name : Mrs. Raushan Ara Begum

Date of Birth : 13.03.1972

Obtained B.Sc (Hons), M.Sc in Geography and Environment from the University of Dhaka, LL.B. (Hons) from University of Wolverhampton, UK, Barrister-at-law ICSL, Lincoln's Inn, UK, Post Graduate Diploma in Legal Skills from City University, London, UK.

He started his legal profession in 2002 in the United Kingdom in a Law Firm called 'MaliK & Michael'. During that period he regularly appeared before various Tribunals and Courts in the UK. Thereafter in Bangladesh after being enrolled as an Advocate, he started his practice before the Hon'ble High Court Division and later on before the Hon'ble Appellate Division of the Supreme Court of Bangladesh till elevation to the Bench.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated in many International Seminars, Workshops and Conferences held in United Kingdom on Human Rights, Legal Aid, Pro Bono Legal Services and on International Arbitration. Attended Rotary International Conference in Bhutan. Delivered speech as a Chief Guest on 19.09.2018 in the 4th Advance Training on International Arbitration and Mediation' jointly organized by Bangladesh International Mediation Society (BIMS) and Kovise Foundation, India held in Dhaka Bangladesh.

Received 'The Rotary Foundation District Service Award' from the Rotary Club of 'Dhaka Water Bridge'.

Recognised as 'Paul Harris Fellow' by Rotary International Club, USA for contribution towards the welfare of the society.

Founder Secretary of 'British-Bangladesh Lawyers Association' UK.

Elected as Executive Committee Member of 'Barristers Association of Bangladesh' in the year of 2006-2007.

Written a good number of articles on different topics of law in particular on Cyber Crime, International Arbitration, Environmental Law and on different legal problems relating to 'Judiciary'. All these articles were published in different law journals and also in National Newspapers.

Visited England and Wales, France, Switzerland, Belgium, the Netherlands, Australia, Singapore, Malaysia, Thailand, India, Nepal and Bhutan.





Mr. Justice Sardar Md. Rashed Jahangir

Father's Name : Late Sardar Md Janangir

Mother's Name : Begum Rawshan Akter Banu

Date of Birth : 05.12.1972

Obtained LL.B. (Hons), LL.M.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 12.10.1995, 10.07.1999 and 29.03.2018 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated in the Regional Meeting for South and South East Asian countries on effective Central Authorities for international Judicial cooperation in terrorist cases, including cases involving Foreign Terrorist Fighters, held in Kandooma, the Maldives on 7-9, November 2017, organized by UNODC and CTED.



Mr. Justice Khandaker Diliruzzaman

Father's Name : Late Khandaker Habibur Rahman

Mother's Name : Late Nurjahan Khandaker

Date of Birth : 23.04.1973

Obtained LL.B. (Hons), LL.M. from the University of Rajshahi.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 12.12.1999 and 09.02.2001 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Participated in the Commonwealth Secretariat prosecution Training Programme Asia/Pacific in May 2009.

Visited U.S.A., Australia and India.





Mr. Justice K.M. Hafizul Alam

Father's Name : K.M. Amir Hossain

Mother's Name : Hasina Begum

Date of Birth : 03.03.1974

Obtained LL.B. (Hons), LL.M.; PhD

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 29.01.2002, 27.04.2003 and 29.03-2018 respectively.

Elevated as Additional Judge of the High Court Division on 31.05.2018.

Visited United Kingdom, Malaysia, Thailand, India, Nepal and Qatar.



Mr. Justice Muhammad Mahbub Ul Islam

Father's Name : Alhaj Muzaffar Ahmad

Mother's Name : Zubaida Muzaffar

Date of Birth : 02.12.1958.

Obtained LL.B(Hons), LL.M. from the University of Dhaka.

Enrolled as an Advocate of the Dhaka District Court in the year 1982.

Joined the Judicial Service as Munsif on 22.02.1985 and Promoted as District and Sessions Judge on 04.03.2009.

Elevated as additional Judge of the High Court Division on 21.10.2019.

He is an enlisted Lyric Poet of Bangladesh Betar.

He has Published numerous writings as 'বরাবর শূন্য ভাঙে', 'Encounter with nothingness' 'ফারাকার ভাটি দেশে' কাব্যস্বচ্ছাদি সহ বিভিন্ন কবিতা এবং "মুক্তাধ" একটি ঐতিহাসিক প্রস্তাবনা ও প্রাসঙ্গিক কথা" আর্টিক্যালসমূহ।

Visited India and Saudi Arabia.

He went Balat of India, crossing border with his Hindu villagers and then to Tura at Magalaya state of India took guerrilla Training and participated in the Liberation War of Bangladesh 1971 as Freedom Fighter and participated in direct fight at many places of the then Netrakuna, Sunamgonj and Kishoregonj Sub Division.





Mr. Justice Shahed Nuruddin

Father's name : Late Md. Abdul Jalil

Mother's name : Late Nurun Nahar Begum

Date of Birth : 01.02.1960

Obtained LL.B (Hons.), LL.M. from the University of Dhaka.

Joined the Judicial service as Munsif on 20.04.1983 and Promoted as District and Sessions Judge on 27.02.2000

Elevated as additional Judge of the High Court Division on 21.10.2019.

Participated in an international Seminar on law and justice organised by United Nations Organization (UNO) at New York, USA in the year 1999.

Attended in a Judicial Conference on Judicial Education and Court Administration at Delhi Judicial Academy, Delhi India in the year 2013.

He likes Reading, gardening and music.



Mr. Justice Md. Zakir Hossain

Father's name : Late Syed Ahamed

Mother's name : Late Maymena Khatun

Date of birth : 01.01.1963

Obtained LL.B. (Hons), LL.M. and PhD, University of Dhaka; LL.M. in International Maritime Law with distinction from International Maritime Law Institute, Malta, Europe having obtained full scholarship from International Maritime Organization, UK. and Diploma on Equipment Procurement Management Course at the International Training Centre, ILO, Turin, Italy.

Obtained certificate for undergoing training on Money Laundering Law from International Training Institute, ILEA, Bangkok; Land Administration, Foundation Training Course at PATC, Survey and Settlement, Election Laws etc.; Mediation from Loyola Law School, Loyola Mari Mount University, California, USA.

Enrolled as an Advocate of Dhaka District Court on 26.10.1987.

Stood 4th in order of merit in 8th BCS (Judicial) Examination and joined in the Judicial Service as an Assistant Judge on 20.12.1989 and promoted as District and Sessions Judge on 04.03.2014. Served on deputation as Senior Assistant Secretary, Ministry of Law, Justice and Parliamentary Affairs, Deputy Director of Legal and Capacity Building Project, Director of Judicial Administration Training Institute, Additional Registrar, Registrar, Registrar General, Ex-officio Member of the Judicial Service, Treasurer of the Supreme Court Judges' Welfare Foundation and Marshal of the Admiralty Court and stood 1st in the 30th Judicial Administration Training Course obtaining outstanding marks.

Elevated as an Additional Judge of the High Court Division on 21.10.2019.

An Honourary Faculty, Examiner and Member of Examination Committee at the University of Dhaka, Faculty of Law; was Member-Secretary, Judicial Administration Training Institute (JATI); Editor JATI Journal; Examiner of Bangladesh Judicial Service Commission.

Visited and participated in different seminars and workshops in Malta, England, United States of America, Russian Federation, Japan, Switzerland, Italy, Greece, Singapore, Turkey, Hong Kong, United Arab Emirates, Saudi Arabia, Nepal, Thailand and India.

Has three major publications in his credit (1) Law of Writs; Constitutional Remedies, (2) Public Safety Law, and (3) Commentary on Society Registration Law.





Mr. Justice Md. Akhtaruzzaman

Father's Name : Late Rais Uddin

Mother's Name : Late Marium Khatun

Date of Birth : 01.01.1966

Obtained Ph.D. in Law, M.Phil. in Law and LL.M. from the University of Dhaka, LL.B (Hons) from the University of Rajshahi, Diploma in Refugee Law (Italy).

Enrolled as an Advocate of the District Court on 27.05.1991.

Joined the Judicial Service as Assistant Judge on 01.04.1993 and Promoted as District and Sessions Judge on 14.06.2015.

Elevated as additional Judge of the High Court Division on 21.10.2019.

Participated in international conferences and seminars: Graduate, Commonwealth Judicial Education institute held in Canada, Higher Training on Juvenile Justice Administration held in Nepal, Training on Anti-Money Laundering and Terrorism in Financing held in USA, Training on Case Management and Court Administration held in Australia.

Visited USA, Canada, Australia, Italy, France, Austria, Vatican City, Monaco, UAE, Thailand, Nepal, India, Saudi Arabia and Singapore. Also visited the UN Head Quarters in 2014.

He has numerous Publications on 'বিকল্প বিরোধ নিষ্পত্তির ধারণা ও আইন এবং আইনগত সহায়তা প্রদান আইন', 'আইনের ব্যাখ্যা ও জেনারেল প্রজেক্ট অ্যাট', 'Freedom of Press in South Asia' 'চেক ডিসঅনার ও মামলা দায়ের সংক্রান্ত আইন', 'Case Management and Court Administration in Bangladesh' 'লিগ্যাল ড্রাফ্টিং, কন্ডেম্যান্সিং এবং প্রফেশনাল এডিক্স', 'দুর্নীতি প্রতিরোধ আইন, বিধি ও কার্য পদ্ধতি', 'মাদকদ্রব্য নিয়ন্ত্রণ আইন, বিধি ও কার্যপদ্ধতি'।



Mr. Justice Md. Mahmud Hassan Talukder

Father's name : Motiur Rahman Talukder

Mother's name : Monowara Begum

Date of Birth : 07.01.1966

Place of Birth : Jamalpur, Bangladesh

Obtained M.A., LL.B. from the University of Dhaka.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 10.12.1989 and 31.12.1991 respectively.

Elevated as Additional Judge of the High Court Division on 21.10.2019.

Visited Germany, Italy, France, Seitzerland, Belgium, Holland, Luxemburg, England, New Zealand, America, Canada, Dominican Republic, Turkey, Abu Dhabi, Japan, Thailand and India.





Mr. Justice Kazi Ebadoth Hossain

Father's name : Kazi Mohammad Hossain

Mother's name : Late Golejan Begum

Date of Birth : 01.10.1969

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court and the High Court Division of the Supreme Court of Bangladesh on 1993 and 2003 respectively.

Elevated as Additional Judge of the High Court Division on 21.10.2019.



Mr. Justice K M Zahid Sarwar

Father's Name : Advocate M G Sarwar Husain

Mother's Name : Bilkis Romman.

Date of Birth : 01.01.1971

Obtained LL.B (Hons) and LL.M from the University of Rajshahi.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 12.10.1995, 30.10.1997 and 29.03.2018 respectively.

Performed as Deputy Attorney General for Bangladesh from 09.02.2009 till elevation to the Bench.

Elevated as Additional Judge of the High Court Division on 21.10.2019.

Participated in the prosecution training workshop, organized by the Commonwealth Secretariat on Investigation and Prosecution of Hi- Tech Crime – Technological Challenges and Practical Solutions held in Male, Maldives in 2010 and FATF/APG/EAG workshop for Judges and Prosecutors held in Shenzhen, China in 2018.

Visited India ,United Arab Emirates, Maldives, Saudi Arabia, Thailand and China.





Mr. Justice A.K.M Zahirul Huq

Father's name : Late Md. Fazlur Rahman

Mother's name : Mrs. Samsun Naher

Date of Birth : 15.02.1971

Obtained LL.B. (Hons) and LL.M. from the University of Dhaka.

Enrolled as an Advocate of the District Court, the High Court Division and the Appellate Division of the Supreme Court of Bangladesh on 10.10.1995, 10.07.1999 and 29.03.2018 respectively.

Elevated as Additional Judge of the High Court Division on 21.10.2019.

Visited Saudi Arabia, India, Malaysia, Indonesia, Singapore and Thailand.



Madam Justice Kazi Zinat Hoque

Father's name : Justice Kazi Ebadul Hoque (Ekushey Padak 2016)

Mother's name : Professor Dr. Sharifa Khatun (Ekushey Padak 2017)

Date of Birth : 14 October 1974.

Obtained LL.B. (Hons) (First Class) and LL.M. (First Class) from the University of Dhaka and LL.M. from the University of Cambridge, England. She obtained Distinction in Post Graduate Diploma in Law from South Bank University, London and Very Competent in Bar Vocational Course from Inns of Court School of Law, London. She obtained B1 Certificate in German Language from Goethe Institute, Dhaka. She was called to the bar as Barrister-at-Law from the Hon'ble Society of Middle Temple, London.

Enrolled as an Advocate of the District Court, High Court Division and Appellate Division of the Supreme Court of Bangladesh on 06.08.1997, 18.06.2000 and 20.12. 2015.

Elevated as Additional Judge of the High Court Division on 21.10.2019.

Participated in the course titled "Access to Justice : A Human Rights Based Approach" at National University of Ireland, Maynooth in June 2008.

Visited United Kingdom, Republic of Ireland, the United States of America, Singapore, India, Switzerland, Norway and France.

Justice Kazi Zinat Hoque along with Justice Kazi Ebadul Hoque authored the book "Important Decisions of the Supreme Court of Bangladesh", published by Hakkani Publishers in August 2019.





Newly appointed Nine Honourable Judges of the High Court Division with Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain after taking oath on 21 October, 2019.

(From left) Mr. Justice K M Zahid Sarwar, Mr. Justice Kazi Ebadoth Hossain, Mr. Justice Md. Zakir Hossain, Mr. Justice Muhammad Mahbub Ul Islam, Mr. Justice Syed Mahmud Hossain (Honourable Chief Justice of Bangladesh), Mr. Justice Shahed Nuruddin, Mr. Justice Md. Akhtaruzzaman, Mr. Justice Md. Mahmud Hassan Talukder, Mr. Justice A.K.M Zahirul Huq, Madam Justice Kazi Zinat Hoque.



Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain And Honourable Judges of the High Court Division of the Supreme Court of Bangladesh.





JUDGES RETIRED IN 2019

High Court Division



Mr. Justice Md. Abu Tariq
(Retired on 10.09.19)



Mr. Justice Md. Faruque
(M. Farque)
(Retired on 31.12.19)



We Mourn



Mr. Justice Mahmudul
Amin Chowdhury
(Died on 22.12.2019)



Mr. Justice Hamidul
Haque
(Died on 26.06.19)



Mr. Justice Mashuque
Hosain Ahmed
(Died on 07.03.19)



Mr. Justice Abdul Hasib
(Died on 03.07.19)



The Supreme Court of Bangladesh

The Supreme Court established under the Constitution of Bangladesh is the highest Court of the Republic. It has two Divisions, namely, the Appellate Division and the High Court Division. The High Court Division has original, appellate and other jurisdictions, powers and functions conferred by the Constitution or by any other law. On the other hand, Appellate Division hears and disposes of appeals from judgments, decrees, orders or sentences of the High Court Division. The Appellate Division has power to issue such directions, orders, decrees or writs as may be necessary for doing complete justice in any cause or matter pending before it, including orders for the purpose of securing the attendance of any person or the discovery or production of any document.

The Supreme Court is headed by the Honourable Chief Justice of Bangladesh.

History of Higher Judiciary in the Territory of Bangladesh:

The territorial area of Bangladesh originally being a part and parcel of the then Indian Sub-continent, the history of its legal system may be traced back to 1726, when King George-I issued a Charter changing the judicial administration of the Presidency towns of Calcutta, Bombay and Madras, through which the Civil and Criminal Courts, as established, started deriving their authority from the King. During the Mughal Empire, the East India Company by taking settlement from the Emperor created the three presidency towns namely Madras, Bombay and Calcutta and introduced the English legal system for administration of the presidency towns and thus, the English Judicial system got entry into the Sub-continent. The filing of appeals from the then India to the Privy-Council in England was introduced by the Charter of 1726 and thereafter to bring about change in the management of the then East India Company, the East India Company Regulating Act, 1773 was introduced to place the East India Company under the control of the British Government and provision was made for establishment of a Supreme Court of Judicature at Fort William, Calcutta, through Charter or Letters Patent. The Supreme Court of Judicature at Fort William in Bengal was established by Letters Patent issued on March 26, 1774, which as a Court of Record had power and authority to dispose of all complaints against the Majesty's subjects in respect of any crime, suit or action within the territory of Bengal, Bihar and Orissa. By an Act passed in 1833 the Privy-Council was transformed into an Imperial Court of unimpeachable authority, which played a great role as a unifying force for establishment of rule of law in the Indian Sub-continent. The judicial system of the then India was re-organized by introducing the Indian High Court's Act 1861 by which High Courts were established, abolishing the Supreme Courts at Fort William Calcutta, Madras and Bombay, and the High Courts established were conferred with Civil, Criminal, Admiralty, Testamentary, Matrimonial Jurisdictions with Original and Appellate Jurisdiction. With the transfer of power from the British Parliament to the people on division of the then India, the High Court of Bengal (Order) 1947 was promulgated under the Indian Independence Act, 1947, and the High Court of Judicature for East Bengal at Dhaka was established as a separate High Court for the then East Pakistan and the said High Court was commonly known as the Dhaka High Court vested with all Appellate, Civil and original jurisdictions. With the enforcement of the Constitution of Islamic Republic of Pakistan in 1956, the Supreme Court of Pakistan was established as the apex Court of the country, consisting of East Pakistan and West Pakistan, in place of Federal Court, with the appellate jurisdiction to hear the decisions of the High Courts established in the provinces of Pakistan. The Dhaka High Court had the jurisdiction to issue writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and Certiorari, with further authority to declare any law promulgated violating the provisions of the Constitution as void.



Honourable Chief Justice of Bangladesh along with the Editorial Committee of 2018 submitting the Annual Report, 2018 of the Supreme Court of Bangladesh to the Honourable President of Bangladesh Mr. Md. Abdul Hamid.



LR-23/57

No. 6/4/56 public.
GOVERNMENT OF PAKISTAN
MINISTRY OF THE INTERIOR
* * * * *

From
Abdullah Akhund, Esq.,
Under Secretary to the Government of Pakistan,

The Register,
Supreme Court of Pakistan,
L A H O R E.

The Register,
High Court of Judicature,
East Pakistan, Dacca.
West Pakistan, Lahore.

Karachi, the 31st August, 1957.

Subject :- Flying of distinctive flags on the cars of
Judicial authorities.

Sir,

With reference to the correspondence resting with your letter No. 15/52-S.C.J., dated the 2nd April 1957, on the Subject noted above, I am directed that the Chief Justice and Judges of the Supreme Court and Chief Justices and Judges of the High Courts are allowed to fly the flags of the Supreme Court or the High Courts as the case may be, on their cars.

Your obedient servant,
Sd/- Illegible

(ABDULLAH AKHUND)
UNDER SECRETARY TO THE
GOVERNMENT OF PAKISTAN.

Letter dated 1 August, 1957 issued by the then Central Government in the Ministry of Interior vide memo no. 6/4/56 Public, regarding the use of flag by the Judges of the Supreme Court. (Courtesy by: Honourable Justice Quamrul Islam Siddique)

has been established under Chapter-I Part-VI of the Constitution of the People's Republic of Bangladesh. The Supreme Court of Bangladesh, with the judges and the Chief Justice, is the repository of all judicial power and final interpreter of the Constitution of the People's Republic of Bangladesh as well as the defender of the Constitution and rule of law in the country. Part-VI of the Constitution relates to jurisdiction of the Courts. It contains 3 chapters of which Chapter-I provides for power and authority of the Supreme Court, Chapter-2 for Sub-ordinate Courts and Chapter-3 for Administrative Tribunal.

Appointment and Removal of Judges:

Chapter-I contains articles 94 to 113. Article 94 relates to the setting up of the Supreme Court of Bangladesh comprising the Appellate Division and the High Court Division. The Supreme Court consists of the Chief Justice and such number of other judges, as the President may deem it necessary to appoint in each of the Divisions. The Constitution provides for one Chief Justice for both the Divisions. The Chief Justice and the judges of the Appellate Division sit in the Appellate Division, whereas the judges of the High Court Division

Use of Distinctive Flag by Judges:

The Judges of the then High Court of Judicature East Pakistan in Dhaka had been using flag on their cars pursuant to a letter dated August 1, 1957 issued by the then Central Government in the Ministry of Interior vide memo no. 6/4/56 Public.

No sooner had we achieved independence, the judges of the Supreme Court of Bangladesh started using flag on their cars inscribing the official emblem of the Supreme Court with an additional word "Justice". "Scales", the official emblem of the Supreme Court, signifies "Rule of Law" which the judges are oath bound to establish. The flag used by the judges on their cars, with the efflux of time, has become a great heritage. The judges carry this heritage while in office. This heritage will continue from generation to generation.

Supreme Court under the Constitution of Bangladesh:

Initially after liberation, the apex Court was named as High Court of Bangladesh set up under the President's Order No.5 of 1972 (High Court of Bangladesh Order, 1972) and after the framing of the Constitution and adoption thereof by the Constituent Assembly on 4.11.1972 with effect from 16.12.1972, the "Supreme Court of Bangladesh"



sit in the High Court Division. The Chief Justice is known as the Chief Justice of Bangladesh. Article 95 of the Constitution provides that the Chief Justice and other judges shall be appointed by the President and a person shall not be qualified for appointment as a judge unless he is a citizen of Bangladesh and has acquired the required qualifications as enumerated in Article 95. As per article 96, a judge shall not be removed from office except by an order of the President on the basis of the report of the Supreme Judicial Council. Article 97 provides for temporary appointment for performing the functions of the Chief Justice, as and when necessary, if his office becomes vacant on account of his absence, illness or any other cause, to the next most senior judge of the Appellate Division. Article 98 provides for appointment of Additional Judge(s) in the Supreme Court for any period not exceeding two years and a judge of the High Court Division may be required to sit in the Appellate Division for a temporary period as an ad-hoc judge. Normally, a judge is appointed on regular basis under article 95 of the Constitution. Article 100 of the Constitution provides that the permanent seat of the Supreme Court shall be in the Capital. However, judges of the High Court Division may be required to sit at such other place or places as the Chief Justice may, with the approval of the President, from time to time appoint.

Functions of the Supreme Court:

Articles 101 and 102 provide for the jurisdiction and power of the High Court Division in exercising its judicial functions and Articles 103, 104 and 105 provide for the jurisdiction and power of the Appellate Division in exercising its judicial functions. The Appellate Division is also given the advisory jurisdiction to give opinion to any question of law relating to such national and public importance as may appear to the President, which may be referred to by him under Article 106. Article 107 provides for the rule making power of the Supreme Court and the authority of the Chief Justice in constituting Benches of any Division. Article 108 empowers the Supreme Court to order investigation and award punishment for any contempt. Article 111 declares the binding effect of law declared by the Appellate Division on all authority of the Republic and the Courts including the High Court Division and the binding effect of the law declared by the High Court Division upon all authority of the Republic and the Subordinate Courts. Article 112 requires all authority, executive and judicial, in the Republic to act in aid of the Supreme Court. Article 107 provides for the Supreme Court to make rules for regulating, practice and procedure of both the Divisions of the Supreme Court or any Sub-ordinate Court, subject to the approval of the President, and article 113 gives the authority to the Chief Justice or such other judge or officer, as he may direct, for appointment of staff of Supreme Court in accordance with the rules framed with previous approval of the President, and such appointment and service condition of the Supreme Court staff are guided by the rules framed by the Division concerned. The power to issue writs to redress the violation of fundamental rights detailed in Part-III of the Constitution and the authority to declare any law promulgated inconsistent with the rights guaranteed under Part-III of the Constitution, as void have been exclusively vested with the High Court Division under the provisions of Articles 44 and 102 of the Constitution. Article 109 has given the High Court Division the power and authority of superintendence and control over all Courts and Tribunals, subordinate to it. Article 110 authorizes the High Court Division to withdraw any case from any Court subordinate to it which involves a substantial question of law as to the interpretation of the Constitution, or a point of general public importance, the determination of which is necessary for disposal of the case and to determine the question of law and return the case to the Court from which it has been withdrawn and to transfer it to any other subordinate court. Article 114 provides for establishment of Courts sub-ordinate to the Supreme Court and normally the sub-ordinate Courts under civil jurisdiction are set up under the provisions of the Civil Courts Act, 1887 and those of criminal jurisdiction are set up under the Code of Criminal Procedure, 1898. Persons employed in judicial service and Magistracy are independent in exercising their respective judicial functions.

The Appellate Division of the Supreme Court of Bangladesh has 7 (Seven) judges including the Chief Justice and the High Court Division has 107 (One Hundred and Seven) judges up to 31st December 2019.



Jurisdiction of the Supreme Court of Bangladesh

The jurisdiction of the Supreme Court of Bangladesh has been provided for in the Constitution of the People's Republic of Bangladesh. Article 94(1) of the Constitution provides that there shall be Supreme Court for Bangladesh comprising the Appellate Division and the High Court Division. These two Divisions of the Supreme Court have separate jurisdictions. The sources of the jurisdiction, apart from the Constitution, are general laws (Acts of Parliament) of the country.

Jurisdiction of the Appellate Division

The Constitution has conferred on the Appellate Division the following jurisdictions:

- a. **Appellate Jurisdiction:** Article 103 of the Constitution provides that the Appellate Division shall have jurisdiction to hear and determine appeals from judgments, decrees, orders or sentences of the High Court Division. An appeal to the Appellate Division shall lie as of right where the High Court Division- (a) certifies that the case involves a substantial question of law as to the interpretation of the Constitution; or (b) has confirmed a sentence of death or sentenced a person to death or to imprisonment for life; or (c) has imposed punishment on a person for contempt of that division; and in other cases if the Appellate Division grants leave to appeal and also pursuant to Acts of Parliament.
- b. **Issue and execution of processes of Appellate Division:** Under article 104, the Appellate Division shall have power to issue such directions, orders, decrees or writs as may be necessary for doing complete justice in any cause or matter pending before it, including orders for the purpose of securing the attendance of any person or the discovery or production of any document.
- c. **Power of Review:** Article 105 provides that the Appellate Division shall have power, subject to the provisions of any Act of Parliament and of any rules made by the Division, to review any judgment pronounced or order made by it. Part IV, Order XXVI of the Supreme Court of Bangladesh (Appellate Division) Rules, 1988 deals with the power and procedural matters of review of the Appellate Division.
- d. **Advisory Jurisdiction:** Article 106 of the Constitution provides that if at any time it appears to the President that question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to the Appellate Division for consideration and the division may, after such hearing as it thinks fit, report its opinion thereon to the President.
- e. **Rule making power of the Supreme Court:** Subject to any law made by the Parliament, the Supreme Court may with the approval of the President, make rules for regulating the practice and procedure of each Division of the Supreme Court and of any Court subordinate to it.

Jurisdiction of the High Court Division

Article 101 of the Constitution provides that the High Court Division shall have such original, appellate and other jurisdictions, powers and functions as are or may be conferred on it by the Constitution or any other law.

- a. **Original Jurisdiction:** Original jurisdiction of the High Court Division means that jurisdiction whereby it can hear a case or suit as Court of first instance. The Constitution has conferred on the High Court Division special Original Jurisdiction under Article 102 of the Constitution, under which the High Court Division can enforce fundamental rights guaranteed in Part III of the Constitution and can also exercise its power of judicial review. There are some other ordinary laws (Acts of Parliament) namely, the Companies Act, 1994; the Admiralty Court Act, 2000; the Bank Companies Act, 1991; Wills and Probate under the Succession Act, 1925; the Divorce Act, 1869; the Representation of the People Order, 1972; Bangladesh Merchant Shipping Ordinance, 1983; the Contempt of Courts Act, 1926 etc. which fall under the ordinary/original jurisdiction of the High Court Division. Further jurisdiction of the High Court Division is guided by the Code of Civil Procedure, 1908 and The Supreme Court (High Court Division) Rules, 1973.
- b. **Appellate Jurisdiction:** Any law may confer on the High Court Division appellate jurisdiction on any matter. The Code of Criminal Procedure, 1898; the Code of Civil Procedure, 1908; Section 42 of Value Added Tax Act, 1991; Section 196D of the Customs Act, 1969 etc and the High Court Division Rules, 1973 have conferred on the High Court Division appellate jurisdiction.



- c. **Revisional Jurisdiction:** (a) Section 115 of the Code of Civil Procedure, 1908 has conferred on the High Court Division the revisional jurisdiction. The High Court Division may examine the decisions of the courts subordinate to it.
(b) Section 439 of the Code of Criminal Procedure, 1898 has conferred on the High Court Division the revisional jurisdiction as to criminal matters of the courts subordinate to it. Furthermore, the High Court Division has inherent power under section 561A of the Code of Criminal Procedure, to make such orders as may be necessary to give effect to any order under that Code or to prevent abuse of the process of any court or otherwise to secure the ends of justice.
- d. **Review Jurisdiction:** Section 114 of the Code of Civil Procedure, 1908 has conferred on the High Court Division the review jurisdiction. The High Court Division Rules, 1973 Part II, Chapter X and Order XLVII of the Code of Civil Procedure, 1908 deal with the procedural matters of review.
- e. **Jurisdiction as to Superintendence and Control over Courts Subordinate to it:** Article 109 of the Constitution provides that the High Court Division shall have superintendence and control over all Courts and Tribunals subordinate to it. As part of its supervisory power over the subordinate judiciary during the long vacation of the Supreme Court (which started on 16.08.2018 and ended on 30.09.2018) six Honourable Judges, appointed by the Honourable Chief Justice, inspected all Courts and Tribunals in 13 Districts.

The table below shows the names of the Districts in which District and Sessions Judge Courts and Courts subordinate to it (including Chief Judicial Magistrate Court), and various Tribunals were inspected by the Honourable Judges of the High Court Division in 2019:

SL.	Name of the Honourable Judges	Name of the Districts
1.	Mr. Justice Md. Emdadul Huq	Jessore, Magura, Shatkhira
2.	Mr. Justice Md. Rezaul Haque	Narsingdi
3.	Mr. Justice Mamnoon Rahman	Rangamati, Khagrachari, Bandarban
4.	Mr. Justice Borhanuddin	Chattogram, Cox's Bazar
5.	Mr. Justice Soumendra Sarker	Faridpur, Gopalganj
6.	Mr. Justice Obaidul Hassan	Mymensing, Jamalpur, Kishoregonj
7.	Mr. Justice Md. Shawkat Hossain	Dhaka, Narayangonj
8.	Mr. Justice F. R. M. Nazmul Ahasan	Dinajpur, Panchagar
9.	Mr. Justice A. N. M. Bashir Ullah	Natore

- f. **Transfer of cases from subordinate Courts to the High Court Division:** Under Article 110 of the Constitution, if the High Court Division is satisfied that a case pending in a Court subordinate to it involves a substantial question of law as to the interpretation of the Constitution, or on a point of general public importance, the determination of which is necessary for the disposal of the case, it shall withdraw the case from that Court and may- (a) either dispose of the case itself; or (b) determine the question of law and return the case to the Court from which it has been so withdrawn (or transfer it to another subordinate Court) together with a copy of the judgment of the Division on such question, and the court to which the case is so returned or transferred shall, on receipt thereof, proceed to dispose of the case in conformity with such judgment.

Apart from the above, section 113 of the Code of Civil Procedure, 1908 gives jurisdiction to the High Court Division to give opinion and order on a case referred to it by any subordinate Court by way of reference. Under section 160 of the Income Tax Ordinance, 1984 the High Court Division is empowered to hear income tax references. Section 24 of the Code of Civil Procedure provides for transfer of cases of the civil Courts and section 526 of the Code of Criminal Procedure provides for transfer of cases under criminal jurisdiction of the subordinate Courts.

Lawazima Court:

The Lawazima Court is presided over by the Registrar General. This Court deals with the procedural matters for making the cases ready for hearing under Chapter II of the Supreme Court (High Court Division) Rules, 1973.



Strategic Plan of the Supreme Court of Bangladesh

2017-2022

Supreme Court of Bangladesh has adopted a five-year strategic plan in 2017 to be implemented by 2022. Followings are some of the core features of the Strategic Plan of the Supreme Court of Bangladesh:

1. Vision Statement

As a constitutional organ of the State, the Supreme Court is primarily accountable to the people of Bangladesh. Its Vision is:

The people continue to place trust, confidence, and respect for the Supreme Court.

2. Mission Statement

Guided by its constitutional mandates and the stated Vision, the Supreme Court of Bangladesh considers its Mission as

Preserving, protecting and defending the Constitution and the laws of Bangladesh, securing rule of law and serving the people through timely dispute resolution.

3. Values

While pursuing the stated Vision and Mission, the Supreme Court of Bangladesh plans to institutionalize a set of Values, which will shape its external and internal behaviour.

a) In relation to other organs of the State

- Independence: With the honourable Judges, the Supreme Court will remain free from any interference from anywhere while exercising its constitutional duties.

b) In relation to conflicting parties and citizens

- Impartiality: The honourable Judges and the staff will not favour any party in conflict and respect them equally in the justice delivery process.
- Accessibility: The parties will have equal access within the decorum of the law and the court system.
- Fairness: The Judges and the staff members will explore a balanced view in the exercise of justice.
- Responsiveness: The honourable Judges will be articulate and dutiful enough to address revealed societal pains as far as the application of laws and justice are concerned.
- Transparency: Judicial process must be transparent, consistent, and predictable and the proceedings occur in open courts, where all concerned shall have unhindered access.

c) In relation to the SC itself

- Technology-friendly: The SC will embrace modern technologies in its operations to achieve the highest level of efficiency of the honourable Judges, judicial officers, and staff members.
- Propriety: Irrespective of position and strata, everyone will strictly follow the Rules and Procedures.
- Innovation: The Supreme Court will encourage a working environment that fosters creativity and generation of new ideas to improve the court environment and the quality of justice.



Goals, Strategies and Activities

The Goals of the Supreme Court of Bangladesh are embedded in five areas as listed below:

- Judicial Administration of the Supreme Court
- Justice Delivery at the Supreme Court
- Monitoring of Subordinate Courts
- Justice sector as a whole
- e-Judiciary

Goal 1: The Office of the Registrar General (ORG) to meet the emerging needs, is restructured and rejuvenated.

Strategy 1: Classify the existing Sections into four clusters of services in the ORG as follows:

- a) Court/Case related: Bench Office, Judicial Records, Paper Book, Certified Copy, Filing, Stamp Reporter, and Dispatch related to the court
- b) General Administration and Logistics: Human Resource Management (HRM) for Judicial Officers, HRM for SC & Subordinate Staff, Dispatch, Keeping, Security & Store
- c) Technical: Budgeting, Accounting, Procurement, Store, Transport and Medical Centre
- d) Overarching/Crosscutting: Planning, Monitoring, Research and Reporting, IT and Training

Strategy 2: Rejuvenate the sections with selected work/activities

Strategy 3: Establishment of new Sections, with specific mandate, as follows:

- a) Planning, Monitoring, Research and Reporting Section
- b) Human Resource Development (Training) Section
- c) Monitoring Support Section (to follow up the activities of the Subordinate Courts)
- d) Public Relations Section
- e) International Judicial Collaboration

Goal 2: All Sections/Units/Cells of the Office of the Registrar General are effectively practicing relevant and more advanced modern office management system and procedures.

Strategy 1: Introduce more technology based office management systems and procedures for the effective coordination and quality management among and within the Sections.

Activities

- Forms and Stationaries: Inventory Management System as practiced in business houses
- Purchasing Section: Template based requisition issuing, processing and approval system
- Transport Section: Basic Repair and Maintenance Policy versus outsourcing policy in major cases
- Court Keeping Section: Requisition and follow up/tracking system for all services, and inter-building accessibility, effective space management policy (interior design analysis)
- Human Resource Management 1: Human Resource Management Policy (Filing system, Posting, Transfer, Appraisal, Promotion, Leave, Sickness, Dismissal, Pension Policy) for all Judicial Officers. The policy will build in the aspect of compliance with the Values in the ACR system.



- Human Resource Management 2: Human Resource Management Policy (Filing system, Recruitment based on required skill sets, Posting, Transfer, Appraisal, Promotion, Leave, Sickness, Dismissal, Pension Policy, gender policy) for the staff members
- Paper Book: Introduction of OCR (optical character recognition) software
- Records Section: Space-effective filing and safe storage system, and effective pest management, formatting policy (use of font, both sided)
- Budgeting System: Real-time Budget Control System
- Accounting Section: Modern Accounting System (use of basic accounting software for bookkeeping and reporting)
- Library: Auto-generated borrowing status and issuance of clearance and access to e-library
- The Secretariat of the Office of the Registrar General (ORG): Modern Coordination System (Tracking system for internal and external coordination, auto-generated reporting system)
- Subordinate Courts Section: Online reporting system
- Bench Office: Effective communication with the Subordinate Courts and Records Section
- HRD 1: Needs assessment, workshop design, delivery of training/outourcing of training/self-learning for the Honourable Judges and judicial officers, training impact evaluation).
- HRD 2: Needs assessment, training design, and delivery/outourcing/self learning for staff members, training impact evaluation.
- Cause List: Daily publication of cause lists and results
- Nojir (Precedent) : Modern store keeping (space management, storage and filing)
- Stamp Reporter: Modern payment system
- ICT: Repair, Maintenance, and Replacement Policy; Audience-sensitive staff development policy; LAN management policy
- Research: Connectivity with relevant Sections for auto-generated reporting on selected indicators, interpretation practices and recommendations for changes

Strategy 2: Equip the Sections with necessary skills, materials, and equipment.

Goal 3: The Supreme Court and the Subordinate Courts gradually possess the number of Judges at internationally recognized 'Citizens to Judges' ratio.

Strategy 1: Approach the Government to recruit more Judges of the Supreme Court, particularly for the High Court Division, based on performance, practical experience, and skills the Judges have demonstrated in the Subordinate Courts.

Strategy 2: Approach the Government to recruit new judicial officers based on the mix criteria of demands (quantitative and subject-specific) and disposal rate (cases per Judge).

Strategy 3: Introduce internships with the HC Benches for the recent law graduates and newly appointed judges with good academic and research records.

Strategy 4: Introduce portfolios of areas for the Benches to specialize in certain areas of law and capitalize on the background and experience of the honourable Judges.



Strategy 5: Expand the quantitative capacity of the justice delivery at the Supreme Court through an increase in vacation benches and shortening of the vacation.

Goal 4: The courts progressively shifts to an effective Case Flow Management practice

Strategy 1: Allocate staff members (BO, ABO, PO) with required skill sets

Strategy 2: Introduce DCM approach for new cases

Activities

1) Undertake classification of the old cases for Differentiated Case Management (DCM), which may include a Last-In-First-Out approach, and suo motto initiatives by the honourable Judges in lieu of the First-In-First-Out principle as an instrument for case flow management for old cases (classification of cases).

2) Introduce a key logistics package for the offices of Judges (materials, equipment, IT & internet package) for internal and external communication (Subordinate Courts, the Police, respective lawyers) aiming at a faster serving of notices/summons and tracking of the progress.

Goal 5: The Judges of Supreme Court gain access to reference materials, knowledge banks and capacity enhancing initiatives.

Strategy 1: Finalize the automation of the existing borrowing services.

Strategy 2: Establish e-library for common access (both demand and supply-driven) to legal literature from internal and external sources.

Strategy 3: Periodically arrange interactive workshops with experts on selected and emerging areas of laws and justice sector management (at home or abroad)

Goal 6: All Subordinate Courts function according to the standards set by the Supreme Court.

Strategy 1: Establish a dedicated office under the District and Sessions Judge to function as a bridge to the Supreme Court for effective communication (notices/summons, records) between Courts of the Supreme Court and those of the Subordinate Courts.

Activities

1. Appoint a JDJ/SAJ for the Liaison Office (to be established) JDJ/SAJ as Designated Officer and provide with adequate staff support (at least 4 staff) and other logistical supports, with provisions on how to forward statements to the Supreme Court and monitor communications, and on backup support in case of a temporary vacancy.

Strategy 2: Introduce an effective case-flow management policy for criminal and civil cases

Activity 1: Develop a case flow management policy. A recent workshop has proposed a classification of cases for better management. Additional consultations and workshops may pave the way for further detailing of the process from filing to disposition.

Activity 2: Provide capacity building to the Judges to implement the policy through training at JATI and national level workshops.

Strategy 3: Introduce a uniform, IT-driven and on/off-site monitoring system for the Subordinate Courts using electronic communication between the subordinate courts and the SC. The District and Sessions Judge/CJM/CMM will monitor the progress and collect information on the challenges faced by his or her associate officers on a monthly basis. The proposed office mentioned earlier will perform the functions mentioned in this strategy.



Strategy 4: Review the experience of JSF/JUST project and seek introduction of the core recommendations for ICT.

The following Activities may be implemented under this strategy:

Activities

1. Establish an IT office in each District Court
2. Organize a national level consultation to discuss the progress of implementations of the recommendations, and develop a time-bound agenda for the implementation of E-communication between justice sector agencies, such as the courts, police, prison etc.
3. Organize IT training for the judges and staff members.

Strategy 5: Advocate with the Government to further develop the subordinate courts with an adequate number of judges, staff, and physical facilities and to support work processes with suitable amendments in laws, rules, and orders.

Activities

- a) Seek an increase of the number of courts in each district with judges, staff members, courtrooms, and logistical supports depending on the history of the situation of cases the District Courts have to deal with and considering the standard judges to population ratio the justice sector has to achieve in the long-run. A flexible approach is suggested as not all districts have the same case burden, and a fair distribution of the workload is advisable.
- b) Seek amendment of laws in cooperation with the Law Commission and the Ministry of Law, Justice and Parliamentary Affairs to avoid that the same victim files a case with multiple courts – e.g. Family court, in the magistrate court (dowry case) and in the special tribunal (Nari O Shishu Nirjatan Daman Tribunal). Another example is that banks may file cases in the Money Loan court and simultaneously they can file cases under the NI Act for the same money. Sometimes they also file cases under sections 406 and 420 of the Penal Code.
- c) Introduce a differentiated distribution of time a District Judge should commit to administrative and judicial function as opposed to other judges, as the DJ has more administrative responsibilities than others.

Goal 7: All other justice sector institutions work together with the Supreme Court for the implementation of the strategies as well as for the overall development of the justice sector.

Strategy 1: Organize workshops/seminars/internships/trainings ensuring participation of key players from other justice sector institutions and other relevant institutions.

Strategy 2: Seek effective representation of the Supreme court in any initiative (projects, programmes) relating to the overall coordination and management within the Justice Sector.

Strategy 3: Establish effective communication with other justice sector institutions (e.g. BJSC, Bangladesh Bar Council, Supreme Court Bar Association, JATI, Law Commission, NLASO, Ministry of Law Justice and Parliamentary Affairs, Office of Attorney General) for sharing of information of common interest and online access to resources (e.g. Library facilities, archives).

Strategy 4: Seek pro-active engagement of the Bar Council in supporting efforts related to effective case management (increasing use of ADR, positive response to the activism of the Judges).

Strategy 5: Establish effective communication with selected institutions (NHRC, Parliament Secretariat, Ministry of Finance, Office of Accountant's General etc.) for sharing information and the development of the justice sector.



Goal 8: The Office of the Registrar General progressively uses IT-systems in all of the operations of the Supreme Court and seeks the same from the Subordinate Courts, other judicial and affiliated institutions.

Strategy 1 (Short-term): The short-term strategies are based on the assumption that a comprehensive e-judiciary concept and its endorsement would evolve over time and certain preliminary steps can be initiated.

a) Develop, test and introduce sub-system-based IT-solutions for operational efficiency, transparency and Accountability of the Sections by replacing manual workflow system into automation, e.g. ERP (Enterprise Resource Planning) solution for the management of Human Resources, Accounting, Store Keeping, Procurement, all types of inventory, disbursement and noting of file through e-filing).

b) Undertake infrastructure development, including the capacity enhancement for IT Section of Supreme Court and Training of Administrators and Supervisors and other office assistants.

Strategy 2 (Long-term):

a) Develop, test, and introduce unified IT-driven systems for connectivity among related Sections, with the Subordinate Courts, other judicial and affiliated institutions. Capitalizing the benefits of a) and in line with e-Judiciary initiatives. (e.g. Integration with Civil Registration and Vital Statistics (CRVS), Electronic Case Filing, Tracking and Monitoring through the Dashboard from a top management position, E-Court Room, Introducing various e-Services for Judges, Lawyers, witnesses and Litigants and introducing ERP solution for the whole judiciary).

b) Undertake infrastructure development, including building nationwide connectivity with the Supreme Court, capacity enhancement for IT Section of Supreme Court by categorizing the responsibilities of IT personnel and Training of Administrators and Supervisors and other office assistants.

c) Undertake large-scale procurement of hardware and accessories depending on periodic evaluation.



Functions of the Full Court and Committees of the Supreme Court of Bangladesh

Full Court Meeting:

Three Full Court Meetings of the Supreme Court for the year 2019 were held on 02.05.2019, 08.07.2019, and on 14.11.2019 wherein decisions were taken in various issues including consideration of recommendations of the General Administration Committee (G.A. Committee) in respect of promotion, suspension and imposition of punishment in departmental proceedings to the Judges of the subordinate Judiciary. Honourable Chief Justice of Bangladesh presides over the Full Court Meetings.

Different Committees of the Supreme Court: Different Committees of the Supreme Court comprised of Honourable Judges of the both Divisions and of the Officers of the Supreme Court have been formed, reconstituted and convened to accomplish different functions necessary for smooth running of the Courts and administration in the year 2019. Some of the Committees and their composition along with the task assigned to them have been discussed below:

(i) **Annual Report, 2019 Editorial Committee:** The Committee prepared the Annual Report 2019 in 2020 which is published by the Supreme Court. The Committee is as follows:

- | | |
|--------------------------------------|------------|
| (1) Mr. Justice Muhammad Imman Ali | - Chairman |
| (2) Mr. Justice Mirza Hussain Haider | - Member |
| (3) Mr. Justice Tariq ul Hakim | - Member |
| (4) Mr. Justice Syed Refaat Ahmed | - Member |
| (5) Mr. Justice Md. Ashfaul Islam | - Member |
| (6) Mr. Justice Obaidul Hassan | - Member |
| (7) Madam Justice Naima Haider | - Member |

(ii) **Backlog of Pending Cases Monitoring Committee (High Court Division):** The Committee monitors the backlog of cases in the High Court Division and recommends measures to overcome it. The Committee is as follows:

- | | |
|--|----------|
| (1) Mr. Justice Mirza Hussain Haider | - Member |
| (2) Madam Justice Zinat Ara | - Member |
| (3) Mr. Justice Syed Refaat Ahmed | - Member |
| (4) Mr. Justice Md. Miftah Uddin Choudhury | - Member |
| (5) Mr. Justice A. K. M. Abdul Hakim | - Member |

(iii) **Backlog of Pending Cases Monitoring Committee (Subordinate Courts and Tribunals):** The Committee monitors the backlog of cases in the subordinate Courts and Tribunals and recommends measures to overcome it. The Committee is as follows:

- | | |
|--|------------|
| (1) Madam Justice Salma Masud Chowdhury | - Chairman |
| (2) Mr. Justice Moyeenul Islam Chowdhury | - Member |
| (3) Mr. M. Enayetur Rahim | - Member |
| (4) Mr. Justice Md. Shawkat Hossain | - Member |

(iv) **Civil Rules and Orders (Volume I and II) necessary amendment Committee:** The Committee is revising the provisions of the Civil Rules and Orders (Volume I and II) for necessary amendments. The Committee is as follows:



- (1) Mr. Justice Moyeenul Islam Chowdhury
- (2) Mr. Justice Md. Emdadul Huq
- (3) Mr. Justice Bhabani Prasad Singha

(v) **Committee for taking measures in relation to ensuring security of the Supreme Court of Bangladesh:** The Committee reviews security measures taken in the Supreme Court and recommends new measures for the same. The Committee is as follows:

- (1) Mr. Justice Mirza Hussain Haider
- (2) Mr. Justice Obaidul Hassan
- (3) Mr. Justice M. Enayetur Rahim
- (4) Mr. Justice Gobinda Chandra Tagore

(vi) **Committee for establishing a CNG re-fueling station, a vehicle pool and a modern printing press in the Supreme Court premises:** The Committee is responsible for taking measures to establish a CNG re-fueling station, a vehicle pool and a modern printing press in the Supreme Court premises. The Committee is as follows:

- | | |
|--|----------|
| (1) Mr. Justice A.K.M. Asaduzzaman | - Member |
| (2) Mr. Justice Moyeenul Islam Chowdhury | - Member |

(vii) **Committee for taking measures in relation to ensuring best usage of collected resources in admiralty cases:** The Committee gives direction to use the collected resources in admiralty cases in an appropriate way. The Committee is as follows:

- | | |
|--|----------|
| (1) Mr. Justice Mirza Hussain Haider | - Member |
| (2) Mr. Justice Syed Refaat Ahmed | - Member |
| (3) Mr. Justice Md. Emdadul Huq | - Member |
| (4) Mr. Justice Md. Abu Zafor Siddique | - Member |
| (5) Mr. Justice Sheikh Hassan Arif | - Member |

(viii) **Criminal Rules and Orders amendment Committee:** The Committee is working for amending Criminal Rules and Orders 2009. The Committee is as follows:

- | | |
|--|----------|
| (1) Mr. Justice Moyeenul Islam Chowdhury | - Member |
| (2) Mr. Justice Md. Emdadul Huq | - Member |
| (3) Mr. Justice Bhabani Prasad Singha | - Member |

(ix) **General Administration Committee (G.A. Committee):**

The G.A. Committee consists of the Chief Justice and not more than three Judges as the Chief Justice may appoint from time to time. The Committee for 2019 is as follows:

- | | |
|---|------------|
| (1) Mr. Justice Syed Mahmud Hossain | - Chairman |
| Honourable Chief Justice Bangladesh | |
| (2) Mr. Justice Mamnoon Rahman | - Member |
| (3) Mr. Justice Md. Shawkat Hossain | - Member |
| (4) Mr. Justice Md. Nazrul Islam Talukder | - Member |

The Committee looks after the administration of Subordinate Judiciary as provided in the Supreme Court (High Court Division) Rules. As per Chapter IA, rule 2 of the Supreme Court (High Court Division) Rules, 1973, general powers of G.A. Committee are as follows:

- (1) The G.A. Committee shall be in charge of the superintendence and control over the affairs of all Courts and Tribunals subordinate to the High Court Division, so far as such superintendence and control are exercised otherwise than judicially.



- (2) The G.A. Committee shall have power, without reference to the Full Court
 - (a) To dispose of all correspondence relating to its business, urgent in its nature and not of general importance;
 - (b) To make recommendations for posting, disciplinary action including imposition of penalty upon, grant of leave to, and suspension and promotion of judicial officers; but recommendations of the G.A. Committee with regard to promotion of and imposition of penalty on, a judicial officer shall be placed before the Full Court for approval;
 - (c) To formulate general guidelines for the purpose of exercising its power under clause (b)
- (3) The Chief Justice may at any time direct that the powers conferred on the G.A. Committee under sub-rule (2) above shall be exercised by one or more Judge(s) of that Committee and such Judge(s) may apportion the duties of the Committee among them, subject to the approval of the Chief Justice.

(x) **Judges' Corner Committee:** The Committee oversees management of the Judges's Corner. The Committee is as follows:

- | | |
|---|------------------------------------|
| (1) Mr. Justice Syed Mahmud Hossain
Honourable Chief Justice of Bangladesh | - Chairman |
| (2) Mr. Justice Mirza Hussain Haider | - Executive Chairman |
| (3) Mr. Justice Tariq ul Hakim | - Member |
| (4) Madam Justice Salma Masud Chowdhury | - Vice Chairman |
| (5) Mr. Justice A.F.M. Abdur Rahman | - Vice Chairman (Up to 12.03.2019) |
| (6) Mr. Justice Syed Refaat Ahmed | - Member |
| (7) Mr. Justice A.K.M. Abdul Hakim | - Secretary |
| (8) Mr. Justice Obaidul Hassan | - Joint Secretary |
| (9) Mr. Justice M. Enayetur Rahim | - Member |
| (10) Mr. Justice Jahangir Hossain | - Member |
| (11) Mr. Justice Sheikh Hassan Arif | - Member |
| (12) Mr. Justice Md Ruhul Quddus | - Member |
| (13) Mr. Justice Md. Ashraful Kamal | - Member |
| (14) Mr. Justice Md. Jahangir Hossain | - Member |
| (15) Mr. Justice Ashish Ranjan Das | - Member |

(xi) **Judges' Library Committee (Appellate Division):** The Committee discusses regarding improvement of the Appellate Division Library and procurement of books. The Committee for 2019 is as follows:

- (1) Mr. Justice Muhammad Imman Ali
- (2) Mr. Justice Hasan Foez Siddique

(xii) **Judges' Library Committee (High Court Division):** The Committee takes measures regarding improvement of the Libraries and procurement of books. The Committee is as follows:

- | | |
|---|------------|
| (1) Mr. Justice Tariq ul Hakim | - Chairman |
| (2) Mr. Justice Muhammad Abdul Hafiz | - Member |
| (3) Mr. Justice Md. Mozibur Rahman Miah | - Member |
| (4) Mr. Justice Muhammad Khurshid Alam Sarkar | - Member |



(xiii) Judges' Privileges Committee: The Committee is entrusted with the duty to submit reports time to time to the Honourable Chief Justice of Bangladesh identifying admissible privileges to the Judges of the Supreme Court. The Committee is as follows:

- | | |
|--|------------|
| (1) Mr. Justice Zubayer Rahman Chowdhury | - Chairman |
| (2) Mr. Justice Obaidul Hassan | - Member |
| (3) Mr. Justice Md. Shawkat Hossain | - Member |
| (4) Mr. Justice Md. Ruhul Quddus | - Member |
| (5) Mr. Justice Shahidul Karim | - Member |

(xiv) Judges' Welfare Foundation Executive Committee: The Supreme Court Judges' Welfare Foundation was registered in 2016 under the Societies Registration Act, 1860. The Judges' Welfare Foundation Committee oversees the welfare, facilities and benefit of the Judges of the Supreme Court. The Committee supervises the activities of the Judges Corner Committee. The Committee is as follows.

- | | |
|---|-----------------|
| (1) Mr. Justice Syed Mahmud Hossain
(Honourable Chief Justice of Bangladesh) | - Chairman |
| (2) Mr. Justice Muhammad Imman Ali | - Vice Chairman |
| (3) Mr. Justice Hasan Foez Siddique | - Member |
| (4) Mr. Justice Mirza Hussain Haider | - Member |
| (5) Madam Justice Zinat Ara | - Member |
| (6) Mr. Justice Tariq ul Hakim | - Member |
| (7) Mr. Justice Md. Ashfaquul Islam | - Member |
| (8) Mr. Justice A.K.M. Abdul Hakim | - Secretary |
| (9) Mr. Justice Obaidul Hassan | - Member |
| (10) Mr. Justice M. Enayetur Rahim | - Member |
| (11) Mr. Justice Jahangir Hossain | - Member |
| (12) Mr. Justice Sheikh Hassan Arif | - Member |
| (13) Mr. Justice Bhabani Prasad Singha | - Member |
| (14) Mr. Justice Shah Abu Naeem Mominur Rahman (Rtd.) | - Member |
| (15) Mr. Justice Md. Awlad Ali- (Rtd.) | - Member |

(xv) Museum Committee: This Committee recommends measures for increasing the collection of the museum of the Supreme Court of Bangladesh. The Committee is as follows:

- (1) Mr. Justice Syed Refaat Ahmed
- (2) Mr. Justice Obaidul Hassan
- (3) Madam Justice Naima Haider
- (4) Mr. Justice Ashish Ranjan Das

(xvi) Online Bulletin (Online Law Report) Editors: The committee is responsible for publishing online law reports of the Supreme Court of Bangladesh comprising of judgments from both Divisions. The Committee is as follows:

- | | |
|--|----------|
| (1) Mr. Justice Moyeenul Islam Chowdhury | - Editor |
| (2) Mr. Justice Sheikh Hassan Arif | - Editor |



(xvii) **Performance of the Judges of the Subordinate Judiciary Evaluation Committee:** The committee evaluates the performance of the Judges of the Subordinate Judiciary and recommends necessary measures:

- (1) Mr. Justice Md. Shawkat Hossain
- (2) Mr. Justice Shahidul Karim

(xviii) **Special Committee for Judicial Reforms:** The Committee looks after the proposed judicial reforms in the Judiciary, development of information technology (IT) and other related matters. The Committee is as follows:

- | | |
|--|------------|
| (1) Mr. Justice Muhammad Imman Ali | - Chairman |
| (2) Madam Justice Zinat Ara | - Member |
| (3) Mr. Justice Syed Refaat Ahmed | - Member |
| (4) Mr. Justice Moyeenul Islam Chowdhury | - Member |
| (5) Mr. Justice Obaidul Hassan | - Member |
| (6) Mr. Justice Md. Rezaul Hasan | - Member |
| (7) Mr. Justice Md. Abu Zafor Siddique | - Member |

(xix) **Special Committee for giving opinion as to conducting preliminary inquiry on the complaint brought against the Judges of the Subordinate Courts:** The Committee is as follows:

- (1) Justice Syed Refaat Ahmed
- (2) Justice M. Enayetur Rahim
- (3) Justice Md. Shawkat Hossain

(xxi) **Special Committee for Child Rights:** The Committee looks after the implementation of the Children Act, 2013. The Committee is as follows:

- | | |
|---|------------|
| (1) Mr. Justice Muhammad Imman Ali | - Chairman |
| (2) Madam Justice Naima Haider | - Member |
| (3) Mr. Justice Sheikh Hassan Arif | - Member |
| (4) Mr. Justice Md. Nazrul Islam Talukder | - Member |
| (5) Mr. Justice Khizir Ahmed Choudhury | - Member |

(xxii) **Supreme Court Day Observance Committee:** This Committee takes measures to observe Supreme Court Day in each year. The Committee is as follows:

- | | |
|--|------------|
| (1) Mr. Justice Mirza Hussain Haider | - Chairman |
| (2) Mr. Justice Syed Refaat Ahmed | - Member |
| (3) Mr. Justice Moyeenul Islam Chowdhury | - Member |
| (4) Mr. Justice Obaidul Hassan | - Member |
| (5) Mr. Justice M. Enayetur Rahim | - Member |
| (6) Mr. Justice Sheikh Hassan Arif | - Member |

(xxiii) **Vehicles Purchase Consultative Committee:** The Committee supervise the purchase of all vehicles for the Supreme Court of Bangladesh. The Committee is as follows:

- | | |
|---|------------|
| (1) Mr. Justice Mirza Hussain Haider | - Chairman |
| (2) Madam Justice Salma Masud Chowdhury | - Member |
| (3) Mr. Justice Md. Ashfaqu Islam | - Member |
| (4) Mr. Justice Mamnoon Rahman | - Member |
| (5) Mr. Justice Obaidul Hassan | - Member |



Statistics on filing of new cases, disposal and pending cases in the Appellate Division of the Supreme Court of Bangladesh

1. Statement of filing of new cases, disposal and pending cases (from 01.01.2019 to 31.12.2019)

1.1. Petitions

Cases	Carried over	New filing	Total	Disposal	Pending on 31.12.2019
Civil	6371	3816	10187	1924	8263
Criminal	2387	1924	4311	715	3596
Civil Review	1534	483	2017	693	1324
Criminal Review	134	99	233	73	160
Jail Petition	139	24	163	0	163
Grand Total	10565	6346	16911	3405	13506

1.2. Miscellaneous Petitions

Cases	Carried over	New filing	Total	Disposal	Pending on 31.12.2019
Civil Misc. Petition	3179	1111	4290	812	3478
Criminal Misc. Petition	3619	1416	5035	1982	3093
Contempt Petition	129	57	186	0	186
Grand Total	6927	2584	9511	2754	6757

1.3. Appeals

Cases	Carried over	New filing	Total	Disposal	Pending on 31.12.2018
Civil	2115	482	2597	129	2115
Criminal	769	62	858	15	796
Jail	39	04	43	0	39
Grand Total	2950	548	3498	144	2950



1.4. Consolidated statement of cases (from 01.01.2019 to 31.12.2019) in the Appellate Division of the Supreme Court of Bangladesh

Cases	Carried over	New filing	Total	Disposal	Pending
Petition	10565	6346	16911	3405	13506
Misc. Petition	6927	2584	9511	2754	6757
Appeals	2950	548	3498	144	3354
Grand Total	20442	9478	29920	6303	23617

Consolidated statement for all cases from 01.01.2019 to 31.12.2019

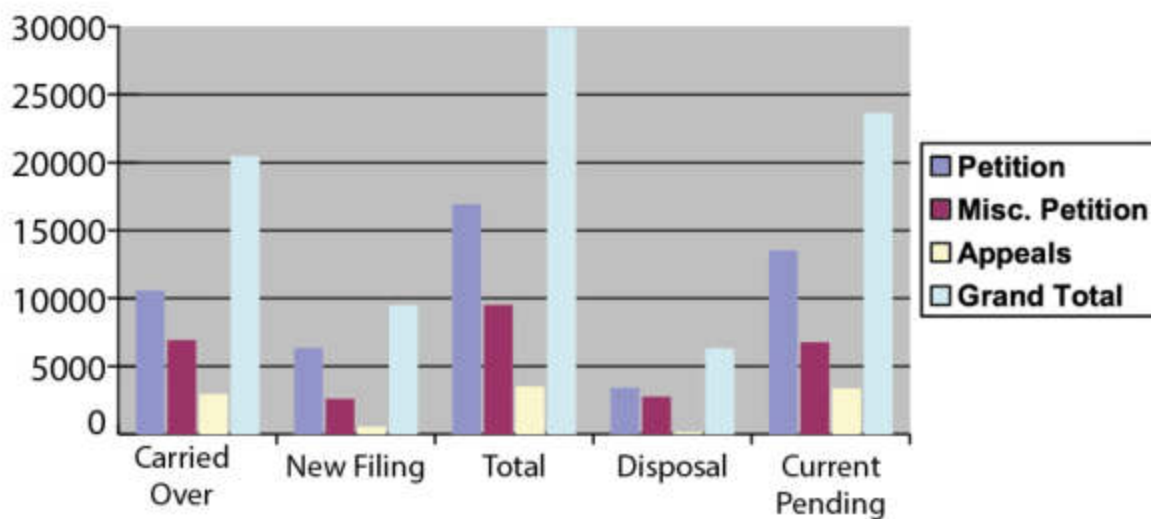


Figure 1: New Filing, pendency and disposal of cases in the years 2019 in the Appellate Division of the Supreme Court of Bangladesh.



Statistical data analysis for the Appellate Division of the Supreme Court of Bangladesh

2. Year-wise filing of new cases, disposal and pendency of cases from the year 1972 to 2019.

Year	New filing	Disposal	Pending
1972	14	11	4056
1973	113	91	4062
1974	185	153	4094
1975	168	150	4112
1976	257	224	4145
1977	471	386	4230
1978	530	400	4360
1979	540	400	4535
1980	454	372	4790
1981	683	583	4870
1982	723	596	4909
1983	663	565	4875
1984	635	565	4802
1985	531	469	4706
1986	492	444	4736
1987	373	334	5064
1988	474	424	5255
1989	662	597	5214
1990	625	575	5440
1991	556	497	5802
1992	801	709	6254
1993	859	765	6462
1994	1161	1070	6433
1995	973	850	7511
1996	1041	970	8410
1997	1928	1746	8751
1998	1869	1649	9330
1999	1987	1918	10929
2000	2228	2116	11816
2001	3517	2819	8997
2002	3003	2789	4781
2003	3212	2587	5406
2004	3021	2690	5737
2005	3405	2372	6770
2006	3855	1501	9124
2007	4093	6146	7071
2008	5041	5220	6892
2009	4403	6035	5260
2010	5464	1583	9141
2011	4749	1449	12441
2012	6036	1830	16647
2013	5989	8298	14338
2014	6919	5911	15346
2015	8007	9992	13361
2016	9945	9634	13672
2017	11484	8591	16565
2018	10572	6695	20442
2019	9478	6303	23617



3. Some visible trends

3.1. Trend of filing of new cases, disposal and pendency from the year 1972 to 2019

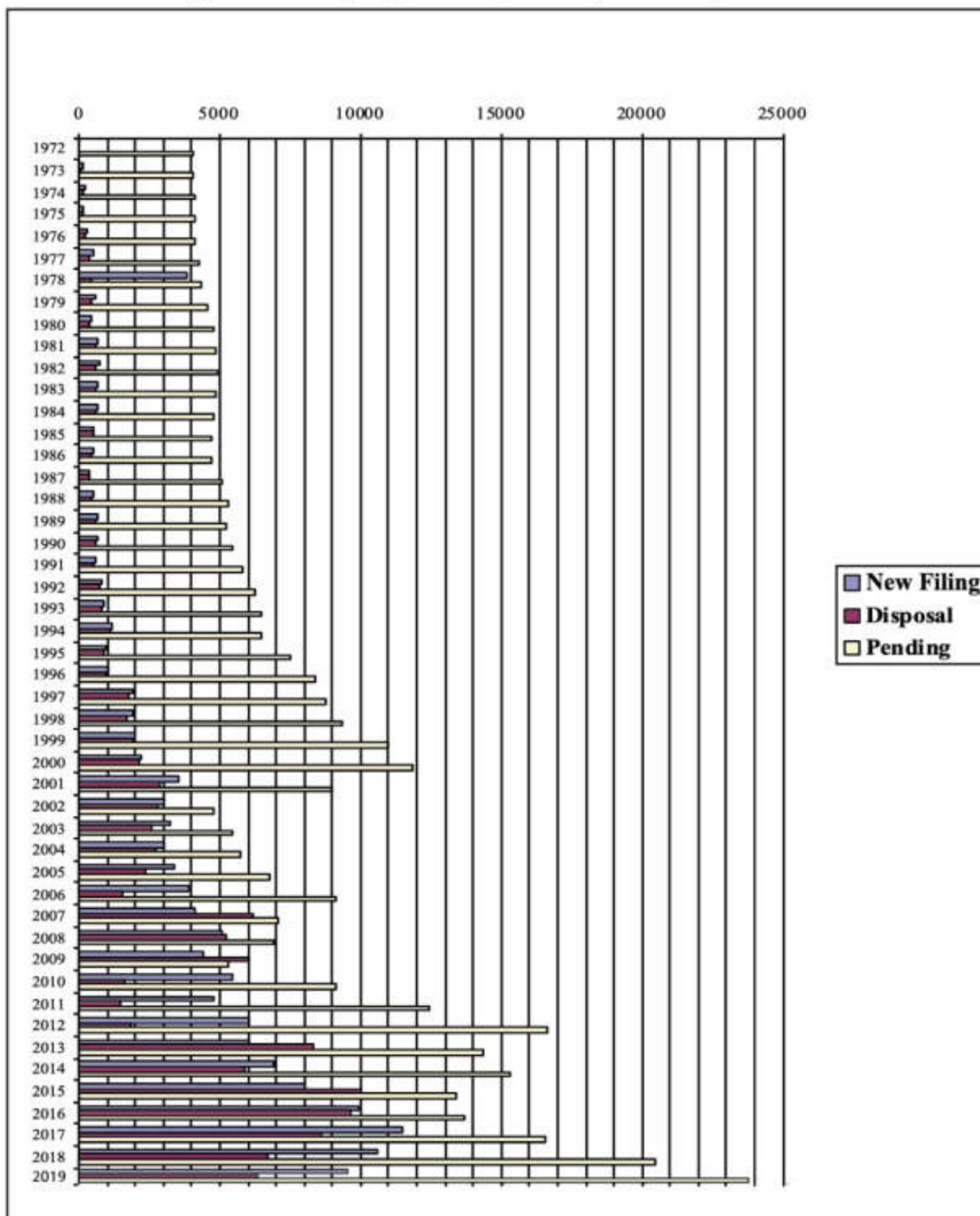


Figure 2: Horizontal Bar Chart of filing of new cases, disposal and pending cases in the Appellate Division of the Supreme Court of Bangladesh from 1972 to 2019.



3.2. Trend of new filing of cases from the year 1972 to 2019.

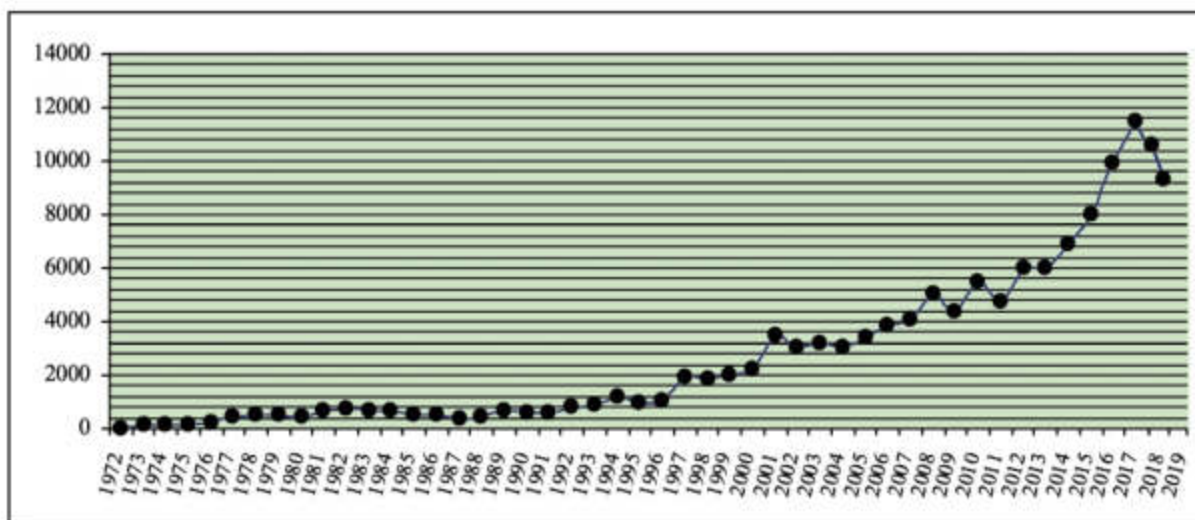


Figure 3: Line graph showing filing of new cases from the year 1972 to 2019.

3.3. Trend of disposal of cases from the year 1972 to 2019.

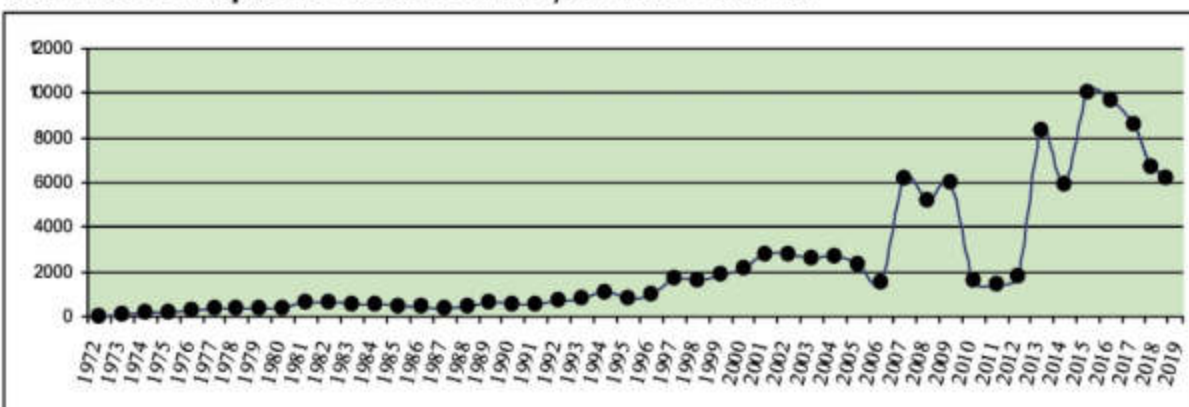


Figure 4: Line graph showing disposal of cases from the year 1972 to 2019.



3.4. Trend of pending cases from the year 1972 to 2019.

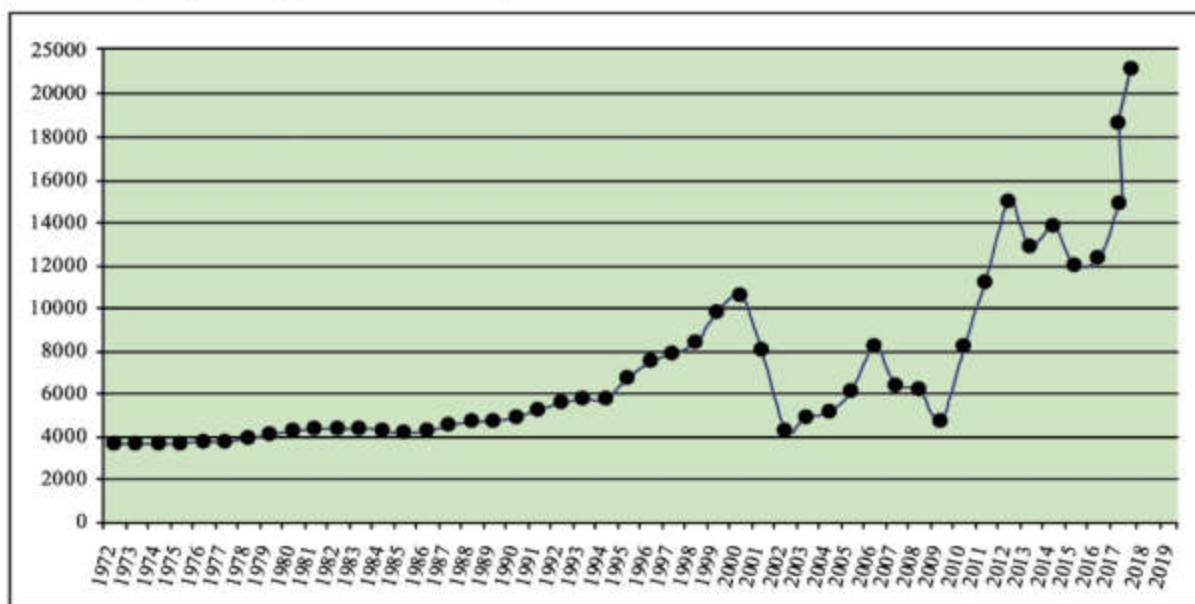


Figure 5: Line graph showing pending cases from the year 1972 to 2019.

3.5. Comparative chart of filing of new cases, disposal and pending cases from the year 1972 to 2019.

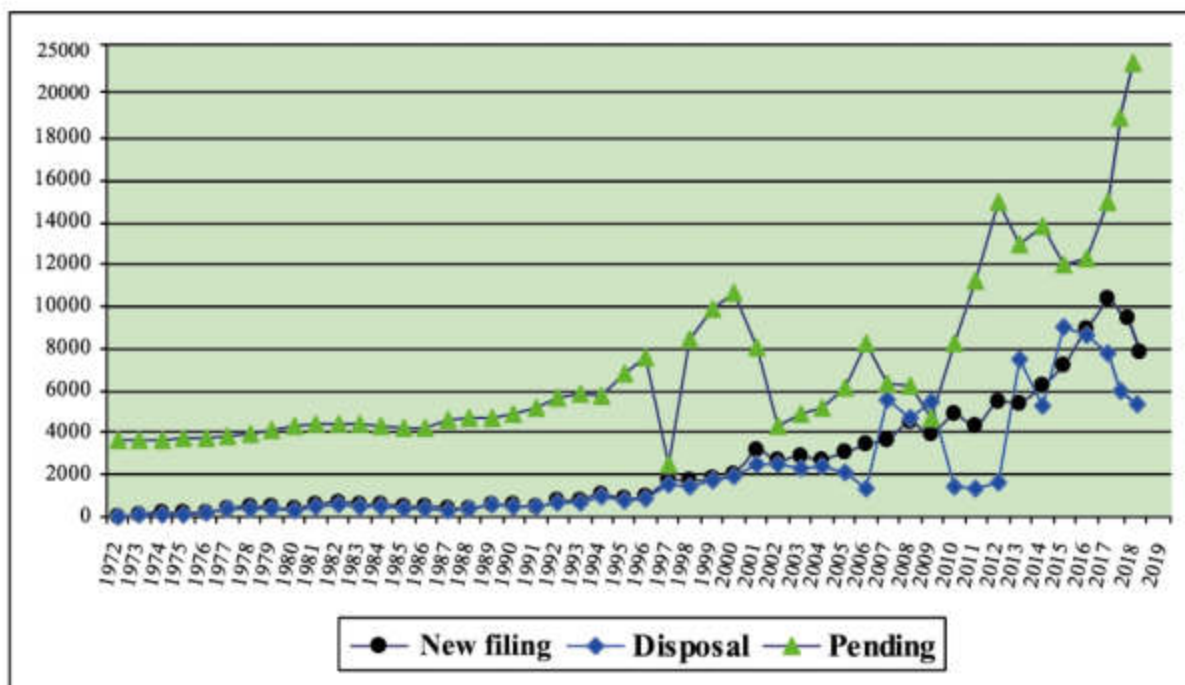


Figure 6: Line graph showing pending, disposal & new filing of cases from the year 1972 to 2019.



4. Pending Cases of the Appellate Division in 2019

The number of pending cases for the year 2019 is 23617, while the pending number for Petition is 13506, Misc. Petitions is 6757 and Appeals is 3354.

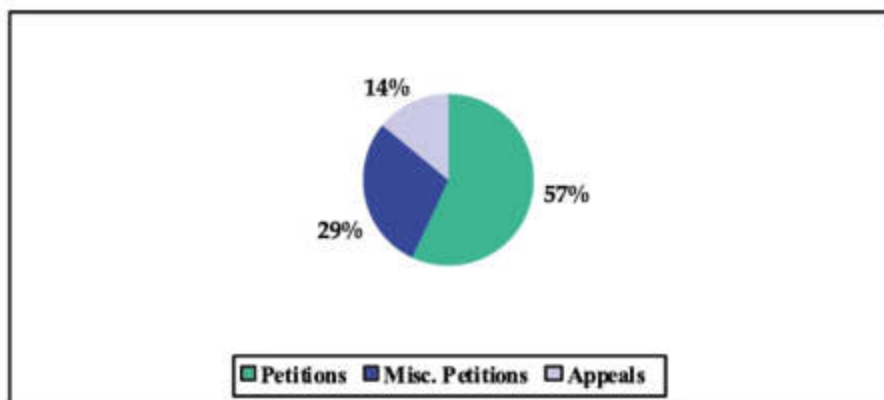


Figure 7: Pie Chart of all pending cases in the Appellate Division of Supreme Court of Bangladesh in the year 2019.

There are 57% Petition, 29% Misc. petition and 14% Appeals of all the pending cases.

4.1. Pending Petitions.

Carried over	New filing	Total	Disposal	Pending for disposal
10565	6346	16911	3405	13506

4.2. Pending Miscellaneous Petitions.

Carried over	New filing	Total	Disposal	Pending for disposal
6927	2584	9511	2754	6757

4.3. Pending Appeals.

Carried over	New filing	Total	Disposal	Pending for disposal
2950	548	3498	144	3354



5. Filing of new cases, disposal and pendency of cases in the Appellate Division of the Supreme Court of Bangladesh from 1972 to 2019.

5.1. Petitions.

Year	Carried over	New filing	Total	Disposal	Pending at the end of the year
1972	2284	0	2284	0	2284
1973	2284	88	2372	72	2300
1974	2300	106	2406	98	2308
1975	2308	141	2449	135	2314
1976	2314	214	2528	195	2333
1977	2333	329	2662	297	2365
1978	2365	360	2725	325	2400
1979	2400	348	2748	315	2433
1980	2518	310	2828	289	2539
1981	2711	433	3144	410	2734
1982	2741	482	3223	420	2803
1983	2768	440	3208	425	2783
1984	2696	447	3143	427	2716
1985	2624	353	2977	325	2652
1986	2570	355	2925	335	2590
1987	2560	271	2831	253	2578
1988	2783	325	3108	306	2802
1989	2865	476	3341	443	2898
1990	2794	388	3182	365	2817
1991	2983	372	3355	352	3003
1992	3187	554	3741	515	3226
1993	3498	556	4054	495	3559
1994	3672	826	4498	793	3705
1995	3601	671	4272	598	3674
1996	4225	720	4945	689	4256
1997	4819	1222	6041	1102	4939
1998	5096	1283	6379	1147	5232
1999	5288	1279	6567	1265	5302
2000	6235	1339	7574	1296	6278
2001	6872	2212	9084	1583	7501
2002	5289	1933	7222	1833	5389
2003	2704	2098	4802	1778	3024
2004	3024	2154	5178	1741	3437
2005	3437	2345	5782	1651	4131
2006	4131	2435	6566	1070	5496
2007	5496	2743	8239	2982	5257
2008	5257	3324	8581	4786	3795
2009	3795	3085	6880	4736	2144
2010	2144	3586	5730	1300	4430
2011	4430	3072	7502	820	6682
2012	6682	4155	10837	1122	9715
2013	9715	3907	13622	4333	9289
2014	9289	4355	13644	3969	9675
2015	9675	4964	14639	6001	8638
2016	8638	6072	14710	8110	6600
2017	6600	7148	13748	6511	7237
2018	7237	7114	14351	3786	10565
2019	10565	6346	16911	3405	16506



5.2. Misc. Petitions.

Year	Carried over	New filing	Total	Disposal	Pending at the end of the year
1972	1392	0	1392	0	1392
1973	1392	0	1392	0	1392
1974	1392	0	1392	0	1392
1975	1392	0	1392	0	1392
1976	1392	0	1392	0	1392
1977	1392	0	1392	0	1392
1978	1392	0	1392	0	1392
1979	1392	0	1392	0	1392
1980	1392	0	1392	0	1392
1981	1392	108	1500	95	1405
1982	1348	96	1444	85	1359
1983	1318	51	1369	48	1321
1984	1339	55	1394	45	1349
1985	1361	69	1430	58	1372
1986	1367	67	1434	56	1378
1987	1416	64	1480	52	1428
1988	1463	105	1568	87	1481
1989	1503	99	1602	89	1513
1990	1541	137	1678	125	1553
1991	1581	127	1708	102	1606
1992	1685	165	1850	132	1718
1993	1791	206	1997	192	1805
1994	1838	238	2076	208	1868
1995	1892	239	2131	205	1926
1996	2260	262	2522	242	2280
1997	2464	573	3037	555	2482
1998	2495	446	2941	407	2534
1999	2731	586	3317	545	2772
2000	2895	643	3538	610	2928
2001	2988	709	3697	695	3002
2002	2293	703	2996	687	2309
2003	699	654	1353	639	714
2004	714	600	1314	727	587
2005	587	776	1363	503	860
2006	860	1199	2059	187	1872
2007	1872	1039	2911	2512	399
2008	399	1327	1726	264	1462
2009	1462	547	2009	811	1198
2010	1198	1500	2698	47	2651
2011	2701	1440	4141	482	3659
2012	3659	1633	5292	567	4725
2013	4725	1803	6528	3754	2774
2014	2774	2220	4994	1654	3340
2015	3340	2406	5746	3367	2379
2016	2379	2946	5325	943	4382
2017	4382	3697	8079	1687	6392
2018	6392	3167	9559	2632	6927
2019	6927	2584	9511	2754	6757



5.3. Appeals.

Year	Carried over	New filing	Total	Disposal	Pending at the end of the year
1972	361	14	375	11	364
1973	364	25	389	19	370
1974	370	79	449	55	394
1975	394	27	421	15	406
1976	406	43	449	29	420
1977	420	142	562	89	473
1978	473	170	643	75	568
1979	568	192	760	85	675
1980	625	144	769	83	686
1981	687	142	829	78	751
1982	781	145	926	91	835
1983	823	172	995	92	903
1984	840	133	973	93	880
1985	817	109	926	86	840
1986	769	70	839	53	786
1987	760	38	798	29	769
1988	818	44	862	31	831
1989	887	87	974	65	909
1990	879	100	979	85	894
1991	876	57	933	43	890
1992	930	82	1012	62	950
1993	965	97	1062	78	984
1994	950	97	1047	69	978
1995	940	63	1003	47	956
1996	1026	59	1085	39	1046
1997	1127	133	1260	89	1171
1998	1160	140	1300	95	1205
1999	1311	122	1433	108	1325
2000	1799	246	2045	210	1835
2001	1956	596	2552	541	2011
2002	1415	367	1782	269	1513
2003	1378	460	1838	170	1668
2004	1668	267	1935	222	1713
2005	1713	284	1997	218	1779
2006	1779	221	2000	244	1756
2007	1756	311	2067	652	1415
2008	1415	390	1805	170	1635
2009	1635	771	2406	488	1918
2010	1918	328	2246	236	2010
2011	2010	237	2247	147	2100
2012	2100	248	2348	141	2207
2013	2207	279	2486	211	2275
2014	2275	344	2619	288	2331
2015	2331	637	2968	624	2344
2016	2344	927	3271	581	2690
2017	2690	639	3329	393	2936
2018	2936	291	3227	277	2950
2019	2950	548	3498	144	3354



6. Maximum number of Judges at a time during the year in the Appellate Division of the Supreme Court of Bangladesh from 1972 to 2019.

Period	Number of Judges including Chief Justice
1972	3
1973	4
1974	5
1975	5
1976	5
1977	5
1978	4
1979	5
1980	5
1981	5
1982	5
1983	5
1984	5
1985	4
1986	5
1987	5
1988	5
1989	5
1990	5
1991	5
1992	5
1993	5
1994	5
1995	4
1996	5
1997	5
1998	5
1999	6
2000	5
2001	5
2002	5
2003	7
2004	8
2005	7
2006	7
2007	6
2008	7
2009	11
2010	8
2011	10
2012	7
2013	10
2014	9
2015	8
2016	9
2017	8
2018	7
2019	7



Statistics on the filing of new cases, disposal and pending cases in the High Court Division of the Supreme Court of Bangladesh

1. Statement of filing of new cases, disposal & pending cases (from 01.01.2019 to 31.12.2019)

1.1. Statement of cases (from 01.01.2019 to 31.12.2019) in the High Court Division of the Supreme Court of Bangladesh

Cases	Carried over	New filing	Restored	Total	Disposal	Pending	Remarks
Civil	95624	5913	100	101637	4021	97616	Increased by 1992
Criminal	329335	83668	20	413023	120594	292429	Increased by 36946
Writ	81444	16412	03	97859	10006	87853	Increased by 6409
Original	10249	1575	00	11824	654	11170	Increased by 921
Grand Total	516652	107568	123	624343	135275	489068	Increased by 27830

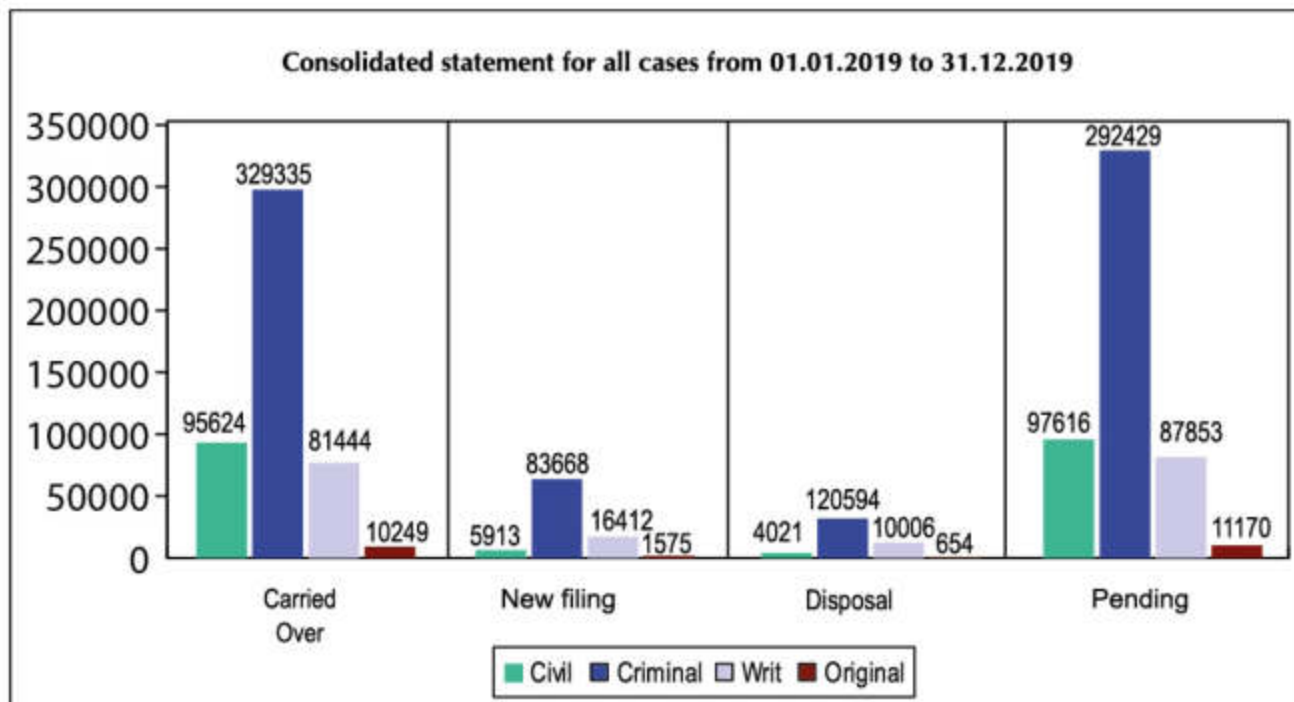


Figure 1: Vertical Bar Chart of pending, New Filing and disposal of cases in the year 2019 in the High Court Division of the Supreme Court of Bangladesh.



2. Statistical data analysis for the High Court Division of the Supreme Court of Bangladesh

2. 1. Year-wise New Filing, disposal and pending cases from 1972 to 2019

Year	New filing	Disposal	Pending
1972	2461	3873	20567
1973	5654	3657	24063
1974	8844	6402	28186
1975	4896	5190	29545
1976	4515	7241	28287
1977	5656	8195	26676
1978	5765	7309	26620
1979	5145	7597	24716
1980	4026	7032	22779
1981	5054	6950	21652
1982	919	3615	21061
1983	1550	5456	19115
1984	1891	3556	21159
1985	2960	3529	22460
1986	3558	3360	24468
1987	5187	3272	28810
1988	8220	3564	33289
1989	11381	6099	37739
1990	11583	9789	39261
1991	12809	5565	45681
1992	14098	6543	51764
1993	13775	7799	57749
1994	15061	8401	64281
1995	17326	10844	70990
1996	21045	11526	79457
1997	23838	12337	88388
1998	23909	13744	97574
1999	24143	11863	108323
2000	27931	11049	122178
2001	32328	16014	135879
2002	45627	22048	154168
2003	37734	20331	168447
2004	34217	15581	184811
2005	42900	16894	208389
2006	48056	13839	240483
2007	47555	16578	262345
2008	53220	21664	293901
2009	53155	21485	325571
2010	57470	69306	313735
2011	45084	68425	279923
2012	56732	38437	297731
2013	50010	24295	323446
2014	60069	22477	361038
2015	70940	37753	394225
2016	70647	39878	424994
2017	87252	35496	476750
2018	88801	49035	516652
2019	107568	135275	489068



2.2. Some visible Trends

2.2.1. Trend of new filing, disposal and pendency (1972 to 2019)

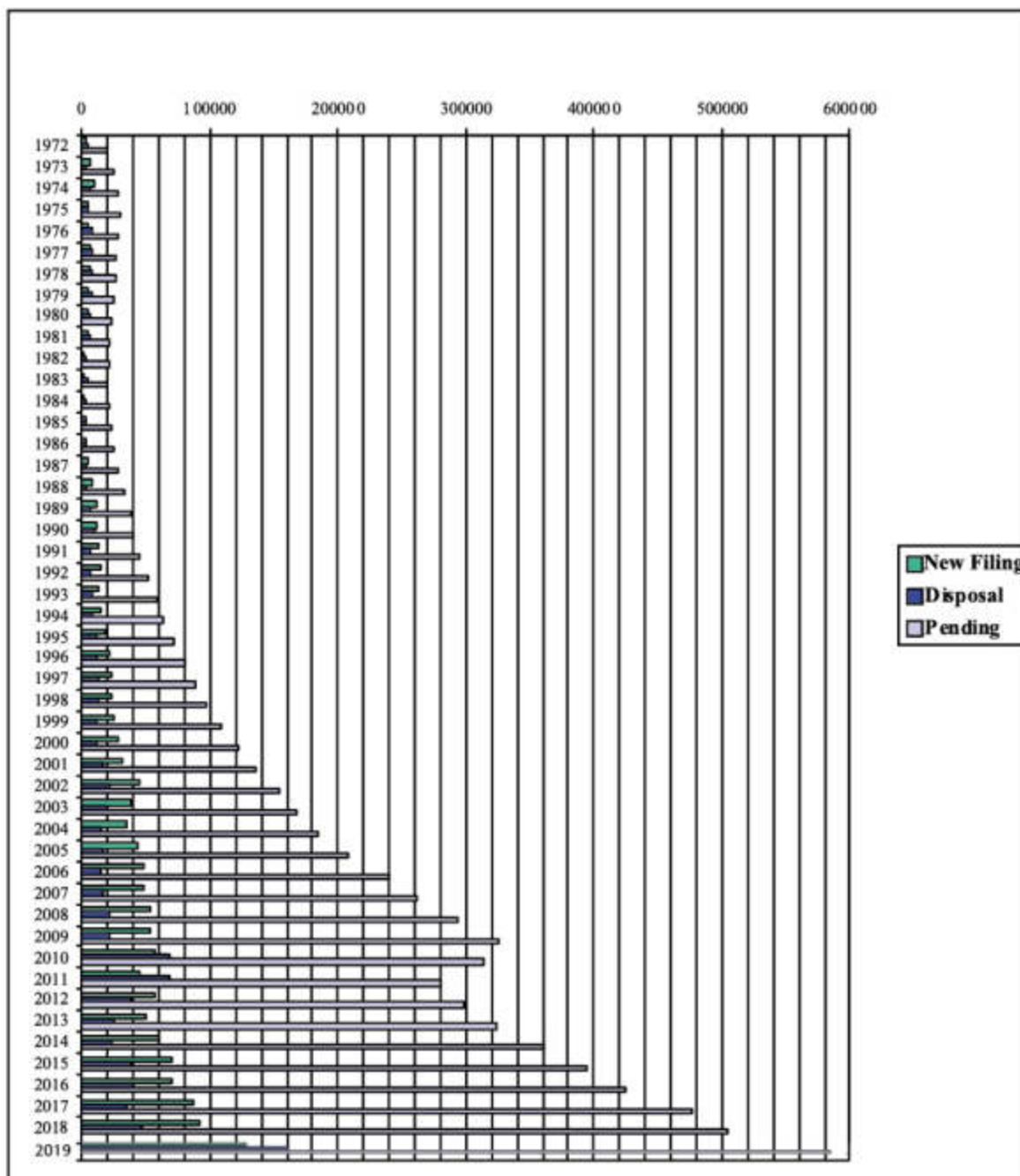


Figure 2: Horizontal Bar Chart of New filing, disposal and pending cases in the High Court Division of the Supreme Court of Bangladesh from the year 1972 to 2019



2.2.2. Trend of new filing of cases from the year 1972 to 2019

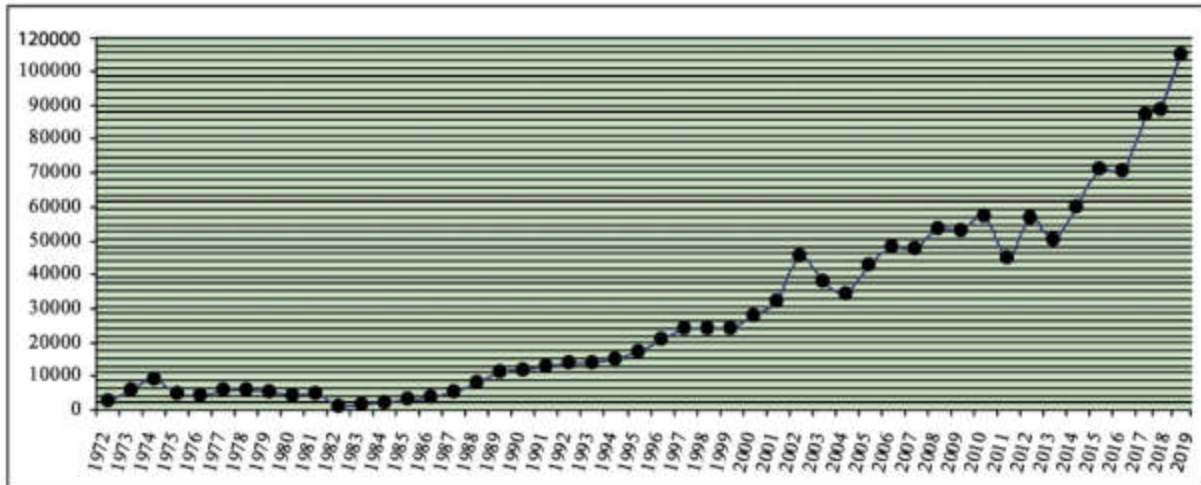


Figure 3: Line graph of new filing of cases from the year 1972 to 2019

2.2.3. Trend of disposal of cases from the year 1972 to 2019

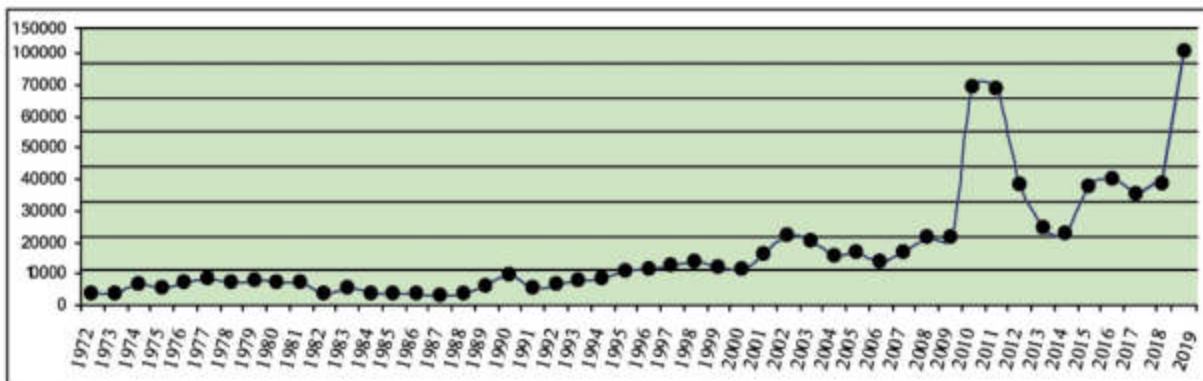


Figure 4: Line graph showing disposal of cases from the year 1972 to 2019



2.2.4. Trend of pending cases from the year 1972 to 2019

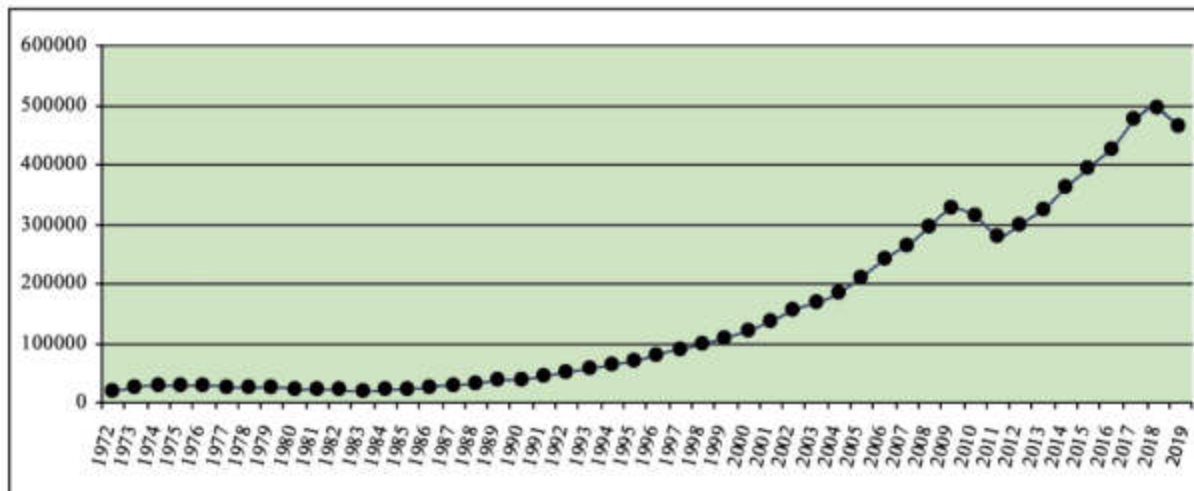


Figure 5: Line graph showing pending cases from the year 1972 to 2019

2.2.5. Comparative chart of new filing, disposal and pending cases from the year 1972 to 2019

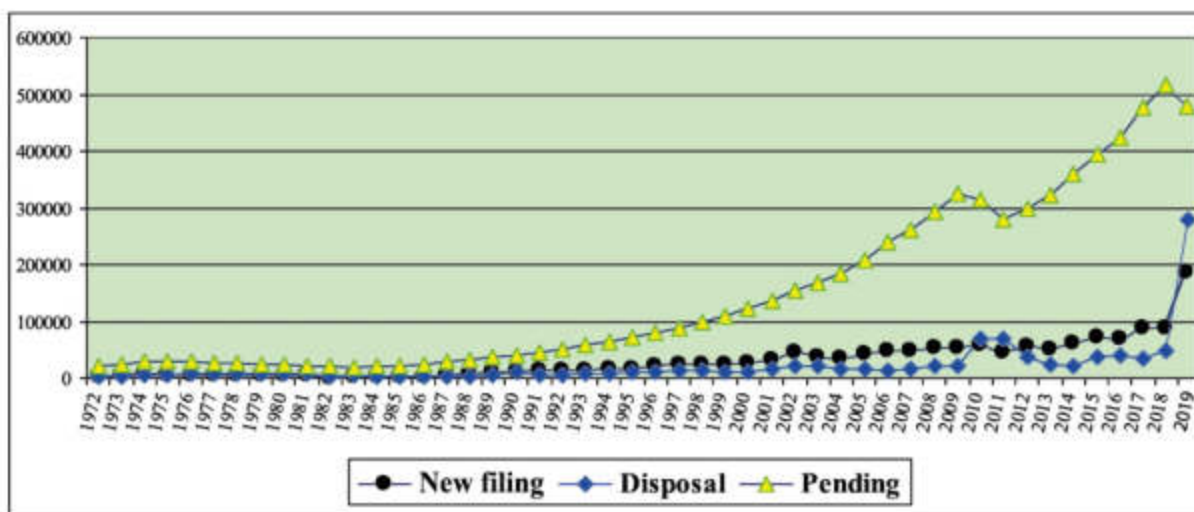


Figure 6: Line graph showing pending, disposal and new filing of cases from the year 1972 to 2019



3. Pending Cases of the High Court Division in 2019

The total Number of pending cases for the year 2019 is 489068, while the pending Number of Civil Cases is 97616, Criminal Cases is 292429, Writ is 87853 and Original Cases is 11170.

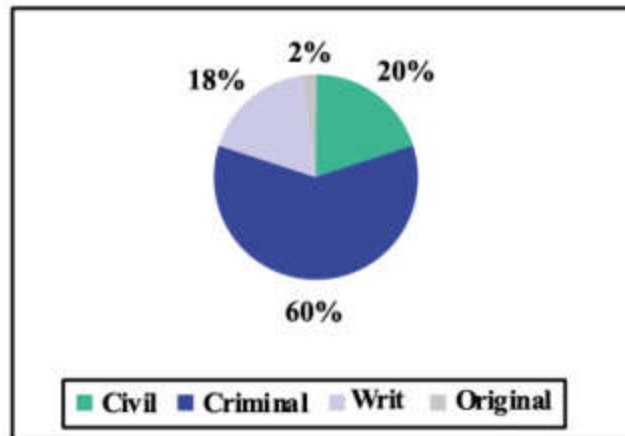


Figure 7: Pie Chart of all pending cases in the High Court Division in the year 2019.

There are 60% Criminal cases, 20% Civil cases, 18% Writ and 2% Original cases of all the pending cases.

3.1. Pending Civil Cases

Carried over	New filing and Restoration	Total	Disposal	Pending for disposal
95624	6013	101637	4021	97616

3.2. Pending Criminal Cases

Carried over	New filing and Restoration	Total	Disposal	Pending for disposal
329335	83688	413023	120594	292429

3.3. Writ

Carried over	New filing and Restoration	Total	Disposal	Pending for disposal
81444	16415	97859	10006	87853

3.4. Original

Carried over	New filing and Restoration	Total	Disposal	Pending for disposal
10249	1575	11824	654	11170



4. New filing and restoration, disposal and pendency of cases in the High Court Division from 1972 to 2019

4.1. Civil Cases.

Year	Carried over	New filing and Restoration	Total	Disposal	Pending
1972	15517	1615	17132	752	16380
1973	16380	2771	19151	798	18353
1974	18353	3884	22237	3498	18739
1975	18739	2593	21332	1955	19377
1976	19377	2775	22152	2323	19829
1977	19829	2652	22481	3933	18548
1978	18548	2769	21317	3550	17767
1979	17767	2391	20158	3391	16767
1980	16767	1268	18035	2755	15280
1981	15280	2656	17936	3819	14117
1982	14117	489	14606	783	13823
1983	13823	667	14490	2325	12165
1984	13823	1044	14867	864	14003
1985	14003	1359	15362	873	14489
1986	14489	1534	16023	606	15417
1987	15417	2750	18167	750	17417
1988	17417	1575	18992	998	17994
1989	17994	4284	22278	2467	19811
1990	19811	4595	24406	4033	20373
1991	20373	4595	24968	2033	22935
1992	22935	4435	27370	2289	25081
1993	25081	5017	30098	2850	27248
1994	27248	5884	33132	3935	29197
1995	29197	6440	35637	3137	32500
1996	32500	5942	38442	3340	35102
1997	35102	6839	41941	5078	36863
1998	36863	7540	44403	4314	40089
1999	40089	7589	47678	3428	44250
2000	44250	8565	52815	2384	50431
2001	50431	9348	59779	4185	55594
2002	55594	9020	64614	6400	58214
2003	58214	7447	65661	4656	61005
2004	61005	7908	68913	3801	65112
2005	65112	7253	72365	3723	68642
2006	68642	6867	75509	3693	71816
2007	71816	7721	79537	4881	74656
2008	74656	6257	80913	5275	75638
2009	75638	6716	82354	6565	75789
2010	75789	6667	82456	4597	77859
2011	77859	6662	84521	5118	79403
2012	79403	6418	85821	5233	80588
2013	80588	5691	86279	3472	82807
2014	82807	6471	89278	4862	84416
2015	84416	7088	91504	4194	87310
2016	87310	6603	93913	3665	90248
2017	90248	6431	96679	3505	93174
2018	93174	6471	99645	4021	95624
2019	95624	6013	101637	4021	97616



4.2. Criminal Cases.

Year	Carried over	New filing and Restoration	Total	Disposal	Pending
1972	3391	544	3935	1016	2919
1973	2919	1964	4883	784	4099
1974	4099	3349	7448	826	6622
1975	6622	1767	8389	1041	7348
1976	7348	1093	8441	2720	5721
1977	5721	1876	7597	2051	5546
1978	5546	1881	7427	1678	5749
1979	5749	1718	7467	2058	5409
1980	5409	1597	7006	2006	5000
1981	5000	1397	6397	1076	5321
1982	5321	320	5641	674	4967
1983	4967	663	5630	985	4645
1984	4645	595	5240	490	4750
1985	4750	748	5498	486	5012
1986	5012	1248	6260	529	5731
1987	5731	1264	6995	371	6624
1988	6624	3950	10574	289	10285
1989	10285	4487	14772	1579	13193
1990	13193	4664	17857	3053	14804
1991	14804	4679	19483	1399	18084
1992	18084	4822	22906	1879	21027
1993	21027	6170	27197	2507	24690
1994	24690	6189	30879	2131	28748
1995	28748	7786	36534	5417	31117
1996	31117	8279	39396	5978	33418
1997	33418	8560	41978	4927	37051
1998	37051	11508	48559	7021	41538
1999	41538	10881	52419	5910	46509
2000	46509	12445	58954	5790	53164
2001	53164	15092	68256	9219	59037
2002	59037	27000	86037	13192	72845
2003	72845	21363	94208	13300	80908
2004	80908	18297	99205	9332	89873
2005	89873	25179	115052	10760	104292
2006	104292	27747	132039	7833	124206
2007	124206	27779	151985	9035	142950
2008	142950	34492	177442	7071	170371
2009	170371	36725	207096	8096	199000
2010	199000	39631	238631	56705	181926
2011	179698	25573	205271	52149	153122
2012	153122	31258	184380	24108	160272
2013	160272	30137	190409	12414	177995
2014	177995	39301	217296	7745	209551
2015	209551	47870	257421	19457	237964
2016	237964	45353	283317	25836	257481
2017	257481	59491	316972	19337	297635
2018	297635	63623	361258	31923	329335
2019	329335	83688	413023	120594	292429



4.3. Writ.

Year	Carried over	New filing and Restoration	Total	Disposal	Pending
1972	799	8	807	10	797
1973	797	751	1548	474	1074
1974	1074	1461	2535	293	2242
1975	2242	438	2680	322	2358
1976	2358	538	2896	508	2388
1977	2388	975	3363	1049	2314
1978	2314	1027	3341	490	2851
1979	2851	923	3774	1431	2343
1980	2343	1057	3400	911	2489
1981	2489	899	3388	1220	2168
1982	2168	0	2168	0	2168
1983	2168	0	2168	0	2168
1984	2168	0	2168	0	2168
1985	2168	567	2735	57	2678
1986	2678	494	3172	252	2920
1987	2920	890	3810	102	3708
1988	3708	1745	5453	1560	3893
1989	3893	2490	6383	2361	4022
1990	4022	2015	6037	2917	3120
1991	3120	3142	6262	2567	3695
1992	3695	4455	8150	3356	4794
1993	4794	2244	7038	2097	4941
1994	4941	2639	7580	2174	5406
1995	5406	2745	8151	1830	6321
1996	6321	6490	12811	3042	9769
1997	9769	7988	17757	4539	13218
1998	13218	4362	17580	2958	14622
1999	14622	5078	19700	3162	16538
2000	16538	6345	22883	5349	17534
2001	17534	7256	24790	4614	20176
2002	20176	8782	28958	7292	21666
2003	21666	7722	29388	5127	24261
2004	24261	7192	31453	4276	27177
2005	27177	9628	36805	4433	32372
2006	32372	12693	45065	4129	40936
2007	40936	11166	52102	11122	40980
2008	40980	11589	52569	8915	43654
2009	43654	8848	52502	6370	46132
2010	46132	10330	56462	7303	49159
2011	40916	11587	52503	10924	41579
2012	41579	18003	59582	8028	51554
2013	51554	13013	64567	7473	57094
2014	57094	12861	69955	8688	61267
2015	61267	14347	75614	13457	62157
2016	62157	17026	79183	9857	69326
2017	69326	19563	88889	12119	76770
2018	76770	17234	94004	12560	81444
2019	81444	16415	97859	10006	87853



4.4. Original Cases.

Year	Carried over	New filing and Restoration	Total	Disposal	Pending
1972	310	294	604	133	471
1973	471	168	639	102	537
1974	537	150	687	104	583
1975	583	98	681	219	462
1976	462	109	571	222	349
1977	349	153	502	234	268
1978	268	88	356	103	253
1979	253	113	366	169	197
1980	197	104	301	291	10
1981	10	102	120	74	46
1982	46	110	266	176	103
1983	103	220	355	163	137
1984	137	252	423	218	238
1985	238	286	520	185	281
1986	281	282	564	239	400
1987	400	283	1350	164	1061
1988	1061	950	1181	289	1117
1989	1117	120	1426	64	713
1990	713	309	1106	713	964
1991	964	393	1350	142	967
1992	967	386	1311	383	862
1993	862	344	1211	449	870
1994	870	349	1225	341	930
1995	930	355	1264	295	1052
1996	1052	334	1503	212	1168
1997	1168	451	1667	335	1256
1998	1256	499	1851	411	1325
1999	1325	595	1901	526	1026
2000	1026	576	1658	875	1049
2001	1049	632	1681	609	1072
2002	1072	825	1897	454	1443
2003	1443	1202	2645	372	2273
2004	2273	820	3093	444	2649
2005	2649	840	3489	406	3083
2006	3083	749	3832	307	3525
2007	3525	889	4414	655	3759
2008	3759	882	4641	403	4238
2009	4238	866	5104	454	4650
2010	4650	842	5492	701	4791
2011	4791	1262	6053	721	5332
2012	5332	1053	6385	1068	5317
2013	5317	1169	6486	936	5550
2014	5550	1436	6986	1182	5804
2015	5804	1635	7439	645	6794
2016	6794	1665	8459	520	7939
2017	7939	1767	9706	535	9171
2018	9171	1609	10780	531	10249
2019	10249	1575	11824	654	11170



5. Maximum number of Judges at a time during the year in the High Court Division of the Supreme Court of Bangladesh from 1972 to 2018

Period	Number of Judges
1972	10
1973	8
1974	12
1975	12
1976	13
1977	18
1978	17
1979	16
1980	19
1981	18
1982	18
1983	18
1984	24
1985	24
1986	21
1987	25
1988	29
1989	29
1990	29
1991	28
1992	25
1993	31
1994	38
1995	35
1996	30
1997	36
1998	36
1999	39
2000	43
2001	48
2002	55
2003	48
2004	54
2005	72
2006	71
2007	68
2008	67
2009	78
2010	94
2011	98
2012	101
2013	95
2014	90
2015	97
2016	95
2017	89
2018	95
2019	100



Protection of Rights of Children-Role of the Judiciary*

Justice Muhammad Imman Ali



The Constitution of Bangladesh: the Supreme Law – Some Fundamental Rights

Children are citizens of this country from the day they are born and enjoy most of the rights enjoyed by adults as provided by the Constitution and all laws of the land. In addition they enjoy rights which are provided exclusively for them.

“Art. 27 All citizens are equal before law and are entitled to equal protection of law.

Art. 31 To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in

accordance with law.

Art.32 No person shall be deprived of life or personal liberty save in accordance with law.

34. (1) All forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.”

On the other hand, the Constitution allows discrimination in favour of children:

Art. 28(4) of the Constitution provides: “Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens.”

Under British rule we had the benefit of the Bengal Children Act, 1922. After independence we went one step further and enacted the Children Act, 1974 which was a statute far advanced for its time, and beneficial to children and promulgated as a direct manifestation of the Constitution¹. Since then we have the Children Act 2013, which professes to implement the provisions of the CRC. It covers the rights of children in all aspects of their lives and well-being—including neglect, subject to torture or ill treatment, use in criminal activities and those alleged to have committed criminal offences.

The watershed case of Roushan Mondal², was heard by the High Court Division in 2006. When dealing with this case, it was realised that persons concerned with the implementation of the Children Act, 1974, including the presiding judge and the lawyers involved in the case, were not aware of its provisions and were not dealing with the alleged offender and the case in accordance with the law. The trial Court designated itself as the Juvenile Court under that statute, but failed to give effect to the provisions contained in it. The alleged offender was admittedly a child and yet he was held in a prison during the trial and upon finding him guilty, sentenced him to death, which was prohibited under the law. While disposing of the case, the High Court Division gave a brief history of child rights and directions on implementation of the provisions of the 1974 Act and also recommended that the law should be amended or new laws formulated to update the Children Act incorporating the provisions of the CRC. This was again repeated in the case of State v Metropolitan Police Commissioner, 60 DLR 660. Ultimately, we got the Children Act, 2013.

Rights of Children in Bangladesh: the broad canvas

By now it is universally recognised that children are a vulnerable group, being physically weaker and mentally immature, whose interests are needed to be protected.

* Abridged text of the Barrister Syed Ishtiaq Ahmed Memorial Lecture, 2018 delivered by the author at the Asiatic Society of Bangladesh on Tuesday, 27 November, 2018.

¹Article 28(4) in Part III (Fundamental Rights).

²State vs Md. Roushan Mondal @ Hashem, (Death Reference No.5 of 2004), 59 DLR 72.



Now let us consider the present children justice system in the context of Bangladesh where about 45% of the 160 million-population comprises children and 56% of these children live below the poverty line of approximately \$2 per day disposable income. Is the prospect of ensuring their rights a reality?

Action taken by the Courts

In the case of **Bangladesh National Woman Lawyers Association (BNWLA) -VERSUS- The Cabinet Division (Writ Petition No.3598 of 2010), 31 BLD 265**, the High Court Division issued the following directions on the government on the various dimensions of child employment:

"1. In order to make the provision and concept of compulsory primary education to be meaningful, we direct the government to take immediate steps to prohibit employment of children up to the age of 12 from any type of employment, including employment in the domestic sector, particularly with the view to ensuring that children up to the age of 12 attend school and obtain the basic education which is necessary as a foundation for their future life.

2. Education/training of domestic workers aged between 13 and 18 must be ensured by the employers either by allowing them to attend educational or vocational training institutes or by alternative domestic arrangements suitable to the concerned worker.

3. We urge the government to implement the provisions mentioned in the National Elimination of Child Labour Policy 2010 published in the gazette dated 08.04.2010. In particular, we strongly recommend the establishment of a focal Ministry/focal point, Child Labour Unit and National Child Labour Welfare Council in order to ensure implementation of the policies as mentioned in the Policy, 2010.

4. We direct the government to include domestic workers within the definition of "worker" in the Labour Act, 2006 and also to implement all the beneficial provisions of the draft of Domestic Worker Protection and Welfare Policy 2010 as announced by the government.³

5. The cases relating to the violence upon the domestic workers must be monitored and prosecution of the perpetrators must be ensured by the government. We note with dismay the disinterested and sometimes motivated way in which the prosecution conducts the investigation and trial procedure resulting in the perpetrators being acquitted or discharged or even remaining untouched due to the high position, which they hold in the society. The government has a duty to protect all citizens of this country, be they rich or poor. It must not be forgotten that the domestic workers come from a poverty-stricken background and deserve all the more protection from the government and the authorities setup by the government.

6. In order to prevent trafficking, in particular, and also to maintain a track on the movement of young children from the villages to the urban areas, parents must be required to register at the local Union Parishad the name and address of the person to whom the child is being sent for the purpose of employment. The Chairman of the Union Parishad must be required to maintain a register with the details of any children of his union who are sent away from the locality for the purpose of being engaged in any employment. If any middleman is involved, then his/her name and other details must be entered in the register.

7. Government is directed to ensure mandatory registration of all domestic workers by all employers engaging in their household any child or other domestic worker and to maintain an effective system through the respective local government units such as Pourashava or Municipal Corporations in all towns and cities for tracking down each and every change of employment or transfer of all the registered domestic workers from one house-hold to another.

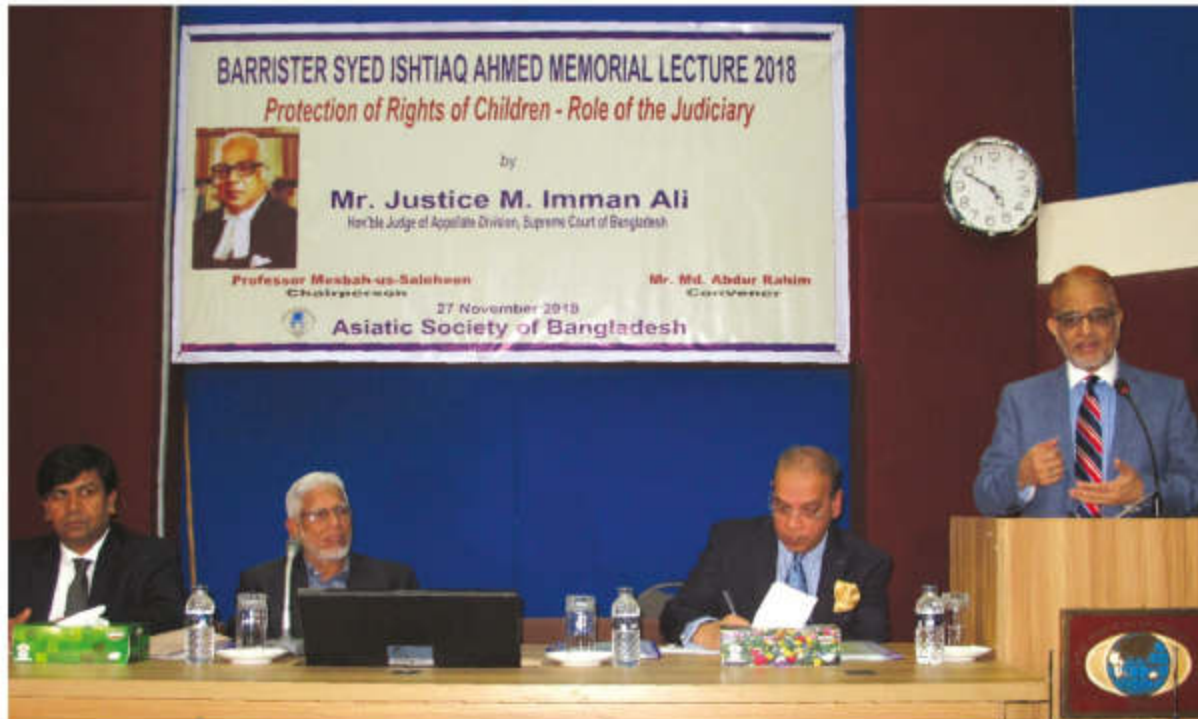
8. Government should take steps to promulgate law making it mandatory for the employers to ensure health check-up of domestic workers at least once in every two months.

9. The legal framework must be strengthened in order to ensure all the benefits of regulated working hours, rest, recreation, home-visits, salary etc. of all domestic workers.

³Sadly, that still remains to be done and more sadly no one cares, not even the organisations who fight for the rights of those for whom they stand before the courts!



10. Laws must also ensure proper medical treatment and compensation by the employers for all domestic-workers, who suffer any illness, injury or fatality during the course of their employment or as a result of it."



Mr. Justice Muhammad Imman Ali, Honourable Judge, Appellate Division, Supreme Court of Bangladesh delivering speech on Protection of Rights of Children-Role of the Judiciary, Mr. Justice Syed Refaat Ahmed, Honourable Judge, High Court Division, Supreme Court of Bangladesh was also present at the Programme

Also in connection with education or lack of it due to the pressure upon children to work, the High Court Division made further observations and directions in the case of *Ain O Salish Kendra (ASK), and another -VERSUS- Bangladesh*, represented by the Secretary, Ministry of Labour and Manpower and others (Writ Petition No.1234 of 2004), 63 DLR 36:

"1. We are appalled by the revelation that in this day and age there is bonded labour (cīce) or servitude practised in the coastal fishing areas of the country and young children are the victims. We have no hesitation in directing the Ministry of Labour to take all necessary steps to put an end to such practice immediately and with the help of the law enforcing agencies to bring the perpetrators of such practice to justice. At the same time there must be a concerted effort on the part of the relevant Ministries and government departments to ensure full time education and necessary financial assistance to the parents/guardians of these children to enable them to desist from such illegal and harmful practices and to encourage them to educate their children.

2. In the light of our observations in the body of this judgment, we are of the view that the Ministry of Education must take the initiative to ensure that compulsory education provided by statute enacted under the mandate of Article 17 of the Constitution for all the children of Bangladesh becomes a realistic concept and not just lip-service. To that end steps must be taken to ensure that children can attend school without jeopardising the family's food security. In other words, there must be financial provision for the family such that the child's attendance at school should not result in the reduction of the family's income earning capacity. To put it more plainly, the head of the family must be given the equivalent amount of benefit (cash or kind), which the child would have earned if he was not compelled to attend school. Moreover, to



ensure continuity of attendance, provisions must be made for necessary uniform and stationery for the child's use as well as any other costs that she or he may incur in the course of attending a school. In addition, a hot and nutritious meal provided for the child would be an added attraction for him or her as well as for the family and would ensure attendance throughout the day. Of course, such financial and other benefits would have to be closely monitored to ensure that attendance in the school is not a mere paper transaction, giving benefit only to the unscrupulous teachers and other officials.

3. The Ministry of Education must also ensure quality education for the children by providing good quality teachers who are dedicated and committed to providing curricular and extracurricular activities within the school premises for all-round development of the children, gearing them up for a meaningful and productive future. The teachers' wants must also be properly catered for to ensure their unfaltering and missionary-like dedication and commitment.

4. It appears to us that children share all their facilities with others and end up deprived of due benefits. We would suggest that a separate Ministry or Department be set up to cater for the needs of the children of this country. In addition, we strongly recommend setting up of an independent constitutional body to oversee the workings of all the agencies and government machinery engaged in serving the needs of the children community.

5. In the light of the matters raised by the instant writ petition, Respondent No.1 is hereby directed to ensure that all employers, particularly those engaging children as labourers, abide by the law and do not engage those under the legal age stipulated by statute, and provide all necessary facilities and equipment to ensure a healthy working atmosphere in their establishments for those who may be lawfully engaged in remunerated work. Needless to say prompt action must be taken against those who violate the provisions of law thereby creating unhygienic, cramped and unhealthy workplaces.

6. Respondent No.1 is directed to take appropriate measures against respondents No.3 to 5 to ensure that the working conditions within those establishments conform in every respect to the requirements of the law.

7. Bearing in mind the inherent health hazards of the tobacco industry, the manufactures must be compelled to provide adequate medical facilities and medical insurance for all employees.

8. In view of the inherent dangers to the health of children within the home, including the unborn and new-born and those who may be forced by their parents to join in the family 'avocation' of 'bidi' rolling, respondent No.1 is hereby directed to take immediate steps to phase out within a period of one year further 'home bidi rolling' by directing the 'bidi' factory owners not to allow working from home.

9. Respondent No.2 is directed to ensure that all factories and manufacturing establishments abide by the law in respect of maintaining a safe, healthy and hazard free working condition in accordance with the provisions of the Labour Act.

10. The existing sanctions provided by the law against the manufacturers are patently inadequate. We, therefore, direct respondent No.1 to take steps to ensure amendment of the law to include adequately deterrent punishment so that the perpetrators will heed the need to conform to the legal requirements. Steps must also be taken to make the prosecution effective.

11. The law must also be amended to set a reasonable remuneration to the workers engaged in the 'bidi' factories.

12. The government must take all necessary steps to gear up capacity building of the families by providing necessary financial assistance with a view to poverty eradication."

In a similar vein the High Court Division dealt with sexual harassment of girls on their way to schools and colleges. It was evident that the country was losing the opportunity to empower girls who were dropping out of education due to the menace of 'eve teasing'. In Bangladesh National Women Lawyers Association



(BNWLA) -VERSUS- Govt. of Bangladesh (Writ Petition No.8769), 31 BLD 324 the following directions were given by the High Court Division at the time of issuing the Rule:

i) the Inspector General of Police (IGP) is hereby directed to take immediate steps to apprehend all stalkers/eve-teasers who physically, psychologically, emotionally or sexually abuse or harass women and children, in particular those against whom any allegation is made of harassing/stalking girls and women in any place including at their homes, in the streets, work places and other public places.

ii) the respondent No.1 is directed to issue immediate instructions to all the Deputy Commissioners throughout the country and all Upazilla Nirbahi Officers to be on high alert and to deal with this particular menace of stalking/eve-teasing and sexual harassment separately and independently of any other crime and to take appropriate and immediate action against the alleged offenders.

iii) the Secretary, Ministry of Home Affairs and the Inspector General of Police are hereby directed to take immediate steps to direct the Superintendent of Police of every District as well as the Officer-in-charge of the Police Stations to take appropriate and immediate steps for providing protection to the family members as well as the civil society who come forward to assist in the event of any eve teasing, to ensure that no harm may come to them through any reaction by the stalkers/eve teasers.

iv) the respondents No.3 and 4 are hereby directed to take steps to ensure that the media, including the electronic media, namely radio and television to broadcast the seriousness of the menace of eve-teasing and stalking and also to notify the severe consequence that may be brought upon the perpetrators. The respondents No.3 and 4 may also engage the NGOs and civil society in order to make the general public aware of the menace which now besieges us. The community must also be told how best to protect themselves."

Right to life, limb and liberty – provided by the Constitution

The Constitution guarantees protection of life, limb and liberty to every citizen. Moreover, the Penal Code punishes anyone who infringes the law relating to offences against the human body.⁴ Children enjoy the same benefits under our Constitution and laws. So, who gives our teachers the right to mercilessly beat their pupils, or indeed to inflict any corporal punishment upon them? It is painful, humiliating and violates the dignity of the person. In July 2010 the High Court Division considered corporal punishment on children in the case of BLAST vs Secretary, Ministry of Education, 31 BLD 201. Numerous cases were brought to the notice of the Court where severe physical punishment was meted out to children of very tender age for very mundane transgressions such as not doing homework, answering questions incorrectly, failing to take crayons to school etc., which would otherwise not constitute any offence, and yet teachers were beating children with impunity to the extent of hospitalisation in some cases and even prompting suicide. Within a few days of the Rule being issued, the Government issued a Circular dated 08.08.2010 absolutely prohibiting corporal punishment in all educational institutions. Before the judgement was delivered Guidelines dated 31.10.2010 were published by the Government prohibiting physical and mental punishment of students. The High Court Division noting that article 28 of the Convention on the Rights of the Child prohibits corporal punishment upon children, held that "corporal punishment upon children must be prohibited in all settings including schools, homes and workplaces. Children who are subjected to corporal punishment or indeed psychological and emotional abuse cannot be expected to develop freely and properly and will not be able to give their best to this society. We cannot ignore the effects of physical and mental torture on the proper development of children which will lead to inadequate achievement resulting in lack of education and poor prospects of better living standards which in turn will stoke the poverty cycle." The High Court Division directed the Ministry of Education to ensure inclusion of a provision within the Service Rules of all teachers of public and private institutions of the country, by incorporating the imposition of corporal punishment upon any students within the definition of 'misconduct'. Thus the teacher imposing corporal punishment on any student would be liable to face both departmental proceedings as well as criminal proceedings. The High Court Division directed the

⁴Section 299 to 377 of the Penal Code 1860



government to immediately repeal all laws which permit corporal punishment to be awarded to offenders as being cruel and degrading punishment contrary to the fundamental rights guaranteed by the Constitution.

Children who are alleged to have committed an offence- 'in conflict with the law'

Under the Constitution and Code of Criminal Procedure, the rights of all accused persons are safeguarded. International instruments and domestic laws provide extra safeguards for children who are alleged to have committed any offence.

The UNCRC provides a large body of rules which are bound to be followed by signatory States. The following articles are relevant, particularly with regard to children who come into conflict with the law:

- Art. 40(3)(a)—states to establish law setting a minimum age below which a child is not capable of committing an offence;
- Art. 1—definition of child to include any human being below the age of 18 years;
- Art. 37(a)—neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below eighteen years of age; and
- Art 37(b)—detention or imprisonment must be used as a last resort and for the shortest appropriate period.

Sections 82 and 83 of our Penal Code have been duly amended, incorporating the provisions with regard to age of criminal responsibility.⁵

The above provisions of the UN CRC have been incorporated in the Children Act, 2013 and the provisions of section 82 the Penal Code have been reiterated in section 44 of the Children Act, 2013, which provides that under no circumstances can a child below the age of 9 years be arrested or held in detention.

The Children Act, 2013 defines a child as one under eighteen years of age, which is almost universal, following the UNCRC.⁶ Our recommendation to incorporate the provisions of the CRC in either a new law or by amendment of the existing law came to fruition seven years after the judgment in Roushan Mondal through the enactment of the Children Act in August 2013. However, in the meantime, the High Court Division dealt with several cases of children being held in prisons unlawfully, particularly pending trial, and more alarmingly where the children were in fact below the age of criminal responsibility.

In the case of *The State vs The Secretary, Ministry of Home Affairs*⁷ the High Court Division noted that the court has no authority whatsoever to send any child during the pendency of a trial to be held in custody within any prison. It is the responsibility of the Department of Social Welfare to provide either a safe home, remand home or any other suitable place where children who have come into contact with the law may be kept during the pendency of their trial, if they are at all to be kept in custody. It was held that children in prisons, whose age is below 16 years, are being held there illegally and without lawful authority and are to be removed from prison forthwith.

I feel that it is our bounden duty to protect and nurture our children for our own sakes. If they are guided in the proper path, they become good citizens and an asset for the nation. If their nature and character is allowed to be contaminated and degenerated then they will become a liability on the State and a menace to society, endangering the peace and tranquillity of the general citizenry. In Roushan Mondal it was observed in relation to youthful offenders:

'In the event that a child or juvenile does come into conflict with the law, then the aim is to provide a system of justice which is 'child-friendly' and which does not leave any psychological scar or stigma on the child, and, on the contrary, prepares him for a fruitful future. The state or the crown, as the case may be,

⁵Section 82. Nothing is an offence which is done by a child under 9 years of age. Section 83. Nothing is an offence which is done by a child above 9 years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

⁶For example in India: The Juvenile Justice (Care and Protection of Children) Act, 2000.

⁷19 BLT 376



stands in loco parentis and through the 'court' ensures that the unlawful activity of the child does not go unpunished and at the same time that the child is not exposed to the rigours of the criminal justice system with all its awe-inspiring paraphernalia and the stigma of criminality at the conclusion of the proceedings leading to a finding of guilt.'

Proper implementation of law

The High Court Division in several cases went to the extent of making recommendations as to how the persons responsible in the justice delivery system for children should apply the law at every stage of the proceedings.

In State -VERSUS- Secretary, Ministry of Law, Justice & Parliamentary Affairs and others (SUO MOTU RULE NO.5621 OF 2009), 29 BLD 656, the following general and specific recommendations were made:

"1. First and foremost, we feel that for proper appreciation of the provisions relating to justice for children, it is essential that all persons concerned with children, including the concerned Government officials of the relevant Ministries and officials of the concerned Government Departments, law enforcing agencies, the judiciary, personnel in the detention and penitentiary system as well as community leaders and local government officials must be aware and sensitised to the needs of children in contact with the law.

2. Initial training and all subsequent refresher training/courses for Judges, Judicial Magistrates and Executive Magistrates should include the concept and practice of Justice for children as a separate topic giving it proper importance.

3. Establishment of child-specific courts in every district which will be dedicated to cases relating to children and will deal with cases involving children on a priority basis and other cases only if there is no outstanding case of a child.

4. There is a patent need for a child-sensitive, specifically trained Police force. Each Police Station shall have at least two officers, of whom one shall be a female, to deal with cases involving children in contact with the law. That officer shall be designated as a focal point for children in conflict/contact with the law who shall deal with all cases relating to children as far as practicable. The training courses of the members of the law enforcing agencies must include justice for children as a separate subject focusing on their duties and obligations under the law.

5. Detailed separate Rules under the Children Act, 1974 should be formulated and incorporated therein, which will deal with victim children and will specifically determine the duties and responsibilities of police officers, probation officers, the Court and others concerned in dealing with them.

6. It is time for Bangladesh to live up to its promises to set up a Children's Commission/Children's Ombudsman. Alternatively, a National Juvenile Justice Forum, which are in vogue in certain countries, may be set up under the Chairmanship of a senior sitting Supreme Court Judge. The practical benefit would be that the Forum may be empowered to issue directions and guidelines to the subordinate judiciary and other bodies regarding any issues relevant to justice for children. Such an institution shall be set up under the Constitution giving it specific powers to issue guidelines/handbook in relation to matters concerning justice for children. Such guideline shall be adopted by the Ministries concerned with justice for children and shall be translated into Bangla and disseminated to all the relevant bodies and institutions, including the police and other law enforcing agencies, probation service, prison service, Social Welfare Department, courts and tribunals.

7. A summary of the said guideline (to be followed by the members of the police and other law enforcing agencies with respect to the treatment of children in contact/conflict with the law) should be displayed in prominent places of police stations.

8. Each police station shall display in a prominent place the names and contact numbers of Probation Officers, Doctors on duty, places of safety, approved homes, certified institutions and NGOs working in the area.



9. In the police station, children shall be kept separately from adult accused persons.
10. Police officers should work in close cooperation with Probation Officers, the safe homes and NGOs working in the field in the local area so that protection, safety and well-being of a victim child can be provided without any delay.
11. As soon as a victim child is brought before the police station, or the police are informed about the whereabouts of a victim child, the Probation Officer should be informed.
12. The Probation Officer shall visit the victim child without any delay. He shall assist the police officer in determining whether the child needs medical treatment or examination and whether the child is safe with its parent or guardian. Where necessary the child shall immediately be taken to the nearest clinic or hospital. If medical examination cannot be done on the same day, the police officer concerned shall record reasons for the same.
13. When a child is brought before the Police Station or the Court, it shall be the duty of the police officer or the Court to determine whether it is safe for the child to return with the parent or guardian. If required, the child shall be asked about these matters confidentially and without presence of its parent or guardian.
14. A child shall not be separated from its parent or guardian save in exceptional cases. These will include cases where the parent or guardian is unavailable or where the threat comes from the parent or guardian or where the parent or guardian is unable to provide safety to the child from any impending threat.
15. In the absence of a parent or guardian, a relative or other fit person may be entrusted to keep the child in safety.
16. Where appropriate, the child may be taken to a place of safety by the Probation Officer himself under section 55 of the Children Act.
17. The Government must provide sufficient number of places of safety, at least one in every district, so that such a place of safety is easily accessible from any part of the country.
18. While separating the child from its parent or guardian, the police officer, the probation officer or the Court must record the reasons thereof.
19. When it is necessary to separate a child from its parent or guardian, in exceptional cases and where the situation demands, the guidelines under sections 55 and 58 of the Children Act, should be strictly followed. Accordingly-
 - a) A probation officer or a police officer can take a child to a place of safety and detain the child for a period of not more than 24 hours before producing the child before the Court. (Section 55 of the Children Act).
 - b) Once produced before the Court in connection with any offence under the Children Act, before institution of proceedings, the Court may make such order as the circumstances may admit and require for the care and detention of the child (section 56 of the Children Act).
 - c) After institution of proceedings, the child shall be produced before the Court and the Court may commit the child to the care of any relative or fit person, or to a certified institute or approved home. The conditions as provided in section 58 of the Children Act shall be strictly followed.
 - d) Where the parent/guardian is fit, capable and willing to take custody of the child then the Court shall hand over custody to the parent/guardian. The reasons for not doing so must be clearly stated by the Judge.
20. Under the Children Act, 1974 and under the system of justice for children there is no requirement for anyone, including the parent or guardian, to apply before the Court for any relief. It is the duty of the Court to ensure compliance of the law in the best interests of the child.
21. Children shall be given special preference in getting legal aid under the আইনগত সহায়তা প্রদান আইন, ২০০০ and for this purpose appropriate instructions shall be given by the government to the District Legal Aid Committee.



22. Bangladesh Bar Council should develop a training manual for newly enrolled lawyers to include Justice for Children as a separate subject for better understanding of child protection and development of child rights and its different mechanisms where it should explain their role and responsibility, concept of child rights and United Nations Child Rights Convention and other international instruments.
23. The Judicial Administration Training Institute (JATI) should undertake training programmes for Judges and Magistrates, including follow-up training for senior Judges regarding Justice for Children and, in particular training regarding the provisions of the Children Act, 1974, the Children Rules, 1976 and relevant UN and other international instruments.
24. The Ministry of Women and Children Affairs and Ministry of Social Welfare should provide training for their own officers as well as for Probation Officers, Managers and concerned staff employed in the safe homes and other places used for detention of children.
25. The Government should ensure training in good parenting and for awareness development in the community to establish child protection and rehabilitation of deviant children in the community.
26. The Government must take positive steps for dissemination of materials regarding child rights in order to ensure awareness of all concerned with children in contact with the law through the print media as well as the electronic media, including television and radio.
27. Laws are required to be formulated for victim and witness protection in order to avoid harassment of the victim children and to ensure effective prosecution of offenders, keeping in mind the need to maintain confidentiality, privacy and dignity.
28. Informal atmosphere should be ensured in Juvenile Courts in order to protect child/youthful offenders, child victims and witnesses. Presence of police should be avoided, unless it is felt necessary for the protection of the child offender, victim or witness. Judges/lawyers should not wear uniform during trial.
29. The concerned Ministries should consider the need to formulate community based committees to develop child protection mechanisms, skill development training, and training in child rights.
30. The State through its relevant Ministries shall take necessary steps to identify children at risk of committing offences and at risk of being exploited by adult criminals for criminal activity, i.e. young children engaged in theft, robbery, picketing, vandalism, as carriers of drugs and arms, explosives, member/informer of criminal gangs and suicide squad and should identify the reasons behind the criminal activities of children and address the root cause of such deviant behaviour.
31. The concerned Ministries shall take appropriate measures to form, strengthen and activate Upazila/Union/Ward level child protection motivational committees and community based committees set up for ensuring and monitoring child protection in their locality.
32. The Government should take steps for setting up a system and mechanism for the rehabilitation of victims of crimes.
33. It is therefore imperative that the Government take immediate steps to amend the existing laws or formulate new laws in order to overcome the anomalies and procedural knots as highlighted above as well as to enable implementation of the provisions of the international instruments which will undoubtedly be beneficial to the children of this nation, thus fulfilling our obligations under international treaties and covenants."

In The State -VERSUS- The Metropolitan Police Commissioner, Khulna and others (Suo-Motu Rule No.04 of 2008), 60 DLR 660 the High Court Division made the following observations:

- "1. It is the duty of this Court and all other Courts as well as the other state departments, functionaries and agencies dealing with children, to keep in mind that the best interests of the child (accused or otherwise) must be considered first and foremost in dealing with all aspects concerning that child.
2. The parents of the children who are brought before the police under arrest or otherwise, must be



informed without delay.

3. A probation officer must be appointed immediately to report to the Court with regard to matters concerning the child.

4. Bail should be considered as a matter of course and detention/confinement should ensue only as the exception in unavoidable scenarios.

5. In dealing with the child, its custody, care, protection and wellbeing, the views of the child, its parents, guardians, extended family members as well as social welfare agencies must be considered.

6. Where the best interests of the child demands its separation from its parents, special protection and assistance must be provided and there must be alternative care for the child.

7. Steps must be taken to assist the parents to mend their ways and to provide a congenial atmosphere for the proper development of the child.

8. If a child is detained or placed in the care of someone other than the natural parents, its detention or placement must be reviewed at short intervals with a view to handing back custody to its parents or guardians, subject to their attainment of suitability to get custody of the child.

9. When dealing with children, detention and imprisonment shall be used only as a measure of last resort and for the shortest period of time, particularly keeping in view the age and gender of the child.

10. If detention is inevitable, then the child shall be kept in the appropriate Homes/Institutions, separated from adults and preferably with others of his/her same age group.

11. Every effort must be made at all stages for reintegration of the child within the family and so as to enable him/her to assume a constructive role in society.

12. Due consideration must be given to the fact that children come into conflict with the law due to failure of their parents/ guardians or the State to provide adequate facilities for their proper upbringing. If the parents or guardians lead the child astray, then it is they who are liable and not the child.

13. The Legislature should consider amending the Children Act, 1974 or formulating new laws giving effect to the provisions of the UNCRC, as is the mandate of that Convention upon the signatories.

14. The use of children as 'drug mules' should be made an offence and incorporated in the Children Act, making the parents/ guardians of any child used for carrying drugs criminally liable.

15. The State must make provision for diversion of child offenders from the formal placement in government safe homes/prisons to be placed in an atmosphere where the child may be guided in more congenial surroundings within a family unit, either with relatives or unrelated foster families, if necessary on payment of costs for the child's maintenance."

In the High Court Division gave the following directions as to what the law ought to provide keeping in mind our obligations as signatories to the CRC and other international instruments:

"1. As soon as a child is apprehended for an alleged offence he must be taken before a Magistrate, and at all times kept separate and detached from any adult offender. Under no circumstances is the child to be kept in police lock-up.

2. The Magistrate must take immediate steps to ascertain the age of the child in accordance with section 66 of the Act, and procedures laid down in the Act are to be followed.

3. Parents/guardians of the child must be informed.

4. The child should be considered for release to the custody of his parents/guardian pending any inquiry regarding the allegation.

5. If his detention is felt absolutely necessary then he must be kept in a 'special home' or 'observation home' established for the purpose, pending decision on the allegation against him. The 'special homes' must be separate and distinct from the 'approved homes' where children in conflict with the law are placed



after they are found to have been in breach of the law.

6. If it is established that she/he is a child then the matter must be adjudicated upon by a “Children’s Justice Board/Panel” and the proceedings must be concluded expeditiously.

7. The child must be given opportunity to be legally represented and afforded legal aid for the purpose.

8. In deciding the case finally, the “Board/Panel” must take into account the child’s background and other family/community circumstances, including any report of a Probation Officer or Social Worker.

9. If it is decided that confinement is necessary, then it must be in accordance with the Children Act and in an approved home and at any cost NOT IN PRISON (emphasis added)

10. The approved homes must be equipped to provide the necessary educational and vocational training facilities and always with the view to the rehabilitation of the child in the community.

Thus in the limited number of cases the High Court Division has made recommendations and given directions for the proper implementation of the existing law making sure that all concerned keep in mind the best interests of the child, as required by law.

Children who come into conflict with the law are, in reality, invariably victims. They are usually victims of exploitation, seduction or threats. All said and done, the unfavourable situation of our children stems mostly from poverty. It is my humble opinion that those agencies, both local and international, with the heart and the will to better the lot of the impoverished and vulnerable children of this country, must strive to strike at the roots of poverty and aim to empower the parents and the community to better look after their children. All parents strive for the best interest of their child. Poverty stands in the way. Resources must be aimed to alleviate poverty and empowerment of caregivers. Above all the justice delivery system must deal with children with a view to ensure their rights as given by the Constitution, domestic laws and international instruments.



Anti Terrorism Legal Framework in Bangladesh*

Justice Mirza Hussain Haider



Ladies and Gentlemen

Assalamuilaikum and a very good afternoon

It gives me immense pleasure to be here today.

I appreciate the brilliant presentation of the key note speakers on very pertinent issues.

I felt privileged when I was asked to attend such an important session on the issue of Terrorism.

I am also thankful to the organizers for inviting me as the Chief Guest for this great occasion.

At the very outset, my profound grief and respect to the citizens of Sri Lanka, New Zealand and of many other counties, those have been victims of terrorism and as such my deep sorrow following the terrorist attacks against churches and hotels and in Mosques and other places. I also express my deep condolences to the member of families side by side, I firmly condemn these

heinous acts.

The topic of terrorism is both complex and emotive. It is complex because it combines so many different aspects of human experience, including subjects such as politics, psychology, philosophy, military strategy, and history, to name a few. Terrorism is also emotive both because experiences of terrorist acts arouse tremendous feelings, and because those who experience terrorists activities often have lifelong traumatic feelings

Terrorism is one of the threats against which the international community, above all, the States must stand together to protect their citizens. It is very difficult to grasp the reasons as to why the people prepare themselves for such crimes and terrorist activities, which certainly go against humanity. Technology is also one of the strategic factors, the increasing use of the Internet by terrorist organizations and their supporters for a wide range of purposes, including recruitment, financing, propaganda, training, incitement to commit acts of terrorism, and the gathering and dissemination of information for terrorist purposes.

Terrorism inevitably often has a transnational aspect. An act of terrorism can be conceived in one State and then may take place in another State. Since the 9/11 attacks anti-terrorism has been at the top of the agenda of the international and regional organizations. A large number of international, regional and national initiatives have been adopted in the last decade against terrorism. Bangladesh is a party to a number of international consensuses.

These include:

In 2011, Bangladesh signed the United Nations Convention Against Transnational Organizational Crime

In 2013, Bangladesh signed an agreement with the USA to enhance counter terrorism cooperation

In 2014, Bangladesh became a board member of Global Fund for Community Engagement and Resilience to support local, grassroots efforts to counter violent extremism

Bangladesh is a member of the Asia Pacific Group on Money Laundering, consisting of 41 members and a number of international and regional observers

On January 28, 2013, Bangladesh and India signed an extradition treaty for disrupting the regional connections and networks among terrorist outfits

Bangladesh and India have agreed to implement a Coordinated Border Management Plan to curb criminal activities, including terrorism, along the long and porous border

Actually, it is not easy for Bangladesh to address all the challenges in order to prevent terrorism. I do not think there are lacks of legal mechanism to address terrorism. Bangladesh enacted anti-terrorism legislation namely Anti-terrorism Act 2009, Anti-terrorism Rules 2013 and adopted the military strategy in combating terrorism. Judiciary and police department are contributing their best to combat terrorism.

* Abridged text of the speech delivered by the author in the Opening Ceremony of Inter University Law Clinic at the University of Rajshahi on 27 April 2019



Laws addressing Terrorism in Bangladesh are:

1. Anti Terrorism Act, 2009
2. Money Laundering Prevention Act, 2012
3. Foreigners Act, 1946
4. Extradition Act, 1974
5. Special Powers Act, 1974
6. Mutual Legal Assistance in Criminal Matters Act 2012
7. Digital Security Act, 2018

Out of 64 District, in only two districts (Dhaka and Chittagong) special tribunals have been formed.

Today, there is a much greater understanding among the international community that criminal humanitarian rules are not well-suited to deal with international terrorism. There is much at stake for the judicial branch in trying terrorism cases. When terrorism charges are brought, courts must strive to balance the rights of the parties, particularly the accused, on the one hand, and national security and the cause of humanity on the other. Special and sometimes unique questions that arise in such cases, include justiciability, admissibility of evidence, prosecutorial duties of disclosure, and the effect on the press and on public confidence of any departure from open justice.

The law enforcement agencies and the prosecution team many a time face difficulties regarding prosecuting terrorism cases. Collecting evidence itself is difficult to face for the prosecutions, which is usually staggering in volume, encrypted and often sensitive. In some cases, evidence from third nation agencies could not be shared for fear of risking key operational relationships. These problems can be addressed by increasing the judicial system's understanding of the difficulties involved. The working relationship between law enforcement and intelligence agencies needs constant work, along with guidelines clearly delineating responsibilities.

I understand the capabilities of the judicial system for handling material must also be increased, including more education for judges and prosecutors and more secured courthouses. The media has a crucial role here and should be better engaged to manage leaks.



Justice Mirza Hussain Haider, Honourable Judge of the Appellate Division of the Supreme Court of Bangladesh delivering speech in the Opening Ceremony of Inter University Law Clinic at University of Rajshahi on 27 April 2019.



The Rule of Law, equality, and fairness are often challenged by terrorist legislation. The police and the security forces cannot be allowed complete freedom through the law, to tackle these criminals. The European Court of Human Rights has laid down limits. In the Klass case, it was announced that

"The Court, being aware of the danger such a law poses of undermining or even destroying democracy on the ground of defending it, affirms that the Contracting States may not, in the name of the struggle against terrorism, adopt whatever measures they deem appropriate."

Thus, not only may terrorism be a threat to democracy, but the legislative response to terrorism by the state can also have a negative effect. In the particularly sensitive area of terrorist activities, it is incumbent upon the parliamentarians that their decisions be measured, appropriate, and considered and that both process and content accord with the basic principles of the Rule of Law. I must say the right to a fair trial is fully applicable with regard to alleged terrorists within the framework of the 'war on terror' or 'war against terrorism'.

Terrorism is Global Crime. We cannot fight against terrorism alone. The war against terrorism is the fight of every nation as well as every individual of the World. Therefore, we must open our door for greater international cooperation and mutual legal assistance. My last proposition is "We must think globally, we must act globally in combating terrorism".

I again express my cordial thanks to the organizers for arranging this wonderful event.
Thank you very much for patience hearing.

Allah Hafez.



The Rohingya Asylum Dilemma: Setting Sights Beyond Protection*

Justice Dr. Syed Refaat Ahmed



In August 2017 a part of Bangladesh's Cox's Bazar region abutting the international boundary with Myanmar was inundated by a sea of humanity. And it was a picture of humanity in utmost distress.

The world stared in despair and dismay as Myanmar engaged in a fresh wave of brutally executed blueprint of ethnic cleansing giving rise to a scale of forced human dislocation not seen in this greater region for decades. Ever since Myanmar's Citizenship Law of 1982 effectively rendered the Rohingyas stateless, convulsive episodes at their physical removal from Myanmar has led to episodic pogroms of ethnic cleansing most notably in 1992 and 2012. Mass influxes into Bangladesh of the forcefully displaced Rohingyas occurred on each occasion. With hindsight, these were but a harbinger of a more sinister initiative of emptying Myanmar's Rakhine State of the Rohingyas, the sheer scale and magnitude of which this time around attests to a final genocidal chapter at ethnic cleansing.

The international community took heart at the same time from the legally desirable response and hence the correct gesture on Bangladesh's part. An 'open door' policy was unreservedly adopted to welcome in the distressed and dispossessed fleeing in droves from persecution in Myanmar. Bangladesh, therefore, placed itself on a high moral pedestal as a country of first asylum providing sanctuary to the hundreds of thousands of Rohingya asylum seekers desperate in search of sanctuary from an aggravated threat to life and security in their country of origin, Myanmar.

In all this, there was, however, never a doubt that sanctuary in Bangladesh as a purely protective measure would only be temporary for the Rohingyas pending durable solutions to their plight.

Temporary sanctuary in this context would be in the form of immediate and urgent physical protection from the reach of harm notwithstanding that it would stretch Bangladesh's capacity in terms of logistics and resources to accommodate the displaced Rohingya population.

At this the world heaved a sigh of relief only if for avoiding the alternate catastrophic prospects of a fallout from Bangladesh not only turning a blind eye to the predicament of the Rohingyas but actively barring their entry into its territory. This would in itself spark a humanitarian crisis on a level unseen in this region since the decades long episode of the Indo-Chinese refugee crisis of the 1970s and the 1980s. In this the global community would recognize and applaud Bangladesh as an example of generosity and propriety in a world order where even the developed economies are grappling with their dwindling political will, declared unwillingness and outright societal backlash to existing immigration and asylum policies.

The scenario the past couple of years has, therefore, been thus: while the countries of the North are busying themselves with reevaluating and reordering their previously generous immigration policies with a view to building walls and barriers – physical and attitudinal –, Bangladesh actually refused to put up such barriers to halt the entry of the Rohingyas.

But it is that very stance that, I argue, has now placed Bangladesh in a precarious position as it scrambles to garner meaningful international support to move beyond the phase of protection and seek durable solutions to the Rohingya crisis.

Between the growing number of countries deep in the grasp of a compassion fatigue and Islamophobia and a recalcitrant Myanmar partially emboldened by such realities acting with impunity impervious to whatever international pressure is made to bear upon it to mend her ways, Bangladesh finds itself caught between the devil and a very hard rock.

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It is essential to recognize that an international crisis was triggered off afresh on the Bangladesh-Myanmar frontier the very moment the first Rohingya asylum seeker crossed the international boundary line into Bangladesh in August, 2017. Such a scenario, therefore, by definition requires an international response mechanism based on concerted and coordinated action.

The global response thus far has been in the form of a consideration paid to Bangladesh to continue to host nearly one million asylum seekers and contain the Rohingya 'problem' solely within its borders. That, to me, automatically reads as an abandonment of recognized avenues of durable solutions. The world remains content at maintaining a status quo of containment and protection indefinitely in lieu of pursuing durable solutions.

I have always had a problem with this attitude and expressed my reservations accordingly at various forums. I take issue here at various levels. First, on a legal-philosophical plane, such a global response has been a highly selective one tantamount to an abdication of responsibility in disregard of legal standards and mechanisms previously established to meet similar situations. In the present case, priority has been accorded to containment of the crisis within the territorial boundaries of Bangladesh through a protection narrative with no feasible plan to pursue two main avenues of durable solutions, i.e., voluntary repatriation to Myanmar and/or resettlement in third countries. The focus rather has been to convince Bangladesh to continue hosting an alien population for a period ostensibly temporary but not specifically defined.

I argue that such definition has alluded all because no pressure, moral or legal, has in any meaningful way been made to bear upon Myanmar primarily by its key regional allies in introducing a constitutional reformation internally as would assure due citizenship status to the ethnic Rohingyas, thereby, creating favourable conditions for their return to their homeland with a promise of sustainable rehabilitation and reintegration.

My second concern is with the price of protection being paid by Bangladesh at all levels – societal, developmental, environmental and national security. Population spillover and leakage from the camps into the host community are realities now. Human trafficking, drug peddling and sexploitation is becoming commonplace. The price to be paid in the long run, therefore, is of a serious disruption to societal balance resonating on a larger national security and regional plane.

Furthermore, with a burgeoning asylum seeking population, maternity health, childcare, education, social services, sanitation, accommodation, ecological balance etc. become focal issues of concern. With time, a reprioritization of intervention initiatives is bound to take place. This in turn risks a narrative shift from protection to rehabilitation and settlement-in-place, thereby, pushing the focus away further from conventional modes of durable solutions. Indeed, the apprehension is that any argument for pursuit of durable solutions may with the efflux of time be rendered redundant.

The provision of basic services to the asylum seekers is undeniably necessary for and commensurate with the temporary protection Bangladesh is willing to provide. The prospects of this, however, taking on the complexion of a development and integration agenda for the donor community and the United Nations is alarmingly real but avoidable. Urgent preventative action is key here. The longer Bangladesh is made to host such a population the greater the chances of a narrative change from protection to settlement-in-place. I am wary of arguments that are occasionally placed forward to weave or accommodate the Rohingya factor into our development agenda and, therefore, advise on extreme caution against taking steps in that direction. It is pertinent to clarify at the outset that I draw an essential legal distinction between the terms "asylum seeker" and "refugee". The latter term, I argue, bears a correlation to a formally determined legal status by reference to legal standards set out in the *1951 Convention Relating to the Status of Refugees read with its 1967 Protocol*. The adoption of a status determination procedure has in the past been an essential component of durable solutions. That stage, however, has not been arrived at in Bangladesh. I make this distinction here to forestall any argument in particular that refugees under emerging standards of durable solutions are entitled to integration into national development schemes.

Furthermore, the very nature of the pogrom pursued by Myanmar – violent, repressive, genocidal – informed by deep-seated ethnic and religious distrust and hostility is fertile and putrid ground for an impressionable segment of the asylum-seeking population to turn towards militancy. That contingency, seriously disruptive of Bangladesh's carefully nurtured socio-religious order, must not wholly be ruled out.



Furthermore, how Bangladesh ultimately deals with the Rohingya crisis will inevitably have broader long-term implications. The surge of ultra-nationalist forces elsewhere in Bangladesh's neighbourhood fed both by Islamophobia and frustration with perceived uncontrolled illegal emigration from Bangladesh raises the spectre of potentially large-scale 'push-ins' into Bangladesh in the future. Let a solution to the Rohingya crisis, therefore, serve as a template not only to meeting but effectively deterring such other humanitarian crises.

It is with that complex scenario in mind that I now introduce the fundamental tools already available in international law and practice that operate to avoid a disproportionate burden being borne by Bangladesh at a crippling cost to itself. I argue that time is ripe to look beyond the physical protection being solely provided by Bangladesh to the Rohingyas and draw on existing tools and precedents to devise a comprehensive mechanism of durable solutions.

Comprehensive Plan of Action

Between 1990 and 1992 I had the opportunity to work as a Legal Consultant for the United Nations High Commissioner for Refugees (UNHCR) at its Office of the Chief of Mission in Hong Kong.¹ In 1989, the international community had adopted a comprehensive agenda to address the ongoing crisis, legal, political and humanitarian, created by the exodus of asylum seekers from Vietnam. The agenda contained in the *Declaration and Comprehensive Plan of Action (CPA)* and adopted by the 1989 *International Conference on Indo-Chinese Refugees*, tied in neatly with the mandate of the UNHCR to ensure the protection of refugees and to respond to refugee crises by promoting durable solutions. The significance of the CPA lay in revealing the international community's potential for co-operation on seemingly divisive issues. Accordingly, the CPA represents international efforts at refugee crisis resolution where State initiatives at the domestic and international level become significant *"elements in the evolution of rules with respect to international co-operation in the relief and resolution of the problems of refugees and the displaced."*² In fact, the successful implementation of the CPA during the following period demonstrated the possibility that disparate interests of participant States could coalesce so as not only to accommodate State interests but also to protect asylum seekers in light of well-established principles of international law.

Operating within the ambit of the *1951 Convention and its 1967 Protocol*, the CPA regime was necessary to resuscitate a coherent and concerted response to the refugee crisis in Indo-China at a time when interest in seeking durable solutions to the crisis had been on the wane. The idea was to extract commitments to an internationally monitored political, humanitarian and legal response, while maintaining sufficient safeguards to ensure to States their continued control over admission policies, which appeared to be threatened in the late-1980s by the unabated flow of asylum seekers from Indo-China. A motley collection of States were brought to adhere to the principles of protection, human rights and orderly movement under a framework of inter-connected State obligations. The obligations of any State was limited and balanced by the obligations of other participating States. As stated in the Declaration that adopted the CPA,

*the complex problem at hand necessitates the co-operation and understanding of all concerned and that a comprehensive set of mutually re-enforcing humanitarian undertakings, which must be carried out in its totality rather than selectively, is the only realistic approach towards achieving a durable solution to the problem*³

The CPA regime mandated measures to *"deter clandestine departures from the country of origin, including mass media activities and regular consultation between the countries concerned; encouragement of regular departure (emigration/immigration) programmes; provisions for reception and temporary refuge for new arrivals; region-wide refugee status determination procedures; resettlement undertakings for long-stayers and for new arrivals found to be refugees; and repatriation of non-refugees."*⁴ State responsibility was defined by the role each State played in the movement of asylum seekers. Thus, obligations as to orderly departures, measures against clandestine departures and the successful reintegration of returnees fell on the State of origin, Vietnam.

¹ For a detailed account see generally; Syed Refaat Ahmed, *"Forlorn Migrants: An International Legal Regime for Undocumented Migrant Workers"*, University Press Limited, 2000.

² Guy S. Goodwin-Gill, *The Refugee in International Law* 2d ed., (Oxford: Clarendon Press, 1996), 292.

³ Text of the Declaration and Comprehensive Plan of Action adopted at the International Conference on Indo-Chinese Refugees, Geneva, 13-14 June 1989 as reproduced in Guy S. Goodwin-Gill, *The Refugee in International Law* 2d ed., (Oxford: Clarendon Press, 1996), 534-539. Also see, Note by the Secretary-General, UN Doc. A/CONF.148/2, 26 April 1989.

⁴ Goodwin-Gill, 292.



Vietnam's neighbours in the Southeast Asia region consented to grant temporary sanctuary or 'first asylum,' based on the guarantee that other States and international organizations would pursue durable solutions in the form of resettlement in a third country or repatriation to the country of origin, thereby avoiding any possibility of local integration. For the countries of settlement, i.e., developed economies of the North (which are also countries of immigration), the granting of refuge was extended only to deserving cases. Accordingly, the CPA mechanisms of orderly departure from the State of origin and the status determination procedures established in the States of first asylum ensured regulated entry based on criteria that conformed both to domestic legislation as well as to international refugee law.

The CPA also serves as a precedent on concerted humanitarian action in a highly politicized setting in which key roles are assumed by global powers. The CPA itself is testament to a significant US foreign policy initiative on resolving the Indo-Chinese refugee crisis in the late 1980s. This required the United States to play a key role in co-ordinating an international effort in seeking durable solutions to the plight of Indo-Chinese refugees. The CPA's significance in the context of US policy on refugee/migration crises lies in the balance struck between strategic and humanitarian interests where, partly in consideration of the security concerns of allied ASEAN States and therefore of the strategic interests of the US in that region and chiefly of the "national obligation"⁵ born out of its experience in Vietnam, the United States became a key participant in an international effort at protecting human rights. In fact, US assurances given to ASEAN allies on "resettlement [in the United States] as a 'last resort' if alternatives could not be found"⁶ constituted the bedrock of the CPA scheme of guaranteeing a Southeast Asian commitment to providing initial temporary protection to Indo-Chinese asylum seekers. There is no reason why, given the political will of dominant State players in the region, a similar balancing of strategic, economic and humanitarian interests in the present instance should not yield equally desirable policy initiatives at creating an international regime on durable solutions. This political will should be informed by the inevitability of Myanmar owing up to its responsibilities to its forcefully displaced Rohingya citizens and relieving Bangladesh of the disproportionate burden of protecting them in exile.

Express provisions made in the CPA's "Plan of Repatriation" for a carefully administered repatriation scheme as protects the interests of all, including that of the country of origin and the asylum seekers themselves, bear due consideration here.

Extracts of the Plan reproduced below may with diplomatic ingenuity, legal inventiveness, and political insight well serve as a blueprint for a multi-faceted agenda on durable solutions in the present case:

"12. Persons determined not to be refugees should return to their country of origin in accordance with international practices reflecting the responsibilities of States towards their own citizens. In the first instance, every effort will be made to encourage the voluntary return of such persons.

13. ... (c) Returns will be administered ... by UNHCR and ICM, and internationally funded reintegration assistance will be channeled through UNHCR, according to the terms of the Memorandum of Understanding signed with Viet-Nam...

14. If, after the passage of reasonable time, it becomes clear that voluntary repatriation is not making sufficient progress towards the desired objective, alternatives recognized as being under international practices would be examined. A regional holding centre under the auspices of UNHCR may be considered as an interim measure for housing persons determined not to be refugees pending their eventual return to the country of origin.

15. Persons determined not to be refugees shall be provided humane care and assistance by UNHCR and international agencies pending their return to the country of origin. Such assistance would include educational and orientation programmes designed to encourage return and reduce re-integration problems.⁷"

⁵ Michael S., Teitelbaum, "Immigration, Refugees and Foreign Policy." *International Organization* 38, 3 (Summer 1984): 429-50 at page 443.

⁶ *Ibid.*

⁷ See, text of the Declaration and Comprehensive Plan of Action, Guy S. Goodwin-Gill, *The Refugee in International Law*, 2d ed., (Oxford: Clarendon Press, 1996), 538-539.



Dhaka Declaration

The CPA's ethos figured prominently in the Dhaka Declaration adopted at the *International Conference on the Rohingya Refugee Crisis: Towards Sustainable Solution* held on 2-3 April, 2018. The *Dhaka Declaration* identifies three processes at solution, including the CPA, as evident from *Declaration* extracts quoted below:

"Recalling the Declaration and Comprehensive Plan of Action adopted by the 1989 International Conference on Indo-Chinese Refugees incorporating interconnected commitments from States to an internationally monitored and concerted political, humanitarian and legal response to a refugee crisis.

Recognizing the concept of "Responsibility to Protect" (R2P) that obliges the international community to protect refugees through multi-pronged interventions aimed inter alia at deterring occurrences of egregious international crimes like genocide, war crimes, ethnic-cleansing and crimes against humanity and at holding the offending State to account.

*Relying on the New York Declaration and Comprehensive Refugee Response Framework (CRRF) adopted by the UN General Assembly on 19 September 2016 that builds on the notion of burden-sharing reflected in relieving countries of asylum of disproportionate burdens of granting sanctuary and protection, promoting refugee self-reliance, pursuing resettlement in third countries and facilitating conditions in countries of origin conducive to repatriation in safety and dignity."*⁸

My contribution to that Conference of April 2018 was to urge the community of States and all concerned non-State stakeholders to collectively and expeditiously devise a multilateral and multidimensional regime of durable and sustainable solutions drawing on the CPA, R2P and CRRF processes. It is imperative, therefore, that the pursuit of durable solutions by applying in tandem legal standards, accommodation through diplomacy and assignment of criminal responsibility proceed to exert maximum leverage over Myanmar.

International Criminal Court

At the heels of that Conference adopting the *Dhaka Declaration* there was a development of considerable significance that merits mention here. On 9 April 2018, the Chief Prosecutor of the International Criminal Court (ICC) filed a request with the ICC's Pre-Trial Chamber for a ruling on the preliminary issue of jurisdiction in the face of forced deportations of the Rohingyas. Against that backdrop at the *International Seminar on Accountability; ICC and the Rohingya Crisis* held on 4 June 2018 and organized by ActionAid, CGS, University of Dhaka and CPJ, BRAC University views were, accordingly, put forward to bring the matter of the displacement of the Rohingya before the ICC.

By that Seminar date the ICC in a letter to Dhaka 7 May, 2018 had invited *"the competent authorities of Bangladesh to submit observations, either publicly or confidentially, to the prosecutor on three specific matters since Bangladesh has been affected by the deportation of Rohingya populations from Myanmar."*⁹

The ICC requested information and observations on *"(i) the circumstances surrounding the presence of members of the Rohingya people from Myanmar on the territory of Bangladesh; (ii) the possibility of the Court's exercise of territorial jurisdiction over the alleged deportation of members of the Rohingya people from Myanmar into Bangladesh; and (iii) any other matter in connection with the prosecutor's request that, in the opinion of the competent authorities of Bangladesh, would assist the chamber in its determination of this request."*¹⁰

It was noted at the Seminar of 4 June, 2018 that the cross-border humanitarian crisis affecting the Rohingya population has been described as a 'textbook example of ethnic cleansing' by the UN High Commissioner for Human Rights. The Seminar identified the legal mandate and compulsions at a judicial intervention in tandem with diplomatic and humanitarian endeavours at durable solutions. It was recognized that holding the perpetrators of atrocities against the Rohingyas accountable before the ICC is a contentious issue, not least because the country in which the offences have originated, i.e., Myanmar, is not a party to the Rome Statute ("Statute" as necessary) which established the ICC and has not accepted the ICC's jurisdiction under the Statute (Art. 12(ii)).

At this juncture, I set out below an overview of the legal framework for the ICC's exercise of jurisdiction given such a scenario.

⁸ Culled from my address at the International Conference on the Rohingya Refugee Crisis: Towards Sustainable Solutions, Dhaka, 2-3 April, 2018 organized by ActionAid Bangladesh, Centre for Genocide Studies (CGS), University of Dhaka and Centre for Peace and Justice (CPJ), BRAC University and later featuring in the *Dhaka Declaration*.

⁹ "Displacement of Rohingyas: Dhaka responds to ICC request", *The Daily Star*, Thursday, 8 June, 2018.

¹⁰ *Ibid*.



On 17 July 1998, a conference of 160 States in Rome established the first treaty-based permanent international criminal court. The *Rome Statute* sets out the crimes falling within the jurisdiction of the ICC, the rules of procedure and the mechanism for States to cooperate with the ICC. Article 5 of the *Rome Statute* provides that the ICC has jurisdiction with regard to (i) genocide, (ii) crimes against humanity, (iii) war crimes and (iv) the crime of aggression. 'Crime against humanity' has been further defined in Article 7 to include, among others, the offences of murder, extermination, and deportation.

There are theoretically four ways in which the ICC may exercise jurisdiction over crimes committed by the Myanmar authorities: (i) reference by a State Party, (ii) initiation of investigation by the Prosecutor, (iii) reference by the UN Security Council, and (iv) acceptance of the Court's jurisdiction by the State in question.

(i) Reference by a State Party

Firstly, as a State Party, Bangladesh may refer the matter to the Office of the Prosecutor for investigation under Article 13(a) read with Article 14 of the Statute.

Bangladesh ratified the Rome Statute in 2010 and has thus submitted itself to the jurisdiction of the ICC with regard to crimes referred to in Article 5 of the Statute. Under Article 12(2) of the Statute, the ICC may exercise its jurisdiction, where (a) the alleged perpetrator is a national of a State Party or (b) where the conduct in question occurred in the territory of a State Party. In the present case, although the alleged perpetrators are not nationals of a State Party, it may be plausibly argued that the offence in question has been partly committed in the territory of a State Party (i.e., Bangladesh) and that therefore, ICC has jurisdiction in respect of the offence.

In the Application of 9 April, 2018 under Regulation 46(3) before the Pre-Trial Chamber of the ICC for a ruling on jurisdiction, the Office of the Prosecutor has argued that the offence of deportation, which requires victims to cross an international border, has been partly committed in the territory of Bangladesh. Article 12(2)(a) of the Statute provides that the ICC may exercise its jurisdiction if the 'conduct' in question occurred on the territory of a State Party. There is consensus that States have jurisdiction over crimes committed only partially on their territory. Here one may invoke the notion of "subjective territoriality" (when crimes are commenced on a State's territory, but concluded in another) or "objective territoriality" (when crimes are completed on a State's territory being however initiated elsewhere). Since the 'conduct' requirement is, therefore, fulfilled if at least one element of the Article 5 crime is committed in the territory of a State Party, the ICC may exercise jurisdiction under Article 12(2)(a) either if the originating State is a State Party or if the receiving State is a State Party. In the present case, one of the constituent elements of the offence of deportation (i.e., the crossing of an international border under compulsion) has taken place in the territory of Bangladesh. It may thus be argued by relying on the "objective territorial principle" that the 'conduct in question' (i.e., deportation) occurred in Bangladesh and that the ICC may exercise jurisdiction over any crime of deportation from Myanmar into Bangladesh.

It should be borne in mind that Article 12(2)(a) of the Statute delegates the State Parties' sovereign powers to assert jurisdiction over Article 5 crimes to the ICC. As such, akin to a State's sovereign powers to assert jurisdiction over acts occurring in the territories of multiple States, the ICC too may exercise jurisdiction over offences which originated in one State but were completed in another State.

Furthermore, the law and practice of various States, including Bangladesh, show a willingness to exercise jurisdiction over crimes committed in only a part of their territory. For instance, section 5 of the *Prevention and Suppression of Human Trafficking Act, 2012* expressly recognises the extra-territorial application of the said Act. According to section 5(2), the offence of human trafficking is deemed to have been committed in Bangladesh if it commences outside the territory of Bangladesh and is completed inside the country. Thus, crimes which are committed only partly within Bangladesh are tried and punished as being committed within the territory of Bangladesh. Section 5(2) notably endorses both notions of territoriality i.e., subjective and objective.

Perhaps the most compelling argument for the exercise of jurisdiction by the ICC is that the Rohingyas were specifically and intentionally deported by the Myanmar authorities into the territory of Bangladesh. Bangladesh is, therefore, the territory as has been specifically targeted by the Myanmar authorities for commission of the cross-border crime of deportation. As such, Bangladesh as the receiving State and, by extension, the ICC have sufficient interest in the matter enabling the ICC to assert its criminal jurisdiction over



the crimes in question.

Once it is established that ICC has jurisdiction over the crimes of deportation, Bangladesh may, as a State Party to the Rome Statute, request the Office of the Prosecutor under Article 14 of the Statute to carry out an investigation into such crimes. There have been numerous examples of referral by State Parties in the past. In December 2003, Uganda referred to the Prosecutor the situation with regard to the Lord's Resistance Army. In 2004, the Congo and the Central African Republic referred to the Prosecutor the offences committed within their territories. In all three cases, investigations were commenced and arrest warrants duly issued against the alleged perpetrators.

(ii) Investigation by the Prosecutor

Secondly, even if the Bangladesh government does not make a request under Article 14, it is open for the Prosecutor to act on its initiative *proprio motu* (i.e., an official act taken without a formal request from another party) under Article 15 of the Statute to open an investigation into the matter. If the Prosecutor is satisfied that there is reliable information regarding crimes involving nationals of a State Party or crimes committed in the territory of a State Party, it may initiate an investigation into the matter after obtaining permission from the Pre-Trial Chamber. Thus, for instance, the ICC Pre-Trial Chamber granted the Prosecution authorisation to open an investigation in the situation in Kenya in 2010, culminating in the framing of charges against four individuals, including President Uhuru Kenyatta.¹¹

(iii) Reference by the UN Security Council

Thirdly, the ICC may exercise jurisdiction under Article 13(b) of the Statute if the UN Security Council (UNSC) acting under Chapter VII of the Charter of the United Nations (UN Charter) refers the commission of crimes to the Office of the Prosecutor. Such a referral is binding in nature and there is no necessity for the relevant State to be a party to the Statute. This happened with regard to the situation in Darfur, Sudan which was referred to the Prosecutor in 2005 by an UNSC resolution. After a preliminary examination, investigation was commenced and arrest warrants issued against high ranking civil and military officials.

It is worth noting however that in the UNSC proceedings political exigencies invariably take precedence over moral and legal considerations notwithstanding the provisions of Article 33 and 34 of the UN Charter. In the present instance, exercise of the power of veto on geo-political considerations is, therefore, likely to get in the way of a favourable UNSC resolution over the Rohingya crisis.

(iv) Acceptance of ICC's Jurisdiction

Finally, it is open for the ICC to exercise its jurisdiction if Myanmar lodges a declaration with the Registrar of the ICC and accepts the jurisdiction of the ICC under Article 12(3) of the Statute. However, it would be foolhardy presently to expect Myanmar to accept the jurisdiction of the ICC as events since April 2018 amply attest to.

Accordingly, as far as the Rohingya crisis is concerned, the most obvious route for exercise of jurisdiction by the ICC would be if (a) Bangladesh refers the matter to the Prosecutor for investigation, or (b) the Prosecutor *proprio motu* initiates an investigation into the matter.

At the heels of the Seminar of 4 June, 2018 where I had placed my views as above, reports came through on 8 June, 2018 that Bangladesh had indeed, as above noted, responded to the ICC request of 7 May, 2018 and sent information and observation to the ICC accordingly. At the time Bangladesh declared it mandatory for itself to respond to the ICC request. On 6 September, 2018 the concerned Pre-Trial Chamber decided by a majority that the ICC may indeed exercise jurisdiction over the alleged deportation of the Rohingyas from Myanmar to Bangladesh on the jurisdictional grounds that were discussed at length in the Seminar of 4 June, 2018. The focal ruling of the Pre-Trial Chamber has been that the Court has jurisdiction over the crime against humanity of deportation allegedly committed against the Rohingyas. The reason is that an element of this crime (the crossing of a border) took place on the territory of a State party to the Statute (Bangladesh). The Chamber further found that the ICC may also exercise its jurisdiction with regard to any other crime set out in Article 5 of the Statute, such as the crimes against humanity and/or other inhumane acts.

¹¹ Note that on Wednesday, 26 June, 2019 the ICC Prosecutor Fatou Bensouda indicated that she would be asking the ICC for permission to initiate a full-scale investigation into the crimes that had "at least one element" in Bangladesh. The ICC has consequentially formed a three – judges panel to hear the Prosecutor's request. See, "ICC prosecutor seeks full Myanmar atrocities investigation", Bangkok Post, 26 June, 2019 (online version).



Constitutional Compulsions

Before turning to the two other essential components of the Dhaka Declaration drawn from the R2P and CRRF, I deem it necessary to focus briefly here on why Bangladesh itself should invoke the ICC's jurisdiction in the matter at hand. I would argue upon an overwhelming constitutional obligation to do so. I deduce this from the following provisions of the Bangladesh Constitution read with those of the UN Charter. A checklist of these provisions is provided hereunder:

-Preamble to the Constitution

Affirming that it is our sacred duty to safeguard, protect and defend this Constitution and to maintain its supremacy as the embodiment of the will of the people of Bangladesh so that we may prosper in freedom and may make our full contribution towards international peace and co-operation in keeping with the progressive aspirations of mankind.

This preambular position is declaratory of an intent to strive for international peace. Such intent finds content in Articles 25 and 8(2) of the Constitution thus:

-Part II- Fundamental Principles of State Policy

Article 25: (Promotion of International Peace, Security and Solidarity)

The State shall base its international relations on the principles of ... peaceful settlement of international disputes, and respect for international law and the principles enunciated in the UN Charter, and on the basis of those principles shall-

...

(c) support oppressed peoples throughout the world waging a just struggle against imperialism, colonialism or racialism.

Article 8(2): The Principles set out in this Part shall be fundamental to the governance of Bangladesh...

The citation from Article 25 above necessarily directs attention to the following provisions of the UN Charter:

-UN Charter

Article 2(3): All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

Article 33(1): The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 33(2): The Security Council shall, when it deems necessary, call upon the parties to settle their disputes by such means.

It is noted further that Article 34 gives the UNSC power to "investigate any dispute, or any situation which might lead to international friction ... to determine whether its continuance ... is likely to endanger the maintenance of international peace and security."

Empowered by such constitutional dispensation and subscription to the principles of peaceful settlement of international disputes Bangladesh is now faced with the Rohingya crisis.

Embracing the 'Responsibility to Protect'(R2P)¹² and the CRRF Objectives: A Holistic Outlook.

At a minimum, there is agreement that R2P is an emerging international legal norm that recognizes an obligation on States concerned and the international community generally to protect potential victims from genocide, war crimes, ethnic cleansing and crimes against humanity through a broad spectrum of preventive, responsive and rehabilitative measures that are yet to be fully identified.

In 2001, the *International Commission on Intervention and State Sovereignty (ICISS)* set up under the authority of the Canadian Government and comprising of members of the UN General Assembly issued a report entitled '*The Responsibility to Protect*'. This report reignited the debate about humanitarian intervention. The report stressed that sovereignty imposed a responsibility on a State to protect those within its borders. It further argued that where a State fails to act to avert serious harm to those within its borders,

¹² See for example, Brian Barbour and Brian Gorlick "Embracing the 'Responsibility to Protect': A Repertoire of Measures Including Asylum for Potential Victims", *International Journal of Refugee Law*, Volume 20, Issue 4, December 2008, 533-566.



through either lack of capacity or will, the responsibility to protect shifts to the wider international community. Sovereignty is not to be confused with a license to violate individual human rights, and international intervention must focus on the protection of potential victims rather than the rights, obligations, or immunities of the sovereign State. Under the R2P narrative, quite reminiscent of the CPA, the legitimacy of sovereignty is dependent upon a State's responsibility to its people. Failing the due discharge of such responsibility, there is an irreparable damage done to the constitutional compact that binds a State to its citizens to the point of delegitimizing sovereignty. I opine that the R2P, quite like the CPA before it, is but a manifestation of the fact that adherence to *"the principles of international solidarity and burden sharing"* necessitates that some aspects of State sovereignty be relinquished to the extent that States are not left with the unilateral authority to make decisions.¹³ The R2P hints at the creation of an international legal regime on durable solutions in that sense. Indeed, international regimes may be seen as *"networks of rules, norms, and procedures that regularize behavior and control its effects"*¹⁴ or as *"principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area."*¹⁵ But, for me, regime analysis based on the idea of "interdependence" comes closest to identifying any sense of 'obligation' that States may have in forging a regime even if fundamental differences remain. Such interdependence, I argue, is essentially born out of moral compulsions.

International regimes, in reflecting the convergence of State interests in conducting international relations with a view to avoiding the costs of uncoordinated national action and of international anarchy,¹⁶ are patterned on international endorsement, at any given period, of the nature of the *"legitimate basis of sovereignty"* that invariably impacts upon international relations.¹⁷ This is because regimes necessarily constitute *"limited renunciations of sovereign national authority,"*¹⁸ in settings of global pre-eminence enjoyed either by statist or nationalist principles of sovereignty.¹⁹ Each setting denotes global interactions on the ideological, political, and economic plane where either, given the elements of "national commitment, cultural community, and hegemony," regimes of unusual strength are created,²⁰ or alternatively, given interactions between States with divergent political and economic cultures, an innovative approach is required in forging the acceptable ideological common ground in establishing a regime.

An overriding sense of moral interdependence permeates international responses to human rights abuses either during periods when the statist principle of sovereignty has ensured non-interference in the domestic affairs of the State and encouraged the rise of "internal imperialism," or when emphasis on national sovereignty has manifested in *"ethnic imperialism."*²¹ Jack Donnelly sees the emergence of the post-World War II international human rights regime as a moral condemnation of the abuses associated with that war and finds in the numerous exercises since in the *"legal elaboration of substantive norms"* in different issue areas a continued *"moral 'demand'"* for human rights regulation.²² Accordingly, in every condemnation of human rights abuses in the existing international setting, Donnelly finds *"an implicit, submerged, or deflected expression of a sense of moral interdependence."*²³ I subscribe wholly to that view.

It is predicated on the above explained notion of interdependence that one sees in the ICISS report a recognition of three specific responsibilities embraced by the R2P: the responsibility to prevent, the responsibility to react, and the responsibility to rebuild according primary importance, however, to the responsibility to prevent.

¹³ See, Syed Refaat Ahmed, "Forlorn Migrants", 5; 231-232).

¹⁴ Jack Donnelly, "International Human Rights: A Regime Analysis," International Organization 40, 3 (Summer 1986): 600. Definition of an international regime as found in Robert O. Keohane and Joseph S. Nye, Power and Interdependence: World Politics in Transition (Boston: Little, Brown, 1977), 19.

¹⁵ Ibid., 599-600. Quoting Stephen D. Krasner, "Structural Causes and Regime Consequences: Regimes as Intervening Variables," International Organization 36 (Spring 1982): 185.

¹⁶ Ibid., 601-602.

¹⁷ J. Samuel Barkin and Bruce Cronin, "The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations," International Organization 48, 1 (Winter 1994): 129-130.

¹⁸ Donnelly, 602.

¹⁹ Barkin and Cronin, 108. In arguing that sovereignty should be viewed as a variable as opposed to a constant, Barkin and Cronin chart "a historical tension" between mutually exclusive conditions of "state sovereignty, which stresses the link between sovereign authority and a defined territory, and national sovereignty, which emphasizes a link between sovereign authority and a defined population." Barkin and Cronin argue further that the transition from one condition to another is caused by "major systemic crises, such as world wars or widespread political upheavals" when the previous emphasis on a legitimizing principle of sovereignty is blamed for a crisis and a new order is established on the basis of the alternate notion of sovereignty.

²⁰ Donnelly, 636. Donnelly has reference here to the European and Inter-American human rights regimes.

²¹ Ibid., 615-619. Quotes from Barkin and Cronin, 127 and 128.

²² Donnelly, 615.

²³ Ibid., 617.



The R2P listed crimes are well-established and recognized internationally as peremptory norms of jus cogens from which no derogation can be permitted. With the exception of 'ethnic cleansing', which is not defined in international law,²⁴ all crimes referred to in the R2P documents are codified in various conventions and statutes in international law. Elaboration of a legal framework for these crimes, through ratification and implementation of international instruments such as the Convention on the Prevention and Punishment of the Crime of Genocide and the Rome Statute are critical steps towards fulfilment of the R2P. It suffices to emphasize here the International Court of Justice's (ICJ) position that the Genocide Convention embodies not only principles of international obligations from which no derogation is to be permitted (jus cogens) but which importantly make it imperative for any State to actively take measures to deter genocide.

The pathways identified above for assigning criminal responsibility through the ICC and its Statute only reinforce the view that the R2P mechanism should draw upon existing strengths and abilities of the UN system and its partners. That is indeed the current challenge for UN entities, States and other interested parties who are concerned with eventually operationalising the R2P.

However, I feel that a measure largely overlooked in the R2P discussion is access to asylum and refugee protection. Such discussion is necessary to bring the issue of protection and durable solutions from the narrative solely of refugee protection to the wider domain of protection as a State responsibility. Addressing that lacuna, I put forward here the three doctrinal limbs of determining and justifying the grounds of protection and durable solutions:

- (i) Providing international support to the Rohingya asylum seekers primarily grounded on obligations under international law including the right to seek and enjoy asylum, principle of 'non-refoulement', freedom from torture or cruel, inhuman or degrading treatment, and the right to return in safety and dignity which collectively inform the current narrative, policies, and practices on protection and durable solutions;
- (ii) Harnessing such support by better engaging the obligations of the international community highlighted under the R2P concept; and



Mr. Justice Syed Refaat Ahmed, Honourable Judge of the High Court Division delivering his speech on Rohingya Asylum Dilemma: Setting Sights Beyond Protection.

²⁴ Though it is arguably encompassed within the definition of 'crimes against humanity' in Article 7 of the Rome Statute.



(iii) Drawing on the CRRF set of objectives to enhance the protection of asylum seekers with a view to equitable distribution of responsibilities within the international community aimed specifically at durable solutions.

The ingenuity and inventiveness that I spoke of earlier, and as were the forces behind the CPA's successful implementation, particularly underscore the third limb's innovative application in the search for sustainable solutions to the Rohingyas' plight. Of particular relevance to the current situation, the New York Declaration sets out the elements of the CRRF to be applied to large-scale movements of refugees and protracted refugee situations. The key objectives of the CRRF are to ease pressures on host countries, enhance refugee self-reliance, expand third-country solutions and support conditions in countries of origin for return in safety and dignity.

The CRRF, accordingly, underlines the centrality of international cooperation to the refugee protection regime. It recognizes the burden that large-scale movements place on national resources, especially in developing countries, and the need for a global commitment to a more equitable sharing of the burden and responsibility for hosting and supporting the world's refugees.

Notably further, the CRRF is to be developed by the UNHCR in close coordination with relevant States, including host countries, and involving other UN entities. This should involve a multi-stakeholder approach that includes national and local authorities, international organizations, international financial institutions, civil society partners, private sector, the media and the displaced asylum seekers and refugees themselves.

It is here, in ways also reminiscent of the CPA, that the CRRF emphasizes durable solutions by encouraging States that have not yet established resettlement programmes to do so at the earliest or consider increasing the size of existing programmes with a view to meeting resettlement needs identified by UNHCR.

The principles set out in the CPA, R2P and CRRF, therefore, gravitate towards a burden-sharing regime at durable solutions which must be embarked upon at the earliest to meet the Rohingya asylum dilemma. The geopolitical realities of the day dictate that regional initiatives will initially be crucial to that end drawing in both the ASEAN and key strategic partners like China and India. I have flagged above the moral compulsion and the legal sanction for such a regime. Political will harnessed and honed by diplomatic ingenuity is now key for such regime at durable solutions to see the light of day. History attests to the fact that such an attainment is not an impossibility. Bangladesh's national security demands that it becomes a reality.



Environmental and Climate Change Adjudication*

Justice Moyeenul Islam Chowdhury



The telltale signs and impacts of climate change⁸ such as sea level rise and extreme weather- increased during 2015-2019, which is set to be the warmest five-year period on record, according to the World Meteorological Organization (WMO).

Greenhouse gas concentrations in the atmosphere have also increased to record levels, locking in the warming trend for generations to come, said the WMO on 23rd September, 2019.

The WMO report on The Global Climate in 2015-2019, released to inform the United Nations Secretary-General's Climate Action Summit, says the global average temperature has increased by 1.1 degree centigrade since the pre-industrial period, and by 0.2 degree centigrade compared to 2011-2015.

The climate statement-which covers until July 2019- was released as part of a high-level synthesis report from leading scientific institution 'United in Science' under the umbrella of the Science Advisory Group of the UN Climate Summit, 2019.

The report provides a unified assessment of the state of earth, under the increasing influence of climate change, the response of the humanity thus far, and projected changes in global climate in the future.

An accompanying WMO report on greenhouse gas concentrations shows that 2015-2019 has seen a continued increase in carbon dioxide (CO₂) levels and other key greenhouse gases in the atmosphere to new records, with CO₂ growth rates nearly 20% higher than the previous five years.

CO₂ remains in the atmosphere for centuries and in the ocean for ever longer. Preliminary data from a subset of greenhouse gas observational sites for 2019 indicate that CO₂ global concentrations are on track to reach, or even exceed 410ppm by the end of 2019.

"Climate change causes and impacts are increasing rather than slowing down," said WMO Secretary-General Petteri Taalas, who is the co-chair of the Science Advisory Group of the UN Climate Summit. This is undoubtedly a disquieting comment.

Anyway, Bangladesh is one of the worst affected countries in the world by climate change effects. But as an agro-based developing country, Bangladesh has no or very little role in the emission of greenhouse gas causing global warming. Bangladesh being a delta and located between the Bay of Bengal on the south with off and on depressions and the Himalayan mountain ranges on the north with melting glaciers, the susceptibility of the country to natural disasters is quite high. The country is rated as the most climate vulnerable one, since one metre rise of the sea level will inundate one third of Bangladesh, resulting in mass migration with cumulative pressure on limited resources.

Burning coal, oil, and gas produce the vast majority of human-caused greenhouse gas emissions, resulting in the global climate emergency that endangers human rights in every region of the planet. A safe climate is a vital element of the right to a healthy environment and is absolutely essential to human life and wellbeing.

Twenty-seven years after all the States committed to tackling the challenge of climate change through the United Nations Framework Convention on Climate Change, the share of the world's energy provided by fossil fuels remains unchanged at 81%. Climate change is already causing increased frequency, intensity and duration of extreme weather events, melting of glaciers and ice sheets, rising sea levels, storm surges, saltwater intrusions, ocean acidification, changes in precipitations, floodings, heatwaves, droughts, wildfires, increased air pollutions, desertifications, water shortages, destruction of ecosystems, biodiversity

*Abridged text of the Speech deliver by the author in the Asia-Pacific Conference at Nadi, Fiji on 7 October 2019



losses and spread of water-borne and vector-borne diseases. Among the human rights being threatened and violated by climate change are the rights to life, health, food, water and sanitation, a healthy environment, an adequate standard of living, housing, property, self-determination, development and culture. Empowerment and protection of vulnerable population of the globe requires mobilization of a prodigious amount of money in annual adaptation funding in assisting low-income countries, and establishing a new fund to support small island developing States and least developed countries in addressing losses and destructions caused by climate change. Wealthy countries and other large emitters must step up these efforts and provide a lion's share of the requisite financing to that end.

Environment is viewed as a resource bedrock for the survival of the present and future generations. Environmental protection is an increasingly pressing issue all over the world. Ozone depletion, greenhouse effect, global climate change or global warming, etc. are the main issues of environment. In recent years, many countries and various organizations have paid more attention to environmental conservation. It is unrealistic to expect individual nations to make, independently, the sacrifices necessary for prevention of environmental degradation. A holistic, co-ordinated and integrated approach under international leadership is an imperative necessity if we are really bent upon conserving the world environment for our posterity.

Environmental protection is described as a possible means of fulfilling human rights standards. Environmental law is conceptualized as affording a protection that will help ensure the wellbeing of future generations as well as survival of those who depend immediately upon natural resources for their livelihood. Since the Stockholm Conference in 1972, international environmental law has developed to such extent that even the domestic environment of states has been internationalized. Environmental law has, in many parts of the globe, either at the international or at domestic level, suffered from the problem of standing. Because of this barrier, it is often difficult for individuals or groups to challenge infringements of environmental law, treaties or directives, as the case may be. After twenty years of the Stockholm Declaration, the UN General Assembly Resolution No. 45/94 recalled the language of Stockholm, stating that all individuals are entitled to live in an environment conducive to their health and wellbeing.

To the outside world, Bangladesh is a country of natural hazards. This impression is partially correct. Among different types of hazards, cyclones, floods, river bank erosions, droughts and salinity are common. These pose a serious threat to both the people and the land of this country. The shifting of course of major rivers in Bangladesh has long been a dominant environmental problem to many rural people. Erosion by river is mainly hydrologic and when it is associated with widespread flood, the impact becomes devastating and enormous. Flood occurs mainly due to two reasons- (i) siltation in the river beds reducing the water-carrying capacity and (ii) unexpected heavy and untimely rainfall in the river basin where water flow increases suddenly. When the river cannot bear excess water, its two sides as well as other extensive areas get inundated.

Bangladesh, given its size, has diverse wilderness in its unique landscape. But due to global warming and other environmental disorders, if the sea-level goes 1(one) metre high, then about 16% of the land in Bangladesh will go under water and 14% of the cultivable land & 28% of the forest will be destroyed. On survey, our experts have found that for such rise of water-level, about 10 million people of our country will be doomed to uncertainty. Our environment experts have identified other threats, namely, *excessive population density, land degradation, frequent coastal floods and saline intrusions, excessive use of chemical fertilizers and pesticides to boost production, grabbing of wetlands & forests, filling up of rivers & natural water-reservoirs etc. by the Land Developers* which have been deteriorating the environmental condition and thereby causing an ecological imbalance in Bangladesh.

Against this backdrop, Bangladesh direly needs an integrated approach to develop public awareness and execute the environmental laws through the Judiciary and other instrumentalities of the State. We feel that a strong political commitment of the Government and a sensitized Judiciary can play vital roles in ensuring environmental justice and facing the challenges of the climate change. In Bangladesh, there is a separate Ministry of Environment and Forest with exclusive administrative authority to take appropriate measures for conservation of environment combating the challenges of climate change. There are other agencies of the



Government which are assigned with the responsibility of performing specific duties in specialized areas of the environment.

The Judiciary of Bangladesh in general and the Supreme Court of Bangladesh in particular have been playing proactive roles in combating the activities of various persons or authorities which are detrimental to biodiversity and conservation of environment. We have already established some Environmental Courts having their civil and criminal jurisdictions. In this regard, the Supreme Court of Bangladesh is the protagonist in curbing offences against protection and conservation of the environmental elements. In order to successfully confront the twenty-first century environmental challenges that include managing the current and mitigating the future impacts of climate change; conserving natural resources and biodiversity and preventing pollution, and to ensure environmental justice, it is incumbent upon the State to develop, implement and enforce environmental laws and upon the Judiciary to see that all parties concerned follow the laws and no one transgresses the same. Besides, when the Executive is found inactive in protecting environment, then the Judiciary is constitutionally duty bound to take up the lead in responding to public interest litigations to conserve environment. Public Interest Litigations (PILs) have recently changed the conventional role of the Judiciary in Bangladesh.

To protect environment from degradation by anthropogenic activities or through natural processes, we have enacted a good number of legislations. Article 18A of the Constitution of the People's Republic of Bangladesh, the supreme law of the land, provides that the State shall endeavour to protect and improve the environment and to preserve and safeguard the natural resources, biodiversity, wetlands, forests and wildlife for the present and future citizens. The most significant roles are being played by the Environment Conservation Act, 1995, the Environment Conservation Rules, 1997, the Environment Courts Act, 2010 and the National River Conservation Commission Act, 2013. Apart from those laws, Bangladesh has made an environmental policy and many sectoral policies, which provide effective guidelines to promote and protect environment and to keep it free from all kinds of pollutions.

The Supreme Court of Bangladesh exercising its writ jurisdiction in the public interest litigations has been interfering with the projects initiated by the Government body or other agencies having adverse environmental effects on the life, property, livelihood and environmental security of the community people. In the case of *Dr. Mohiuddin Faruque...Vs...Bangladesh*, 49 DLR (AD) 1, in compliance with the Supreme Court's directives, the Government and the donors had to recast the flood-protection project taking the environmental impact assessment plan into consideration, which was prepared consulting the local people of the project area.

In the Public Interest Litigation cases on environmental protection, the Supreme Court of Bangladesh has handed down its decisions both in directive and injunctive forms and thereby granted reliefs against environmental pollution, river encroachments, unlawful filling up of flood flow zones, violation of building construction laws, pollutions resulting from brick kilns, destructions of hills, environmental hazards of shrimp cultivations, gas explosions without any environmental impact assessments and hazardous wastes. In some cases through its judicial activism, it has given injunctive orders for protection of wildlife and biodiversity.

In compliance with a directive given by the Supreme Court of Bangladesh in the case of *Human Rights and Peace for Bangladesh...Vs...Government of Bangladesh*, 17BLT (HCD) 455, the National River Conservation Commission Act, 2013 was enacted for establishing a commission for protecting the dying rivers of the country. The objectives of this Act are to ensure that rivers are free from illegal occupation; their water is free from pollution of whatsoever element including industrial waste and to ensure their natural and unimpeded course all the year round so that they can be used as navigable channels for waterway communication. In this Act, the commission has been empowered, amongst others, to make recommendations to the Government to take steps to decontaminate rivers and make them free from pollution, to conduct dredging in non-navigable rivers, to evict illegal occupations from river beds or foreshores and to take measures to increase public awareness to protect them. By dint of this law, the commission has been continuing its efforts to save rivers from their unnatural death. Using legal tools of innovative and creative interpretation of the relevant constitutional provisions, the Supreme Court, on



umpteenth occasions, has come up with probable solutions to ensure environmental justice and thereby widened the horizon of rights and liberties of the justice-seekers.

In the case of *Bangladesh Environmental Lawyers' Association (BELA) Vs. Government of Bangladesh* (Writ Petition No. 7260 of 2008), the Supreme Court issued some directives upon different departments of the Government with regard to ship-breaking yards operating without prior clearance certificates. The Court, inter alia, directed the Ministry of Environment and the Department of Environment to take immediate steps to ensure closure of all ship-breaking yards which are operating without necessary environmental clearance certificates as required by law and also directed the Ministry of Environment to frame rules and regulations for proper handling and management of hazardous materials and wastes, keeping in view the Environment Conservation Act, 1995, the Environment Conservation Rules, 1997, the Basel Convention, 1989, the Labour Act, 2006 and so on and so forth.

In the case of *Bangladesh Vs. Mohammed Nurun Nabi Bhuiyan* (Civil Petition Nos. 1457 and 1458 of 2009), the Appellate Division issued some groundbreaking orders on 6th October, 2013 to remove all unauthorized constructions from the disputed land as mentioned in the aforesaid writ petitions within 2(two) months from the date of receipt of the order and to submit a report of compliance. It also directed the petitioner to make afforestation therein afresh; to realize the costs of demolition and the costs of afforestation from the writ petitioners and the other persons who are connected with the ship-breaking business in the disputed land through the process of law. It further directed the authority not to lease out the notified area of the reserve forest to any person or company or organization for any purpose. In this perspective, all unauthorized constructions including some constructions made for the purpose of installation of a ship-breaking equipment in the disputed land were dismantled and removed and possession of all Coastal Forest Lands was recovered and trees were planted on a portion thereof and accordingly the Appellate Division disposed of the Leave Petitions on 8th July, 2014. As per the direction of the Appellate Division, the Ministry of Environment framed rules captioned 'Dangerous and Hazardous Wastage and Ship-Breaking Managing Rules, 2011' and the 'Ship-Breaking and Recycling Rules, 2011'. Consequently the deforestation was halted and the afforestation has been going on in full swing. Now-a-days casualties at ship-breaking yards are seldom reported and the workers are performing their duties in a safe condition.

In the case of *the City Sugar Industries Ltd., 62 DLR (AD) 428*, the Appellate Division of the Supreme Court upheld the direction given by the High Court Division to the concerned authority for removing all structures/encroachments within the original areas of some rivers, namely, the Buriganga, the Turag, the Sitalakhya, etc. In that judgment, it was held that though the petitioner-company had a license to construct a jetty in the river Shitalakhya, yet that cannot be done in sheer contravention of the Act No. XXXVI of 2000, popularly known as "Jaladhar Songrokkhon Ain, 2000" (i.e. Natural Water Reservoir Conservation Act, 2000). It is encouraging to note that in July, 2014, the apex Court of Bangladesh in disposing of a review petition endorsed the view that all the rivers in and around the Dhaka Metropolitan City shall be kept free from all kinds of encroachments.

In spite of legal prohibitions, the Metro Makers and Developers Limited (MMDL), a private company, undertook a development project and started earth-filling in the project area which was earmarked as Sub-Flood Flow Zone (SFFZ). In such a situation, the Bangladesh Environmental Lawyers' Association (BELA), which is an organization of the environmental activist-lawyers, made a survey visiting the project area and felt the necessity of stopping such illegal works against environmental protection. The said group of lawyers (BELA) ultimately brought the matter before the Supreme Court for adjudication. Giving its decision reported in 65 DLR (AD) 181, the Appellate Division held that the right to life as guaranteed by the Constitution includes the right to protection and improvement of the environment and ecology and, therefore, the said project of Metro Makers and Developers Limited was declared unlawful. The Court further directed the Metro Makers to restore the wetland of that area to its original state.

Some indigenous people have long believed that rivers, mountains and lakes are, in some sense, living beings. In 1972, an American, that is to say, Christopher Stone expressed the idea in modern-day legal terms.



Stone wrote a book called *Should Trees Have Standing?* In it, he argued that the best way to protect things in nature would be to give them the kinds of legal protections usually only offered to human beings.

That idea is spreading. Campaigners won what is called the first “rights of nature” courtroom victory in Ecuador in 2011. In that case, Judges stopped a road-widening project from leaving stones in the Vilcabamba River.

Around the same time, Bolivia developed a vision of nature’s rights in a law known as “The Law of the Rights of Mother Earth.”

In 2017, New Zealand’s Parliament became the first Legislature to confirm a river’s legal personhood. That same year, a High Court in India ruled that the Ganga and the Jamuna rivers have legal rights.

Colombia’s Constitutional Court made a similar move for the Atrato River basin, where communities face illegal gold mining and paramilitary violence.

Supporters see such rulings as an important part in moving away from the goal of economic growth while ignoring ecological harm.

“The current system is programmed for self-destruction, and the legal system is the enabler,” said a lawyer named Mumta Ito. She founded “Nature’s Rights,” a Scotland-based advocacy group that has been advising Frome’s town council.

Ito added, “The only way we’ll be able to change things is by creating a new operating system with nature’s rights at its core.”

The world’s waterways face growing pressure from the extremes of heat, rainfall and dry weather, all driven by climate change. Peter Macfadyen, an environmentalist and community leader, argues any effort that helps people to look at nature differently is important.

“We’re in the situation; we’re in because we’ve misunderstood our position in the ecosystem,” he said. “We can’t do what we like. If we pour poison over everything, it comes back to bite us.”

In a recent decision dated 03.02.2019 rendered by the High Court Division of the Supreme Court of Bangladesh in Writ Petition No. 13989 of 2016, a PIL, (*Human Rights and Peace for Bangladesh (HRPB)* represented by its Secretary, Advocate Asaduzzaman Siddique, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh...Vs...Bangladesh represented by the Secretary, Ministry of Shipping, Building # 06 (8th floor), Bangladesh Secretariat, Dhaka-1000 and others), the High Court Division has expressed itself in the following manner: (a) In pursuance of the doctrine of public trust, the Court declares that the State shall perform the responsibilities of a trustee in respect of all the rivers, sea, mountains, forests, lakes, ponds and other receptacles of water within the territory of the State; (b) In pursuance of its ‘parens patriae’ jurisdiction, the Court has accorded ‘living entity’ status to the Turag river and asked the concerned authorities to remove all the structures from its banks in next thirty days. The Court has also accorded this status to all the rivers of the country; (c) The National River Conservation Commission is declared by the Court as the legal guardian of all the rivers and other water-bodies of the country; and (d) From now on, the National River Conservation Commission will take necessary measures to protect all the rivers and other water-bodies of the country. This watershed decision undoubtedly marks a new era in the ever-evolving jurisprudence of judicial review in Bangladesh.

In Dhaka, Hazaribagh was home to 90% to 95% of all tanneries in Bangladesh and, as a result, held an important place in Bangladesh’s increasingly lucrative leather industry. Considering the devastating effects of tanneries on environment, the apex Court of Bangladesh issued various directions to shift those tanneries within the time fixed by the Court. As the tanneries were not shifted within the stipulated time, the Court directed 154 tannery owners at Hazaribagh, Dhaka to pay to the Government a sum of Tk. 10,000/- per day as fine. Because of this proactive approach of the Supreme Court of Bangladesh, the tanneries of Hazaribagh were eventually shifted to a far-off place outside the Dhaka Metropolitan City with the assurance that all environmental hazard-fighting devices would be in place there.

In the recent past, the Supreme Court of Bangladesh, on many occasions, has given directives and guidelines to the Government to demarcate the rivers as per their original borderlines and to restore free

*Speech delivered in Think Legal Lecture Series



flow of water restraining the illegal attempts of their encroachments and to save them from being perished. Many housing companies and land developers found engaged in changing the nature and features of wetlands and rivers have already been stopped because of the proactive role of the Judiciary in Bangladesh. But, nevertheless, we have a long way to go and take a firm stand to build up public awareness and legislate more stringent laws to cope with the needs of the changing society, otherwise it will be difficult for us to protect the bountiful treasures of nature and ensure environmental security without which the lives of our posterity will be at stake.

It cannot be gainsaid that illiteracy, poverty and lack of effective enforcement of various relevant laws are, amongst others, great challenges to the protection of environment. However, it is heartening to note that the Government of Bangladesh and the Environmental NGOs are playing pioneering roles in bringing the environmental issues to Courts and successfully fighting against the perpetrators causing threats or damages to the environmental elements. The success rates of environmental cases in the Supreme Court of Bangladesh as well as in the Environmental Courts are encouragingly high. In most of the environmental cases, the respondents are very strong and influential persons of the society and despite this scenario, the Bangladesh Judiciary is committed to dispose of the environmental cases by delivering even-handed decisions without any fear or favour. Albeit meanwhile Bangladesh has made a tangible progress in the area of environmental justice, yet we should not be complacent therewith; rather we will have to continue our all-out efforts in achieving excellence in this regard. To that end, we require all modern technical and logistic support and co-operation from our regional and global partners.

Before I wrap up, I express my sincere thanks and heartfelt gratitude to the organizers of this august conference for inviting me here. I hope, the scholarly deliberations on environmental and climate issues made by the experts and jurists of this region will impel us to be more committed to the burning issues of environmental hazards and provide us a comprehensive guideline to face the climate challenges more effectively.

I wish this conference a resounding success.

Thank you all for listening to me with patience.



Dealing with Past, Confronting Genocide through Peace Education and Justice*

Justice Obaidul Hassan



Dear distinguished scholars, experts, guests and participants, a very good morning. I extend my thanks and gratitude to the liberation war museum for inviting me as a guest of honour to give certificate to the participants. Actually I agreed to attend this event to learn and to share my views. I am honoured indeed to have this august opportunity.

It is now settled history that during the nine-month war of liberation of Bangladesh horrific annihilation of rights and property of civilians and brutal killing of civilian population systematically occurred as the regular facet of attack of the Pakistani occupation army and their local collaborators. But the perpetrators enjoyed the impunity for decades together.

Culture of impunity makes a nation ashamed and severely hurt. It infringes civilians' universally recognised right to justice. Bengali nation had to shed a huge amount of blood in achieving its long cherished independence on 16

December 1971.

In 1973, the parliament of Bangladesh enacted a legislation known as International Crimes (Tribunals) Act 1973 intending to prosecute, try and punish the perpetrators including the members of Pakistani armed force responsible for the criminal acts constituting the offences as crimes against humanity and genocide as enumerated in the Act of 1973.

But due to military regime, after brutal assassination of the father of the Nation Bangabandhu Sheikh Mujibur Rahman on 15 August 1975 the Act of 1973 remained dormant for decades. The nation felt pained and helpless. It could not raise its voice due to nature of state power existing at that time. The world's leaders too remained silent. Eventually, in 2010 Government formed Tribunal under the Act 1973 to fulfill nation's demand of justice. And I myself had opportunity of working as Chairman of Tribunal-2 for more than three years. In dealing with the universal offences before the Tribunal I experienced the traumatic past, the truth which must be instilled in preventing such atrocities and genocide.

Global experience says that genocide always happens in organized way. It entails a policy and plan, which in turn requires potential and culpable leadership to execute common purpose of causing indiscriminate death of civilians.

What we see in respect of the genocide and mass atrocities committed in 1971 in the territory of Bangladesh? Three Million non-combatant civilians were annihilated by the Pakistani occupation army with the active and culpable assistance and facilitation of their local collaborators belonging to *para militia* forces, during the nine-month war of liberation. Hundreds of thousands of women sacrificed their supreme honour. Ten millions of civilians were forced to emigrate and seek asylum/sanctuary in neighbouring India. All those atrocious activities were conducted in furtherance of policy and plan. The ongoing justice process stands on this settled horrific past, the history.

For ensuring social peace in the days to come the new generation must know the extent of atrocities and genocide committed in 1971. They must prepare themselves to secure social peace by combating the grave wrong doings and genocidal acts, through learning and knowing the history. They also should know why despite enactment of International Crimes (Tribunals) Act 1973 in our sovereign parliament the prosecution of grave crimes could not be initiated and why the nation had to experience the culture of impunity for decades, till constitution of judicial forum under the Act.

Perpetrators of atrocities and genocide must be held accountable through the process of justice. The trial

*Abridged text of the lecture delivered by the author at the Liberation War Museum on 24 December 2019



of monstrous and barbaric crimes like 'genocide' as enumerated in the Act of 1973 even long more than four decades after those occurred in the territory of Bangladesh in 1971 not only ensures lawful space of coming out from the culture of impunity but also creates a sphere of knowing the truth – the truth that horrific 'genocide' was committed by the Pakistani occupation army and their notorious local collaborators, during the nine-month war of liberation.

I opt to emphatically express my view that the brutal truth unveiled through the process of trial held in our Tribunal contributes in generating a "youthquake" and for the future generations to go ahead with the spirit of the war of liberation through knowing in exchange of what extent of sacrifice the nation achieved its independent motherland—Bangladesh. At the same time the international organizations and states shall have patent idea about this truth which shall ensure their coming forward to raise their voice in preventing genocide and prohibited criminal acts, violating international humanitarian law and also to prosecute the perpetrators by establishing national juridical forum.

Future prevention may be ensured by being mindful of the past i.e. what extent of atrocities happened in 1971 in Bangladesh. We must say that the role the foreign media played in 1971 in focusing on the horrendous systematic violations of human rights cannot be ignored. A series of reports published in the foreign news papers portraying the mass atrocities and genocide conducted in 1971 in the territory of Bangladesh have been taken into consideration in determining accountability of the accused persons, before the Tribunal. Knowledge and education on this matter too must make the next generation well acquainted about the global media's attention to genocide committed in Bangladesh.

It goes without saying that allowing impunity and exoneration shall encourage the future commission of mass atrocities and genocide. Although mere prosecution and trial shall not alone prevent commission of such crimes, true. But I do believe that effective prosecution, trial and punishment of the perpetrators shall impact significantly in preventing genocide and crimes involving mass atrocities.

The respective States thus by forming national judicial forum shall have to initiate prosecution, trial and punishment of the offenders, even long after the events happened. Thus, ways of coming out from the culture of impunity is to be essentially addressed. Respective States do have responsibilities and obligations in this regard. Since last ten years trials of offences of genocide and crimes against humanity are going on in Bangladesh by forming Tribunal under the Act of 1973.

In the decades since the Holocaust, in places of the world, including Myanmar, international actors have failed to generate an effectual and collective reaction to mass atrocities. The reasons of such failure are various. The key reason why the genocide and mass atrocities are being still committed in many parts of the world is the absence of effective development of global consensus, will which may play the role of predicting and preventing it. The other reason is inaction on the part of world's leaders and absence of political will to bring it to a halt.

But global institutions must respond effectively to the threat of genocide and mass atrocities in the absence of political will on part of the respective state. Institutions must show their dexterous, reactive and effective role to prevent those horrendous crimes directed against defenceless civilians.

Effective national and international campaign may reduce the apprehension existing in states intending to bring an end to the threat and incidences of genocide. At the same time strong political will is to be created to prevent genocide and mass atrocities.

Effective and prompt prosecution, trial, and punishment of those who are responsible for committing the horrific offence of genocide by forming even domestic or national courts with universal jurisdiction is now essentially needed. International community must show rapid response to it particularly where the act of genocide is threatened or has begun.

The world agrees that genocide is deplorable and yet genocide and mass killings continue. We do have an obligation to find the answer why grave denial of human rights happens before the promise of 'never again' is again and again betrayed. Despite the Convention outlawing genocide, there has been a lack of political will to both prevent and prosecute the perpetrators of genocide. Such lacking thus leads to a failure to protect vulnerable populations from genocide.



In 2005, world leaders unanimously affirmed the “Responsibility to Protect” (R2P), a set of principles designed to protect civilians from genocide, war crimes, ethnic cleansing and crimes against humanity. There should be an effective and collective international intervention, invoking the norms contemplated in the R2P. Proactive and multi-layered policy is needed to combat these human rights violation. It may substantially contribute to prevent genocide.

We know that R2P is a creative and pioneering formulation of the theory of 'humanitarian intervention' which patently refers to the obligation of states towards their populations and towards all populations at risk of genocide and other mass atrocities.

Collective global rapid response may serve the responsibility to resist mass atrocities and genocide. Genocide succeeds when state sovereignty blocks international responsibility to protect civilian population irrespective of ethnicity, race or religion. Classification of dividing society by ethnicity, race or religion should be stopped. Peace and only peace can ensure human rights and social stability. Institutions should raise voice against the act of dehumanization by hate propaganda intending to malign the target group.

We should not forget the past, the truth. We need to go ahead keeping the brutal truth with us which will make us and the global community as well able to leave robust contribution in preventing genocide and attack on civility and mankind and in ensuring sustainable social peace, in the days to come. Finally, let us hope and pray for a peaceful world and peaceful existence of humanity. With this I conclude and extend heartfelt thanks to you all.



Bangladesh Liberation War, 1971: It's Legitimacy under the International Law and the Birth of a Nation.

Justice Md. Rezaul Hasan (M.R. Hasan)



Prologue:

The Awami League (AL), had won majority seats in the then National and in the Provincial Assembly of East Pakistan, in the general election held between December 7, 1970-January 17, 1971.

It was thus a lawfully acquired right of the AL to form the Government in Pakistan and to frame a Constitution for it. But, the then Pakistan regime had resorted to dillydally, on several lame excuses, instead of handing over power to the party (AL), in spite of its wining landslide victory in the general election.

In this situation, Bangabandhu Sheikh Mujibur Rahman (who then had the support of the majority of the elected members in the Assembly) delivered the historical speech of 7th March, 1971, in which he had, in the background referred to in that speech, called upon the then Pakistani regime to withdraw

martial law, to take back the army personnel to the barracks, to enquire into the matter of mass killings took place in the then East Pakistan and to hand over the powers to the people's representatives. He also gave a lot of directions and imposed a lot of bans, addressing the people of all walks of life.

Through these directives, given in his speech of 7th March, 1971, Bangabandhu, indeed, established a *de facto* Government in Pakistan, and, unquestionably, in the then East Pakistan. Bangabandhu has thus appeared as, acquired and has elevated himself to the glorious status of the father of this Nation, as recognized in the 1972 Constitution of the People's Republic of Bangladesh.

Bangabandhu, as befitting of his inborn farsightedness and leadership quality, declared independence of Bangladesh, immediately after the armed aggression (in or after the mid-night of 25th March, 1971), in exercise of the *people's* right to self-determination. This declaration of independence has been referred to in the Proclamation of Independence of 10th April, 1971, whereby the Provisional Government of Bangladesh (popularly known as Mujibnagar Sarker) was formed, to run the affairs of the newly born Bangladesh state, then engaged in her liberation war.

In the background mentioned above and as noted hereinafter, this paper attempts to describe as to how and why the liberation war of 1971 and the independence declared and by the people of Bangladesh, in exercise of their right to self-determination, is legitimate in the eye of international law, as has been unquestionably and unhesitatingly recognized by the international community.

A DIRECT ANSWER:

An unambiguous and direct answer to these questions are to be found in Article-2 of Chapter-1 of the UN Charter, adopted on 26th June, 1945, in San Francisco, California. Quoted below is the relevant portion of Chapter 1, Article 2 of the UN Charter, that lays down the principles and purpose of the United Nation, reads as follows:

"2. To develop friendly relations among nations *based on respect for the principle of equal right and self determination of peoples*". (emphasis added).

Therefore, in the first instance, legitimacy of the independence, that has been declared by the people of Bangladesh in March 26, 1971, and acquired in 1971, in exercise of their right to self-determination, is supported by the above quoted provisions of the UN Charter, i.e. the international law.

Here, it has also to be made clear that, Article 2 of Chapter-1, does not by itself, supports a case of 'secession' or demand for independence. Rather, the international law and customs support maintaining the integrity and sovereignty of a state. It is also to be noted here that, these issues usually arise only in a federal system of Government where a particular people occupies a province or similar territory, having their distinct religious, linguistic or ethnic identity.

CONTEXT IN WHICH THE PEOPLE OF BANGLADESH HAD TO EXERCISE THEIR RIGHT TO SELF- DETERMINATION:



Section 8, read with clause (b) of sub-section (3) of section 19, of the Indian Independence Act, 1947, had made provisions for recognizing, establishing and functioning of a Constituent Assembly (CA) for each independent state, then partitioned as India and Pakistan (Bangladesh being the Province of East Pakistan). The task of the CA was twofold (1) to prepare a Constitution and (2) to act as federal legislature (that was function of the erstwhile central legislative under the Government of India Act, 1935).

In 1947, a Constitutional Assembly (CA) was accordingly formed in Pakistan, to make a Constitution for it. First meeting of the CA was held on 10th August, 1947, in Karachi and the CA formally came into existence on 15th August, 1947. In the year 1954, the basic draft of the constitution was completed by the CA and was ready to be placed before the CA. But, the then Governor General (GG) of Pakistan, Mr. Ghulam Muhammad [who held this office from 1951 till he was dismissed in 1955] had proclaimed emergency and dissolved the CA on 24th October, 1954. This act of the GG Ghulam Muhammad was then challenged by filing a writ petition before the Chief Court of Sindh. The writ was accepted. Against the Sindh Court's decision, the Pakistan Government filed an appeal before the Federal Court (FC) of Pakistan. The FC had upheld his action in part, but no finding was given as to whether the GG had Power to dissolve the CA (PLD 1955 FC 240).

A legal vacuum was created because of this decision of the FC. So, the GG Mr. Ghulam Muhammad promulgated the Emergency Ordinance, 1955 and thereby gave himself the power to frame constitution for Pakistan. The Governor General had also promulgated Constitution Convention Order, 1955, and formed a Constitution Convention (CC), in the place of CA. The Governor's power to make Constitutional legislation and to form CC was challenged in the case of Usif Patel Vs. The Crown (PLD 1955 FC 387). The Federal Court (FC), by a majority upheld his action in part, but held that GG had no power to make constitutional legislation.

After this decision of the Federal Court, the constitutional crisis loomed even larger. The GG then referred the matter to the Federal Court for its opinion (under its advisory jurisdiction), in order to resolve the crisis, wherefrom arose the Reference Case No. 1 of 1955 (PLD 1955 FC 435). In this case the FC upheld the action of the GG in dissolving the CA (on the premise that Pakistan was still a dominion, although, it in fact, it had acquired the status of an independent state in terms of the unequivocal provisions of section 7 of the Indian Independence Act, 1947). Noticeably, the FC had also held (and made it clear) that, the GG's duty was to bring into existence a Representative Legislature Institution, for which, he (GG) could only nominate the electorate, but could not nominate members of the CA. With this decision of the FC, the status of the new CA as a body, legally competent to frame Constitution for Pakistan, was established. Accordingly, the CA begun to work. [Interested readers may find these decisions and reference in 7 DLR(1955)FC, as well].

Having overcome all these obstacles, ultimately, the Constitution Bill was placed before the CA, which was finally adopted on the 29th day of February, 1956 (vide the preamble to the 1956 Constitution). Thus had born the 1956 Constitution of the then Pakistan, through a competent CA. The CA became the interim National Assembly. Pakistan was declared as a Republic and the then Governor General Iskander Mirza sworn in as the President of Pakistan.

It is worth noting here that, Mr. H.S. Suhrawardy, Mr. A.K. Fazlul Huq and Sheikh Mujibur Rahman (as their names appear in the original text of 1956 Constitution) were the three prominent members of the CA. However, within two and a half year of making of this Constitution of 1956 and before there having any opportunity to hold an election under it, the then President of Pakistan, Mr. Iskander Mirza, issued a Martial Law Proclamation on 7th October, 1958, abrogated the Constitution, dissolved the National and Provincial Assemblies, dismissed the central and the Provincial Governments, dismissed the Ministers (and formed a new Cabinet with non-political persons), banned all political parties and had appointed General Ayub Khan, the then Army Chief, as the Chief Martial Law Administrator (CMLA).

In the course of events, at one stage, on 27th October, 1958, Mr. Iskander Mirza was made to vacate the office, by General Ayub Khan, and was then sent to exile in Britain. Mr. Ayub Khan assumed the office of the President of Pakistan.

Thereafter, through a much-criticized referendum held on 14th February, 1960, Mr. Ayub Khan secured mandate to be deemed as the elected President of Pakistan and also the authority to make a Constitution for Pakistan. Accordingly he, as its sole maker, enacted a Constitution for Pakistan, on 1st March, 1962. He then lifted Martial Law on 8th June, 1962, and had also lifted the ban earlier imposed on the political parties, by



Mr. Iskander Mirza, on 7th October, 1958.

On the other wing, in East Pakistan, mass movement was gaining momentum, focused on 6 point demands raised by the Awami League (AL). It had received spontaneous support of the mass people, including the students and working classes in the East Pakistan. It turned into, in East Pakistan, an irresistible and widely spread public uprising in 1969. In this situation, President Mr. Ayub Khan, by a letter dated 24th March, 1969, invited General A.M. Yahya Khan to take over power. Yahya Khan, in turn, proclaimed Martial Law on 25th March, 1969 (second ML), assumed the office of the CMLA. Then on 31st March, 1969, he had appointed himself as the President of Pakistan, however, giving retrospective effect from 25th March, 1969. He had then abrogated the Constitution of 1962 and promulgated the Provisional Constitution Order, 1969. Thus, Pakistan had again become a country without constitution made or adopted by her people and without any elected government.

On the face of mounting and irresistible political pressure and uprising in the East Pakistan, Yahya Khan promulgated the historic Legal Framework Order, 1970 (LFO), for holding general election, on the basis of direct adult franchise and in accordance with law (vide Articles 4-6 of the LFO).

The three members Election Commission, consisting of a Chief Election Commissioner and 2 High Court Judges, as members, was formed as per Article 8 of the LFO. A fair, transparent, neutral and participatory election was held. The election result was declared in no time and it was not disputed by anybody.

In this first general election of Pakistan, held as per provisions Articles 4 and 5 of the LFO, respectively, Awami League won an overwhelming majority, both in the centre (National Assembly) and in the Province of East Pakistan. Thereby, it had acquired a legitimate right to form a Government in Pakistan and to frame a Constitution, as authorized by Article 24 of the LFO, as per guideline provided in Articles 20 to 24 of the LFO. But, Awami League's right to form the Government in the then Pakistan and the powers vested in the AL under the LFO, as the victorious party and as the representative of the majority people, was denied to it by the then Pakistani regime. Rather the Pakistan Army (Eastern Command) had initiated an armed aggression on the Bengalees of East Pakistan, around or after the mid-night of 25th March, 1971, and thereby, they had violated the Legal Order created by the LFO, 1970. In addition, they had indulged themselves into committing war crimes and genocide.

East Pakistan Province's right to form a Government having thus been denied and an unjust war, violating the provisions of LFO, 1970, having thus been imposed, the people of Bangladesh had legitimately acquired and exercised their right to self-determination, in the given context, as per Article 2 of Chapter 1 of the UN Charter, by declaring independence of Bangladesh on 26th March, 1971, (through their elected and supreme leader Bangabandhu Sheikh Mujibur Rahman), said declaration of 26th March, 1971, being subsequently ratified in the Proclamation of Independence, promulgated on 10th April, 1971, (giving effect from the 26th March of 1971), by forming the Provisional Government of Bangladesh (Mujibnagar Government), by doing and exercising all acts, deeds and things as a sovereign independent state engaged in her liberation war, till she had achieved victory on 16th December, 1971, in consequence leading to the surrender and the dissolution of the Eastern Command of the then Pakistan Army.

THE FINDINGS AND CONCLUSION

Therefore, in the back ground aforesaid, all the acts, deeds and exercises of the people of Bangladesh, since 7th March, 1971 to 16th December, 1971, were legal and approved under the provisions of the UN Charter and were, as such, recognized by the international community.



Introduction to International Arbitration and Mediation Certification*

Justice Md. Ashraful Kamal



Prologue:

Mr. S.N. Goswami, an Eminent Lawyer of the Supreme Court of Bangladesh & Chairman of Bangladesh International Mediation Society (BIMS).

Mr. Kevin Brown.

President, International Mediators Association

Mr. V. Inbavijayan, Course Director and international Arbitrator and trainer Mr. K.S. Sarma, Advisor to the Bangladesh International Mediation Society and International Trainer on Mediation.

Ms. Iram Majid, Advocate, Supreme Court of India and Regional Director (BIMS) India.

Distinguished Guests and all those who are present at this auspicious event, Ladies and Gentlemen. A very good morning to all of you.

It is indeed a great honour and pleasure for me to be here today, to address this august gathering of distinguished experts on arbitration, as a Chief Guest of the inauguration Ceremony of the sixth Training programme on "Introduction to International Arbitration and Mediation Certification" organized by Bangladesh International Mediation Society (BIMS).

I take this opportunity to thank Mr. S.N. Goswami, Advocate, Accredited Mediator, and Chairman of the Bangladesh International Mediation Society (BIMS) for inviting me to the Sixth Training on Introduction to International Arbitration and Mediation Certification.

The provision of civil justice is a public good which ensures securing the rule of law, and it is a matter of utmost importance. As famously observed by Lord Diplock, in *Bremer Vulkan v South India Shipping Corporation*:

"Every civilized system of government requires that the state should make available to all its citizens a means for the just and peaceful settlement of disputes between them as to their respective legal rights. The means provided are courts of justice to which every citizen has a constitutional right of access."

There is a very prominent legal maxim; one which many before me today have heard countless times over "Justice Delayed is Justice Denied. We come to this world with a finite amount of time. To toil away that time only to get what one deserves when that remedy is no longer fruitful, that I believe is absolutely horrendous.

The rapid economic development of Bangladesh, and our exposure to the globalized world, is what necessitated the establishment of Bangladesh Institute of Arbitration & Mediation, something similar to which was already formed in India and other jurisdictions but which we lacked.

As business becomes more and more complex, there will be disputes arising from the implementation of contracts. This is inevitable. In the globalized world of today, business requires speedy, effective and confidential procedures to settle commercial disputes. No matter how hard companies may try to avoid them, disputes may arise in the implementation of contracts. Business cannot wait for long for their disputes to be settled; they need to resolve the problem and move on. Businesses have a preference for quick and straight-forward approach to settlement of disputes. This is not always possible in the environment of the court. Apart from everything else, there is usually no privacy or assured timelines in court proceedings. Therefore, businesses and legal experts across the world have started changing the dispute resolution scenario and brought about the Alternative Dispute Resolution (ADR) methods.

Now all over the world 'Alternative Dispute Resolution' has become popular. Today you shall have the opportunity to share experiences and exchange views with the experts from overseas on some very crucial elements and directions in the development of mediation and arbitration. The notion that mediation and

*Abridged text of Inaugural Speech delivered by the author in the Sixth Training Programme organised by Bangladesh International Mediation Society at Dhaka in 2019



arbitration are alternative processes or are somehow competitors in the legal landscape demonstrates a misunderstanding about the nature of and effectiveness of mediation. There is of course no “one size fits all” solution.

ADR as a method of dispute resolution had already been introduced and practiced in Bangladesh, though on a limited scale. The first legal framework appeared in 1940, with the Arbitration Act. With Bangladesh becoming a party to the New York Convention, and following provisions provided by the UNCITRAL Model Law, a new law was enacted: The Arbitration Act 2001. The Act brought Bangladesh into modern arbitration.

Arbitration, both International and domestic, is well understood and widely practiced in many jurisdictions. Mediation, with all its benefits and flexibility, is not nearly so well known or practiced. It is also significantly less understood. An increasing recognition of the importance of mediation is readily apparent from the fact that bodies formerly focused almost entirely on arbitration such as CI Arb (Chartered Institute of Arbitrators), International Court of Arbitration (which itself is a part of the International Chamber of Commerce), CIETAC (China International Economic and Trade Arbitration Commission) and ACICA (The Australian Centre for International Commercial Arbitration) now actively promote mediation and prescribe rules for the conduct of mediations under their auspices.

The growth of arbitration has occurred partly because of perceived inadequacies with local court systems and partly because (in the case of international arbitration) domestic court systems (however effective they may be in dealing with domestic and limited international issues) simply do not provide the flexibility and advantages to the parties provided by structured international arbitration.

UNCITRAL, the UN’s core legal body in the United Nations system in the field of international trade law. UNCITRAL plays a key role in the field of international arbitration specifically and in the promotion of the rule of law, more generally, at an international level. UNCITRAL’s work in the harmonization and modernization of commercial law has proved to benefit both capital exporting and receiving States alike. It has promoted the flow of so much needed investment from certain parts of the world to others. It has helped in strengthening the legal guarantees available (the rule of law one should say) both for investors and for States, thereby, creating a climate of confidence and trust; and indispensable condition for the promotion of sustainable development and growth.

UNCTAD, or the United Nations Conference on Trade and Development, was established in the 1960s over growing concerns about the place of developing countries in international trade. At that time, UNCTAD was institutionalized with a series of bodies and a permanent secretariat, which is part of the UN Secretariat. The work of UNCTAD has been particularly felt in recent years in the area of investment and investment arbitration more specifically. UNCTAD has played an important role in terms of technical assistance and capacity building of trade negotiators and government officials involved in trade-related issues, of which international arbitration is just one part. Particularly relevant has been the role of UNCTAD in helping developing countries to participate as effectively as possible in international rule-setting for investment, including investment arbitration.

International arbitration has long been seen as the optimal way to address and resolve disputes between business parties. In the investment context and often in the purely commercial context, it depoliticized the dispute, assures neutrality in adjudicating the dispute, and is perceived as an economical, speedy, and flexible procedure. Moreover, it is seen to be offering a fair amount of control over the procedure and assures that awards are easily enforceable abroad, thereby creating a sense of legitimacy.

International arbitration, therefore, enables parties in dispute to achieve recognition and enforcement of their property rights and binding commitments, which form the basis for any commercial activity. The UN, through the work of UNCITRAL, has played an instrumental role in making this possible; in promoting better legal standards with a view to achieving legal certainty in order to build confidence between business parties, be it States or private entities. This has undoubtedly had an effect in encouraging the flow of investment across the World and in the promotion of development.

No doubt, better legal standards and fair, stable, predictable legal frameworks generate inclusive, sustainable and equitable development. They foster economic growth and employment and facilitate entrepreneurship and investment.



But international arbitration, as a peaceful and reliable mechanism of resolving disputes, has proved to also assist positively in the consolidation of the larger structure of the international rule of law. Instruments such as the 1958 New York Convention, the 1985 Model Law on International Commercial Arbitration, amended and updated in 2006, and the 1976 UNCITRAL Arbitration Rules, recently amended and updated in 2010 have contributed decisively to the development and promotion of international standards in the field of international arbitration.

Arbitration is a quasi judicial process where the parties agree to submit their dispute for determination by an arbitration; this process as is apparent is far more common with conventional litigation than other forms of ADR. Many of the procedural aspects of arbitration are taken straight from litigation. Arbitration provides for the resolution of disputes in a legally binding way by an independent tribunal (composed of one or more people) and is usually formal and adversarial. The decision of the tribunal is final and binding, subject to rights of appeal to the courts, although such rights are limited. The parties to an arbitration may in large degree themselves determine the procedure to be followed and the powers the arbitrator is to have, as well as the constitution of the arbitral tribunal. Depending upon the agreement of the parties, usually any unsuccessful party will pay the costs as it would do in litigation in many common law jurisdictions.

Mediation is a fundamentally different process both philosophically and procedurally. There is no single all encompassing definition of mediation. The Singapore Mediation Centre defines mediation on its website as follows:-

“Mediation is a voluntary means of dispute resolution in which the parties to a dispute engage the assistance of an impartial third party (called the Mediator) to facilitate negotiations between them with a view to resolving their dispute privately and in an amicable manner.

The focus is not on who is right or wrong, nor on who has a stronger or weaker case in court. Rather it is on how the parties can move forward and put the dispute behind them. The Mediator helps the parties to adopt a problem-solving approach, move away from their respective positions and focus on their interests, needs and concerns.

Most arbitrations take place pursuant to an agreement to the effect which binds the parties. Arbitration is involuntary in the sense that once the dispute resolution mechanisms which have been determined by the parties by contract are triggered, the process from that point on becomes compulsory. Thereafter the determination of all issues, procedural or otherwise, is in the hands of the arbitrator. Parties and their representatives usually attend the arbitration. Parties and their lawyers would usually fully participate in the arbitration by complying with all and their lawyers would usually fully participate in the arbitration by complying with all interlocutory steps and procedures, calling or tendering evidence, making submissions and awaiting the decision of the tribunal. It is generally unwise for any party to refuse to participate in an arbitration whether that refusal comes about as a result of refusing to participate at all, simply not attending the proceedings or by absenting oneself from the arbitration during the conduct of the proceedings. The result may be an adverse award with dire financial and other consequences.

Mediation on the other hand is usually a voluntary process. While it is true that there are many instances of compulsory mediation in different jurisdictions, most commercial mediations these days are conducted on a voluntary basis. Even in jurisdictions where courts can order mediation over the objections of the parties, no result can be imposed on them without their mutual consent. In this fundamental respect, mediation differs from arbitration. Furthermore, subject to the requirements of good faith, attendance for an unspecified period of time at the insistence of the mediator is not required. If agreement cannot be reached at mediation, it is rare but not unknown for parties to simply walk out of the mediation.

Arbitration and mediation are totally different dispute resolution methods which embrace totally different techniques, procedures and philosophies. They are neither friend nor foe but both can and should be used imaginatively, jointly or separately depending on the circumstances, to achieve the best possible outcome for one's client. They can be used individually but will often be best used collaboratively. Using mediation in an imaginative way outside the court process and within the arbitration process can be remarkably effective and efficient in resolving many disputes.

The Mediation mechanism has become a part and parcel of our formal legal system. Moreover, there are provisions relating to mediation of disputes in the statutory laws of Bangladesh now. The Code of Civil



Procedure 1908 (referred to hereafter as CPC) was amended to give effect to mediation. Mediation is described in Section 89A of CPC under Explanation (1) as a “flexible, informal, non-binding, confidential, non-adversarial and consensual dispute resolution process in which the mediator shall facilitate compromise of disputes in the suit between the parties without directing or dictating the terms of such compromise.” Section 89C provides for scope of mediation in Appellate Court.

Chapter V of Artha Rin Adalat Ain, 2003 provides for settlement of any dispute through mediation. Section 22 of the Artha Rin Adalat Ain, 2003 talks about the settlement conference after the filing of the written statement.

There is also the Family Court Ordinance, 1985. After the filing of the written statement, the Family Court shall fix a date for a pre-trial hearing of the suit. On the date fixed for the pre-trial hearing, the Court shall try to compromise or go for reconciliation between the parties.

In the Village Court Act, 2006, it is stated that after the formation of the Village Court, the court shall hear both the parties and decide the issues between them. Thereafter, the court shall take the initiative for conciliation between the parties.

Moreover, Section 22 of Arbitration Act also provides for the scope of ‘mediation’. According to this Act, mediation procedure can be followed at any stage of arbitration upon the consensus of all parties. At the time of continuation of the dispute, if the parties resolve the matter amicably and request the tribunal regarding this, the Arbitration Tribunal shall record the consensus of the decision as ‘award’ of the Tribunal.

Bangladesh International Arbitration Centre (BIAC) is the first international arbitration institution in Bangladesh to offer institutionalized ADR facilities, driven by the passion to change the status quo where the country lacked any facilities whatsoever. The government was soon to recognize this and in April 2011, this non profit institution commenced operations with a license from the Government.

Three prominent business Chambers of Bangladesh, namely, International Chamber of Commerce-Bangladesh (ICC-B), Dhaka Chamber of Commerce & Industry (DCCI) and Metropolitan Chamber of Commerce & Industry (MCCI), Dhaka are sponsors of BIAC. The International Finance Corporation (IFC) – the private sector arm of The World Bank – with funds from UK Aid and European Union, is supporting BIAC in the initial stages under a co-operation agreement. BIAC provides a neutral, efficient and reliable dispute resolution service in this emerging hub of South Asia’s industrial and commercial activity. BIAC introduced its Arbitration Rules in 2011, which was subsequently updated in 2019. These Rules incorporate some of the leading developments in domestic and international arbitration, while conforming to the Bangladesh Arbitration Act 2001. BIAC is renowned for its first-rate, state-of-the-art arbitration facilities, experienced panel of independent arbitrators and excellence in serving its clients. In the Rules, BIAC put forth the following two clauses which would ensure that if any two or more parties enter into a contract with those two clauses incorporated in the contract, then BIAC would be a part of the process –

Med-Arb Clause

“Any dispute or difference arising out of or in connection with this contract shall first be referred to the Bangladesh International Arbitration Centre (BIAC) for settlement through mediation in accordance with BIAC Mediation Rules. If a settlement cannot be reached within sixty (60) days following the appointment of Mediator(s) then such dispute or difference shall be referred to BIAC within sixty (60) days to be finally settled under the Rules of Arbitration of the Bangladesh International Arbitration Centre, by one or more arbitrators appointed in accordance with the said Rules.”

BIAC Arbitration Clause

“All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the Bangladesh International Arbitration Centre by one or more arbitrators appointed in accordance with the said Rules. Unless otherwise agreed by the parties, the laws of Bangladesh shall apply and the seat of arbitration shall be Dhaka.”

BIAC Mediation Rules 2014 was implemented initially, which was superseded by Mediation Rules 2019. In the Rules, BIAC put forth the following two clauses which would ensure that if any two or more parties enter into a contract with those two clauses incorporated in the contract, then BIAC would be a part of the process–

Med-Arb Clause



"Any dispute or difference arising out of or in connection with this contract shall first be referred to the Bangladesh International Arbitration Centre (BIAC) for settlement through mediation in accordance with BIAC Mediation Rules. If a settlement cannot be reached within sixty (60) days following the appointment of the Mediator(s), then such dispute or difference shall be referred to BIAC within sixty (60) days to be finally settled under the Rules of Arbitration of the Bangladesh International Arbitration Centre, by one or more arbitrators appointed in accordance with the said Rules."

Mediation Clause

"Any dispute or difference arising out of or in connection with this contract shall be referred to the Bangladesh International Arbitration Centre (BIAC) for settlement through mediation in accordance with BIAC Mediation Rules, before such dispute is submitted to court or arbitration."

The BIAC Mediators Code of Conduct 2019 provides the guiding principles for the mediators. It sets the standards for protection of interests of parties using mediation services at BIAC, and for enhancement of confidence in BIAC's mediation services as a neutral, impartial, efficient, expeditious and independent alternative dispute resolution methods.

Bangladesh International Mediation Society (BIMS) is the first international mediation institute of Bangladesh started its journey on 31st May 2017, with an initiative to make mediation an alternative dispute resolution method that everyone knows of. BIMS introduced its Mediation Rules and the Mediators Code of Conduct in 2017, thereby setting up a formal framework for its functioning which was transparent and efficient. I hope that BIMS strives forward in its journey and goes leaps and bounds in improving ADR pathways in Bangladesh.

Future of dispute resolution lies in arbitration and mediation, for with an overworked judicial system, the only pathway to get a speedy remedy shall be in ADR. And with this great responsibility on their shoulders, we need honest, trustworthy and efficient mediators and arbitrators, who would carry out their work with utmost competence.

Before concluding, I am sure you will find the training programme interesting and enjoyable. To be good at something, one must take the initiative to learn with an open mind; and as lawyers, we all know that there is no end to learning. It is a mutually beneficial relationship, if we all share the knowledge we each have than to just keep it to ourselves. And I hope that you all who are participating in this training programme go on to become some of the best arbitrators and mediators in this country.

Concluding, I would like to extend my gratitude for the guests from overseas for coming and partnering with BIMS to build an even stronger foundation for mediation and arbitration in Bangladesh. I would also like to express my gratitude to the Kovise Foundation for their continuous support to BIMS. Once again special thanks for the organizers of this training programme, for inviting me as a Chief Guest and it is my hope that the Bangladesh International Mediation Society (BIMS) will continue to be as passionate in its endeavours as it is now.

Thank you all and I wish you a very successful training ahead.



In Quest of Peace and Prosperity*

Justice Md. Mozibur Rahman Miah



(Presented in "the 20th International conference of Chief Justices of the world" organised by City Montessorie School Lucknow, India held from 6th November to 12th November-2019)

Before moving onto the designated topics, I express my profound gratitude to Dr. Jagdish Gandhi, the convenor of this International event whose ceaseless effort, CSM has become an epitome of Peace to the whole world.

I really feel honoured to be here in such an august and prestigious gathering as a Judge of the High Court Division of the Supreme Court of Bangladesh which is my first participation ever since I have been elevated eight years ago.

I hope, with such participation I will be greatly benefitted with the valuable deliberations, suggestion that are going on in different plenary and parallel sessions put forward by many illustrious legal luminaries.

As a matter of fact, while a Judge of a particular country, adjudicates, litigations, they don't get the opportunity to travel beyond its domestic laws where invoking various international laws, conventions, treaties are of no application in "Tackling global issues" which is the "theme" of our discussion here. However, I am really impressed to find that, this conference, since its very inception, is being held basing on Article 51 of the Constitution of India which is really a very unique provision having elements of International laws in resolving many global disputes which I will elaborate in the later part of my speech.

In effect, the four cornerstones of the said Article has made the opportunity to foster peace and security throughout the globe.

Now, let me revert to the topics of the discussion. As stated above, the "theme" of the discussion is "Tackling global issues" where five different components have been chalked out for creating such global unrest. I have earlier pointed out and still believe solutions to that issue completely lies on relentless peace effort by the countries in disputes and unconditional withdrawal of a third country got entangled on whose interest and interference such conflict prolongs. So, political decision by the countries in dispute leading to mankind can be an effective measure in resolving the conflict.

As a judge of a court, we can offer many good words, suggestions, recommendations at the international conference for implementation but at the end of the day, it might not enforce as they have no binding effect on the countries for whose atrocities global peace and security is being endangered. But we should not give up and only for that, we are here today.

Anyway, out of five topics set out for discussion, I will try to shade light though very preciously, on "Refugee problem" and "ethnic and civil wars" for some obvious reason. There is no gainsaying of facts that, no human being wants to live as refugee, a form of leading very inhuman life. It is man-made problem no doubt about it. There are various reasons for the people to become refugee. But main contributory factor to that crisis now prevalent in the world are, waging war and ethnic cleansing perpetrated on the marginalized and minority group of people by their own state machinery.

Civil war sometime breaks out in a certain country when a section of people or political group revolts against their own state and the state functionary then uses force to silence the dissident that erupts civil war.

Aside from that, state sometimes brands its own people or a particular political party as rebel when they disown the political view of the party in power and for such defiance of showing loyalty, state then unleash atrocities and oppression on them that left a vast populace homeless and then they compel to take refuge to different countries.

Take for example, the "Rohingya refugee"-the most pressing issue now in the world arena after refugee of Syria.

At present, more than 1 (one) million "Rohingya" have taken shelter in a tiny district town of Bangladesh, Cox's Bazar which is the tourist hub having longest sea-beach of the world but now becomes a threat of ecological imbalance. So, question naturally crops up what are the root causes of the Rohingya to become

*Abridged text of the Speech delivered by the author in the 20th International Conference of Chief Justice of the World Asia-Pacific Conference at Lucknow, India on 6-12 November 2019



refugee? Simple answer is, they are the Muslim-minority in Myanmar which is their only fault and for that, they have been subjected to inhuman torture, rape, arson, and different form of persecution perpetrated by the Myanmar Army that render them to take refuge in that tiny district. This is none but a classic case of "ethnic cleaving" being committed at the behest of Myanmar Government. However, those Muslim minorities lived in "Rakhain" for generations but now the state is denying their citizenship. What a travesty of truth?

You might know, Bangladesh is a over populated country of 170 million people. But only for the sake of humanity to such huge distressed people and to keep regional harmony, Bangladesh has sheltered those vast hapeless human being as did by India during our war of liberation in 1971 sheltering 10 million people showing rare example of generosity. Our Hon'ble Prime Minister left no stone unturned to raise this most burning issue in different global forums whenever she gets the scope of urging the world community to compel Myanmar to take back their people even very robustly placed the issue in recently concluded UNGA meeting but Myanmar remains unmoved.

Now, question remains, where the solution of such refugee crisis lies? Can the world body compel the defiant countries to take back these distress section of people to their own land? Or can it be any lasting solution to depend on the International agencies of their aid for the survival of the large number of refugees for years together?

I myself is not so optimistic over its early solutions in the given system of the world body. Because, big powers who are considered to take leading part in resolving the grave crisis, are mostly driven by their own national interest over humanity. As when any resolution leading to resolving such crisis is placed before UNSC those big powers (five permanent members of UNSC) then exercise their most powerful weapon-"Veto".

On the flipside, International Criminal Court and International Court of Justice virtually can do nothing if the offending country does not comply with the verdict of these two International Courts. But cruel reality is, crimes against humanity, extermination, deportation and other inhuman acts are being committed unabated under the very nose of the UNO.

Here, Article 51 of the Constitution of India can play an effective role if simply an "enforcement" clause is inserted in it, that might result in tackling many global issues.

Also, many a countries of the world are now plagued with various terrorist activities, unending war that also causes a vast population to become refugees where applying mediation, Arbitrations, settlement can be an effective solutions to such crisis in the light of Article 51.

If we look back to Syria, Yeman, Iraq, Afganistan people there, are being murdered everyday and hundreds of thousand of innocent people gone maimed, where using of lethal weapons are rampant and being used even against most innocent human being like children and women compelling a vast population to flee their home land. But this is being done randomly in many countries having emboldened by big powers whose interest are there and they kept on taking advantage by prolonging the conflict.

To save from brutality, many war ravaged people with their family are being compelled to leave their motherland in the hope of finding a safe place to live even taking most perilous journey in the turbulent sea where sometimes they are also being perished. What I described here, is known to all present, but we are made silent spectator to those most diabolic offence. But what the world body, UNO is doing to protect life, liberty of those most vulnerable human being-is absolutely frustrating.

Now, question naturally ensues, what can be the way out? Here Article 51 of the Indian Constitution can play a pivotal role. Let me now reproduce what are the four cornerstones of Article 51 of Indian constitution here :

The state shall endeavour to :

- a) Promote international peace & security.**
- b) Maintain just & honourable relations between nations.**
- c) Foster respect for international law and**
- d) Encourage settlement of international disputes by arbitration.**

As the world body has failed to protect the distress humanity in tackling global issues so, I am of the view that, similar provision of Article 51 of Indian Constitution may be incorporated in the Constitution of every country keeping provisions to ratify it by neighboring countries on forming regional association of such countries like, SAARC, ASEAN making those four options of section 51 enforceable against the country for whose unlawful action peace and security of its neighboring country might be endangered. In such an event,



the affected country may take the dispute at the designated court determined by the association of the countries for redress making the verdict of the court binding upon the countries in conflict. And if it is materialized, the interference of big powers and dependency on UNSC in tackling many global issues will lessen and peace and security will be restored to a great extent in the whole world.

So let us take a holistic steps and urge the world leaders to be united in bringing about the global issues through mutual understanding, arbitration and settlement in order to uphold humanity, peace, prosperity and make this planet safe and secured for all human being by shunning petty interest and stop brutal use of weapons against innocent people because civilization is now at stake which we are all pledged bound to preserve.

I am grateful to the Chair and Co-ordinator for giving me the opportunity to say a few words and have patient hearing by the distinguished audience.

Have a great time for all.
Thank you.



The philosophy and objectives of Pre-emption Laws in Bangladesh

Justice Kashefa Hussain



In Bangladesh The Laws of “Pre-emption” are in some ways unique by their nature and objective. Pre-emption within its legal definition for our purposes largely means the legal right or rights of a person or persons to purchase immovable property before any other person or persons. The law of Pre-emption entails that one person or persons shall be entitled to be granted or accorded priority over others to purchase immovable property. This article is an attempt to discuss and evaluate the Pre-emption laws in this country and the necessity thereof from the social perspective.

From a historical perspective, the Law of Pre-emption is not a universal law. It is rather a special privilege in the form of law granted by some societies and religion. The primary intention behind enacting the law of “Pre-emption” is mainly attached to the customs, values and traditions peculiar to a certain group of people. However a particular set of customs and norms is not an isolated concept in itself. Customs, norms and concept of ethics evolve out of the necessities or imperativeness of a certain code of conduct which a particular society believes in. The members of the society believe that a code of conduct ought to be existent and be followed by them to preserve harmony in their daily lives. To address the issue of continuous necessity of the law of Pre-emption, I have made an attempt to pen down some of my thoughts arising over the conceptual philosophy of Pre-emption. For our purposes, the background and historical tradition of Pre-emption laws in Bangladesh ought to be discussed here.

For an analytical overview of the philosophy behind the reasons of the subsequent enactment of some statutory provisions of Pre-emption in this country including enactment of related laws, it is necessary to evaluate the history of Pre-emption laws. It is a fact that in spite of our secular principles as cardinal features of our Constitution, nevertheless it is necessary to be reminded that statistically the overwhelming majority of the population in this part of the subcontinent are Muslims and follow Islam as their religion. Moreover, Muslims in spite of the fundamental rights guaranteed by the Constitution, however conversely enough, the personal laws of any citizen or citizens of Bangladesh are guided by our respective religion. “Personal” laws primarily denote the laws relating to marriage , divorce, birth, death, inheritance which revolve around incidents of property.

The Islamic jurisprudence relating to property mainly contemplates the Muslim inheritance laws including law of “Heba” (Gift) of immovable property. Provisions of “Will” is also included in the Islamic property laws but however its scope is very limited. “Pre-emption” is of course a significant branch of the property laws or rather it can be regarded as even more significant for the purposes of transfer of property rights in Islam. In Bangladesh, including in other parts of the subcontinent the personal laws of a citizen in particular is guided by his/her religion. Whatever might prevail under the constitutional provisions or any other Act or any other enactment, yet personal laws prevail over these provisions.

Sources available manifest that the right of pre-emption in the subcontinent was introduced by the Muslims. The concept of Law of “Pre-emption” or “Shufa” as is the terminology in the Mohammadan Law was originally created and developed by the Islamic jurisprudence to grant the right of gaining priority of a person over another person or persons pertaining to purchase of property from any other person. Some sources disclose that over course of time some Hindu societies in the subcontinent in some provinces of India came to adopt the practice of rights of pre-emption as a custom mainly for reasons of convenience.

Of course, the Muslim Law of Pre-emption or ‘Shufa’ evidently was not a creation of the Muslims of Bengal



nor was it a creation of the Muslims of the rest of the subcontinent. With the advent of Muslims and the eventual preponderance of the Muslims in India reigning for several hundreds of years, the Islamic personal laws were introduced in India by the Muslims and such laws including the laws of Pre-emption came to be practiced among the Muslim societies in particular and the Muslims of Bengal were no exception here.

Since in terms of population Bangladesh is a Muslim majority country, undoubtedly the Muslim laws of Pre-emption is applicable to the vast majority of the populace. As such the law of Pre-emption is enforceable under the Muslim Personal Law to which Bangladeshi Muslims in general are subject to.

I referred to the “customs” and “norms” of a particular society with regard to the practice of personal laws based on religion. The right of “Pre-emption” of “Shufa” that is the right of priority over immovable property from another person for purposes of purchase arises primarily from the object to delimit strangers and outsiders from entering into or from intrusion into the privacy of a particular family, undivided or not. The rights of the Islamic laws of Pre-emption also contemplate a particular group of people living adjacently to each other whose properties are situated in adjacent territories.

The concept arising out of the propensity to avoid the entrance of strangers into a shared property or even an adjoining property formed an intrinsic part of the customs and standard of norms in most Muslim societies. Bengali Muslims evidently were no exception. Consequently, the law of Pre-emption which the Bengali Muslims were subject as followers of the faith, such law blended naturally with the thought process and mindset of most Muslim Bengali communities.

That the aim of “Shufa” or law of “Pre-emption” ‘s was to delimit and exclude strangers and outsiders from ancestral property or even adjoining property for the sake of maintaining “privacy” and external intrusion can be envisaged from the category or classes of persons entitled to rights of Muslim Law of Pre-emption or Shufa.

Three categories namely:

1. A co-sharer to the property (shafi-i-sharik)
2. A participator in immunities and appendages, such as right of way or right to discharge water (shafi-i-Khalit)
3. Owners of adjoining immovable property (shafi-i-jar)

The Shariah Law while classifying the persons created a tier of priority among the classes entitled to pre-empt. The first class, which comprises of the co-sharers of the property is entitled to priority over the second class, those are that the participators in appendages, immunities etc in relation to the property concerned.

The third or last class is the owner or owners of adjoining land.

Arising from logical reasons enough, the first class excludes the second and third class, while the second class excludes the third class.

It is evident that the intention of the Shariah Law while granting first priority to purchase to shareholders in the property, the objective of the law is to avoid intrusion and external interference into the property, moreover also for sake of convenience to exclude intrusion into the privacy of daily living.

As to the second category of the class of persons entitled to rights of “Shufa” Pre-emption, arise out of similar principles including those of convenience including other reasons and so on and so forth with the third category of persons.

If we revert to the history of the customs and norms of our society, it is revealed that the Bengali Muslims were basically comprised of a “conservative” society. It is here intended to imply “conservative” within its conventional definition from the relevant perspective of my purpose of penning down my views.

Arising from the conventions and customs followed by them, maintaining privacy at home or even within the neighbouring precincts was part of the practice in the lives of our predecessors. Moreover, the age old traditions and norms of strict maintenance of privacy and seclusion or “purdah” of the women members in



the family was a strict rule for a long period of time.

The concept of “purdah” was strictly followed by most families, both among the higher and lower strata of society. Consequently, the Muslim law of Pre-emption was a natural necessity, and imperative for the purpose of upholding the traditions and norms of an average Bengali Muslim family.

But as the Shariah Law of Pre-emption reveals, the Law was created with certain mandatory conditions to be fulfilled to establish the right to be entitled to pre-empt the purchase of property from another person over another.

As is revealed from a perusal of Section 236 of Mulla’s Principles of Muhammadan Law, the Law expressly lays down that to be entitled to Pre-emption a person must formally declare his intention to assert the right immediately on receiving information of the sale. This formal assertion is called “Talab e Mausibat”. The other mandatory condition precedent is the Talab e Ishaad which necessitates a formal demand in presence of the buyers and sellers in the premises of the property which is the subject matter of Pre-emption. The formality of Talab e Ishaad also needs two witnesses.

Both these conditions must be fulfilled and proved to be entitled to rights to pre-empt a property.

The very nature of the proof of intention and assertion to pre-empt purchase is as it appears not a simple process. Considering the practical limitations involved, the requirements of the formalities particularly the mode of assertion was evidently often difficult to follow. Consequently vindication of Pre-emption Rights through invoking the Muslim Laws of Pre-emption often was not successful due to the complexities involved in the process of establishing rights of Pre-emption.

As some Indian decisions stated, Pre-emption under the Muslim law is a feeble “right. Such views were taken by some Indian courts apparently due to the difficulties that arose in the procedure of proving the fulfilment of the inflexible conditions laid down in Talab e mousibat and Talab e Ishaad. What evidently followed is that in more than one case, when the person claiming under the Pre-emption law failed to prove the fulfilment of the conditions preceding imposed by law, his rights of Pre-emption failed.

What probably followed is that in most cases, outsiders and/or strangers, more oft than not, entered into the property as co sharer owners or adjoining owners which gave rise to adversities in maintaining the privacy of a family often leading to impediments in the manner and norms followed in the lifestyle of a family, irrespective of being “divided” or “undivided”.

Even though some Indian Courts found the Muslim law of Pre-emption to be a “feeble” right, nevertheless, we find a few reflections of the concept and philosophy of the Muslim Law enacted subsequently as part of the statutory laws during the colonial era in the subcontinent. Furthermore although the Muslim law of Pre-emption was applied by the Courts of British India to Muslims on the principles of “justice, equity and good conscience”, nevertheless some Indian decisions in the courts under the Madras Presidency refused to recognise the of right Pre-emption accorded by the Muslim Shariah law mainly on the ground that the right of Pre-emption under the Muslim Law is “opposed” to the principles of “justice, equity and good conscience” since it places a “restriction” upon the liberty of a person to transfer property. One such decision was in the case of Ibrahim vs Muni Mir Uddin (1870) 6 M.H.C. 26.

However subsequent statutory enactments manifest that the concept of rights of Pre-emption as a right arising from the principles of “justice, equity and good conscience” however prevailed in these parts.

Examples of the echo and reflection of the preponderant ideas behind the Muslim Shariah Law of Pre-emption can be found in the proviso of Section 44 of the Transfer of Property Act 1882.

Section 44 including the proviso of the Transfer of Property Act reads as under: .

“CHAPTER II OF TRANSFERS OF PROPERTY BY ACT OF PARTIES

(B) Transfer of Immoveable Property

Transfer by one co- owner

44. Where one of two or more co-owners of immoveable property legally competent in that behalf transfers his share of such property or any interest therein, the transferee acquires, as to such share or interest, and so far as is necessary to give effect to the transfer, the transferor’s right to joint possession or other common



or part enjoyment of the property, and to enforce a partition of the same, but subject to the conditions and liabilities affecting, at the date of the transfer, the share or interest so transferred.

Where the transferee of a share of a dwelling-house belonging to an undivided family is not a member of the family, nothing in this section shall be deemed to entitle him to joint possession or other common or part enjoyment of the house."

It appears that the proviso of Section 44 is a saving provision. The proviso expressly contemplates that in the event of a transfer of a share of a dwelling house belonging to an undivided family to a stranger or outsider, the said transferee if he is a stranger or outsider shall not be entitled to joint possession of the said property. Section 44 read as a whole only enables a transferee who is an insider to joint enjoyment of a dwelling house and excludes all outsiders or strangers from such entitlement.

The concept behind Section 44 broadly echoes the concept and idea behind the Muslim law of Pre-emption. Although Section 44 of the TP Act 1882 involves circumstance of "joint possession" of a property, nor does it import the concept of Pre-emption within its scope. However, the philosophy and spirit of the Muslim law of Pre-emption is reflected in the proviso of Section 44 of the TP Act 1882 in a different mode. Proviso of Section 44 of the TP Act 1882 vindicates the right of privacy in the daily life of a family.

Although the TP Act 1882 applies to all who is subject to it, irrespective of his or her religion, but nevertheless the proviso of Section 44 of TP Act 1882 dominantly echoes the philosophy behind the Muslim law of Pre-emption. The only difference is that the Muslim law of Pre-emption contemplates prioritising the pre-emptive rights of three classes of persons to purchase property to the exclusion of strangers or outsiders. While the proviso to Section 44 contemplates the exclusion of strangers or outsiders from "joint possession "of a property of an "ejmaili " or undivided family .

Similar perspective of preserving sanctity of a family or a larger family whatsoever, is reflected in Section 4 of The Partition Act 1893.

Section 4 of the Partition Act 1893 reads as under:

"Partition suit by transferee of share in dwelling- house

4. (1) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder, and may give all necessary and proper directions in that behalf.

(2) If in any case describes in sub-section (1) two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section"

Incidentally enough, Section 4 (1) of the Partition Act is an enabling provision contemplating the concept of Pre-emption. It envisages within its scope the provision of enabling a co sharer of a dwelling house to be legally entitled to priority of purchase of the transferred property or part of the property of an undivided family. It however provides that such priority in purchase of a property which is a subject matter of partition shall come through a direction of a court pursuant to undertaking by the co-sharer to purchase the property following a proper valuation of the said property.

Upon comparison of the proviso of Section 44 of the TP Act 1882 with Section 4(1) of the Partition Act 1893, it is clear that Section 4(1) of Partition Act 1893 bears a more direct nexus to the concept of Pre-emption under the Mohammadan law. My views are reflected in a decision in....

It needs to be borne in mind that the right of Pre-emption is granted to a co-owner or co sharer owner of a land or adjoining land under the Mohammadan Law , and the co- sharer or co sharers , "owners " of undivided property or undivided dwelling house under Section 4(1) of the Partition Act 1893 . This law is however not applicable to "tenants " or lessees whatever the case may be .

The reason I attempted to enter into a comparative study of the proviso of Section 44 of the TP Act 1882 and Section 4(1) of the Partition Act 1893 with that of the laws of Pre-emption under the Mohammadan Law, the basic objective is to reverberate the conceptual philosophy of Pre-emption arising out of customs



and norms determining the standard of ethics followed by our society ,
It could be alleged by some that the philosophy of right of Pre-emption is a consequence of a bias and prejudices arising out of a "conservative " : mindset of the people in general.

But in spite of whatever might be the reasons behind the concept, yet we cannot shirk off our age old traditions and customs which are also largely the product of religious and social beliefs arising out of customs and traditions. Similarly, the reluctance in allowing strangers or outsiders within the walls of a dwelling house cannot be ignored even in the name of "modernism " . The sentiments, bias , prejudices in whatever term defined must be respected .

Truly enough, with the advent of 'modern ' thinking and "modern " mode of living , the psyche of the society has also undergone a change accompanied with it a change in the mindset of the people in our part of the world . In many ways the age old conventions have been replaced by novel, unconventional ideas and traditions. Traditions and age old customs are more oft than not termed as " prejudice".

Nevertheless , the concept of privacy and upholding the idea of sanctity of the home , in particular the seclusion of women from the unwanted appearance of strangers and outsiders have not been completely washed away with time .

The term "seclusion" of women however must not be interpreted in its strict literal sense . Rather the term " seclusion" of the women folks in a family ought to be attempted to be understood together with the word " convenience " . Even with a metamorphic change in our societal structure, it is however in no manner desirable that the privacy of a dwelling house may be intruded upon or otherwise broken into upon allowing the presence of an outsider by way of obtaining ownership by purchase of part of the property. To digress or do away from the concept of maintaining privacy by way of allowing entry of strangers by way of purchase is in no manner desirable. The primary reasons behind the concept are maintaining the sanctity of the privacy within the precincts of a family or extended family whatever may be the case. The other reason behind the concept is largely convenience.

Under the Muslim Law in case of the third category of persons entitled to Pre-emption, that is the owner of an adjoining land , the reason so far is for sake of "convenience " .

As already discussed, in Muslim law of Pre-emption, the standard of proof required to prove intention of a person to purchase property from another was set high and therefore not practicable in most cases. Followed by the fact that the right of Pre-emption under Muslim law and invoking such rights proved to be unsuccessful in many cases as appears from some Indian decisions.

But interestingly enough, the subsequent enactment of new laws relating to property in the post-colonial rule show that the Muslim Shariah Law of Pre-emption initially introduced and practiced by the Muslims, was yet necessary and relevant.

As the laws relating to property laws came to be developed, with the enactment of The Non Agricultural Tenancy Act , 1949 followed by the enactment of State Acquisition and Temancy Act 1950, a new dimension was accorded to the concept of Rights of Pre-emption initiated by Muslim Law . These laws broadly fall within the ambits of "special laws " as the terminology is popularly used to define laws enacted to address particular issues distinguishable from general issues .

Section 24 of the NAT Act 1949 provides the rights of Pre-emption to a co sharer of an « non agricultural land ". Section 24 of NAT Act broadly contemplates the pre-emptive rights of a co-sharer in a holding within the municipal area. Generally a " municipal" area is identified with " urban " areas . It can be a dwelling house, or any other building or structure on a land , or a land only ,except agricultural land .

Section 24 of the Non Agricultural Tenancy Act reads as under :

...CHAPTER V

PROVISIONS AS TO TRANSFER OF NON-AGRICULTURAL LAND

Power of the co-sharer or the immediate landlord of transferor to purchase

24. (1) If a portion or share of the non-agricultural land held by a non-agricultural tenant is transferred, one or more co-sharer tenants of such land may, within four months of the service of notice issued under section 23 and, in case no notice had been issued or served, then within four months from the date of knowledge of such transfer, apply to the court for such portion or share to be transferred to himself or to themselves, as the case may be



Whereas on the other hand, Section 96 of the SAT Act 1950 provides the right of Pre-emption of Agricultural land only . The definition of " agricultural land" largely implies those lands which are outside the municipal area , or rather lands within the rural areas .

Section 96 of SAT Act reads as under:

"PART V of CHAPTER XIII

INCIDENTS OF HOLDINGS OF RAIYATS, AND TRANSFER, PURCHASE AND ACQUISITION OF LANDS

Right of pre-emption

1[96. (1) If a portion or share of a holding of a raiyat is sold to a person who is not a co-sharer tenant in the holding, one or more co-sharer tenants of the holding may, within two months of the service of the notice given under section 89, or, if no notice has been served under section 89, within two months of the date of the knowledge of the sale, apply to the Court for the said portion or share to be sold to himself or themselves:

Provided that no application under this section shall lie unless the applicant is-

a) a co-sharer tenant in the holding by inheritance; and

b) a person to whom sale of the holding or the portion or share thereof, as the case may be, can be made under section 90:

Provided further that no application under this section shall lie after expiry of three years from the date of registration of the sale deed."

Upon perusal of the above , It is significant to note that Section 96 specifically provide for right of Pre-emption of land in a " raiyat ' (tenancy) which denotes the raiyat of an agricultural land outside the municipal areas .

It can be safely assumed that the concepts behind enactment of both these provisions , being Section 24 of NAT Act 1949 and Section 96(1) of SAT Act can trace back its conceptual source to the Muslim Law of Pre-emption.

The advantage in implementation of both these pieces of enactment is that both sections being statutory laws create statutory rights in the person entitled to Pre-emption. Both these laws also provide for mandatory statutory notice of sale to the Pre-emptor before a potential vendor or vendors can take steps to sell land to any other person or persons.

Pursuant to these pieces codifying the right of Pre-emption by statute , the right of Pre-emption did not and does not remain a " feeble" right anymore. By force of these statutory laws, the right of Pre-emption is a firm and much stronger right created by statute . The standard of proof in these two laws is not as difficult or tortuous to prove compared to the Muslim Law of Pre-emption.

Further , several decisions of our Apex Court including the High Court Division expounded and developed the principle by making the statutory right more firm than before . Several decisions of our Apex Court expounded the principle in cases filed under Section 96(1) of the SAT Act to the effect that the right of Pre-emption accrues not before but after purchase of the subject matter concerned . These principles more vehemently reflects the statutory pre-emptive rights of any person or persons .

Some of the decisions of our Apex Court holding principles which reinforced and gave a firm ground to the statutory right of Pre-emption are inter alia in the cases of Dewan Ali (Md vs Md. Jasimuddin and others reported in 13 MLR (AD) 2008 page 198 , in the case of Abdur Rahman(Md) vs Md Amirul Islam and others reported in 15 MLR (AD) 2010 page 128 , in the case of Syed Shamsul Islam vs Syed Hamidul Haque reported in 69 DLR (AD) (2017) page 339 and several other cases including several decisions. One of the decisions of the HCD is in the case of Patit Paban Dey Mondal vs Dulal Chandra reported in 3 BLC (1998) page 179 . Besides these , there are several other cases which reinforced the statutory right of Pre-emption.

Seemingly enough , the creation of these statutes manifest that the legislators filled up the spaces which were left unfilled by the Muslim law of Pre-emption .

Moreover it granted statutory rights of Pre-emption to all irrespective of the religion of any person . And further yet , it removed the obstacles of a difficult standard of proof by the pre-emptor manifesting intention



to purchase the property which is the subject matter of Pre-emption.

However, the Muslim Law of Pre-emption encompasses a broad category of property which can be a subject matter of Pre-emption. The chapter of Pre-emption under Muslim Shariah Law does not distinguish between agricultural property and non agricultural property.

As discussed above, compared to the Muslim law of Pre-emption, the scope of subject matter of Pre-emption in the statutory enactments under Section 24 of the NAT Act 1949 and Section 96 (1) of the SAT Act 1950 are however narrower and more limited in dimensions. Section 24 confines the scope of Pre-emption to Non Agricultural property within municipal areas, while on the other hand Section 96(1) of the SAT Act is confined and limited to agricultural land only in non-municipal areas.

Yet nonetheless, both these laws created firmer statutory rights by virtue of the respective enactments.

But my intentions in discussing these issues are to reiterate the still continuous necessity of the right of Pre-emption in the prevailing contemporary society of Bangladesh.

Truly enough, Section 96(1) of the SAT Act manifesting the Pre-emption rights of any person entitled to such right is a further necessity for the sake of convenience. The concept of "convenience" flows from the fact that it is evidently convenient for a co sharer of a land to purchase the portion of land sold by another co sharer on the same land.

However the issue of 'convenience' is not necessarily always the case. In all probabilities a situation may arise where a portion of a homestead of an undivided family outside the precincts of a municipal area may be sold to a stranger or outsider by one or more co sharer of the property.

Under such circumstances, the concept of privacy and sanctity of the home and household, in particular maintaining privacy of the female members of the family may be re echoed, but which issue I have already discussed here.

I have also discussed the philosophy behind the enabling provision of Section 4(1) of Partition Act 1893 and that of the saving provision provided by the proviso of Section 44 of the Transfer of Property Act 1882.

The provisions of the NAT Act 1949 and the SAT Act 1950 were enacted for the benefits of all, irrespective of their religion. But as we are well aware by now, the original source of Pre-emption evolved by granting Pre-emption rights through the Muslim Shariah Law of Pre-emption and was applicable only for Muslims. However the Muslim law of Pre-emption gave such rights to a broader section of persons which included contiguous and adjoining land owners also, albeit, they belonged to the third or last category of persons entitled to be able to Preempt.

I have gone through a comparison with the relevant subsequent statutory enactments.

When Section 96 (1) was originally enacted it also granted rights of Pre-emption to tenants in adjoining and contiguous property. The right was granted presumably, for the sake of convenience. The original provision of Section 96 (1) of the SAT Act reads as under:

"96. Right of pre-emption _ (1) If a portion or share of a holding of a raiyat is transferred, one or more co-sharer tenants may within four months of the service of the notice given under Section 89, or, if no notice has been served under Section 89, within four months of the date of knowledge of the transfer, apply to the Court for the said portion or share to be transferred to himself or themselves, and if a holding or a portion of a share of a holding is transferred the tenant or tenants holding land contiguous to the land transferred may, within 4 months of the date of the knowledge of such transfer, apply to the Court for the holding or portion or share to be transferred to himself or themselves.

Provided, that no co- sharer tenant or tenant holding land contiguous to the land transferred shall have the right to purchase under this section unless he is a person to whom transfer of the holding or the portion or share thereof, as the case may be, can be made under section 90. "

However, as is evident, for whatever their reasons, the legislators repealed the original Section 96(1) of the SAT Act 1950 by an amendment in the year 2006. Under the revised Section 96(1) in the year 2006, the right of contiguous and adjoining tenants to pre-empt purchase of adjoining or contiguous land was taken away.

Taking away the rights of an adjoining or contiguous tenant by the subsequent amendment was probably not desirable. This in my view might have been avoided. The owner of a contiguous or adjoining land



ought to have been allowed to continue rights to Pre-emption as per the original provision.

It may be reminded that the intention of the legislators behind enabling tenants of adjoining or contiguous land to pre-empt purchase of land was basically for the sake of convenience and to avoid complications. The factors of inconvenience and complications which is apprehended in the event of a sale of an adjoining land to a stranger exists even today.

Upon weighing these practical aspects, it may be well expected that the legislators may once again revisit Section 96(1) of the SAT Act 1950 and may consider reverting to the enabling provision which was originally enacted also for the benefit of adjoining and contiguous tenants of agricultural property.

Regarding the concept of "privacy", apparently the concept is still existent from the contemporary perspective in both urban and rural areas of Bangladesh.

Keeping these aspects of urban living in mind, the legislators may consider developing and taking forward the law from the perspective of Section 24 of the Non Agricultural Tenancy Act 1949 .

Section 24 of the NAT Act grants the statutory right of Pre-emption of one or more co sharer tenants the priority of purchase of the portion or share of any " non agricultural land " that may have been transferred to another person .

The definition of non-agricultural land includes any land which are not used for agricultural purposes . The law also requires that such land be situated within a municipal area. Dwelling houses and other buildings and /or any other structure within the boundary of the particular land are also included within the subject matter for the purposes of the exercise of Pre-emption rights.

Previously, the concept of privacy from the perspective of dwelling houses by and large entailed single or in some cases more than one single unit homes. Each family resided within their own independent buildings. Although It was also common to rent or lease out a portion of a building to strangers and outsiders as individuals as a family or for commercial purposes in any other manner In lieu of receiving rent from them by way of monetary consideration.

As the law stands till today, lessees are outside the scope of entitlement to rights of Pre-emption and therefore require no further discussion here.

Section 24 of NAT Act obviously also includes buildings for commercial purposes, and the argument of "convenience" may be appropriate for the benefit of owners of buildings used for commercial purposes.

However , the point I am trying to be made of understand is that , for the advantage of a co sharer tenant who is virtually an owner of a non-agricultural land the scope of Section 24 of the NAT Act may be widened . It goes without saying that it is a contemporaneous urban reality that independent unit dwelling houses in urban, municipal areas have been by and large replaced by flats /apartments.

Reverting to the concept of privacy and sanctity of a family, and particularly to the privacy of the female members in a family, the concept of Pre-emption under Section 24 of the NAT Act may be extended towards enacting Pre-emption rights for the purposes of sale and purchase of apartments/ flats . Apartment living has been part of urban reality since the past several years. Traditional 'undivided "families have been for the major part replaced by single unit families. The mode of modern living is needless to state , very different from what it was in the past .

But nonetheless the concept of privacy not being extinct along with the still existent concept of convenience as also envisaged originally in the Muslim law for purposes of granting Pre-emption rights to any person who fell within the scheme of such law.

Therefore the idea of enacting new, statutory rules to include apartments/ flats within the scope of the law of Pre-emption may be mulled over and considered by the legislators, albeit after taking the practical pros and cons into consideration. Evidently, the new statutory rules if all ever formulated, such rules shall evidently be subject to strict conditions which shall form part of the rules . While bringing apartment owners within the scope of Pre-emption, since in most cases, there are more than one owner in an apartment building the owner of the apartment closest in physical proximity to the apartment or apartments which is the subject matter of Pre-emption may be considered .

It may also be reminded here that evidently real estate companies, developers and vendors shall not be subject to such rules or laws , if any , ever formulated . It will be applicable only eventually to the subsequent owner or owners residing or renting out the apartments whatever may be the case , pursuant to



originally acquiring ownership upon purchase from the developers or upon purchase from any other person .

For the particular purpose, the scope of Section 24 of NAT Act may be broadened with necessary supplements or in the alternative a new statutory law may be enacted for the purposes of including apartments/ flats within the subject matter of Pre-emption. The intention behind the suggestion of including apartments within the law of Pre-emption is basically to allow a choice to the Pre-emptor to purchase.

The broad philosophy behind this suggestion traces back its origins to the initial concept of privacy, exclusion of strangers, preserving sanctity of the household and also for the purpose of avoiding other complications.

Some may argue that inclusion of apartments / flats making those a subject matter of rights of Pre-emption may be violative of the fundamental rights guaranteed under our constitution.

It is necessary to be reminded once again that notwithstanding the fundamental rights guaranteed under the constitution, nevertheless our personal laws are guided by our religion. The origin of the law of Pre-emption arises from the Muslim law of Pre-emption. Section 24 of NAT Act and Section 96 (1) of SAT Act were in my understanding enacted to reinforce and codify the original Muslim Law of Pre-emption with some modifications. Although evidently these statutory laws are applicable for the benefit of people of other religion too including Hindus. With the enactment of and by virtue of Section 24 of the NAT Act followed by Section 96(1) of the SAT Act , the " feeble " right as held earlier in some Indian decisions referring to the Muslim law pertaining to rights of Pre-emption, such " feeble " rights were strengthened with a firm ground upon granting stronger ,statutory rights to a person or persons entitled to Pre-emption.

Moreover we should not also ignore the early view taken in some Indian decisions regarding the rights of Pre-emption in the Muslim law being associated with the principles of " Justice , equity and good conscience " . One such decision was taken in a case reported in 20 Madras (1897) 205 .

All said and penned , the views expressed here are broadly my understanding of the laws discussed here . I tried to make an attempt to analyse the broad scope of the laws of Pre-emption in this country as those have evolved through the ages starting from the Muslim Shariah Law . The Muslim law of Pre-emption was followed by subsequent statutory enactments from time to time catering to the demands arising out of the growing needs of society.

The legislators in posterity, if they consider suitable may adopt some of the ideas suggested here , particularly in the latter part of this article pursuant of course after weighing all advantages and disadvantages including all other practical factors



National Judicial Conference 2019

“Justice for Peace and Development”, this was the theme of the National Judicial Conference, 2019 which was held on 7 December 2019 at Bangabandhu International Conference Center (BICC) organised by the Supreme Court of Bangladesh. The Honourable Judges of both the Divisions of the Supreme Court of Bangladesh and judicial officers from all over the country participated in the conference.

The two-part conference was started by the presence of the Honourable Prime Minister Sheikh Hasina, who graced the occasion as Chief Guest. The major four Holy Books were recited at the beginning. A documentary commemorating the after-independence inauguration of Bangladesh Supreme Court, separation of Judiciary from the executive and achievements of separate Judiciary was presented for the audience. The Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain presided over the inaugural program. Mr. Anisul Huq, MP; the Honorable Minister, Ministry of Law, Justice and Parliamentary Affairs was the special guest for the occasion.

Mr. Md. Golam Sarwar; Secretary, Law and Justice Division spoke there while Registrar General of the Supreme Court Mr. Md. Ali Akbar delivered the welcome speech. After that MS. Hosne Ara Begum, learned District and Sessions Judge of Munsiganj, as representative of all the judicial officers, presented a speech focusing on the prevailing challenges faced by judges of the district judiciary and their expectations from the Government.

Mr. Anisul Huq, MP, the Honorable Minister, Ministry of Law, Justice and Parliamentary Affairs in his speech pointed that it was the dream of the Father of the Nation Bangabandhu Sheikh Mujibur Rahman to establish rule of law, independence of judiciary and justice for all. The present government never interfered with the independence of the Judiciary. The government took a number of development projects for the Judiciary. He stated that the government was sending Judges of the Sub-ordinate Judiciary to Australia, Japan, China and India for training. The government created and increased new courts and judges were appointed there. The government is committed to do the best for the Judiciary.



The Honourable Prime Minister of Bangladesh Sheikh Hasina addressing at the National Judicial Conference held on 7 December 2019.



Then the Honourable Chief Justice of Bangladesh Syed Mahmud Hossain presented his speech by remembering and paying tribute to the country's ever greatest son and Father of the Nation Bangabandhu Sheikh Mujibur Rahman. He stated that the Judiciary was working to ensure justice for all and to establish rule of law, what was envisioned by Bangabandhu Sheikh Mujibur Rahman. In his valuable speech the Honourable Chief Justice talked about certain steps necessary to expedite the judiciary, such as digitalization of the judiciary by establishment of paperless system, full implementation of the judicial hours by the officers etc. He also presented the necessity of increasing the number of judges as much as twice the prevailing number to lessen the burden of case-logged judiciary. After that the Honourable Chief Justice drew the attention of the Honourable Prime Minister on the fact that our country lacks a full-fledged Law University and invited the Honourable Prime Minister to establish a law university named 'Bangabandhu Law University' celebrating the 100th birth anniversary of Bangabandhu Sheikh Mujibar Rahman.

The Honourable Prime Minister Sheikh Hasina inaugurated the conference. At the very beginning of her speech, she expressed her hereditary connection with the judiciary as her father, the Father of the Nation Bangabandhu Sheikh Mujibur Rahman was a student of law department at Dhaka University. She expressed her hope and satisfaction towards the judiciary. She also hoped that judges, being accountable to the country, its people and the constitution, will help to ensure the rule of law and justice by using their merit and creativity. She stated that she does not want others to wait for justice for years after years, the way she had to, while bearing the pain of losing kith and kin. Everyone should get justice and shelter of law that are described in the constitution. She added that parliament, judiciary, and executive are essential while running the state. These three organs will operate with their laws and policies. There should be coordination among these three organs, which will move the country towards peace and development. She thanked and congratulated the judiciary for their bold step to declare illegal the grabbing of state power through the killing of Father of the Nation Bangabandhu Sheikh Mujibur Rahman in 1975 and freed the country from stigma. She expressed her satisfaction for the verdict against the killers of Bangabandhu. She also thanked the judiciary for speedy trial of some sensational cases. Regarding the writing of Judgment of the Court in English, she hoped that Bangla version should be there simultaneously so that people can understand the verdict properly.

The Honourable Prime Minister said that the security of judges must be ensured as they are adjudicating sensational and dangerous offences and sentencing the terrible offenders. So all the judges need car facility and the Government is considering the matter with great care. She also added that the government is thinking about introducing virtual court in Bangladesh. She confirmed that the government would take various initiatives for the development of the judiciary. With the valuable speech the Honourable Prime Minister Sheikh Hasina, the inaugural session was concluded.

The working session of the conference was started at 12:00 pm with the gracious presence of Mr. Justice Syed Mahmud Hossain, the Honourable Chief Justice of Bangladesh as Chief Guest, while Mr. Justice Muhammad Imman Ali, Honourable Judge of the Appellate Division of the Supreme Court of Bangladesh presided over the session. The two-segmented working session was designed to discuss the problems of justice delivery system in subordinate judiciary and possible solutions where in the first segment some selected Judges from all tiers of the Sub-ordinate Judiciary introduced problems and difficulties they face in delivering justice.

The second segment of working session was started with the valuable and instructive speech of Mr. Justice Tariq-Ul-Hakim, Honourable Judge of the High Court Division. In enlightening speeches, Mr. Justice Nuruzzaman, Honourable Judge of the Appellate Division; Mr Justice Abu Bakar Siddique, Honourable Judge of the Appellate Division; Madam. Justice Zinat Ara, Honourable Judge of the Appellate Division; Mr. Justice Mirza Hossain Haider, Honourable Judge of the Appellate Division; Mr. Justice Hasan Foyez Siddique, Honourable Judge of the Appellate Division and Mr. Justice Muhammad Imman Ali, Honourable Judge of the Appellate Division discussed the reality and thrashed out the possible solution of justice delivery system in sub-ordinate courts in Bangladesh. They also talked about the significance of using technology in disposing the suit in an earliest possible time.

The session was closed with the remarkable speech of Mr. Justice Syed Mahmud Hossain; the Honourable Chief Justice of Bangladesh by presenting souvenir as a token of love and appreciation to all judicial officers of the country.



The Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain addressing at the National Judicial Conference 2019.



Mr. Anisul Huq MP, Honourable Minister for Law, Justice and Parliamentary Affairs addressing at the National Judicial Conference 2019.



The Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain, Mr. Justice Muhammad Imman Ali, Mr. Justice Hasan Foez Siddique, Madam Justice Zinat Ara, Mr. Justice Abu Bakar Siddiquee, Mr. Justice Md. Nuruzzaman and Mr. Justice Tariq ul Hakim are at the National Judicial Conference 2019.



The Honourable Judges' of the Supreme Court and the Subordinate Courts are at the National Judicial Conference 2019.



Supreme Court Day 2019

The Full Court of the Supreme Court of Bangladesh on 25 October 2017 decided to celebrate the Supreme Court day on 18 December every year. This is the day on which the Supreme Court of Bangladesh, comprising of Appellate Division and the High Court Division, under the Constitution drafted by the constituent assembly with guidance from our great national leader, Father of the Nation Bangabandhu Sheikh Mujibur Rahman started functioning full-fledged as the apex court of the Country.

Supreme Court is the guardian of the Constitution. It is the only organ of the State which is empowered to interfere in the affairs of other organs if they transgress their authority while carrying out their functions. It is the duty of the Supreme Court to defend the Constitution and the laws of Bangladesh, to safeguard the rights of the people and to protect their fundamental freedom. Therefore, the smooth functioning of the Supreme Court has direct effect upon the establishment of rule of law and justice for everyone in the country. Citizens would have been enslaved to the wishes of the mighty people, had the Supreme Court not discharged its duty efficiently from the beginning of its journey. Therefore, to manifest the success of the Supreme Court, each year Supreme Court Day will be observed.

On 18 December 2019 the Supreme Court Day has been observed for the third time in a row. A discussion was held at Supreme Court Judges' Complex as the main programme of the day. On the occasion, the Honorable President of the Republic Mr. Md. Abdul Hamid was present as the Chief Guest. The Honorable Minister of the Ministry of Law, Justice and Parliamentary Affairs, Mr. Anisul Huq MP was the Special Guest of the occasion. Amongst other, Mr Justice Mirza Hussain Haider, Chairperson of the Supreme Court Day Observance Committee; Mr. Mahbubey Alam, Attorney-General for Bangladesh; Mr. A K M Amin Uddin, President of the Supreme Court Bar Association and Mr. Yusuf Hossain Humayun, Vice-President of the Bangladesh Bar Council delivered speech in the event. A special documentary film was made and watched by the audience. A Souvenir Collection of memories of the former Chief Justices, former Judges of the Supreme Court, eminent lawyers of the Bar and former officials of the Supreme Court was also published. A blood donation camp was organised on Supreme Court premises.



The Honourable President of Bangladesh Mr. Md. Abdul Hamid addressing at the Supreme Court Day 2019 programme held on 18 December 2019



The Honorable President of the Republic Mr. Md. Abdul Hamid in his speech urged all concerned to take steps for using Alternative Dispute Resolution to reduce the growing backlog of cases. He said that ADR is a procedure for settling disputes without litigation, such as arbitration, mediation, or negotiation. ADR procedures are usually less costly and more expeditious. He added that the government firmly believes in the independence of the judiciary and was also sincere about enhancing the privileges of judges. He said that the judges also needed to be careful that litigants get their copies of verdicts at the shortest possible time after the pronouncement of judgments. He directed the Supreme Court administration to bring dynamism into case management using the information technology. He paid tribute and deep gratitude to the brave judges who contributed to establishing the rule of law without compromising with their conscience.



Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain addressing at the Supreme Court Day 2019 programme held on 18 December 2019.



Mr. Anisul Huq MP, Honourable Minister for Law, Justice and Parliamentary Affairs addressing at the Supreme Court Day Programme on 18 December 2019.



The Honourable President of Bangladesh Mr. Md. Abdul Hamid receiving Honorary Crest from the Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain at the Supreme Court Day 2019 Programme.



The Honourable President of Bangladesh Mr. Md. Abdul Hamid, Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain, Honourable Law Minister Mr. Anisul Huq MP and Honourable Members of the Supreme Court Day Observance Committee on Supreme Court Day 2019. (From left) Mr. Justice Sheikh Hassan Arif, Mr. Justice Obaidul Hassan, Mr. Justice Mirza Hussain Haider, Mr. Justice Syed Refaat Ahmed, Mr. Justice Moyeenul Islam Chowdhury and Mr. Justice M. Enayetur Rahim.



International Relations

The Supreme Court of Bangladesh continues to build relationships with the Judges and legal professionals across the world. The Supreme Court continues to attract international interest from judges and officials of the many countries of the world.

These include following:

- Sir Akhlaq Ur-Rahman Choudhury, a British High Court judge of Bangladeshi origin visited Bangladesh in July 2019 and had a meeting with the Hon'ble Chief Justice of Bangladesh.
- Justice Zaki Azmi, former Chief Justice of Malaysia visited Bangladesh in November 2019 and delivered a number of speeches in various seminars. He also met with the Honourable Chief Justice of Bangladesh.

Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh exchanging greeting with Mr. Justice Zaki Azmi, former Chief Justice of Malaysia.



- Justice Mukundakam Sharma, a former judge of the Supreme Court of India visited Bangladesh in December 2019. He attended the Supreme Court Day programme and he met with the Honourable Chief Justice of Bangladesh.



Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh handing over a token of appreciation to Mr. Justice Mukundakam Sharma, a former Judge of the Supreme Court of India.



- Justice Roger Coventry, former Judge of the High Court of UK and currently working as a Criminal Justice Advisor for UK Foreign and Commonwealth Office visited the Supreme Court of Bangladesh on 02 April 2019 and met with the Honourable Chief Justice of Bangladesh.



Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh handing over a crest to Mr. Justice Roger Coventry, former Judge of the High Court of UK and currently working as a Criminal Justice Adviser for UK Foreign and Commonwealth office.

Justices' international links

As in previous year, Justices of the Supreme Court of Bangladesh undertook engagement with international counterparts.

Justice Syed Mahmud Hossain, Hon'ble Chief Justice of Bangladesh visited Russian Federation on 14-18 July 2019 by the invitation from the Mr. Vyacheslav Lebedev, Chief Justice of the Supreme Court of the Russian Federation. They had bi-lateral meeting on various issues including increasing cooperation between the two judiciaries, exchange of knowledge etc. The Honourable Chief Justice of Bangladesh also had a meeting with the Mr. Valery Dmitrievich Zorkin, the Chairman of the Constitutional Court of the Russian Federation.



Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh and Mr. Vyacheslav Lebedev, Chief Justice of the Supreme Court of the Russian Federation.



Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh and Mr. Valery Dmitrievich Zorkin Chairman of the Constitutional Court of the Russian Federation.

The Honourable Chief Justice of Bangladesh attended the 3rd Indonesian Constitutional Court International Symposium, held on 03-06 November 2019 in Bali, Indonesia. He delivered a speech on 'Constitutional Court and Protection of Social and Economic Rights' in the symposium. He had bilateral meeting the Honourable Chief Justice of the Constitutional Court of the Republic of Indonesia Mr. Justice Anwar Usman.



Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh delivering speech in the '3rd Indonesian Constitutional Court International Symposium' at Bali, Indonesia.



Justice Muhammad Imman Ali, Honourable Judge of the Appellate Division, attended the 'Review Meeting on Children Affected by Foreign Fighters Phenomenon: Ensuring a Child Rights-Based Approach', in the United Nations conference room, New York on 11-12 April 2019. He also attended 'Judicial Symposium on Family Justice' on 28-30 September 2019 organised by the Maldives Judicial Academy in Maldives.



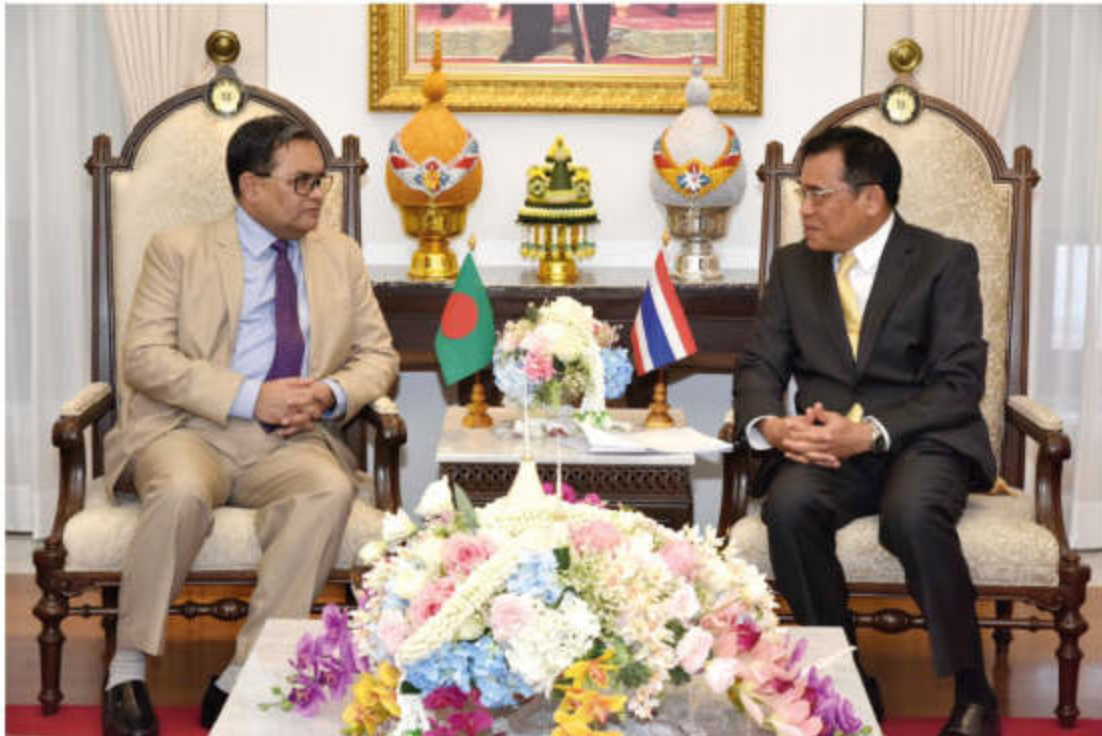
Mr. Justice Muhammad Imman Ali, Honourable Judge of the Appellate Division, attended the 'Review Meeting on Children Affected by Foreign Fighters phenomenon' in the United Nations Conference Room, New York. (right).



Mr. Justice Muhammad Imman Ali, Honourable Judge of the Appellate Division, delivering speech in 'Judicial Symposium' at Maldives Judicial Academy in Maldives.



Justice Hasan Foez Siddique visited Thailand on 21-25 July 2019 and had meeting with Honourable Justice Slaikate Wattanapan, Vice-President of the Supreme Court of the Kingdom of Thailand. He also visited Judicial Training Institute (JTI) of Thailand.



Mr. Justice Hasan Foez Siddique, Honourable Judge of the Appellate Division and Mr. Justice Slaikate Wattanapan, Vice-President of the Supreme Court of the Kingdom of Thailand.

Justice Dr. Syed Refaat Ahmed attended 4th Prof. N.R. Madhava Menon SAARCLAW Mooting Competition, Law Students' Conference & Colloquium, 2018-19 held at Lloyd Law College, Greater Noida, Uttar Pradesh, India from 14 to 18 February, 2019.



Justice Dr. Syed Refaat Ahmed at the Colloquium with the former Chief Justice of India, Hon'ble Mr. Justice K.G. Balakrishnan and Hon'ble Madam Justice Sapana Pradhan Malla of the Supreme Court of Nepal.



As member of Supreme Court Special Committee for Judicial Reforms held meetings under the aegis of GIZ with academics, judges and U.K. sentencing Council functionaries on Sentencing Guidelines in London from 17 to 19 September, 2019; and participated in the International Panel Discussion on Contemporary Advancements and Practices in Research held at and organized by the Bahrain Branch of the Arab Open University on 29 September, 2019.



Mr. Justice Syed Refaat Ahmed, Honourable Judge of the High Court Division attended in the International Panel Discussion on Contemporary Advancements and Practices in Research held at and organized by the Bahrain Branch of the Arab Open University on 29 September, 2019.

Justice Moyeenul Islam Chowdhury participated in the 'Asia-Pacific Judicial Conference on Environmental and Climate Change Adjudication', which was held in Nadi, Fiji on 7-8 October 2019. He delivered a speech on Environment Justice in the Asia and the Pacific in the Conference.



Mr. Justice Moyeenul Islam Chowdhury, Honourable Judge of the High Court Division in a group photo (Middle of the front row) in the 'Asia-Pacific Judicial Conference on Environmental and Climate Change adjudication' in Nadi, Fiji.



Justice Obaidul Hassan, visited Thailand on 21-25 July 2019 and had meeting with Hon. Justice Slaikate Wattanapan, Vice-President of the Supreme Court of the Kingdom of Thailand. He also visited Judicial Training Institute (JTI) of Thailand.



Mr. Justice Hasan Foez Siddique (left of the front row), Honourable Judge of the Appellate Division, Mr. Justice Obaidul Hassan (middle of the 2nd row) and Mr. Justice Md. Shawkat Hossain (4th from left in the 2nd row), Honourable Judges of the High Court Division visited Thailand on 21-25 July 2019.

Justice Md. Shawkat Hossain attended the '3rd UNCITRAL Asia Pacific Judicial Summit 2019' which was held on 04-05 November 2019 at Hong Kong. He also visited Thailand on 21-25 July 2019.



Mr. Justice Md. Shawkat Hossain, Honourable Judge of High Court Division attended the '3rd UNCITRAL Asia Pacific Summit 2019' at Hong Kong.



Justice Sheikh Hassan Arif participated in the 'first South Asia Regional Judicial Colloquium on Reproductive Rights' in 21-22 September 2019 in Kathmandu, Nepal. This Regional Judicial Colloquium was organized by the National Judicial Academy of Nepal in partnership with the Center for Reproductive Rights (CRR), and in collaboration with the South Asia Reproductive Justice and Accountability Initiative (SARJAI) and SAARC LAW-Nepal.



Mr. Justice Sheikh Hassan Arif, Honourable Judge of High Court Division attended the 'First South Asia Regional Colloquium on Reproductive Rights' in Kathmandu, Nepal (Third from right).

Justice Md. Ashraful Kamal attended the 'Commonwealth Asia-High level Regional Dialogue Exchange Programme' held on 18-20 November 2019 in Kuala Lumpur, Malaysia.



Mr. Justice Md. Ashraful Kamal, Honourable Judge of High Court Division participated in the 'Commonwealth Asia-High level Regional Dialogue Exchange Programme' at Kuala Lumpur, Malaysia (At the middle).



Justice Md. Mozibur Rahman Miah participated in the '20th International Conference of Chief Justices of the World' which was on 6-12 November 2019 in Delhi and Lucknow, India. He delivered a speech on 'In Quest of Peace and Prosperity'

Mr. Justice Md. Mozibur Rahman Miah, Honourable Judge of High Court Division delivering speech in the '20th International Conference of the Chief Justices of the World' in Delhi & Lucknow, India.



Justice Razik-Al-Jalil visited Russia on 14-18 July 2019 as a delegate with the Honourable Chief Justice of Bangladesh.



Mr. Justice Md. Razik-Al-Jalil, Honourable Judge of High Court Division and Mr. Valentin Yershov, Rector of the University of the Justice, Moscow, Russia.

These visits and relationships paved a way to exchange the views on various legal issues.



Major Activities of the Supreme Court of Bangladesh in 2019

During the year the Supreme Court of Bangladesh launched a number of new initiatives to strengthen the capacity of the Judges of the subordinate judiciary to reduce the case backlog and improve the service delivery system. The support staffs of the court have been provided with the training to increase their capacity. Apart from day to day judicial work, the Supreme Court observed and celebrated the national programmes.

1. Sending the Judges of the Subordinate Judiciary to the National Judicial Academy of India for Training:

The Supreme Court of Bangladesh, in collaboration with Government of Bangladesh and India has signed a Memorandum of Understanding with the National Judicial Academy of India (NJA) situated at Bhopal, Madhya Pradesh to train the Judges of the subordinate Judiciary of Bangladesh. The training not only pertained to legal skills and principles but also to court administration and managerial skills, the use of IT and case-management tools. In 2019 four batches of Judicial Officers comprising 40 Judges in each batch were sent to the NJA, Bhopal. Each batch also received training from another State Judicial Academy of India.



Orientation Programme for the Judge's of the subordinate court who were sent to NJA, Bhopal, India.

2. Distribution of Computers and Laptops among the Judges of the Subordinate Judiciary:

The government is committed to building a digital Bangladesh where all services to the people will be delivered digitally as much as possible. In this respect, the government has achieved remarkable progress. The Supreme Court of Bangladesh, keeping in view the target of Digital Bangladesh, has procured and distributed a number of Laptops and Computers of high configuration among the Judges of the subordinate Courts to facilitate judgment writing and evidence recording. As a result of this initiative of Laptop distribution, the performance of subordinate court Judges has increased substantially. In 2019 a number of 113 desktop computers have been distributed to the honourable judges of the High Court Division. Similarly, the learned Judges of the sub-ordinate court provided with 224 desktop computers and 104 laptops.



3. Divisional Consultation Meeting on Children Act, 2013 and its effective implementation:

The Supreme Court Special Committee for Child Rights (SCSCCR) organized a number of 4 Divisional Consultation Meeting on Children Act, 2013 and its effective implementation. The aims of these consultations meetings were to find out the ways of effective implementation of the Children Act, 2013. UNICEF Bangladesh supported the Committee to organize these consultation meetings. Those events were highly successful as various issues regarding implementation of the Children Act 2013 at the field level were discussed by the several stakeholders including the Judges of the Children Court, Child Affairs Police Officers and Probation Officers.



4. Training on Computer, Information and Communication Technology:

A number of training programmes on Computer, Information and Communication Technology were organised by the Supreme Court Administration throughout the year. The target groups for the training were the staffs of the Supreme Court at various levels. The training aimed to improve the computer skills of the employees of the Supreme Court who work in the Benches and the Sections of the Supreme Court. The successful completion of the training resulted in enhanced performance of the staffs of the Supreme Court.

5. Seminar on Government Legal Aid Service:

The Supreme Court Legal Aid Committee and Manusher Jonno Foundation on 5 May 2019 jointly organized a seminar on 'Government Legal Services in the Supreme Court: Continuous Process and Expectation,' at the Supreme Court Auditorium. The Chief Guest of the program was Honorable Chief Justice of Bangladesh, Mr. Justice Syed Mahmud Hossain. the Honourable Minister for Law, Justice and Parliamentary Affairs Mr. Anisul Huq MP attended the event as special guest. Honorable Mr. Justice M. Enayetur Rahim, the Chairman of the Legal Aid Committee of the Supreme Court, presided over the meeting. The Honourable Chief Justice of Bangladesh mentioned that the state-run legal service providers to remain alert so that no women and children in distress were unable to access justice for lack of money. He said that needy



people had the constitutional right to get free legal aid service. The event was attended by the Attorney-General for Bangladesh Mr. Mahbubey Alam. Different stakeholders took part in the discussion and recommendations were noted for implementation.



Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh, Mr. Anisul Huq MP, Honourable Law Minister, Mr. Justice M. Enayetur Rahim, Mr. Mahbubey Alam, Mr. Md. Zakir Hossain, Mr. Aminul Islam and Mr. Amin Uddin are at the Seminar on 'Government Legal Services in the Supreme Court: Continuous Process and Expectation'.

6. Iftar Mahfil:

On the occasion of the holy month of Ramadan the Supreme Court of Bangladesh on 16 May 2019 organized an iftar mahfil at the Supreme Court premises. The Honorable Speaker of the Parliament Dr Shirin Sharmin Chaudhury has attended the Iftar Mahfil. During the event, the Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain went round different tables set for the guests, exchanged pleasantries with them and enquired of their wellbeing prior to the iftar. A special munajat was offered seeking divine blessings for the continued peace, progress and prosperity of the nation.



Honourable Speaker of the Jatiya Sangsad Dr. Shirin Sharmin Chaudhury (middle), Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain (left) and Mr. Anisul Huq MP (right), Honourable Minister for Ministry of Law, Justice and Parliamentary Affairs are at the Iftar Mahfil at the Supreme Court of Bangladesh.

Cabinet members, Mr. Anisul Huq MP, Minister for Ministry of Law, Justice and Parliamentary Affairs attended the iftar mahfil. Amongst other, former Chief Justices, former Judges, Judges of the both divisions, Attorney-General for Bangladesh, senior lawyers, and high civil and military officials also joined the iftar mahfil.



7. Observing National Mourning Day:

Supreme Court of Bangladesh observed National Mourning Day on 15 August 2019, marking the 44th anniversary of the assassination of Father of the Nation Bangabandhu Sheikh Mujibur Rahman. Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain paid homage to the father of the nation by placing floral wreaths in the morning at the portrait of Bangabandhu Sheikh Mujibur Rahman, in front of the Bangabandhu Memorial Museum at Dhanmondi Road No 32 in Dhaka. A Munajat was offered, seeking eternal peace for the departed souls of the August 15 carnage at the Supreme Court Auditorium. Supreme Court of Bangladesh also organised a blood donation camp at the Supreme Court premises as a part of observing the National Mourning Day.



Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain placing floral wreaths at the portrait of Father of the Nation Bangabandhu Sheikh Mujibur Rahman at Bangabandhu Memorial Museum at Dhanmondi Road No 32, Dhaka in the National Mourning day on 15 August 2019.



Honourable Judges of the Supreme Court of Bangladesh participating in the prayers at the Supreme Court premises in the National Mourning Day on 15 August 2019.



Honourable Judges of the Supreme Court of Bangladesh observing blood donation programme in the National Mourning Day on 15 August 2019.



8. National Judicial Conference:

The National Judicial Conference-2019 was held on 07 December 2019 with the theme “Justice for Peace and Development” at Bangabandhu International Convention Centre. The Honourable Prime Minister Sheikh Hasina inaugurated the event as the chief guest. The Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain presided over the inaugural programme where the Honourable Minister for Ministry of Law, Justice and Parliamentary Affairs Mr. Anisul Huq MP, graced the conference as the special guest. The Honourable Judges of the Appellate and High Court Divisions of the Supreme Court of Bangladesh and the learned Judges of the sub-ordinate Judiciary were also present in the Conference. A number issue including backlog of cases, digitalisation in the judiciary and effective court administration management were discussed in the Conference.



Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain addressing at the National Judicial Conference held on 7th December 2019.

9. Observing the Supreme Court Day:

The Supreme Court of Bangladesh on 18 December 2019 Wednesday observed the Supreme Court Day for third time. The Honorable President of the Republic Mr. Md. Abdul Hamid was present as the Chief Guest. He delivered a speech on the discussion at the Supreme Court Judges' Complex on the occasion of the 'Supreme Court Day. The Hon'ble Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain presided over the session. A souvenir was published to commemorate the event.



The Supreme Court of Bangladesh observed the Supreme Court Day for third time on 18 December 2019.



10. Judges' Welfare Foundation:

Supreme Court Judges' Welfare Foundation organized and undertook a number of events including cultural program, family day program, sports for the Judges of Supreme Court of Bangladesh in 2019. There are works and adornments done in Judge's corner alongside Supreme Court Sports Complex to make it a complete recreation centre for the Judges in their leisure.



Honourable Chief Justice of Bangladesh along with other Honourable Judges of the Supreme Court of Bangladesh Celebrating 5th Annual Establishment day of the Supreme Court Judges Corner.

Honourable Chief Justice of Bangladesh along with other Honourable Judges of the Supreme Court of Bangladesh inaugurating the Annual Internal Sports Competition Programme.





Activities and Initiatives of the Supreme Court Special Committee for Judicial Reforms in Legal and Judicial Reform

Background:

The Supreme Court Special Committee for Judicial Reforms was formed in 2010. Initially the Committee performed the role of advisor to the Judicial Strengthening Project (the Just Project) run by the UNDP and provided necessary support & guidance for the implementation of it. The Just Project was ended in 2015 and thereafter the Special Committee for Judicial Reforms continued to work with various activities to fulfill its objectives and achieved good success in introducing numerous techniques and schemes at different points of justice delivery system.

The Committee has passed its nine years of journey in which the Hon'ble Members of the Committee sat 66 times to discuss the way outs for enhancements of the quality of justice delivery system and improvement in services rendered by the associate staffs and officers of the courts, introducing digital techniques in the justice delivery systems of both the higher and the sub-ordinate judiciary. In 2019 the Committee held 8 meetings.

Objectives:

The core objectives of the Committee are:

1. To lead the strategic dialogue on judicial reforms with all stakeholders, including the Government, Bar Council, UN and UN Agencies, foreign development partners, and relevant national and international organisations and identify the areas and measures for reforms and make necessary policy decisions on judicial reforms and with its own resources as well as with the support of the government and international development partners.
2. To explore the ways and means for establishing a Judicial Secretariat under the Supreme Court of Bangladesh within its premises for ensuring effective superintendence upon the subordinate judiciary and establishing improved judicial accountability.
3. To formulate and implement appropriate measures introducing the information technology in case management and court administration for elimination of case back logs and reducing overall time required for dispensation of justice in civil and criminal cases.
4. To liaise with the Government, UN and UN Agencies and other relevant development partners and arrange appropriate training programmes and study tours home and abroad for the judges and court staffs.

Activities and Initiatives in 2019

In 2019, the Committee took a broad range of activities and initiatives accorded to legal and judicial reform. The objective of these activities is to ensure that the legal framework serves the country's economic and social needs. The following discussion describe initiatives and activities of the Committee in legal and judicial reform

Seminar on Commercial Law:

A Seminar under the heading of "Commercial Legal Practices and Recent Developments in Bangladesh" was jointly organized by Supreme Court Special Committee for Judicial Reforms and UNDP Bangladesh.



Commercial Legal Practices and Recent Developments in Bangladesh

Chief Guest: Mr. Justice Syed Mahmud Hossain
Honourable Chief Justice of Bangladesh.

Chair: Mr. Justice Muhammad Imman Ali
Honourable Judge, Appellate Division, Supreme Court of Bangladesh and
Chairman, Supreme Court Special Committee for Judicial Reforms.

Guest of Honour: Mr. Sudipto Mukerjee
Resident Representative, UNDP Bangladesh.



The Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain, Honourable Mr. Justice Muhammad Imman Ali and Mr. Sudipto Mukerjee, UNDP Bangladesh are at the Inaugural session.

The Seminar was held on Saturday dated 06.07.19 from 09.00 am to 04.30 pm in the Supreme Court Judge's Sports Complex in presence of Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh. The Honourable Judges of Appellate Division as well as High Court Division of the Supreme Court of Bangladesh were present at the Seminar.



The Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain is delivering speech in the inauguration session.



The daylong Seminar was divided into three Sessions. At the 1st session Mr. Justice Muhammad Imman Ali, Honourable Judge of the Appellate Division, Supreme Court of Bangladesh delivered the keynote speech on 'Commercial Arbitration in Bangladesh'. Barrister Sameer Sattar, Advocate, Supreme Court of Bangladesh and Dr. Fahmida Khatun, Executive Director, CPD were the panel speakers, of the 1st Session.



Honourable Mr. Justice Muhammad Imman Ali is delivering his speech.

Mr. Justice Syed Refaat Ahmed, Honourable Judge of the High Court Division, Supreme Court of Bangladesh was the keynote speaker of the 2nd Session. He delivered speech on 'Enforcement of Contracts and Challenges and the Ease of Doing Business in Bangladesh'. Barrister Tanjib-ul-Alam, Advocate, Supreme Court of Bangladesh and Dr. Rubana Huq, President of BGMEA were the Panel speakers of the 2nd Session.



Honourable Mr. Justice Syed Refaat Ahmed is delivering his speech.



Mr. Justice M. R. Hassan, Honourable Judge of the High Court Division, Supreme Court of Bangladesh was the keynote speaker of the last Session and his topic was 'Commercial law and legal practice: application of laws and gaps in the system'. Mr. Khandaker Ibrahim Khaled, Former Deputy Governor, Bangladesh Bank and Barrister Ashraful Hadi, Advocate, Supreme Court of Bangladesh were the panel speakers of the 3rd session.



Honourable Mr. Justice M.R. Hassan is delivering speech.

Barrister Mustafizur Rahman Khan, Advocate, Supreme Court of Bangladesh was the moderator who summed up the entire sessions. The daylong seminar concluded with the concluding remarks of Mr. Justice Mirza Hussain Haider, Honourable Judge of the Appellate Division, Supreme Court of Bangladesh.



Honourable Mr. Justice Mirza Hussain Haider is delivering concluding speech at the closing session.



The representatives of different institutions, judges from Dhaka District Court and Metropolitan Sessions Court, Advocates of Supreme Court, UNDP Officials attended the seminar.

Seminar on Justice Audit:

The Committee and Rule of Law, GIZ Bangladesh jointly organised a seminar to share the findings of National Justice Audit to the Honourable Judges of the Supreme Court of Bangladesh on 27 April 2019 at Supreme Court Auditorium. National Justice Audit is a systematic, independent, examination of the criminal justice system to ascertain how it is functioning.

Mr. Justice Syed Mahmud Hossain, Honourable Chief Justice of Bangladesh graced the occasion as Chief Guest. Mr. Justice Muhammad Imman Ali, Honourable Judge, Appellate Division, Supreme Court of Bangladesh and Chairman, Supreme Court Special Committee for Judicial Reforms presided over the session. Mr. Michael Schultheiß, Deputy Head of Mission (Ambassador in Charge), Embassy of the Federal Republic of Germany, Dhaka and Ms. Judith Herbertson, Head of DFID Bangladesh were present as Special Guests.



The Honourable Chief Justice of Bangladesh Mr. Justice Syed Mahmud Hossain, Honourable Mr. Justice Muhammad Imman Ali, Mr. Michael Schultheiß, Deputy Head of Mission (Ambassador in Charge) Embassy of the Federal Republic of Germany and Ms. Judith Herbertson, Head of DFID Bangladesh are at the seminar.

At the event, Promita Sengupta, Head of programme, GIZ explained that the Justice Audit is a collection of comprehensive data of the justice sector and Bangladesh is the first country in the world to have completed such audit. Mr. Eric Cadora in his presentation explained all-inclusiveness of the data visualized in the Justice Audit Website. The objective of the Justice Audit is to visualize the collected data that will help the relevant actors and institutions like the judges present to make informed decision on areas like relocation of reform efforts.

After an introduction by Promita Sengupta (Head of programme, GIZ) a comprehensive presentation on the Justice Audit and diagnosing the criminal justice system was given by Mr. Joseph Eric Cadora (Director of Justice Mapping Center) followed by an open discussion by all attendants, including all Supreme Court judges, Chief Guest Mr Justice Syed Mahmud Hossain (Hon'ble Chief Justice), Chair Mr Justice Muhammed Imman Ali (Head of the Committee for Judicial Reform), Special Guest Judith Herbertson (Head of DFID Bangladesh) and Special Guest Michael Schultheiss (Chargé d'Affaires of the Embassy of the Federal Republic of Germany in Dhaka).

Workshop on Probation of Offenders' Ordinance 1960:

The Committee with the assistance of the German Development Cooperation, GIZ organised a workshop on 27 July 2019 the on implementation of the Probation of Offenders' Ordinance 1960. The Honourable



members of the Committee, learned judges from subordinate judiciary, prison officers and probation officers attended the workshop for discussing the scope of setting petty offenders free to reduce overcrowding the jails by properly enforcing the Probation of Offenders' Ordinance 1960. The participants were 65 learned Judges, 8 officers from Prison, 17 officers from Social Welfare Department from Dhaka, Gazipur and Narayanganj districts. Officers from Supreme Court Registry and Ministry of Law also attended that workshop. The ordinance provides for the release on probation of offenders in certain cases. The main objective of this workshop was Implementation of the Probation of Offenders Ordinance 1960 to explore the alternatives to imprisonment they expressed grave concern over non-enforcement of the 1960 law by the courts.



Honourable Mr. Justice Muhammad Imman Ali is addressing in the Workshop on the Probation of Offenders' Ordinance, 1960.

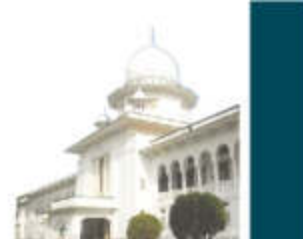
The workshop was chaired by Mr. Justice Muhammad Imman Ali, Chairman, the Supreme Court Special Committee for Judicial Reforms and he enunciated the Scope for implementation of Probation of Offenders Ordinance 1960. Mr. Justice Moyeenul Islam Chowdhury, Supreme Court of Bangladesh, Mr. Justice Obaidul Hassan, Supreme Court of Bangladesh and Mr. Justice Md. Rezaul Hasan Supreme Court of Bangladesh, Colonel Md. Abrar Hossain, Additional IG prisons, Mr. Md Abdullah Al Mamun, Director, Department of Social Service were present as panel discussant. During open discussion they answered different questions raised by the participants.

Dialogue exchange on Judgment Writing:

The Supreme Court Special Committee for Reforms and UNDP Bangladesh jointly organised a dialogue exchange session on Judgment Writing on 2 November 2019. Mr. Justice Zaki Azmi former Chief Justice of Malaysia and incumbent Chief Justice of the Dubai International Financial Center Courts shared his experience with the Honourable judges of the Supreme Court of Bangladesh on the writing of judgment.



Honourable Mr. Justice Zaki Azmi is addressing at the Dialogue Exchange on Judgment Writing session.



The Honourable Judges of the Supreme Court of Bangladesh judges from the High Court Division and Appellate Division also exchanged their views and experience on writing of judgment. It was discussed in the sessions that the role of the court must be transparent and every decision of the courts must be supported by reasons openly announced. It was also suggested that the language of the judgment required to be understandable by the parties of the cases so that the parties do not have to get lawyers to understand the content of it. The learned judges should ensure the points raised by the losing party are well considered, but not forgetting those supporting his conclusion. Judges should primarily focus on deciding of the facts, decide the law, and apply the facts to the law, and consider the facts material to the issues, if disputed consider credibility and leave the space for further research.

Dialogue exchange on Case management:

The Supreme Court Special Committee for Reforms and UNDP Bangladesh jointly organised a dialogue exchange session on case management in Supreme Court on 8 November 2019 at the Hotel Intercontinental. Mr. Justice Zaki Azmi delivered the keynote speech. The session was presided over by the Mr. Justice Muhammad Imman Ali, Appellate Division, Supreme Court of Bangladesh. He delivered speech on case management in Supreme Court. The Honourable Judges from the both division participated in the event.



The Honourable Judges of the High Court Division are at the session.

Preparing Sentencing Guideline:

The Supreme Court Special Committee for Judicial Reforms by the decision of its sixty-first meeting formed a sub-committee on preparing the sentencing guidelines. The Sub-Committee has been given the responsibility to make an action plan on preparing sentencing guidelines

Circulars:

The Supreme Court Special Committee for Judicial Reforms Bangladesh in 2019 submitted three proposals to the Honourable Chief Justice of Bangladesh to issue circulars, which are mentioned below:

1. To circulate the practice direction on the application of the Probation of Offenders Ordinance, 1960 to all the concerned subordinate criminal courts of Bangladesh.
2. To issue a practice direction regarding the judicial examination of the victim of rape under section 22 of the Nari-O-Shishu Nirjatan Daman Ain 2000, which should be conducted by a female Magistrate.
3. To issue a practice direction on the use of social media for the Judicial Officers of the Subordinate Judiciary of Bangladesh has been issued.

The Honourable Chief Justice of Bangladesh approved these three proposals and accordingly practice directions have been issued to the same.



Leading Decisions of the Supreme Court of Bangladesh in the year of 2019.

1. **Government of Bangladesh, represented by the Secretary, Ministry of Social Welfare, Bangladesh Secretariat & others-Versus-Md. Akterun Nabi, 71 DLR¹(AD)2019, 319 [Article 102(2) of the Constitution of Bangladesh]**

When any person renders service to anybody he has a right to get remuneration for the service he rendered and it is the duty of the party who received such service to pay for such service he received. The writ-petitioner had rendered service for 2 extra years and he should not be deprived of getting proper remuneration for the same. The duty cast upon the authority to see whether the writ-petitioner had been in service accordance with law or not.

2. **Government of Bangladesh -Versus. Abdul Mannan & ors. 13 SCOB² [2020] AD³. [Abandoned property, Suit for specific performance of contract]**

In the suit for specific performance of contract the declaration of the suit property is not an abandoned property, is beyond the scope of the suit and such declaration has no legal value at all. In a suit for specific performance of contract the only issue to be decided whether the contract was genuine or not and as such, though the Government is made a party to a suit for specific performance of contract as a requirement of law it is not bound by the decree.

3. **The State -Versus.- Abdur Razzak & ors. 13 SCOB [2020] AD. [Absorption and doctrine of legitimate expectation]**

The legitimate expectation would not override the statutory provision. The doctrine of legitimate expectation cannot be invoked for creation of posts to facilitate absorption in the offices of the regular cadres/non cadres. Creation of permanent posts is a matter for the employer and the same is based on policy decision.

While transferring any development project and its manpower to revenue budget the provisions provided in the notifications, government orders and circulars quoted earlier must be followed. However, it is to be remembered that executive power can be exercised only to fill in the gaps and the same cannot and should not supplant the law, but only supplement the law.

Before regularization of service of the officers and employees of the development project in the revenue budget the provisions of applicable "Bidhimala" must be complied with. Without exhausting the applicable provisions of the "Bidhimala" as quoted above no one is entitled to be regularised in the service of revenue budget since those are statutory provisions.

The appointing authority, while regularising the officers and employees in the posts of revenue budget, must comply with the requirements of statutory rules in order to remove future complication. The officers and employees of the development project shall get age relaxation for participation in selection process in any post of revenue budget as per applicable Rules.

A mandamus cannot be issued in government and its instrumentalities to make anyone regularized in the permanent posts as of right. Any appointment in the posts described in the schedule of Bangladesh Civil Service Recruitment Rules, 1981, Gazetted Officers (Department of Live Stock Service) Recruitment Rules, 1984 and Non-gazetted Employees (Department of Live Stock Service) Recruitment Rules, 1985 bypassing Public Service Commission should be treated as back door appointment and such appointment should be stopped.

To become a member of the service in a substantive capacity, appointment by the President of the Republic shall be preceded by selection by a direct recruitment by the PSC. The Government has to make appointment according to recruitment Rules by open competitive examination through the PSC.

1. DLR – Dhaka Law Reports

2. SCOB – Supreme Court Online Bulletin

3. AD – Appellate Division



Opportunity shall be given to eligible persons by inviting applications through public notification and appointment should be made by regular recruitment through the prescribed agency following legally approved method consistent with the requirements of law.

It is not the role of the Courts to encourage or approve appointments made outside the constitutional scheme and statutory provisions. It is not proper for the Courts to direct absorption in permanent employment of those who have been recruited without following due process of selection as envisaged by the constitutional scheme.

4. **Executive Engineer Roads & Highway Department (RHD) Road Division, Munshiganj –Versus.- Md. Nurul Islam & others, 71 DLR (AD) 2019, 349 [Section 10(1) of Arbitration Act and Order VII, Rule 11 of The Code of Civil Procedure, 1908]**

Any objection regarding the proceeding in the civil Court that must be taken in the earliest opportunity before filling the written statement in the suit. There is no legal impediment or any cogent reason to hold that clause 25 of the agreement stands as a bar to file the suit for compensation.

In determining whether a plaint is to be rejected, the Court will take only the plaint and documents filed therewith into consideration and not what has been urged by the defendant in a petition or in the written statement.

5. **Government of Bangladesh & others –Versus.- Md.Nazrul Islam & others, 27 BLT⁴ (AD) 2019, 167 [Article 102 of the Constitution of Bangladesh, 1972, Writ of mandamus]**

The case of the writ petitioners is that they are entitled to have M.P.O. as they have already completed all the formalities and criteria to have the same. They further claimed that although other teachers have the M.P.O. of the same college but their case is not considered by the concerned authority. They served the legal notice but in vain. Hence, they filed the writ petition for redress. Whether the writ petitioners have any legal right to have the M.P.O. as teachers of the said college and they are legally entitled invoke the jurisdiction of writ of mandamus for direction upon the writ respondents to include their names in the M.P.O. list of the college.

In the case in hand the petitioners did not allege that the writ respondents have violated any legal right of them. The granting of M.P.O. is the policy decision of the Government. Therefore, the petitioners could not claim the same as of right. This Division is of the view that teachers and staffs of the Non-Government School and college could not claim the M.P.O. as a matter of right and as such, direction could not be given unless infringement of legal right or violation of law.

6. **Durnity Daman Commission –Versus.- Humaiyun Kabir (Md) & others, 24 BLC⁵ (AD) 2019, 133 [Section 2(aa) and 4 of the Administrative Tribunal Act, 1980]**

On careful scrutiny of the Schedule to the Act, it transpires that anti-corruption commission is not included in it. It cannot be said that the writ petition was not maintainable as the Act was not applicable to the writ petitioner. Since the Act was/is not applicable to the writ petitioner and he had no other equally efficacious remedy available in any other forum, provided by any law the High Court Division rightly found the writ petition to be maintainable.

7. **Mst. Selina Gulshan Ara Gul Hasna –Versus.- Mashiur Rahman being dead his legal heirs: 1(Ka) Mst. Asmaul Husna & others 27 BLT (AD) 2019, 68 [Section 244 of the State Acquisition and Tenancy Act, 1950]**

Whether the pre-emptor was a co-sharer or not due to the jama of the co-sharer have been separated upon publication of the newly created record of Khatian in the name of the seller. The High Court Division upon discussing all the facts and circumstances of the case came to a conclusion that the mutation of any person's name in the holding is nothing but only for payment of rent and the co-sharer-ship cannot be ceased by mere mutation and accordingly the High court Division found that both the Courts below failed to consider that mere mutation in fact ceased any one to be a co-sharer and as such both the courts below arrived at an erroneous finding in holding

4. BLT = Bangladesh Law Times

5. BLC = Bangladesh Law Chronicles



that due to mutation the right of pre-emption of the pre-emptor has been lost and consequently the pre-emptor lost co-sharer-ship in the holding. In section 24 of the Non Agricultural Tenancy Act it is provided that if a co-sharer tenant owns a portion of land in any plot, he is to be treated as co-sharer in the entire plot even if the land of that plot is recorded in more than one Khatian. Thus in spite of the fact that the khatian separated by mutation the pre-emptor is still a co-sharer in the case plot. This vital aspect has not at all been considered by the court below and thereby both the courts below erred in law in disallowing pre-emption. The High court Division having rightly considered this aspect of law made the Rule absolute and set aside the judgments of both the courts below.

Law in respect of pre-emptor is, no matter whether any co-sharer was offered to purchase the property and/or he refused to do the same earlier that will, under no circumstances, create an estoppel/waiver. Because the right of the pre-emptor accrued on and from the date of registering the deed under section 60 of the Registration Act or from the date of knowledge of such transfer till 4(four) months thereafter. In the present case the deed was admittedly executed on 4.11.2007 and was endorsed in the volume under section 60 of the Act in 2011 and the pre-emptor having come to know about the transfer on 20.01.2011 the pre-emptor case has been filled on 04.02.2011 which is very much within the period of limitation. So the submission of the learned Advocate for the petitioner that the pre-emptor case is barred by waiver, estoppel, and acquiescence has no ground to stand.

8. State –Versus.- professor Dr Morshed Hasan Khan & 16 others 71 DLR (AD) 2019, 364 [Article 32 of the Constitution of Bangladesh and Section 498 of the Code of Criminal procedure, 1898]

It is to be borne in mind that the protection of personal liberty stands expanded to make the right to life or personal liberty save in accordance with law under Article 32 of the Constitution. The language of this article itself recording to an exception indicating thereby that a person may be deprived of his liberty in accordance with the procedure established by law. It is also to be remembered always that personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the facts and circumstances of the case. It is expected that every arrest must be in accordance with the procedure established by law.

Anticipatory bail- No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail. No attempt should be made to provide right and inflexible guidelines in this respect because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail.

9. Md. Murtuza Shah & another –Versus.- Ataharul Haque & others 27 BLT (AD) 2019, 185 [Definition of Abandoned property and Jurisdiction under Article 102 of the Constitution]

If any person who left his property or is not present in Bangladesh or whose whereabouts are not known or who has ceased to occupy, supervise or manage in person his occupy, supervise of manage in person his property, during the period of liberation in 1971 was at war with or engaged in military operation against the Bangladesh, his property under the definition shall be included as an abandoned property.

Before issuing the rule the High court Division ought to have gone through the merit of the writ petition and if it is apparent from the statement of the writ petition that the petitioner neither aggrieved person nor have any locus standi to file the writ petition, such type of vexatious application should be rejected summarily.

10. Hosnara Begum -versus.- A.K.M. Bahauddin alias Bahar and others, XVI ADC⁶ (AD) 2019, 165.

The courts should avoid the temptation to be become authoritarian. We have been coming across several instances, where in their anxiety to do justice, the courts have gone overboard, which results injustice, rather than justice. It is said that all power is trust and with greater power comes greater responsibility. Judicial restraint is a virtue. A virtue which shall be concomitant of every judicial disposition. In the context to dealing with strictures passed by the High Court Division

6. ADC – Appellate Division Cases



against a Lawyer, who is an officer of the Court as well, stressed the need to adopt utmost judicial restraint against using strong language and imputation of corrupt motives against him/her because the Lawyer had no remedy and he/ she would act pursuant to the decision of his/her client. Making observations in the judgment or order, unless the person in respect of whom comments and criticisms are being made is party to the proceeding and is granted an opportunity of having his/her say in the matter, unmindful of the serious repercussion it may entail on such person is most uncalled for. Judicial domain requires dispassionate approach and the importance of issues involved for consideration is no justification to throw to winds basic judicial norms. Observation should not be made by the Court against any person unless it is essential for decision of the case.

11. Khalishpur Jute Mills Ltd -versus- Rajdhani Unnayan Kartipakkha, XVI ADC (AD) 2019, 173, [Cancellation of lease Rajuk Property.]

Since the appellant is a nationalized jute Mill and is under the control and supervision of the BJMC it was not possible for the appellant to act independently.

Leave was granted to consider the submission that the judges of the High Court Division did not consider the issue of cancellation of the lease by the RAJUK on the plea of failure to make construction even though the appellant could not undertake the work of construction on the disputed plot as it was illegally declared abandoned as being vested in the Government by operation of law and the Mills authorities were practically trying to get the disputed plot released from the list of abandoned property so long .

The principle that in addition to breach of natural justice, prejudice must also be proved has been developed in several cases.

12. Rana Surong-Versus- Government of Bangladesh & others XVI ADC (AD) 2019, 183, [Locus-standi of aggrieved person.]

The writ petitioner is the Headman (minister) of Jhemai Punjee. Their ancestors and other members of the tribe had/have been living in Jhemai punjee area from more than hundred years peacefully. The Deputy Director (Planning), Bangladesh Tea Board, issued a letter to the Assistant Director (in charge), Jhemai Tea Estate on 05.08.2010 giving permission for chopping down 2096 standing trees in Jhemai Tea Estate.

The appellant has relied upon and came to the court to enforce Article 18 of the Constitution, which is one of the basic principles of state policy and so, is not enforceable under article 102 of the Constitution and, as such, the appeal is liable to be dismissed.

When our constitution was adopted in 1972, the framers had not foreseen the importance of environmental preservation. This aspect did receive attention later and, in 2011, 15th amendment of the Constitution incorporated protection the natural resources, biodiversity, wetlands, forests and wildlife. Article 18A of the Constitution provides that the State shall endeavour to protect and improve the environment and to preserve and safeguard the natural resources, biodiversity, wetlands, forests and wild life for the present and future citizens. In the case where the problem of ecology is brought before the Court, the Court is bound to bear in mind article 18A which enjoins that the state shall endeavour to protect and improve the environment. It is our constitutional duty to safeguard the forests and wildlife of the country. The Constitution proclaims it to be fundamental duty of every citizen of Bangladesh to protect and improve the natural environment including forests. Depletion of forests would lead to ecological imbalance.

The main motto of social life is to live in harmony with nature. Ongoing environmental degradation that is going must now come to a stop. For balancing our environment, massive tree plantation in the country has become vital. The adverse impacts of climate change and now acutely felt all over the country. Global warming is a worrying issue for us all.

13. Nazimuddin Mondal & another –versus- Kusha Mondal being Dead his heirs: 1(a) Son Md. Nasaruddin @ Nazon Ali being dead his heirs: 1(a) (i).Md. Kurman Ali & others, XVI ADC (AD) 2019, 576, [R.S. is not conclusive proof of title.]



It is the established principle of civil law that the R.S. records of rights have got no presumptive value of its correctness.

It is a cardinal principle of law that the plaintiff must prove his case in order to get a decree in his favour. Time and again this Court has held that the weakness of the defendants case in no ground for passing a decree in favour of the plaintiff.

14. National Bank Limited & another -versus- M.R. Trading Company, represented by Alhaj Md. Mizanur Rahman & others, XVI ADC (AD) 2019, 340.

Fraud and collusion are secret in its origin and inception. Collusion may be either apparent and patent or what is more common secret and covered by apparent show of honesty. A deliberate deception with the design of securing some unfair or undeserved benefit are elements of fraud and collusion which must necessarily be inferred from the circumstances, considering all the facts.

It is settled principle that the relief which cannot be granted in the Rule should not be granted in the interim prayer. An interim relief can be granted only in aid of and as ancillary to be main relief which may be available to the party on final determination of his right in a proceeding .

Every person is liable to make full and correct statement in his petition Suppression of the fact of getting the Rule discharged and production of such non-est interim direction at the time of filing of the contempt petition bringing allegation of violation of the said non-est interim order and obtaining Rule on such misconceived contempt petition is tantamount to practising fraud upon the court. Knowing full well about the non-existent interim order, the respondent made false representation before the court of law with dishonest intention, so he is guilty of practising fraud upon the Court.

It is to be remembered here that it is the duty of the Judges to maintain high ethical standard and impartiality. It is duty of the Judges of act at all times in a manner that promotes public confidence in respect of the integrity and impartiality of the Judges and the judiciary as a whole.

Similarly, the lawyers being officers of the court are equally responsible to maintain the dignity, prestige and image of the court as well as the judiciary as a whole. In this case, they totally failed to perform their duties as deserved by the court. Particularly, the lawyer, who filed contempt petition bringing allegation of violation of the interim order after getting the order discharging the Rule issued in Writ petition No. 13673 of 2017, must answer about his conduct and bona fide.

15. S.M. Masud Hasan @ Masud -versus- Judge, Artha Rin adalat No.3, Dhaka & others XVI ADC (AD) 2019, 366, [Order XXI Rule 85 of the Code of Civil Procedure, 1908]

In a case where an auction purchaser fails to deposit the money within fifteen days, there is an imperative duty cast upon the executing court itself to set aside that sale and to order resale of the property" Order XXI, rule 85 of the Code requires that the full amount of the purchase-money shall be paid by the auction purchaser into Court before the court close on the 15th day from the sale of the property. Rule 86 also requires that in default of payment within the period mentioned in the last preceding rule, the deposit may, if the Court thinks fit after defraying the expenditure, be forfeited to the Government and the property shall be resold. When the default is made in depositing the balance of the amount as required by Rule 81, the court ought to order the re-sale of the property.

Since the instant auction was held under Artha Rin Adalat Ain, 1990 which did not provide specific procedure to be followed for holding auction and as to time limit for payment of auction money, the Adalat followed the provision of the Code of Civil Procedure rightly.

16. The Anti-Corruption Commission (Duduk), represented by its Chairman Head office, 1, Segunbagicha, Ramna, Dhaka-versus- Mohammad Shafiul Alam & another, XVI ADC (AD) 2019, 386, [Offence under sections 409/420/119/109 of the penal Code read with section 5(2) of the Act II of 1947.]

Time limitation to complete investigation as stipulated in section 20 Ka of the Durnity Daman



commission Ain is mandatory in nature. He submits that there is no such provision in section 20Ka of the Ain that in case of failure to conclude investigation shall be stopped or dropped.

If the Investigating Officer fails to complete investigation within the time stipulated or within extended time, the Commission shall appoint another Investigating Officer for holding Investigation within 90 working days and departmental action would be taken against first Investigating Officer in accordance with law. We do not find any such default clause in section 20ka that if the Investigating officer fails to complete the investigation within stipulated time or extended time the proceeding shall stand stopped or to be dropped. The only provision is that is the Investigation officer fails to complete the investigation within time, the commission shall appoint take step against the Investigating Officer.

17. Md. Nurul Alam alias Dr. Hazrat Shah Sufi Mohammad Nurul Alam-versus.- Saleha Khatoun & others, XVI ADC (AD) 2019, 407, [Section 241A of the Code of Criminal Procedure, 1898]

However upon consideration of the relevant provision of section 345(2), we find that an offence under section 406 and 408 of the penal code can be compounded only by the owner of the property in respect of which breach of trust has been committed. In the instant case the informant was neither the owner or trustee nor had any function in the administration of the trust. He was simply the Vice-president of the Mosque of the trust. Therefore, by no stretch of the imagination could he be said to have any proprietary interest in the trust property. Simply it can be stated that he is not the owner of the property in question. Not being the owner of the trust property, the informant did not have the capacity to compound the case. Therefore, the order passed by the Chief Metropolitan Magistrate compounding the offence was patently illegal.

18. The Managing Director, Titas Gas Transmission & Distribution Company Limited –Versus.- Faruque Hasan & others, XVI ADC (AD) 2019, 262.

The petitioner was placed under suspension by order dated 29.07.1992 on account of a criminal charge. The writ petitioner himself resigned from the service he connote have any legal right or legitimate expectation to be reinstated in the service.

Be that as it may admittedly the writ petitioner submitted his resignation to Titas during caretaker Government and his resignation was also accepted by Titas. The petitioner has failed to show us any iota of evidence that he filed any police case for allegedly obtaining his resignation letter forcibly at any time all date. The names/name of the person/persons. Who allegedly obtained his resignation letter forcibly has not also been disclosed in the writ petition. Rather some vague and wild allegations have been made in the Writ petition without mentioning the names/name of the persons/person who was responsible for obtain his alleged forced resignation letter, further the writ petitioners resignation letter is admittedly dated 24.02.2008 and representation/application for his reinstatement is on 07.02.2010. But he filed his writ petition on 1.03.2017. i.e. long after more than 7 (seven) years from the date of submissions of representation/application for reinstatement to the Adviser to the Prime Minister. Thus it is evident that the writ petition was filed with an inordinate delay of more than nine years from the date of resignation and more than seven years from the date of submission of his application for reinstatement without any satisfactory reasons.

19. Government of Bangladesh, represented by the Secretary, Finance Department, Ministry of Finance –Versus.- Md.Salim Khan, XVI ADC (AD) 2019, 267 [Policy decision of the Government in relation to Relief and Disaster fund]

The decisions and steps taken for protection of the villages from the erosion of the river Megna are totally executive decisions of the Government. The policy decision of the Government may be interfered with only when the same is illegal or unconstitutional or shockingly arbitrary in the wednesbury sense. It is the duty of the policy maker to decide how a village would be protected from erosion of a river and what would be the acceptable proposal for embankment works and what would be the proper way of implementation of proposal of embankment considering the



financial capacity of the Government.

The constitution has demarcated the limitation of the Executive, Legislature and Judiciary for exercising their respective jurisdictions and one cannot transgress the authority ignoring the constitutional limitation. The scope of judicial enquiry over the subject matter in issue is limited. If the decision taken by the Government is against the statutory provisions or is violative of the law then only the High Court Division can examine the same, but it is absent in this case.

20. Government of Bangladesh, represented by the secretary Ministry of Education & others –Versus.- Md. Alauddin & others, XVI ADC (AD) 2019, 293

Enlistment in the MPO of a college for providing MPO and other benefits to its Lectures/teachers and staffs depends upon the policy decision of the Government following relevant provision of laws, guidelines, etc. If the college and the writ petitioners fulfilling all such criteria for enrolment in the MPO, in such case it is the Government to take decision in the matter. The college as well as the writ petitioners may make further representations to the Government and the Government would decide the matter. Sitting in a writ jurisdiction, there was hardly any scope to decide as to which college is entitled to be included in the MPO for MPO and other benefits to its teachers or teaching staffs.

It is established principal of law that so long the school continues functioning and is not abolished in accordance with law the teachers and employees of such school are entitled to get their salaries MPO and other allowances. This view finds support from the case law of the secretary, Ministry of Education, Government of the People's Republic of Bangladesh & others Vs Md. Anower Hossain & others reported in 2 MLR (AD) 25.

21. The state- versus.- Professor Dr. Morshed Hasan Khan, XVI ADC (AD) 2019, 298, [Section 497A, and 498 of the Code of the Criminal procedure, 1898]

The words “in any case” do away with the distinction made in section 497 between cases punishable with transportation for life and death and cases involving lesser penalty. Similarly the use of the words ‘any person’ confer jurisdiction in respect of person who may not be under arrest and does not appear in obedience to the process issued by the court or are not brought before the court as envisaged in Section 497. It is the effect of these words which, in my opinion, justify grant of bail before arrest and not the subtle difference between the words ‘release on bail’ and ‘admit to bail’ used in section 497 and 498 respectively.

The Court granting anticipatory bail will be at liberty to cancel the bail if a case for cancellation of bail is otherwise made out by the state or complainant

22. Government of Bangladesh & others –versus.- Md. Tariqul Islam XVI ADC (AD) 2019, 492, [Government servant Disciplinary Appeals Rules, 1985]

We are of the considered view that before imposing major penalty the cardinal principle of natural justice requires that copy of the enquiry report has to be supplied to the concerned employee: Thus the order of the Administrative Appellate Tribunal cannot be said to be unlawful. The Administrative Appellate Tribunal correctly decided this question.

Government servant disciplinary Appeals Rules, 1985 is also applicable in case of departmental proceeding of the persons who are working in RAB on deputation and rule 7(5) of the said Rules 1985 also requires furnishing of a copy of inquiry report to the person against whom departmental action is being taken

23. Abdul Aziz, represented by constituted Attorney Abdul Haque-versus.- Unideb (BD) Limited, represented by its Director & others XVI ADC (AD) 2019, 498, [Section 96 of the State Acquisition and Tenancy Act, 1950]

To believe or disbelieve a witness is within the domain of the courts below and the High court Division in exercise of its revisional jurisdiction cannot interfere in such domain unless there is misreading or non-reading of evidence on record by the courts below. The High Court Division



reversed the concurrent findings of facts of the courts below without pointing out any misreading or non-reading of evidence on record. Having considered the findings of the Courts below, we find that those are based on evidence on record.

24. Prafullah Kumar Halder & others-versus.- Kamakshya Ranjan Halder & others XVI ADC (AD) 2019, 140, [Indian Succession Act, 1865, Hindu wills Act, 1870, Probate and Administration Act, 1881.]

When a will is put forward, the burden is on the propounder of the will to prove that the will has been executed voluntary by the testator after being fully aware of the contents and consequences of the bequeath made in the will and attesting witnesses have signed the will in presence of the testator. By free and capable testator is generally meant that the testator, at the time when he made the will, had a sound and disposing state of mind and memory. Mere ability to sign does not imply full mental powers for valid disposition. It is not sufficient that the man was able to answer easy questions but the testator must have a disposing mind so as to dispose of his property with understanding and reason.



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তারিখঃ ৩০ মার্চ, ১৪২৫ বঙ্গাব্দ
১২ ফেব্রুয়ারি ২০১৯ খ্রিস্টাব্দ

বিষয়ঃ The Probation of Offenders Ordinance, 1960 এর বিধান প্রতিপালন সংক্রান্ত।

বর্তমানে দেশের ফৌজদারী বিচার ব্যবস্থায় প্রায় সর্বক্ষেত্রেই দণ্ডিত অপরাধীদের সাজা ভোগের নিমিত্ত কারাগারে প্রেরণ করা হয়। এতে দেশের কারাগারসমূহে সাজাপ্রাপ্ত অপরাধীর সংখ্যা ক্রমশ বৃদ্ধি পাওয়া সহ দেশের একটি গ্রচলিত আইনের বিধানকে সরাসরি অবজ্ঞা করা হচ্ছে। ফলে কারাগারের পরিবেশসহ সমাজে এক নেতিবাচক প্রভাব সৃষ্টি হতে চলেছে। এ ধরনের পরিস্থিতি মোকাবেলার জন্য The Probation of Offenders Ordinance, 1960 এর বিধানাবলীর যথাযথ প্রয়োগ অপরিহার্য হয়ে দেখা দিয়েছে। এখানে স্বত্বাধীন যে, আমাদের ফৌজদারী বিচার ব্যবস্থার মাধ্যমে অপরাধীকে সর্বক্ষেত্রেই সাজা আরোপ করা আইন সমর্থন করেনা; কেননা সাজা প্রদানের অন্যতম উদ্দেশ্য সংশোধনমূলক (Reformatory); প্রতিহিংসামূলক (Retributory) নয়। সাজা প্রদানের উক্ত আদর্শিক বিষয় বিবেচনার রেখে অপরাধীদের বয়স, পূর্ণাঙ্গ আচার-আচরণ, সৈহিক ও মানসিক অবস্থা বিবেচনায় নিয়ে উপযুক্ত আইনের বিধানাবলীর যথাযথ প্রয়োগ পরিস্থিতি উন্নয়নে সহায়ক ভূমিকা রাখবে বলে আশা করা যায়। কোনো অবস্থাতেই গ্রচলিত আইনের বিধান ইচ্ছাকৃতভাবে (Deliberately) অবজ্ঞা (Ignore) করা বা প্রয়োগ না করা শুধুমাত্র অন্যাক্ষিতই নয় বরং অসদাচরণের (Misconduct) শামিল।

২। The Probation of Offenders Ordinance, 1960 এর ৪ ধারার বিধান অনুযায়ী পূর্বে দণ্ডিত হয়নি এমন কোনো অপরাধী অনধিক দুই বছরের কারাদণ্ডে দণ্ডনীয় কোনো অপরাধের জন্য দণ্ডিত হলে আদালত অপরাধীর বয়স, স্বভাব-চরিত্র, প্রাক-পরিচয় অথবা শারীরিক বা মানসিক অবস্থা এবং অপরাধের ধরন অথবা অপরাধ সংঘটনে শাস্তি লাভবানকারী পরিস্থিতি বিবেচনাপূর্বক যদি মনে করেন যে, দণ্ডপ্রদান অসমীচীন এবং প্রবেশনের আদেশ প্রদান করা যথাযথ নয়, তাহলে আদালত কারণ লিপিবদ্ধ করে সতর্ক করতঃ অপরাধীকে অব্যাহতি দিতে পারেন অথবা উপযুক্ত মনে করলে আদেশে বিবৃত সময় হতে অনধিক এক বছর সময়ের জন্য কোনো অপরাধ না করার এবং সদাচরণে থাকার শর্তে জামিনদারসহ বা জামিনদার ছাড়া মুচলেকা প্রদানে বিমুক্ত হওয়ার আদেশ দিতে পারেন। শর্তসাপেক্ষে অব্যাহতির (Conditional discharge) এক্ষণে আদেশ প্রদানের পূর্বে আদালত অপরাধীকে সহজবোধ্য ভাষায় ব্যাখ্যা করে বুঝিয়ে দিবেন যে ঐ সময়কালে কোনো অপরাধ সংঘটন করলে বা সদাচরণের মধ্যে না থাকলে সে মূল অপরাধের জন্য প্রদত্ত সাজা ভোগ করবে।

৩। The Probation of Offenders Ordinance, 1960 এর ৫ ধারার বিধান অনুযায়ী মৃত্যুদণ্ড ও যাবজ্জীবন কারাদণ্ডে দণ্ডনীয় কোনো অপরাধসহ দণ্ডবিধির অন্যান্য কিছু ব্যতিক্রমধর্মী অপরাধ ব্যতীত অন্য সকল অপরাধে দণ্ডিত পুরুষ অপরাধী এবং মৃত্যুদণ্ডে দণ্ডনীয় অপরাধ ব্যতীত অন্য সকল অপরাধে দণ্ডিত নারী অপরাধীর ক্ষেত্রে আদালত তৎক্ষণিকভাবে সাজা আরোপ না করে উপযুক্ত ক্ষেত্রে ১ (এক) হতে ৩ (তিন) বছর পর্যন্ত একজন প্রবেশন অফিসারের তত্ত্বাবধানে থাকার নির্দেশ প্রদান করতে পারেন। উক্ত ধারায় উল্লিখিত দণ্ডবিধির শাস্তিযোগ্য কিছু অপরাধ ব্যতীত কেবল দণ্ডবিধির অন্যান্য সকল শাস্তিযোগ্য অপরাধের ক্ষেত্রে The Probation of Offenders Ordinance, 1960 এর বিধান প্রয়োগযোগ্য।

৪। The Probation of Offenders Ordinance, 1960 এর ৬ ধারার বিধান অনুযায়ী আদালত যুক্তিযুক্ত মনে করলে অপরাধী কর্তৃক ক্ষতিগ্রস্ত ব্যক্তিকে ক্ষতিপূরণ প্রদানের এবং মামলার বরচ পরিপোষের আদেশ দিতে পারেন।

৫। প্রবেশন মন্ত্রকের ক্ষেত্রে আদালতকে অপরাধীর বয়স, চরিত্র, অপরাধীর পূর্ণাঙ্গ ইতিহাস, শারীরিক বা মানসিক অবস্থা ও অপরাধের প্রকৃতি বিবেচনা করতে হবে। প্রবেশন মন্ত্রক করার সময় সংশ্লিষ্ট বিচারক বা ম্যাজিস্ট্রেটকে আদালতে প্রবেশন অফিসারের উপস্থিতি নিশ্চিত করতে হবে। যথাযথ ক্ষেত্রে The Probation of Offenders Ordinance, 1960 অনুযায়ী কোনো কার্যক্রম গ্রহণ করা না হলে আদালত তার যুক্তিগ্রহণ কারণ লিপিবদ্ধ করবেন।

৬। এমতাবস্থায়, দণ্ডিত অপরাধীদের সমাজের মূলপ্রান্তে পুনর্বাসনের এবং সুনামগরিক হিসাবে গড়ে তোলার উদ্দেশ্যে অধস্তন ফৌজদারী আদালতসমূহকে উপযুক্ত ক্ষেত্রে The Probation of Offenders Ordinance, 1960 এর বিধানাবলী যথাযথভাবে প্রতিপালনের জন্য নির্দেশিত হয়ে বিশেষভাবে অনুরোধ করা হলো।

৭। এই সার্কুলারের কোনো নির্দেশনাবলী অনুসরণে কোনো সমস্যা বা অসুবিধা দেখা দিলে বা কোনো বিচারক বা ম্যাজিস্ট্রেট কর্তৃক উক্ত আইন প্রতিপালনে অসীহা বা গাফিলতি পরিলক্ষিত হলে বিষয়টি সুপ্রীম কোর্টের নজরে আনার জন্য স্থানীয় নিয়ন্ত্রণকারী কর্তৃপক্ষকে অনুরোধ করা যাচ্ছে।

মাননীয় প্রধান বিচারপতির আদেশক্রমে

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৩১ মার্চ ২০১৯ খ্রিস্টাব্দ

বিষয়ঃ বাংলাদেশ সুপ্রীম কোর্টের মাননীয় বিচারপতি মহোদয়গণের জেলায়/উপজেলায়/গ্রামে সফরকালে যথাযথ প্রটোকল প্রদান প্রসঙ্গে।

উপর্যুক্ত বিষয়ে নির্দেশিত হয়ে জানানো যাচ্ছে যে, বাংলাদেশ সুপ্রীম কোর্টের মাননীয় বিচারপতি মহোদয়গণের দেশের অভ্যন্তরে ভ্রমণকালীন নিরাপত্তা ও আনুষঙ্গিক সুবিধাদি নিশ্চিতকরণের নিমিত্ত সরকারের সংশ্লিষ্ট মন্ত্রণালয় ও বিভাগ কর্তৃক সময়ে সময়ে একাধিক সার্কুলার/বিজ্ঞপ্তি জারী করা হয়েছে। বিদ্যমান সে সব সার্কুলার/বিজ্ঞপ্তি অনুসরণ করতঃ সংশ্লিষ্ট ডেপুটি কমিশনার ও পুলিশ সুপারগণ মাননীয় বিচারপতি মহোদয়গণের প্রটোকল ও নিরাপত্তা নিশ্চিতকরণের পদক্ষেপ গ্রহণ করে থাকেন। তদুপরি, দেশের অভ্যন্তরে যে কোনো জেলায়/উপজেলায়/গ্রামে মাননীয় বিচারপতি মহোদয়গণের সফরকালে বিদ্যমান সার্কুলার/বিজ্ঞপ্তির পাশাপাশি কিরূপ প্রটোকল প্রদান করতে হবে সে বিষয়ে মাননীয় বিচারপতি জনাব ওবায়দুল হাসান এবং মাননীয় বিচারপতি জনাব এস এম কুদ্দুস জামান মহোদয়ের সমন্বয়ে গঠিত বেঞ্চ কর্তৃক Criminal Miscellaneous Suo-Motu Rule No. 11921 of 2003-এ গত ১৩/০২/২০১৯ খ্রিস্টাব্দে কতিপয় নির্দেশনা প্রদান করা হয়েছে, যা যথাযথভাবে অনুসরণ করতে সংশ্লিষ্ট সকলে আইনত বাধ্য।

০২। এমতাবস্থায়, বাংলাদেশ সুপ্রীম কোর্টের মাননীয় বিচারপতি মহোদয়গণের দেশের অভ্যন্তরে ভ্রমণকালে বিদ্যমান সার্কুলার/বিজ্ঞপ্তির পাশাপাশি নিম্নে বর্ণিত বিষয়সমূহ যথাযথভাবে অনুসরণ করতঃ প্রটোকল প্রদানের জন্য নির্দেশক্রমে অনুরোধ করা হলোঃ

1. At the time of visiting any District head quarter by a Supreme Court Judge in holidays at least one judicial officer holding the status of a District and Sessions Judge/Additional District and Sessions Judge shall receive the judge at the circuit house or any other place of lodging of the visiting Judge within the District town. If the District Judge is present in the District head quarter he must make a courtesy call on to the Hon'ble Judge of the Supreme Court.

2. If the visit of the Supreme Court Judge occurs during weekdays during office time, the Judge in-Charge, Nejarat will attend the visiting Judge. But after Court hour the District Judge or in his absence at least one judicial officer having the status of District Judge / Additional District Judge will make a courtesy call on to the visiting Judge at his lodging within the District town.

3. If the visiting Supreme Court Judge stays in an Upazilla town or in any village, the Judge in-Charge, Nejarat or a senior staff of the judgeship shall attend him.

4. At the time of departure of the Judge from the visiting station District and Sessions Judge/Additional District and Sessions Judge must remain present along with Deputy Commissioner or his representative and Police Super or his representative of the respective District."

০৩। এই সার্কুলার এতদসংক্রান্তে বিদ্যমান সার্কুলার/বিজ্ঞপ্তিসমূহের পরিপূরক হিসেবে গণ্য হবে।

০৪। উল্লেখ্য, বর্ণিত মামলার রায়ের কপি অত্র কোর্টের ওয়েবসাইটে রয়েছে।

আদেশক্রমে

স্বাঃ/-

(ড.মোঃ জাকির হোসেন)

রেজিস্ট্রার জেনারেল

ফোনঃ ৯৫৬২৭৮৫

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সার্কুলার নং- জে- ০৩/২০১৯

তারিখঃ ০২ বৈশাখ, ১৪২৬ বঙ্গাব্দ
১৫ এপ্রিল ২০১৯ খ্রিস্টাব্দ

বিষয়ঃ নারী ও শিশু নির্যাতন দমন আইন, ২০০০ এর ২২ ধারায় ম্যাজিস্ট্রেট কর্তৃক ভিক্তিম এর জবানবন্দি রেকর্ড সংক্রান্ত।

নারী ও শিশু নির্যাতন দমন আইন, ২০০০ এ বর্ণিত অপরাধ সংঘটনে ওয়াকিবহাল ব্যক্তির জবানবন্দি উক্ত আইনের ২২ ধারা অনুযায়ী লিপিবদ্ধ করা হয়। অপরাধের তদন্ত ও বিচারের স্বার্থে লিপিবদ্ধকৃত উক্ত জবানবন্দি অত্যন্ত গুরুত্ব বহন করে। Special Committee for Judicial Reforms -এর গোচরীভূত হয়েছে যে, বর্তমানে বেশ কিছুক্ষেত্রে ধর্ষণ বা যৌন নির্যাতনের শিকার হওয়া নারী বা শিশুদের জবানবন্দি পুরুষ ম্যাজিস্ট্রেট কর্তৃক লিপিবদ্ধ করা হচ্ছে। একজন পুরুষ ম্যাজিস্ট্রেটের নিকট নারী বা শিশু ভিক্তিম ধর্ষণ বা যৌন নির্যাতনের বর্ণনা দিতে সংকোচবোধ করে। ফলে এরূপ নির্যাতনের শিকার শিশু বা নারী ঘটনার প্রকৃত বিবরণ দিতে অনেক সময় ইতস্তত বোধ করে।

০২। এ ধরনের পরিস্থিতি মোকাবেলার জন্য ধর্ষণ বা যৌন নির্যাতনের শিকার নারী বা শিশুদের জবানবন্দি একজন নারী ম্যাজিস্ট্রেট কর্তৃক লিপিবদ্ধ করা আবশ্যিক। এতে নারী বা শিশু ভিক্তিমরা সহজে ও নিসংকোচে তাদের উপর নির্যাতনের বর্ণনা দিতে পারবে।

০৩। এমতাবস্থায়, সংঘটিত অপরাধের সুষ্ঠু তদন্ত ও বিচারের স্বার্থে ধর্ষণ বা যৌন নির্যাতনের শিকার নারী বা শিশুদের জবানবন্দি লিপিবদ্ধ করার দায়িত্ব একজন নারী ম্যাজিস্ট্রেটের নিকট অর্পনের জন্য চীফ জুডিসিয়াল ম্যাজিস্ট্রেট/চীফ মেট্রোপলিটন ম্যাজিস্ট্রেটগণকে নির্দেশিত হয়ে বিশেষভাবে অনুরোধ করা গেল। অধিকন্তু, সংশ্লিষ্ট জেলায় বা মহানগরীতে নারী ম্যাজিস্ট্রেট কর্মরত না থাকলে অন্যকোনো যোগ্য ম্যাজিস্ট্রেটকে উক্ত দায়িত্ব অর্পণ করা যেতে পারে।

০৪। এই সার্কুলারের নির্দেশনাবলী অনুসরণে কোনো সমস্যা বা অসুবিধা দেখা দিলে বিষয়টি সুপ্রীম কোর্টের নজরে আনার জন্য অনুরোধ করা যাচ্ছে।

মাননীয় প্রধান বিচারপতির আদেশক্রমে

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সাক্ষীর নং-০৪

ছে,

তারিখ: ০৭ আশ্বিন, ১৪২৬ বঙ্গাব্দ
২২ সেপ্টেম্বর, ২০১৯ খ্রিস্টাব্দ

বিষয়: বিচার বিভাগীয় কর্মকর্তাগণ কর্তৃক সামাজিক যোগাযোগ মাধ্যম ব্যবহারের অনুরণীয় নির্দেশনা।

বর্তমানে বাংলাদেশে তথ্য ও যোগাযোগ প্রযুক্তির ব্যাপক উন্নয়নের সুযোগে ইন্টারনেট ডিভিক সামাজিক যোগাযোগ মাধ্যম ব্যবহারের মাত্রা অতীতের তুলনায় অনেক গুণ বেড়েছে। এই প্রযুক্তির মাধ্যমে কম্পিউটার, স্মার্ট ফোন এবং অনুরণ যেকোনো ডিভাইসের মাধ্যমে যেকোনো ব্যক্তির তথ্য, ছবি, অডিও, ভিডিও ইত্যাদি আদান-প্রদান করা যায়। তবে অতিমাত্রায় সামাজিক যোগাযোগ মাধ্যম ব্যবহারের ফলে এক ধরনের আসক্তি তৈরি হয়, যা ব্যক্তি জীবন ও পেশাগত জীবনে নেতিবাচক প্রভাব ফেলে।

০২। এই পরিস্থিতিতে, সরকারি প্রতিষ্ঠানে সামাজিক যোগাযোগ মাধ্যমের সুষ্ঠু ব্যবহার নিশ্চিত করার লক্ষ্যে মন্ত্রিপরিষদ বিভাগ সকল সরকারি কর্মচারীদের জন্য 'সরকারি প্রতিষ্ঠানে সামাজিক যোগাযোগ মাধ্যম ব্যবহার সংক্রান্ত নির্দেশিকা, ২০১৬' প্রকাশ করেছে। বাংলাদেশের বিচার বিভাগীয় কর্মকর্তাদের জন্য সামাজিক যোগাযোগ মাধ্যম ব্যবহারের কোনো নীতিমালা বা নির্দেশিকা গ্রহণ করা হয়নি। বর্ণিতাবস্থায়, Supreme Court Special Committee for Judicial Reforms এর সুপারিশক্রমে বিচার বিভাগীয় কর্মকর্তাদের সামাজিক যোগাযোগ মাধ্যম ব্যবহারের ক্ষেত্রে একটি অনুরণীয় নির্দেশনা প্রদানের সিদ্ধান্ত গৃহীত হয়।

০৩। এমতাবস্থায়, সামাজিক যোগাযোগ মাধ্যম ব্যবহারের ক্ষেত্রে বিচার বিভাগীয় কর্মকর্তাগণ কর্তৃক নিম্নোক্ত বিষয়গুলো অনুরণ করতে হবে:

- ক) প্রকাশিতব্য তথ্য, ছবি, অডিও, ভিডিও ইত্যাদি নির্বাচন ও বাছাইয়ের ক্ষেত্রে সতর্ক থাকতে হবে।
- খ) প্রকাশিত তথ্য-উপাত্তের স্বার্থাধীতা ও নির্ভরযোগ্যতা সম্পর্কে নিশ্চিত হতে হবে।
- গ) ব্যক্তিগত ও পরিবারিক তথ্য আদান-প্রদান, প্রকাশ ও প্রচারের ক্ষেত্রে অবশ্যই সর্বোচ্চ সতর্কতা এবং বিচারকসুলভ মনোভাব অবলম্বন করতে হবে।
- ঘ) অপ্রয়োজনীয় বা গুরুত্বহীন বিষয়ের তথ্য Status বা Post দেওয়া যাবে না।
- ঙ) বিচার বিভাগীয় কর্মকর্তাদের জন্য একটি পোর্টাল (Portal)/গ্রুপ (Group) থাকতে পারে, যেখানে বিচারদায়িত্ব মামলার বিষয় এবং ব্যক্তিগত বিষয় ব্যতিত কেবল আইনগত বিষয়ে Academic আলোচনা ও তথ্য আদান-প্রদান করা যাবে।
- চ) সামাজিক যোগাযোগ মাধ্যম ব্যবহারের ক্ষেত্রে দায়িত্বশীল ও বিচারকসুলভ আচরণ করতে হবে এবং রাষ্ট্রীয় অনুশাসন মেনে চলতে হবে।
- ছ) সামাজিক যোগাযোগ মাধ্যমে কোনো তথ্য আদান-প্রদান এবং বক্তৃতা নির্বাচনের ক্ষেত্রে সর্বোচ্চ সতর্কতা অবলম্বন করতে হবে। নিজ কর্মক্ষেত্রে মামলার স্বার্থ সংশ্লিষ্ট বা মামলা পরিচালনার সঙ্গে জড়িত কোনো ব্যক্তি বা প্রতিষ্ঠানকে সামাজিক যোগাযোগ মাধ্যমের ব্যক্তিগত একাউন্টে বক্তৃতা হিসেবে গ্রহণ করা যাবে না।
- জ) ব্যক্তিগত ও স্বাভাবিক অবস্থায় সহকর্মীদের সাথে মিথস্ক্রিয়া সংক্রান্ত নিয়ম-নীতি, করণীয় ও বর্জনীয় নিকসমূহের প্রতিফলন সামাজিক যোগাযোগ মাধ্যমেও নিশ্চিত করতে হবে।
- ০৪। সামাজিক যোগাযোগ মাধ্যম ব্যবহারের ক্ষেত্রে বিচার বিভাগীয় কর্মকর্তাগণকে নিম্নলিখিত বিষয়সমূহ অবশ্যই পরিহার করতে হবে:
 - ক) জাতীয় ঐক্য ও চেতনার পরিপন্থি কোনো প্রকার তথ্য, মন্তব্য বা অনুভূতি প্রকাশ ও প্রচার।
 - খ) কোনো সম্প্রদায়ের ধর্মীয় অনুভূতিতে আঘাত লাগতে পারে এমন কোনো তথ্য, মন্তব্য বা অনুভূতি প্রকাশ ও প্রচার।
 - গ) রাজনৈতিক মতাদর্শ বা আলোচনা সংশ্লিষ্ট কোনো তথ্য, মন্তব্য বা অনুভূতি প্রকাশ ও প্রচার।
 - ঘ) কোনো সম্প্রদায়ের প্রতি বৈষম্যমূলক বা হেয় প্রতিপন্নমূলক কোনো তথ্য, মন্তব্য বা অনুভূতি প্রকাশ ও প্রচার।
 - ঙ) কোনো ব্যক্তি, প্রতিষ্ঠান বা রাষ্ট্রকে হেয় প্রতিপন্ন করে এমন কোনো তথ্য, মন্তব্য বা অনুভূতি প্রকাশ ও প্রচার।
 - চ) লিঙ্গ বৈষম্যমূলক কোনো তথ্য, মন্তব্য বা অনুভূতি প্রকাশ ও প্রচার।
 - ছ) জনমনে অশান্তি ও অপ্রীতিকর মনোভাব সৃষ্টি করতে পারে এমন কোনো তথ্য, মন্তব্য বা অনুভূতি প্রচার ও প্রকাশ।
 - জ) কোনো মামলা সংক্রান্তে বিরূপ মন্তব্য বা ব্যক্তিগত অনুভূতি প্রকাশ ও প্রচার।
 - ঝ) নিরস্ত্রধারী কর্তৃপক্ষ বা উপযুক্ত কর্তৃপক্ষের কোনো সিদ্ধান্তের বিষয়ে কোনো বিরূপ মন্তব্য বা ব্যক্তিগত অনুভূতি প্রকাশ বা প্রচার।
 - ঞ) বাংলাদেশ সুপ্রীম কোর্টের মাননীয় বিচারপতিবৃন্দের ছবি বা ভিডিও ক্লিপ প্রকাশ ও প্রচার।
 - ট) অশ্রাসঙ্গিক, অপ্রয়োজনীয়, মানহানিকর এবং বৈতিকতা পরিপন্থী কোনো Status, Post, Link, ছবি ইত্যাদিতে অন্যজনের সত্ত্বাচরকণ (Tagging), আদান-প্রদান (Sharing), প্রকাশ ও প্রচার।

০৫। বিচারিক কর্মকর্তার পূর্ণ ব্যবহারের লক্ষ্যে ঐ সময় (সকাল ৯:৩০ ঘটিকা হতে ৪:৩০ ঘটিকা) সামাজিক যোগাযোগ মাধ্যমে বিচার বিভাগীয় কর্মকর্তাদের উপস্থিতি কঠোরভাবে পরিহার করতে হবে।

০৬। বিচার বিভাগীয় কর্মকর্তাগণ কর্তৃক সামাজিক যোগাযোগ মাধ্যম ব্যবহার দেশের প্রচলিত আইন ও বিধি-বিধানের সাথে সঙ্গতিপূর্ণ হতে হবে। অত্র কোর্ট কর্তৃক প্রচারিত এই নির্দেশনা অমান্য করলে তা 'অসদাচরণ' (Misconduct) হিসেবে গণ্য হবে এবং এক্ষেত্রে 'বাংলাদেশ জুডিসিয়াল সার্ভিস (শৃঙ্খলা) বিধিমালা, ২০১৭' এর শাস্যশাসি প্রচলিত অন্যান্য আইন ও বিধি-বিধান প্রযোজ্য হবে।

০৭। এই সার্বভারের কোনো নির্দেশনাবলী অনুরণে কোনো সমস্যা বা অসুবিধা দেখা দিলে বাংলাদেশ সুপ্রীম কোর্ট-এর নজরে আনয়ন করা যেতে পারে।

মাননীয় প্রধান বিচারপতির সান্নিধ্যে আদেশক্রমে

স্বাক্ষর/-

(ড. মোঃ জাকির হোসেন)

রেজিস্টার জেনারেল

ফোনাঃ ৯৫৬২৭৮৫

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সার্কুলার নং- ০৬/২০১৯

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বিষয়ঃ The Code of Criminal Procedure, 1898 এর 426 (2A) ধারার বিধান যথাযথভাবে প্রতিপালন প্রসঙ্গে।

উপর্যুক্ত বিষয়ে নির্দেশিত হয়ে জানানো যাচ্ছে, The Code of Criminal Procedure, 1898 এর 426 (2A) ধারায় নির্দিষ্ট মেয়াদে সাজা প্রাপ্ত আসামীকে আপীলের শর্তে জামিনে মুক্তি প্রদানের ক্ষেত্রে সুনির্দিষ্ট বিধানাবলী উল্লেখ থাক সত্ত্বেও অনেক ক্ষেত্রে বিচারিক আদালত কর্তৃক তা যথাযথভাবে অনুসরণ করা হচ্ছে না মর্মে অত্র কোর্টেও গোচরীভূত হয়েছে। এ ধরনের কার্যক্রমে বিচারিক বিশৃঙ্খলা সৃষ্টি হতে পারে এবং জনসাধারণের নিকট বিচার বিভাগের ভাবমূর্তি ক্ষুণ্ণ হতে পারে।

২। বাংলাদেশ সুপ্রীম কোর্টেও হাইকোর্ট বিভাগ ২৪৮৭/২০১৯ নম্বর ক্রিমিনাল রিভিশন মামলায় গত ১৭/০৯/২০১৯ তারিখে The Code of Criminal Procedure, 1898 এর 426 (2A) ধারার বিধান যথাযথভাবে প্রয়োগের নিমিত্তে নির্দেশনা প্রদান করেছেনঃ

- “(a) ‘‘The Court of Sessions/Magistrates are empowered to grant bail to a convicted person against whom such court sentenced to imprisonment for a term not exceeding one year with a view to giving the convicted person an opportunity to prefer appeal to higher forum after fulfilling the requirements under section 426 (2A) of the Code of Criminal Procedure.
- (b) The Court of Sessions/Magistrates have got no jurisdiction to grant bail to a convicted person under section 426 (2A) of the Code of Criminal Procedure when the sentence of imprisonment exceeds one year.
- (c) No appellate court or it’s inferior court is empowered to grant bail to a convicted person whose sentence of imprisonment has been affirmed/modified in appeal by the appellate court with a view to giving the convicted person an opportunity to prefer revision to higher forum.
- (d) No Magistrate shall have jurisdiction to grant a convicted person on bail against whom a sentence of imprisonment has passed by its superior court’’.

৩। এমতাবস্থায়, The Code of Criminal Procedure, 1898 এর 426 (2A) ধারার বিধান যথাযথভাবে প্রয়োগ সংক্রান্ত বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগের ২৪৮৭/২০১৯ নম্বর ক্রিমিনাল রিভিশন মামলার উল্লিখিত নির্দেশনা আবশ্যিকভাবে প্রতিপাল করার জন্য সংশ্লিষ্ট সকলকে নির্দেশ প্রদান করা হলো।

৪। এই সার্কুলার এতদসংক্রান্ত বিদ্যমান সার্কুলার/ বিজ্ঞপ্তিসমূহের পরিপূরক হিসেবে গণ্য হবে। উল্লেখ্য বর্ণিত মামলার রায়ের কপি অত্র কোর্টের ওয়েবসাইটে রয়েছে।

মাননীয় প্রধান বিচারপতির সান্নিধ্য আদেশক্রমে

স্বাঃ/-

(মোঃ গোলাম রব্বানী)

রেজিস্ট্রার জেনারেল (ভারপ্রাপ্ত)

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০৪ নভেম্বর ২০১৯ খ্রিস্টাব্দ

বিষয়ঃ আদালতের বিচারিক কর্মঘণ্টার দ্বিতীয় ভাগে (দুপুর ২:০০ ঘটিকা হতে বিকাল ৪:৩০ ঘটিকা) বিবিধ মামলা ও অন্তর্বর্তীকালীন বিষয়সমূহ শুনানীকরণ এবং প্রতি মাসের প্রথম সপ্তাহে প্রতিবেদন প্রেরণ সংক্রান্ত।

দেশের অধস্তন আদালতসমূহে বর্তমানে ত্রিশ লক্ষের অধিক মামলা বিচারাধীন এবং ক্রমান্বয়ে এই মামলার জট বৃদ্ধি পাচ্ছে। সম্ভাব্য স্বল্পতম সময়ের মধ্যে ন্যায়বিচার প্রাপ্তি বিচারপ্রার্থী জনগণের অধিকার। বিচারপ্রার্থী জনগণের ন্যায়বিচার লাভের উত্তরূপ অধিকার সহজলভ্য করা এবং বিচারাধীন মামলাসমূহ দ্রুততার সাথে নিষ্পত্তির মাধ্যমে আদালতসমূহের মামলা জট হ্রাস করার নিমিত্ত সকল জেলা ও দায়রা জজ আদালত, মহানগর দায়রা জজ আদালত, নারী ও শিশু নির্যাতন দমন ট্রাইব্যুনাল, বিভাগীয় বিশেষ জজ আদালত ও সমপর্যায়ের আদালত/ট্রাইব্যুনাল, চীফ জুডিসিয়াল ম্যাজিস্ট্রেট/চীফ মেট্রোপলিটন ম্যাজিস্ট্রেট এবং প্রযোজ্য ক্ষেত্রে উক্ত আদালতসমূহের প্রশাসনিক নিয়ন্ত্রণাধীন আদালতসমূহের বিচারকগণকে আদালতের বিচারিক কর্মঘণ্টার দ্বিতীয় ভাগে (দুপুর ২:০০ ঘটিকা হতে বিকাল ৪:৩০ ঘটিকা) দেওয়ানী ও ফৌজদারী বিবিধ মামলাসমূহ শুনানীর জন্য গ্রহণসহ কতিপয় নির্দেশনা প্রদান করে অত্র কোর্ট কর্তৃক পুনঃপুনঃ সার্কুলার (অত্র কোর্টের হাইকোর্ট বিভাগের সার্কুলার নম্বর-০৬/২০১৫-এ, তারিখঃ ০৪/০৫/২০১৫ খ্রি. এবং সার্কুলার নম্বর-০১/২০১৮ এ, তারিখঃ ২০/০২/২০১৮ খ্রি.) জারী করা সত্ত্বেও সম্প্রতি লক্ষ্য করা যাচ্ছে যে, অধিকাংশ জেলায় আদালতের বিচারিক কর্মঘণ্টার দ্বিতীয় ভাগের (দুপুর ২:০০ ঘটিকা হতে বিকাল ৪:৩০ ঘটিকা) পূর্ণ ব্যবহার হচ্ছে না।

০২। এমতাবস্থায়, আদালতের বিচারিক কর্মঘণ্টার দ্বিতীয় ভাগে (দুপুর ২:০০ ঘটিকা হতে বিকাল ৪:৩০ ঘটিকা) অন্তর্বর্তীকালীন বিষয়, জামিন সংক্রান্ত বিবিধ মামলা, অস্থায়ী নিষেধাজ্ঞা, তত্ত্বাবধায়ক নিয়োগ, রায়ের পূর্বে ক্রোকের দরখাস্ত ইত্যাদি শুনানীর জন্য গ্রহণ করার জন্য সকলকে নির্দেশ প্রদান করা হলো।

০৩। এ সার্কুলারে বর্ণিত নির্দেশনাসমূহ যথাযথভাবে প্রতিপালন করা হচ্ছে কি না তা' অত্র কোর্টের জি,এ কমিটি কর্তৃক তদারকির নিমিত্ত প্রতিমাসের প্রথম সপ্তাহে আবশ্যিকভাবে এতদসংক্রান্ত প্রতিবেদন অত্র কোর্টে প্রেরণের নির্দেশনা প্রদান করা হলো।

০৪। এ সার্কুলার ইতোপূর্বে অত্র কোর্ট হতে জারীকৃত সার্কুলারসমূহের পরিপূরক হিসেবে গণ্য হবে। তবে পূর্বে জারীকৃত সার্কুলারের কোনো বিষয়ের সাথে এ সার্কুলারের কোনো নির্দেশাবলী অসামঞ্জস্যপূর্ণ হলে এ সার্কুলারের বিধানাবলী প্রযোজ্য হবে।

মাননীয় প্রধান বিচারপতির আদেশক্রমে

স্বাঃ/-

(মোঃ আলী আকবর)

রেজিস্ট্রার জেনারেল

ফোনঃ ৯৫৬২৭৮৫

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বাংলাদেশ সুপ্রীম কোর্ট

হাইকোর্ট বিভাগ, ঢাকা।

(বিচার শাখা)

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সার্কুলার নং-জে-০৮/২০১৯

তারিখঃ ২২ কার্তিক ১৪২৬ বঙ্গাব্দ
০৭ নভেম্বর ২০১৯ খ্রিস্টাব্দ

বিষয়ঃ মাদকদ্রব্য নিয়ন্ত্রণ আইন ২০১৮ এর ধারা ৪৪ অনুসারে ট্রাইব্যুনাল প্রতিষ্ঠা কিংবা গেজেট প্রকাশের মাধ্যমে বিকল্প আদালতকে ক্ষমতা না দেয়া অথবা ট্রাইব্যুনাল সংক্রান্ত আইনের বিধান সংশোধন না হওয়া পর্যন্ত মাদক দ্রব্য নিয়ন্ত্রণ আইন ২০১৮ এর অধীনে দায়েরকৃত সকল মামলার বিচারিক কার্যক্রম ফৌজদারী কার্যবিধি ধারা ৫(২) অনুসরণে ঐ কার্যবিধির ২য় তপসিলে উল্লেখিত “অন্যান্য আইনসমূহের অধীনে অপরাধ (Offences against other laws)” বিধান অনুযায়ী পরিচালনা প্রসঙ্গে।

উপর্যুক্ত বিষয়ে নির্দেশিত হয়ে জানানো যাচ্ছে, বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগের ফৌজদারী বিবিধ ৪০৩৮৮/২০১৯ নং মোকদ্দমায় গত ২০/১০/২০১৯ তারিখের আদেশে মাননীয় বিচারপতি জনাব এম. ইনায়েতুর রহিম এবং মাননীয় বিচারপতি জনাব মোঃ মোস্তাফিজুর রহমান মহোদয়ের সমন্বয়ে গঠিত দ্বৈত বেঞ্চ কর্তৃক নিচ বর্ণিত নির্দেশনা প্রদান করা হয়েছে :-

“...সার্বিক অবস্থা বিবেচনায় আদালত আদেশ প্রদান করছে যে, মাদকদ্রব্য নিয়ন্ত্রণ আইনের ধারা ৪৪ অনুসারে ট্রাইব্যুনাল প্রতিষ্ঠা কিংবা গেজেট প্রকাশের মাধ্যমে বিকল্প আদালতকে ক্ষমতা না দেয়া অথবা ট্রাইব্যুনাল সংক্রান্ত আইনের বিধান সংশোধন না হওয়া পর্যন্ত মাদক দ্রব্য নিয়ন্ত্রণ আইন ২০১৮ এর অধীনে দায়েরকৃত সকল মামলার বিচারিক কার্যক্রম ফৌজদারী কার্যবিধি ধারা ৫(২) অনুসরণে ঐ কার্যবিধির ২য় তপসিলে উল্লেখিত “অন্যান্য আইনসমূহের অধীনে অপরাধ (Offences against other laws)” বিধান অনুযায়ী পরিচালিত হবে।”

৩। এমতাবস্থায়, মাদক দ্রব্য নিয়ন্ত্রণ আইন, ২০১৮ এর বিধান প্রতিপালন সংক্রান্তে বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগের ফৌজদারী বিবিধ ৪০৩৮৮/২০১৯ নং মোকদ্দমায় উলিখিত নির্দেশনা যথাযথভাবে অনুসরণ করার জন্য প্রয়োজনীয় পদক্ষেপ গ্রহণের নিমিত্ত সংশ্লিষ্ট সকলকে নির্দেশ প্রদান করা হলো।

৪। এই সার্কুলার এতদসংক্রান্তে বিদ্যমান সার্কুলার/ বিজ্ঞপ্তিসমূহের পরিপূরক হিসেবে গণ্য হবে।

৫। উল্লেখ্য, বর্ণিত মামলার আদেশের কপি সার্কুলারের সাথে অত্র কোর্টের ওয়েবসাইটে রয়েছে।

মাননীয় প্রধান বিচারপতির সানুগ্রহ আদেশক্রমে

স্বাঃ/-

(মোঃ আলী আকবর)

রেজিস্ট্রার জেনারেল

ফোনঃ ৯৫৬২৭৮৫

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Former Chief Justices of Bangladesh

SL. No.	Name	Duration
1.	Mr. Justice Abu Sadat Mohammad Sayem*	16.12.1972 — 5.11.1975
2.	Mr. Justice Syed A.B. Mahmud Husain*	08.11.1975 — 31.1.1978
3.	Mr. Justice Kemaluddin Hossain*	01.02.1978 — 11.4.1982
4.	Mr. Justice F.K.M. Munim*	12.04.1982 — 30.11.1989
5.	Mr. Justice Badrul Haider Chowdhury*	1.12.1989 — 01.01.1990
6.	Mr. Justice Shahabuddin Ahmed	14.01.1990 — 31.01.1995
7.	Mr. Justice M.H. Rahman*	01.02.1995 — 30.04.1995
8.	Mr. Justice A.T.M Afzal	01.05.1995 — 31.05.1999
9.	Mr. Justice Mustafa Kamal*	01.06.1999 — 31.12.1999
10.	Mr. Justice Latifur Rahman*	01.01.2000 — 28.02.2001
11.	Mr. Justice Mahmudul Amin Choudhury*	01.03.2001 — 17.06.2002
12.	Mr. Justice Mainur Reza Choudhury*	18.06.2002 — 22.06.2003
13.	Mr. Justice K.M. Hasan	23.06.2003 — 26.01.2004
14.	Mr. Justice Syed J.R. Mudassir Husain	27.01.2004 — 28.02.2007
15.	Mr. Justice Md. Ruhul Amin	01.03.2007 — 31.05.2008
16.	Mr. Justice M. M. Ruhul Amin*	01.06.2008 — 22.12.2009
17.	Mr. Justice Md. Tafazzul Islam	23.12.2009 — 07.02.2010
18.	Mr. Justice Mohammad Fazlul Karim	08.02.2010 — 29.09.2010
19.	Mr. Justice A.B.M. Khairul Haque	30.09.2010 — 17.05.2011
20.	Mr. Justice Md. Muzammel Hossain	18.05.2011 — 16.01.2015
21.	Mr. Justice Surendra Kumar Sinha	17.01.2015 — 11.11.2017

* Deceased.

Former Chief Justice of High Court of Bangladesh

SL. No.	Name	Duration
1.	Mr. Justice Ruhul Islam*	13.08.1976 — 22.10.1978

* Deceased.



Former Judges of the Supreme Court of Bangladesh

SL.No	Name	Date of elevation to the HCD	Date of elevation to the AD	Date of retirement
1.	Mr. Justice Abu Sadat Mohammad Sayem *		16.12.1972	05.11.1975
2.	Mr. Justice Syed A. B. Mahmud Husain *	18.01.1972	18.12.1972	31.01.1978
3.	Mr. Justice Mohammad Abdullah Jabir *	18.01.1972	17.08.1972	30.06.1975
4.	Mr. Justice A. F. M. Ahasanuddin Chowdhury *	18.01.1972	30.01.1974	01.12.1977
5.	Mr. Justice Kemaluddin Hussain *	18.01.1972	13.08.1976	11.04.1982
6.	Mr. Justice F. K. M. Abdul Munim *	18.01.1972	13.08.1976	30.11.1989
7.	Mr. Justice Dabesh Chandra Bhattacharya *	21.01.1972	13.08.1976	30.09.1979
8.	Mr. Justice Ruhul Islam *	21.01.1972	23.01.1978	01.01.1983
9.	Mr. Justice Kazi Mahabub Subhan (Justice K.M. Subhan) *	21.01.1972	22.02.1978	16.06.1982**
10.	Mr. Justice Badrul Haider Chowdhury *	26.01.1972	22.08.1978	01.01.1990
11.	Mr. Justice Shahabuddin Ahmed	21.01.1972	16.04.1981	31.01.1995
12.	Mr. Justice Mohammad Nurul Huda *	28.08.1972		28.02.1977
13.	Mr. Justice Chowdhury A. T. M. Masud *	19.06.1973	21.04.1982	01.04.1986
14.	Mr. Justice Syed Md. Mohsen Ali *	19.06.1973	17.01.1983	01.01.1985
15.	Mr. Justice Abdur Rahman Chowdhury *	24.11.1973		01.09.1983
16.	Mr. Justice A. R. M. Amirul Islam Chowdhury *	24.11.1973		01.03.1996
17.	Mr. Justice Syed Mohammad Hussain *	19.06.1974		08.01.1984
18.	Mr. Justice A. S. Faizul Islam Chowdhury *	24.06.1974		01.06.1982
19.	Mr. Justice Fazlay Hossain Mohammad Habibur Rahman *	20.12.1975		13.12.1993
20.	Mr. Justice Ranadhir Sen *	30.01.1976		01.07.1984
21.	Mr. Justice Abdul Wadud Chowdhury *	02.03.1976		01.11.1984
22.	Mr. Justice Siddiq Ahmed Chowdhury *	02.03.1976		03.03.1979□
23.	Mr. Justice Abdul Momit Chowdhury *	02.03.1976		03.03.1979□
24.	Mr. Justice Abdul Matin Khan Chowdhury *	08.05.1976		01.12.1989
25.	Mr. Justice M.H. Rahman *	08.05.1976	26.12.1985	30.04.1995
26.	Mr. Justice Mohammad Abdul Khaliq *	08.05.1976		02.01.1983
27.	Mr. Justice A. T. M. Afzal	15.04.1977	26.12.1985	31.05.1999
28.	Mr. Justice Sultan Hossain Khan *	13.03.1978		01.01.1990
29.	Mr. Justice Abdul Malek *	13.03.1978		05.02.1980**
30.	Mr. Justice Mustafa Kamal *	09.04.1979	01.12.1989	31.12.1999
31.	Mr. Justice Rafiqur Rahman	09.04.1979		01.11.79**
32.	Mr. Justice Md. Altaf Hossain *	21.11.1979		23.10.1985
33.	Mr. Justice Latifur Rahman *	21.11.1979	15.01.1990	28.02.2001
34.	Mr. Justice Anwarul Hoque Chowdhury *	22.04.1980		01.11.1994
35.	Mr. Justice Aminur Rahman Khan*	29.01.1982		02.06.1990
36.	Mr. Justice Mohammad Abdur Rouf	29.01.1982	08.06.1995	01.02.1999
37.	Mr. Justice Md. Abdul Quddus Chowdhury *	18.01.1983		01.09.1991
38.	Mr. Justice Dalil Uddin Ahmed *	15.07.1983		01.02.1990
39.	Mr. Justice Mohammad Abdul Mottalib *	15.07.1983		14.07.1985●
40.	Mr. Justice Syed Mohammad Ali *	15.07.1983		01.08.1993
41.	Mr. Justice Nurul Hoque Bhuiyan *	30.12.1983		01.10.1990
42.	Mr. Justice Syed Misbah Uddin Hossain *	30.12.1983		01.01.1992
43.	Mr. Justice Mohammad Moksudor Rahman *	30.12.1983		26.12.1985**
44.	Mr. Justice Mohammad Sohrab Ali *	30.12.1983		20.10.1990□□
45.	Mr. Justice Mohammad Ismailuddin Sarker *	30.12.1983	08.06.1995	20.01.1996□□
46.	Mr. Justice Abdul Bari Sarker *	30.05.1984		01.06.1992
47.	Mr. Justice Md. Abdul Jalil *	30.05.1984		01.05.1994
48.	Mr. Justice Mohammad Abdul Wahab	30.05.1984		29.05.1986●
49.	Mr. Justice Bimalendu Bikash Roy Chowdhury *	02.07.1985	11.05.1996	01.11.2000
50.	Mr. Justice Syed Fazle Ahmed *	26.12.1985		01.01.1994
51.	Mr. Justice A. M. Mahmudur Rahman *	26.12.1985	01.02.1999	14.12.2000
52.	Mr. Justice A. K. M. Sadeque *	27.01.1987		30.01.1995
53.	Mr. Justice D. M. Ansaruddin Ahmed *	27.01.1987		01.07.1995
54.	Mr. Justice Md. Mozammel Haque *	27.01.1987		01.12.2000

* Deceased. ** Date of resignation. □ Date of termination, □□ Date of Death while in office. ● Performed as Additional Judge.



SL.No	Name	Date of elevation to the HCD	Date of elevation to the AD	Date of retirement
55.	Mr. Justice Quazi Shafi Uddin *	27.01.1987		01.11.2001
56.	Mr. Justice Mahmudul Amin Chowdhury *	27.01.1987	28.06.1999	17.06.2002
57.	Mr. Justice Habibur Rahman Khan *	21.01.1988		01.12.1995
58.	Mr. Justice Md. Budruzzaman	21.01.1988		01.02.1996
59.	Mr. Justice Naimuddin Ahmed*	21.01.1988		04.04.1996
60.	Mr. Justice Mohammad Ansar Ali *	21.01.1988		05.07.1995 □
61.	Mr. Justice Badrul Islam Chowdhury	29.01.1990		01.02.1998
62.	Mr. Justice Kazi Ebadul Hoque	29.01.1990	19.01.2000	01.01.2001
63.	Mr. Justice Mainur Reza Chowdhury *	29.01.1990	08.11.2000	22.06.2003
64.	Mr. Justice Abdul Hasib *	29.01.1990		28.01.1992 *
65.	Mr. Justice Habibul Islam Bhuiyan	29.01.1990		19.03.1990**
66.	Mr. Justice Md. Abdul Karim *	13.07.1991		01.08.1999
67.	Mr. Justice Muhammad Abdul Mannan*	13.07.1991		21.12.1999
68.	Mr. Justice K. M. Hasan	13.07.1991	20.01.2002	26.01.2004
69.	Mr. Justice Mahfuzur Rahman *	18.02.1992		01.02.2000
70.	Mr. Justice Md. Sirajul Islam *	18.02.1992		03.03.2000
71.	Mr. Justice Mohammad Gholam Rabbani	18.02.1992	11.01.2001	10.01.2002
72.	Mr. Justice Syed J. R. Mudassir Husain	18.02.1992	05.03.2002	28.02.2007
73.	Mr. Justice Md. Ruhul Amin	18.02.1992	11.01.2001	31.05.2008
74.	Mr. Justice Abu Sayeed Ahammed	01.11.1992	05.03.2002	23.08.2003
75.	Mr. Justice Mohammad Fazlul Karim	01.11.1992	15.05.2001	29.09.2010
76.	Mr. Justice Md. Asaduzzaman *	10.02.1994		09.02.1997 *
77.	Mr. Justice Md. Nurul Islam	10.02.1994		01.06.2002
78.	Mr. Justice Kazi A. T. Monowaruddin *	10.02.1994	25.06.2002	15.07.2002
79.	Mr. Justice Md. Fazlul Haque	10.02.1994	17.07.2002	30.06.2003
80.	Mr. Justice Hamidul Haque *	10.02.1994	29.06.2003	20.12.2003
81.	Mr. Justice Md. Bazlur Rahman Talukder *	10.02.1994		10.02.1997 *
82.	Mr. Justice Syed Amirul Islam	10.02.1994		13.01.2007
83.	Mr. Justice M. M. Ruhul Amin*	10.02.1994	13.07.2003	22.12.2009
84.	Mr. Justice Md. Tafazzul Islam	10.02.1994	27.08.2003	07.02.2010
85.	Mr. Justice Md. Iftekhar Rasool*	01.06.1996		06.06.2000 □
86.	Mr. Justice M. A. Aziz	01.06.1996	07.01.2004	30.09.2006
87.	Mr. Justice Amirul Kabir Chowdhury*	01.06.1996	26.02.2004	30.06.2007
88.	Mr. Justice Md. Hassan Ameen	01.06.1996	21.03.2007	03.07.2008
89.	Mr. Justice A. K. Badrul Huq *	01.06.1996		02.03.2008**
90.	Mr. Justice Md. Joynul Abedin	01.06.1996	24.08.2006	31.12.2009
91.	Mr. Justice Md. Abdul Matin	01.06.1996	19.09.2007	25.12.2010
92.	Mr. Justice Shah Abu Nayeem Mominur Rahman	01.06.1996	08.03.2009	12.05.2011**
93.	Mr. Justice Gour Gopal Shaha*	24.02.1997		26.12.2003
94.	Mr. Justice Md. Ali Asgar Khan	24.02.1997		13.01.2008
95.	Mr. Justice Md. Awiad Ali	24.02.1997		26.01.2008
96.	Mr. Justice Zakir Ahmad*	24.02.1997		17.07.1998 □
97.	Mr. Justice Md. Latifur Rahman	27.04.1998		01.07.2006**
98.	Mr. Justice Md. Abdul Quddus	27.04.1998		15.01.2009
99.	Mr. Justice (Alhaj) Md. Abdul Aziz*	27.04.1998	08.03.2009	31.12.2009
100.	Mr. Justice B.K Das*	27.04.1998	16.07.2009	10.04.2010
101.	Mr. Justice A.B.M. Khairul Haque	27.04.1998	16.07.2009	17.05.2011
102.	Mr. Justice Surendra Kumar Sinha	24.10.1999	16.07.2009	10.11.2017 **
103.	Mr. Justice Md. Abdur Rashid	24.10.1999		26.01.2009
104.	Mr. Justice Khademul Islam Chowdhury	24.10.1999		17.04.2009
105.	Mr. Justice Sikder Maqbul Huq	24.10.1999		18.01.2010
106.	Mr. Justice Md. Abdus Salam	24.10.1999		11.01.2010
107.	Mr. Justice Md. Arayes Uddin	24.10.1999		31.01.2010
108.	Mr. Justice Muhammed Mamataz Uddin Ahmed	24.10.1999	16.05.2011	31.12.2011
109.	Mr. Justice Md. Muzammel Hossain	27.04.1998	16.07.2009	16.01.2015
110.	Mr. Justice Md. Abdul Wahhab Miah	24.10.1999	23.02.2011	02.02.2018
111.	Mr. Justice N. K. Chakravarty *	28.05.2000		27.05.2002 *
112.	Mr. Justice A. K. M. Shafiuddin	28.05.2000		27.05.2002 *

* Deceased. ** Date of resignation. □ Date of termination. □□ Date of Death while in office. ● Performed as Additional Judge.



SL.No	Name	Date of elevation to the HCD	Date of elevation to the AD	Date of retirement
113.	Mr. Justice A. F. M. Mesbahuddin	28.05.2000		27.05.2002 *
114.	Madam Justice Nazmun Ara Sultana	28.05.2000	23.02.2011	07.07.2017
115.	Mr. Justice Munsurul Haque Chowdhury	28.05.2000		27.05.2002 *
116.	Mr. Justice Md. Abdul Hye (M.A. Hye)	22.02.2001		13.12.2011
117.	Mr. Justice Faruque Ahmed *	22.02.2001		30.12.2011
118.	Mr. Justice Mohammad Marzi -ul-Huq*	22.02.2001		23.09.2012
119.	Mr. Justice Md. Shamsul Huda	22.02.2001	16.05.2011	02.11.2012
120.	Mr. Justice Altaf Hossain Khan*	22.02.2001		10.07.2002 □□
121.	Mr. Justice Md. Abdur Razzaque *	22.02.2001		01.09.2014
122.	Mr. Justice Sheikh Rezowan Ali	03.07.2001		31.01.2013
123.	Mr. Justice Khondker Musa Khaled	03.07.2001		02.03.2013
124.	Mr. Justice Mohammad Anwarul Haque	03.07.2001	31.03.2013	09.04.2014
125.	Mr. Justice AHM Shamsuddin Choudhury	03.07.2001	31.03.2013	02.10.2015
126.	Mr. Justice Nozrul Islam Chowdhury	03.07.2001		13.12.2015
127.	Mr. Justice Md. Nizamul Huq	03.07.2001	08.02.2016	15.03.2017
128.	Mr. Justice Syed Muhammad Dastagir Husain	03.07.2001		17.09.2018
129.	Mr. Justice Bazlur Rahman*	03.07.2001	08.02.2016	01.01.2017 □□
130.	Mr. Justice Mir Hashmat Ali	29.07.2002		01.10.2012
131.	Mr. Justice Mashuque Hosain Ahmed *	29.07.2002		30.11.2012
132.	Mr. Justice A.K.M. Fazlur Rahman	29.07.2002		14.01.2013
133.	Mr. Justice Siddiqur Rahman Miah	29.07.2002	31.03.2013	02.06.2013
134.	Mr. Justice Abdul Awal	29.07.2002		19.08.2013
135.	Mr. Justice Sharif Uddin Chakladar	29.07.2002		19.01.2016
136.	Mr. Justice Md. Mizanur Rahman Bhuiyan	29.07.2002		07.09.2017
137.	Mr. Justice Syed A.B. Mahmudul Huq	29.07.2002		31.12.2017
138.	Mr. Justice Abdus Salam Mamun	29.07.2002		13.02.2005 *
139.	Mr. Justice Afzal Hossain Ahmed	27.04.2003		09.05.2012
140.	Mr. Justice A.F.M. Ali Asgar	27.04.2003		01.01.2015
141.	Mr. Justice Farid Ahmed	27.04.2003		03.01.2017
142.	Mr. Justice Shamim Hasnain	27.04.2003		24.04.2017
143.	Mr. Justice A. F. M. Abdur Rahman	27.04.2003		04.07.2018
144.	Mr. Justice Syed Shahid -ur-Rahman	27.04.2003		20.04.2004 □
145.	Mr. Justice A.T.M. Fazle Kabir	27.08.2003		01.01.2014
146.	Mr. Justice Syed Abu Kowser Md. Dabirush -Shan	23.08.2004		31.12.2011
147.	Mr. Justice Shahidul Islam	23.08.2004		01.09.2015
148.	Mr. Justice Md. Abdul Hye	23.08.2004		31.01.2016
149.	Mr. Justice Quamrul Islam Siddique*	23.08.2004		30.05.2017
150.	Mr. Justice Md. Fazlur Rahman	23.08.2004		31.01.2018
151.	Mr. Justice Nirmolendu Dhar*	23.08.2004		22.08.2006 *
152.	Mr. Justice A. B. M. Hatem Ali *	23.08.2004		22.08.2006 *
153.	Mr. Justice Faisal Mahmud Faizee	23.08.2004		12.07.2007**
154.	Mr. Justice Md. Delwar Hossain	16.11.2008		15.11.2010 *
155.	Mr. Justice Md. Azizul Haque	16.11.2008		15.11.2010 *
156.	Mr. Justice Md. Abdus Samad	16.11.2008		15.11.2010 *
157.	Madam Justice Syeda Afsar Jahan	16.11.2008		15.11.2010 *
158.	Mr. Justice M. Moazzam Husain	30.06.2009		31.01.2018
159.	Mr. Justice Anwarul Haque *	12.12.2010		13.07.2017 □□
160.	Mr. Justice S. H. Md. Nurul Huda Jaigirdar	20.10.2011		29.11.2018
161.	Mr. Justice A.B.M. Altaf Hossain	14.06.2012		13.06.2014 *
162.	Mr. Justice Farid Ahmed Shibli	12.02.2015		11.02.2017 *
163.	Mr. Justice J.N. Deb Choudhury*	12.02.2015		15.12.2016 □□

* Deceased. ** Date of resignation. □ Date of termination. □□ Date of Death while in office. ● Performed as Additional Judge.



The Registrar General of the Supreme Court of Bangladesh and the Registry

Under Article 113 of the Constitution of the People's Republic of Bangladesh, the Supreme Court of Bangladesh, with previous approval of the President, may make rules providing for the appointment of officers and staff of the Court and for their terms and conditions of employment. Accordingly, the Supreme Court of Bangladesh (Appellate Division) Officer and Staff Appointment Rules, 2000 and the Supreme Court of Bangladesh (High Court Division) Officer and Staff Appointment Rules, 1987 have been framed.

Composition:

The Registry of the Supreme Court provides administrative services to the Court to facilitate its day to day judicial function smoothly in accordance with the Supreme Court of Bangladesh (Appellate Division) Rules, 1988 and Supreme Court (High Court Division) Rules, 1973. The total function of the Registry has been divided into various categories and the work assigned to one of these categories is known as "Section". Transaction of all administrative works relating to the conditions of service and conduct of Court's employees is regulated under direct and overall supervision of the Registrar General who renders such duty under the direction of the Chief Justice of Bangladesh.

Organizational set-up:

In the area of organizational set-up, the Registry consists of the following position:

Names of the post	Number of post		Remarks
	Appellate Division	High Court Division	
Registrar General	1		For both Divisions appointed from Judicial Service (on deputation).
Registrar	1	2	For both Divisions appointed from Judicial Service (on deputation).
Additional Registrar	1	3	For both Divisions appointed from Judicial Service (on deputation).
Special Officer		1	Appointed from Judicial Service (on deputation).
Deputy Registrar	1	9	For Appellate Division appointed from employees of Supreme Court through promotion; For the High Court Division appointed 4 from Judicial Service (on deputation) 5 from employees of Supreme Court through promotion.
Assistant Registrar	3	14	For Appellate Division appointed from employees of Supreme Court through promotion; For the High Court Division appointed 8 from Judicial Service (on deputation) 6 from employees of Supreme Court through promotion.
Research & Reference Officer	1		Appointed from Judicial Service (on deputation).
Secretary of the Chief Justice	1	1	Appointed from employees of Supreme Court through promotion.
PS to Registrar General	1		Appointed from Judicial Service (on deputation).
Other employees of different level	140	2099	Employees appointed by the Supreme Court.

**Functions:**

In rendering administrative service to the Court for carrying out its judicial functions in accordance with the Supreme Court of Bangladesh (Appellate Division) Rules, 1988 and the Supreme Court (High Court Division) Rules, 1973, the Registry also carries out the following functions:

1. to prepare the cause list in order to intimate the parties and the Advocates about the fixation of their case for hearing or other matter for fixing before a bench;
2. to provide the necessary assistance and information to the court processing for cases pending before the Court;
3. to require any petition of appeal, petition or other matters presented to the Court to be amended in accordance with the practice and procedure of the Court;
4. to fix the dates of hearing of appeals, petitions or other matters and issue notices thereof;
5. to settle the index in cases where the record is to be prepared under the supervision of the Registry;
6. to ensure that necessary documents are included and all legal and procedural formalities have been complied with before a case made ready for hearing;
7. to direct any formal amendment of record;
8. to make an order for change of Advocate-on-Record with the consent of the Advocate-on-Record;
9. to grant leave to inspect and search the records of the Court and order to grant of copies of documents to parties to proceedings;
10. to allow from time to time on a written request any period or periods not exceeding twenty-eight days in aggregate for furnishing information or for doing any other act necessary to bring the plaint, appeal, petition or other proceeding in conformity with the rules and practice of the Court;
11. to implement Court judgments and orders ;
12. to maintain the records;
13. to maintain the record of senior Advocates of the Supreme Court, Advocates and Advocate-on-record; and
14. to perform any other functions subject to any general or special order, issued by the Honourable Chief Justice of Bangladesh.



Names of the Registrar General

SL. No.	Name	Duration
1.	Mr. Syed Aminul Islam	14.06.2015-22.10.2017
2.	Mr. Dr. Md. Zakir Hossain	04.03.2018-20.10.2019
3.	Mr. Md. Ali Akbar	30.10.2019-(Onwards)

Names of the Registrar

SL. No.	Name	Duration
1.	Mr. Shahabuddin Ahmed	31.09.1967-20.01.1972
2.	Mr. Mohammad Abdul Khaleque	22.02.1972-20.07.1973
3.	Mr. Abdul Mumit Chowdhury	20.07.1973-02.03.1976
4.	Mr. Md. Abdul Ahad	19.04.1976-06.12.1976
5.	Mr. Mohammad Ali Khan	06.12.1976-05.10.1977
6.	Mr. K.F. Akbor	05.10.1977-29.01.1980
7.	Mr. Sheikh Khorshed Ali	08.05.1980-03.01.1981
8.	Mr. Khondker Badruddin Ahmed	05.01.1981-06.07.1982
9.	Mr. Naimuddin Ahmed	01.09.1982-21.01.1988
10.	Mr. Md. Hamidul Huq	03.02.1988-15.05.1990
11.	Mr. Md. Nurul Islam	15.05.1990-15.04.1992
12.	Mr. Kazi Golam Rasul	15.04.1992-30.04.1994
13.	Mr. Md. Ali Asgor Khan	30.04.1994-24.02.1997
14.	Mr. Md. Abdul Jalil	16.03.1997-30.12.1999
15.	Mr. Mohammad Marzi-ul-Huq	05.01.1999-21.02.2001
16.	Mr. Quamrul Islam Siddiqui	27.02.2001-22.08.2004
17.	Mr. Md. Fazlul Karim	07.09.2004-12.01.2007
18.	Mr. Ikhteder Ahmed	08.03.2007-31.07.2008
19.	Mr. Abu Bakar Siddiquee	22.09.2008-29.06.2009
20.	Mr. Md. Shawkat Hossain	09.08.2009-17.04.2010
21.	Mr. Md. Ashraful Islam	19.05.2010-07.06.2011
22.	Mr. A.K.M. Shamsul Islam	07.06.2011-10.09.2014
23.	Mr. S.M. Kuddus Zaman	04.12.2014-02.02.2015
24.	Mr. Farid Ahmed Shibli	02.02.2015-12.02.2015
25.	Mr. Syed Aminul Islam	15.02.2015-14.06.2015
26.	Mr. Abu Syed Diljar Hussain (High Court Division)	16.06.2015-22.10.2017
27.	Mr. Dr. Md. Zakir Hossain (Appellate Division)	16.06.2015-04.03.2018
28.	Mr. Md. Golam Rabbani (High Court Division)	In office since 31.10.2017
29.	Mr. Badrul Alam Bhuiyan (Appellate Division)	In office since 11.04.2018



Supreme Court Legal Aid Office

It is one of the principles of Natural Justice that “Nobody should be condemned unheard”. That is, before condemning a person, the judge must hear the person, if he has anything to say to prevent the miscarriage of justice. Again, article 27 of the Bangladesh Constitution, 1972 provides that all citizens are equal before law and are entitled to have equal protection of law.

Legal aid means the assistance in the legal matters both inside and outside the courts to the poor and indigent litigants. Legal aid is a system of government funding for those who cannot afford to pay for advice, assistance and representation. Legal professionals use the phrase ‘legal aid’ to mean- counseling on any legal issue, giving honorarium to any pleader/ conciliator/ arbitrator, providing monetary aid to bear expenditure of the case, defending a person in a court of law.

Legal aid is the provision of assistance to people otherwise unable to afford legal representation and access to the court system. Legal aid is regarded as central in providing access to justice by ensuring equality before the law, the right to counsel and the right to a fair trial.

Even after passing the Legal Aid Act 2000, it was not possible to provide service to the justice seekers due to the absence of required rules on providing legal aid at the highest court of the land. In 2010, National Legal Aid Service Organization provided only Jail Appeal to the people who are socially and financially vulnerable through 37 lawyers who were included into the panel. After that, National Legal Aid Service Organization (NLASO) and Manusher Jonno Foundation (MJF) jointly took the initiative to conduct a survey on how legal aid can be provided by the govt. and accordingly assigned Barrister Tanjib-ul-Alam to conduct the survey and later he submitted the study paper on it. An advisory committee was also established and the Director of National Legal Aid Services Organization (NLASO) was the head of the Committee.

After intense observation on the report prepared on the basis of the findings, the advisory committee recommended enacting and publishing the Legal Aid Regulation 2015. The publication of the regulation as gazette notification created the scope of a new beginning on the way of providing legal aid at the highest court of the land. The recently published gazette includes the issues regarding increasing fees of lawyers, jurisdiction of filling cases and some other related issues as well.

However, on 8th September, 2015 officially inaugurated the Supreme Court Legal Aid Office. USAID’s Justice for All Program and the National Legal Aid Services Organization (NLASO) organized this launching ceremony of the Supreme Court Legal Aid Office.

This official inception of the Supreme Court Legal Aid Office ensures that legal aid is accessible to the poor and distressed. Any eligible applicant can now access free legal aid by submitting an application to the Supreme Court Legal Aid Office. After reviewing the application, a lawyer is appointed to represent the applicant free of cost. The government will pay the honorarium directly to the advocate. The Supreme Court Legal Aid Office is now available for Civil, Criminal appeals and Writ and others.

The Supreme Court Committee was comprised of 13 members and Honorable Justice M. Enayetur Rahim is the Chairman of the Committee.

The committee provides the following aid to the persons of disadvantages and poor :

1. F.A (First Appeal) & Civil Revision.
2. Criminal Appeal & Criminal Revision
3. Jail Appeal
4. Writ Petition
5. Leave to Appeal and CP filing of the cases

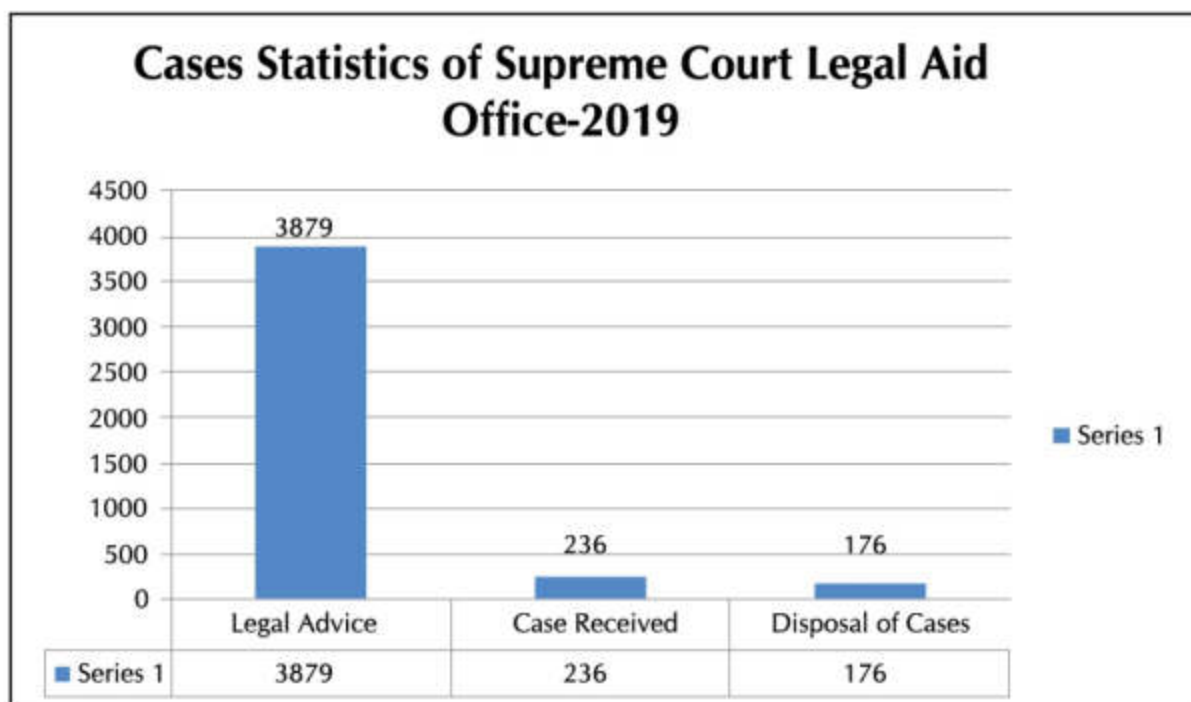


Supreme Court Legal Aid office is also providing the following Services:

- o Legal advice
- o Filing and dealing cases
- o Expert opinion on the merit of the case
- o Bearing the actual cost

Panel Advocates : High Court Division - 41

Appellate Division - 10		
Case Nature	Application Received	Disposal of cases
F.A (First Appeal)	02	01
Civil Revision	33	10
Criminal Appeal	14	05
Criminal Revision	21	09
Writ Petition	07	02
Leave to Appeal, Jail Petition and CP filing	08	06
Jail Appeal	151	143
Total :	236	176



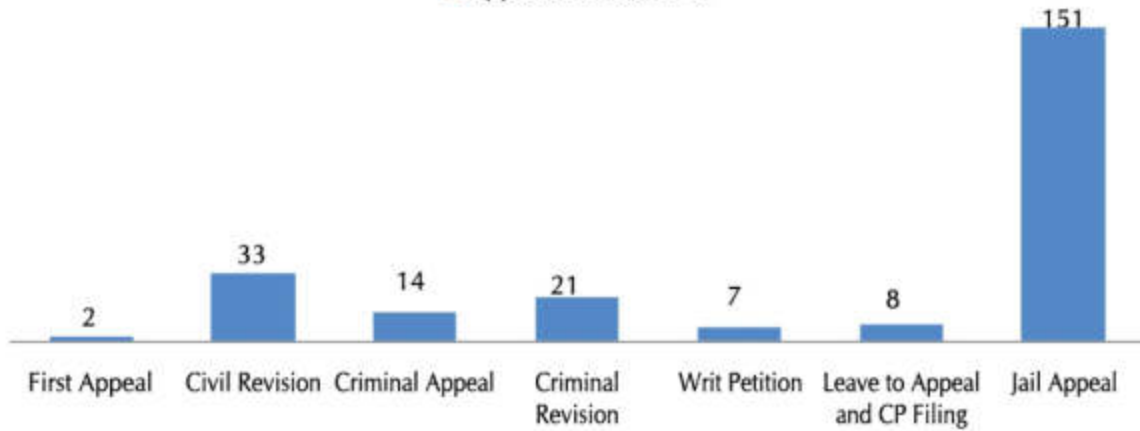
Statistics of Legal Aid Recipients and Cases



Application Received

Jan.2019-Dec.2019

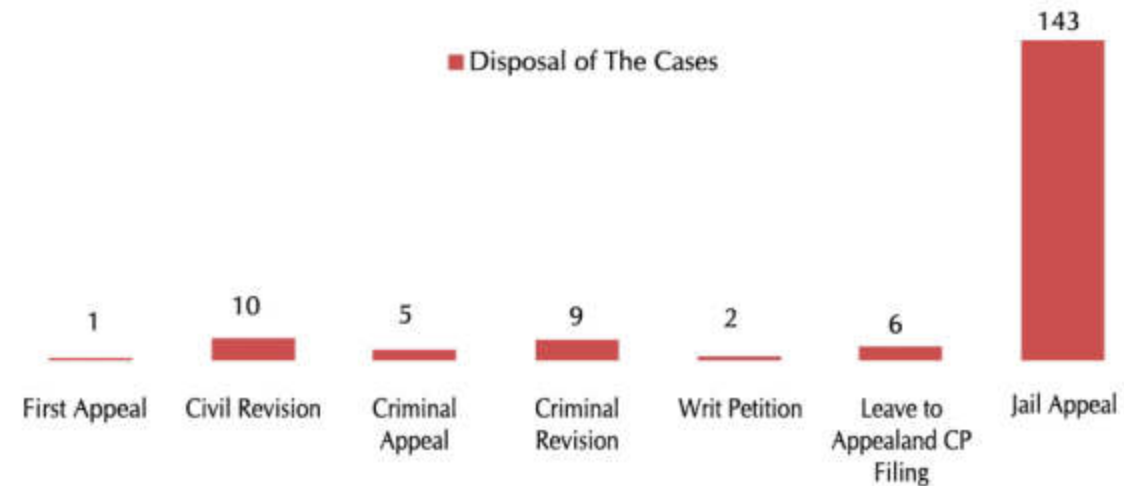
■ Application Received



Disposal of The Cases

Jan.2019-Dec.2019

■ Disposal of The Cases





Budget/Finance of the Supreme Court of Bangladesh

Parliament allocates funds for the Judiciary including the Supreme Court of Bangladesh within the National Budget. A preliminary draft budget is prepared by the Office of the Registrar General and submitted for the consideration of the Chief Justice of Bangladesh. Once approved, the draft budget is forwarded to the Government for incorporation in the National Budget. It is finally adopted by the Parliament after approval of the Government.

Article 88(b)(ii) of the Constitution of People's Republic of Bangladesh, provides for the remuneration of the Judges of the Supreme Court of Bangladesh and Article 88(c) of the Constitution provides that for the administrative expenses of the Supreme Court, including salary, payable to officers and staff of the Supreme Court, shall be charged upon the Consolidated Fund.

The budget allocation (Non-development and Development) For FY 2016-17 to FY 2019-20 and the allocation (Non-Development and Development) for FY 2019-20 of the Supreme Court are shown below:

Financial year		Non - Development	Development	Total
2016-17	Revised budget	167,94,85,000/-	0	167,94,85,000/-
2017-18	Revised budget	169,59,54,000/-	0	169,59,54,000/-
2018-19	Revised budget	213,94,57,000/-	0	213,94,57,000/-
2019-20	Revised budget	199,12,00,000/-	0	199,12,00,000/-

It is to be noted that the Judiciary, including the Supreme Court of Bangladesh is one of the important source of the National Budget whose revenue collection marks a notable contribution in the National Budget in each fiscal year.

The Registrar General, being the ex-officio Chief Accounting officer, is responsible for expenditure of the amount sanctioned in the budget of the Supreme Court under the guidance of the Honourable Chief Justice. The Registrar General has to ensure the proper use of the allocated funds. He is also authorised to appropriate and re-appropriate from one head to another shown in the budget without the sanction of the Government but can not exceed the amount approved in the budget. The accounts of the Court are audited every year by the Auditors of the Office of the Comptroller and Auditor General of Bangladesh.



Names of the Attorney - General for Bangladesh from 1972

SL	Name	Tenure
1.	Mr. M.H. Khandker	21-01-1972 to 17-12-1972
2.	Mr. Fakir Shahabuddin Ahmed	18-12-1972 to 21-03-1976
3.	Mr. Syed Ishtiaq Ahmed	22-03-1976 to 06-05-1976
4.	Mr. K.A. Bakr	10-05-1976 to 13-03-1985
5.	Mr. Md. Nurullah	14-03-1985 to 06-04-1990
6.	Mr. Rafique-ul-Huq	07-04-1990 to 17-12-1990
7.	Mr. Aminul Huq	18-12-1990 to 13-07-1995
8.	Mr. Md. Nurullah	26-07-1995 to 22-06-1996
9.	Mr. Kazi Shahidun Nabi (K. S. Nabi)	31-07-1996 to 29-05-1998
10.	Mr. Mahmudul Islam	16-07-1998 to 09-10-2001
11.	Mr. Abu Fayez Hasan Arif	14-10-2001 to 30-04-2005
12.	Mr. A.J. Mohammad Ali	30-04-2005 to 24-01-2007
13.	Mr. Fida Md. Kamal	05-02-2007 to 16-07-2008
14.	Mr. Salahuddin Ahmed	20-07-2008 to 12-01-2009
15.	Mr. Mahbubey Alam	31-01-2009-(Onwards)



Office of the Attorney-General for Bangladesh



The Supreme Court Bar Association

All practicing Advocates of both the Divisions of the Supreme Court of Bangladesh including the Advocates-on-Record are the members of the Supreme Court Bar Association. The Supreme Court Bar Association always plays active and vital role to protect the supremacy, dignity and integrity of the Supreme Court of Bangladesh. The Association is housed in two buildings, one is known as the main building which is 2 (two) storied and the other one is known as the annex building which is 3 (three) storied. The present Association has the legacy of the then Dhaka High Court Bar Association, housed in the old building of the then High Court of Judicature at Dhaka, established after the creation of Pakistan in 1947. In 1967, the then High Court of Judicature at Dhaka was shifted to the present main building; 4 rooms of the main Building on the western side were allowed for use of the learned members of the Association. The present main building of the Association was inaugurated in November, 1975 by the then Honourable President Mr. Justice Abu Sadat Muhammad Sayem, the first Chief Justice of Bangladesh. In both buildings, rooms are allotted to the members of the Association to have their private sitting arrangements in carrying out their works against monthly payments to the Association and such rooms are known as cubicles. Presently, there are 489 cubicles, apart from 3 (three) big hall rooms. The learned members of the Association, who can not be provided with cubicles, sit in the hall rooms. The Association has a modern auditorium. The Association has also a Medical Care Centre in the ground floor of the main building, where a doctor sits regularly on the working days and provides medical treatment to its members.

The library of the Association is in the main building and has a rich and versatile collection of books, law journals and law reports of USA, UK, Australia, Common Wealth, India, Pakistan and Supreme Court of Bangladesh.

The Supreme Court of Bangladesh is consisted of two Divisions namely: (a) The Appellate Division and (b) The High Court Division. In order to practice in each of the Divisions one has to be enrolled as an Advocate of the said Division and also has to become a member of the Supreme Court Bar Association. Both the Divisions have separate enrolment procedures.

Advocate of the Appellate Division:

There are three categories of Advocates who are entitled to practice law before the Appellate Division, viz. Senior Advocate, Advocate and Advocate-on-Record. Enrolment of these 3 (three) categories of Advocates is guided by Order IV of the Supreme Court of Bangladesh (Appellate Division) Rules, 1988 (Rules, 1988). Order IV, Rule 11 of the Rules, deals with the enrolment as Senior Advocates. The said Rule provides that the Chief Justice and the Judges may, on application or otherwise, select from time to time, from among those whose names are on the Roll of the Advocates, and who are judged as person, by their knowledge, ability and experience, to be worthy as Senior Advocates. If any Advocate is granted with the status of a Senior Advocate, he or she shall assume the said status on signing the Roll of Senior Advocates. In the said Rule it has further been provided that the Chief Justice and the judges may, before selecting an Advocate as Senior Advocate, consider whether he/she could show sufficient appearance before the Court so as to be entitled to get the status of Senior Advocate. Rule 12 of Order 11 of the Rules, 1988 has provided that a fee of taka ten thousands shall be paid by a Senior Advocate before he signs the Roll.

Enrolment as an Advocate of the Appellate Division is guided by Rules 3, 4 and 5 of Order IV of the Rules of 1988. In order to be enrolled as an Advocate of the Appellate Division, one must be:

- (a) an Advocate in the High Court Division for not less than 5 (five) years.
- (b) certified in a duly authenticated form by the Bangladesh Bar Council that he is an enrolled Advocate of the High Court Division.
- (c) certified by the Judges of the High Court Division that he is a fit and proper person to appear and plead as an Advocate before the Appellate Division.



But the Chief Justice and the Judges may grant enrolment to an Advocate, not qualified as aforementioned, if in their opinion, he is qualified by knowledge, ability and experience to be enrolled as an Advocate of that Division. The power may also be delegated to the Enrolment Committee. In order to be enrolled as an Advocate of the Appellate Division an application for enrolment has to be made in such form as may be prescribed by the Court from time to time and shall be accompanied by the following documents:

- (i) a certificate of the Bangladesh Bar Council as mentioned in (b) above;
- (ii) bio-data of the applicant giving full particulars of his/her qualifications and any previous employment or engagement for gain;
- (iii) a list of cases, in which he/she appeared before the High Court Division;
- (iv) an affidavit by the applicant that he/she is eligible and not disqualified to be enrolled as an Advocate in the Appellate Division of the Supreme Court of Bangladesh; and
- (v) six recent passport size photographs of the applicant.

The application for enrolment shall be considered by an Enrolment Committee consisting of at least two Judges to be nominated by the Chief Justice and the Committee may call the applicants for interview and call for any record. If the Enrolment Committee grants the application, the applicant shall be allowed to sign the Roll of Advocates on payment of taka 5,000/00 (five thousand).

Qualification for enrolment as an Advocate-on-Record has been laid down in Rule 17 of Order IV of the Supreme Court of Bangladesh (Appellate Division) Rules, 1988 which are as under:

No person shall be qualified for being enrolled as an Advocate-on-Record unless, he/she-

- (a) has been for not less than seven years enrolled as an Advocate of the Courts subordinate to the Appellate Division of the Supreme Court including at least three years standing as an Advocate of the High Court Division;
- (b) has an office at the seat of the Registry of the Court;
- (c) has telephone installation at his office at the seat of the Registry of the Court;
- (d) signs the Roll of Advocate-on-Record maintained for the purpose.

Provided that the Chief Justice and the Judges may grant enrolment of a person not qualified as aforementioned, if, in their opinion, he is qualified by knowledge, ability and experience to be enrolled as an Advocate-on-Record. This power may be delegated to the Enrolment Committee. Such application for enrolment as an Advocate-on-Record shall be made in such form as may be prescribed by the Court from time to time. Rule 18 of Order IV of the Rules, 1988 has provided that the application shall have to be accompanied by-

- (i) an authenticated copy of the applicant's first enrolment as an Advocate on the roll of Bangladesh Bar Council;
- (ii) a certificate from the Bar Association, where the applicant first joined to practice the profession of law mentioning the date of commencement of his membership of the Bar Association;
- (iii) an authenticated photostat copy of his certificate of enrolment as an Advocate of the High Court Division of the Supreme Court;
- (iv) a certificate in a duly authenticated form by the Supreme Court Bar Association that he is still an Advocate of the High Court Division of the Supreme Court;
- (v) bio-data of the applicant giving full particulars of his qualification and any previous employment for gain;
- (vi) a list of cases in which he appeared before the High Court Division;



- (vii) an affidavit by the applicant that he is eligible and not disqualified to be enrolled as an Advocate-on-Record in the Appellate Division of the Supreme Court; and
- (viii) six recent passport-size photographs of the applicant.

Rule 19 of Order IV of the Rules, 1988 further provides that an application for enrolment as an Advocate-on-Record shall be considered by an Enrolment Committee consisting of at least two judges to be nominated by the Chief Justice and the committee may call the applicants for interview and call or ask for any record. If the Enrolment Committee grants the application, the applicant shall be allowed to sign the Roll of Advocate-on-Record on payment of fee of taka 2,000.

Rule 7 of Order IV of the Rules, 1988 clearly provides that a Senior Advocate, an Advocate and an Advocate-on-Record shall be entitled to appear and plead before the Court on signing his respective Roll. Rule 33 provides that the Attorney General for Bangladesh shall have precedence over all the Advocates and Senior Advocates. In Rule 34 it has further been provided that the Attorney General for Bangladesh and Additional Attorney General shall, by virtue of their offices, have the status and precedence of a Senior Advocate of the Court notwithstanding that their names are not contained in the Roll of Senior Advocates. The Deputy Attorney General and Assistant Attorney General shall, by virtue of their office, have the status of an Advocate of the Court notwithstanding that their names are not contained in the Roll of Advocates of the court.

Advocates of the High Court Division:

The enrolment in the High Court Division is controlled by the Bangladesh Bar Council under the provisions of the Bangladesh Legal Practitioners and Bar Council Order, 1972 (the Order, 1972) and the Rules framed thereunder, namely, The Bangladesh Legal Practitioners and Bar Council Rules, 1972 (the Rules, 1972).

Article 21 of the Order provides that no Advocate other than an Advocate permitted to practice before the High Court immediately before the commencement of the Order, shall be permitted to practice before the High Court Division unless-

- (a) he has practiced as an Advocate before subordinate courts in Bangladesh for a period of two years;
- (b) he is a law graduate and has practiced as an Advocate before any Court outside Bangladesh notified by government in the official gazette;
- (c) he has, for reason of his legal training or experience been exempted by the Bar Council from the forgoing requirements of this clause on the basis of the prescribed criteria.

Rules 65A of the Rules, 1972 has empowered the Bar Council to grant exemption under article 21(1)(a) requiring practice for a period of 2 (two) years before seeking permission to practice in the High Court Division on the basis of the following criterion-

- (i) Advocates who were called to the Bar in U.K. or who have obtained higher 2nd class in LL.M. (at least 50% marks in aggregate) from any recognized University and further worked with a Senior Advocate of the Supreme Court in his Chamber for at least one year [since his enrolment as Advocate under Rule 62(1)]; and
- (ii) Persons holding a degree in law and have held a judicial office (i.e. office of a Civil Judge) for a total period of at least 10 years do not require to appear for written test as per sub-rule (2) hereof but he shall have to appear before the interview Board.

Enrolment to practice in the High Court Division is done by an Enrolment Committee consisting of 5 persons, namely:

- (a) Chairman to be nominated by the Chief Justice from amongst the Judges of the Appellate Division



- (b) One member to be nominated by the Chief Justice from amongst the Judges of the High Court Division.
- (c) Attorney General for Bangladesh.
- (d) Two members elected by the Bar Council from amongst its members.

(2) The procedure for the enrolment of Advocates and the business of the Enrolment shall be regulated by the Enrolment Committee in such manner as may be determined by it.

Rule 65A (1) of the Rules, 1972 provides that all applications for permission to practice in the High Court Division shall be made in prescribed form as appended to the Rules, accompanied by the papers detailed in clause (a) (b) (c) and (d) thereof. Of the above 3 (three) clauses, clause (b) provides that a list of at least 25 cases either civil or criminal or both in which the Advocate appeared before the concerned Courts must be submitted. Presently after an Advocate fulfills the requirement to apply for permission to practice, written test is taken on the syllabus for the same as mentioned in sub-article (3) of Rule 65 A. The qualifying mark for written test is 12 out of 25 and for oral test is 12 out of 25, but the aggregate marks of the two tests must be at least 25 (that is 12 + 13).



Building of the Supreme Court Bar Association



Names of the President and the Secretary of the Supreme Court Bar Association from 1972 to 2019

Period	Names of the President and the Secretary	
1971-1972:	President	Mr. Asaduzzaman Khan and Mr. M.H. Khondker
	Secretary	Mr. Tufail Ahmed and Mr. Mohammad Yeasin
1972-73:	President	Mr. Ahmed Sobhan
	Secretary	Mr. Shamsul Huq Choudhury
1973-74:	President	Mr. Mirza Golam Hafiz
	Secretary	Mr. Mohammad Yeasin
1974-75:	President	Dr. Aleem-Al-Razee
	Secretary	Mr. Mohammad Yeasin
1975-76:	President	Mr. Tafazzal Ali (T. Ali)
	Secretary	Mr. A.K.M. Shafiqur Rahman
1976-77:	President	Mr. Ahmed Sobhan
	Secretary	Mr. H.K. Abdul Hye
1977-78:	President	Mr. T.H.Khan
	Secretary	Mr. Shah Md. Sharif
1978-79:	President	Mr. Syed Ishtiaq Ahmed
	Secretary	Mr. M. Hafizullah
1979-80:	President	Mr. Khondker Mahubuddin Ahmed
	Secretary	Mr. Syed Abul Mokarrum
1980-81:	President	Dr. Rafiqur Rahman
	Secretary	Mr. Md. Ruhul Amin
1981-82:	President	Mr. Mohammad Yeasin
	Secretary	Mr. Habibul Islam Bhuiyan
1982-83:	President	Mr. Serajul Huq
	Secretary	Mr. Md. Fazlul Karim
1983-84:	President	Mr. Shamsul Huq Choudhury
	Secretary	Mr. Giusuddin Ahmed
1984-85:	President	Mr. Shamsul Huq Choudhury
	Secretary	Mr. Abu Sayeed Ahammad
1985-86:	President	Mr Shamsul Huq Choudhury
	Secretary	Mr. A.Y. Masihuzzaman
1986-87:	President	Mr. Shamsul Huq Choudhury
	Secretary	Mr. Abdul Baset Majumder
1987-88:	President	Mr. Shamsul Huq Choudhury
	Secretary	Mr. Abdul Baset Majumder
1988-89	President	Mr. Shamsul Huq Choudhury
	Secretary	Mr. Md. Abdul Wahhab Miah (M.A. Wahhab Miah)
1989-90:	President	Mr. Syed Ishtiaq Ahmed
	Secretary	Mr. Md. Abdul Wahhab Miah (M.A. Wahhab Miah)
1990-91:	President	Dr. Kamal Hossain
	Secretary	Mr. Md. Fazlul Haque
1991-92:	President	Dr. Rafiqur Rahman
	Secretary	Mr. A.F.M. Mesbahuddin



Period	Names of the President and the Secretary	
1992-93:	President	Mr. Khondker Mahhubuddin Ahmed
	Secretary	Mr. A.F.M. Ali Asgar
1993-94:	President	Mr. Kazi Golam Mahbub
	Secretary	Mr. Mahbubey Alam
1994-95:	President	Mr. M. Hafizullah
	Secretary	Mr. Mohammad Ozair Farooq
1995-96:	President	Mr. T.H. Khan
	Secretary	Mr. S.M. Munir
1996-97:	President	Mr. Shaukat Ali Khan
	Secretary	Mr. Nozrul Islam Chowdhury
1997-98:	President	Mr. Nazmul Huda
	Secretary	Mr. Zainul Abedin
1998-99:	President	Mr. Habibul Islam Bhuiyan
	Secretary	Mr. Abdul Awal
1999-2000:	President	Mr. Shafique Ahmed
	Secretary	Mr. Md. Saidur Rahman
2000-2001:	President	Mr. Mainul Hosein
	Secretary	Mr. Md. Shahidul Karim Siddique.
2001-2002:	President	Mr. Abdul Baset Majumder
	Secretary	Mr. Md. Momtazuddin Fakir
2002-2003:	President	Mr. Mohammad Ozair Farooq
	Secretary	Mr. M. A Hafiz
2003-2004:	President	Mr. Rokanuddin Mahmud
	Secretary	Mr. Md. Mahbub Ali
2004-2005:	President	Mr. Rokanuddin Mahmud
	Secretary	Mr. Bashir Ahmed
2005-2006:	President	Mr. Mahbubey Alam
	Secretary	Mr. M. Enayetur Rahim
2006-2007:	President	Mr. M. Amir-ul-Islam
	Secretary	Mr. A.M. Amin Uddin
2007-2008:	President	Mr. M. Amir-ul-Islam
	Secretary	Mr. A.M. Amin Uddin
2008-2009:	President	Mr. Shafique Ahmed
	Secretary	Mr. Md. Nurul Islam Sujan
2009-2010:	President	Mr. A.F.M. Mesbahuddin
	Secretary	Mr. S.M. Rezaul Karim (শ. ম. রেজাউল করিম)
2010-2011:	President	Mr. Khandker Mahbub Hossain
	Secretary	Mr. Bodruddoza Badal
2011-2012:	President	Mr. Khandker Mahbub Hossain
	Secretary	Mr. Bodruddoza Badal
2012-2013:	President	Zainul Abedin
	Secretary	Momtazuddin Ahmed (Mehedi)
2013-2014:	President	A.J. Mohammad Ali
	Secretary	A.M Mahbub Uddin Khokon
2014-2015:	President	Mr. Khondker Mahbub Hossain
	Secretary	A.M Mahbub Uddin Khokon
2015-2016:	President	Mr. Khondker Mahbub Hossain
	Secretary	A.M Mahbub Uddin Khokon
2016-2017:	President	Mr. Mohammad Yusuf Hussain Humayun
	Secretary	A.M Mahbub Uddin Khokon
2017-2018:	President	Zainul Abedin
	Secretary	A.M Mahbub Uddin Khokon
2018-2019:	President	Zainul Abedin
	Secretary	A.M Mahbub Uddin Khokon
2019-2020:	President	A.M. Amin Uddin
	Secretary	A.M Mahbub Uddin Khokon



Bangladesh Supreme Court Museum

Bangladesh Supreme Court Museum opened on 27 October 2014. The former Honourable Chief Justice of Bangladesh Mr. Mozammel Hossain inaugurated it. The formation of the Supreme Court of Bangladesh has a historical foreground. The history of this sub-continent testified that in the year of 1726 the legal system of this Sub-Continent got its new form, when King George-I issued a charter changing the judicial administration of the Presidency towns of Calcutta, Bombay and Madras, through which the Civil and Criminal Courts, as established, started deriving their authority from the king.

The first ever Supreme Court in the Indian Sub-Continent was established under the East India Company Act, 1773. Thereafter, Calcutta High Court was established replacing the Calcutta Supreme Court under the East India (High Courts of Judicature) Act, 1861. It is worth mentioning that in 1833, a law was passed to the effect that against any judgment of Higher Courts of India, an appeal could be preferred before the Privy Council in England. In 1950 another law was passed to abolish the provision of appeal before the Privy Council.

Two independent dominions, India and Pakistan, were established under the Indian Independence Act, 1947. In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, the Governor General promulgated the High Courts (Bengal) Order, 1947 on 11 August 1947. This act established first ever higher court in the soil of Bangladesh, which was better known as Dhaka High Court. The first two constitutions of Pakistan had a provision that the Supreme Court of Pakistan would hold at least two of its sessions in Dhaka every year.

After the historic independence, the High of Bangladesh was established under Article 9 of the Provisional Constitution of Bangladesh Order, 1972. Dated 11th January 1972. The present Supreme Court of Bangladesh was established under Article 94 of the Constitution of Bangladesh, 1972. Father of the Nation Bangabandhu Sheikh Mujibur Rahman inaugurated the Supreme Court of Bangladesh on 18 December 1972. Supreme Court of Bangladesh officially started functioning on 18 December, 1972 which is now observed as "Bangladesh Supreme Court Day". Bangladesh Supreme Court Museum was established in order to materialize the thrilling history of evolution of legal system in independent Bangladesh from 1600 to 1972. Its exposition demonstrates history of the Banglaees judicial system starting from eighteen century till present days. Hundreds of various exhibit items reflect history of Banglaees judicial history as a whole and history of the Supreme Court in particular. Subject chronological principle based exposition includes carefully selected Judgment, documents, used furniture, portrait of Father of the Nation, Portrait of former Chief Justices, award, wear apparels, descriptive materials and material artifacts. It enables to show generation of our judicial system emphasizing features of its most important stages starting from statehood establishment in ancient Bangladesh till present days.



This Portrait of Father of the Nation
"Bangabandhu Sheikh Mujibur Rahman"
kept in the Supreme Court Museum.





Photographs of hanging Punkha and a Punkha puller. This Punkha is collected from Patiya Chowki, Court of Chittagong District.



Brief history of Hanging Punkha.



The wall Clock used in the Kolkata High Court and then Dhaka High Court.



Dressing Table used by the honourable Justices of the Kolkata High Court and then Dhaka High Court.



1



2



3

1. The Chair used in the ejlas of honourable Justices of the Kolkata High Court and then Dhaka High Court.
2. The Chair used in the chamber of honourable Justices of the High Court and then Dhaka High Court.
3. The Chair used in the ejlas of honourable Chief Justice of the Dacca High Court (then East Pakistan).



The old manual Bangla Typing machine used in the then Dhaka High Court.



A memento featured the main building of the Supreme Court of Bangladesh



New High Court Building Dacca.



Collected Judgment of Case of Bhawal Sanyasi which was sent by learned District & Sessions Judge Mr. Md. Abdul Mojib from the Record Room of District Judge Court, Dhaka.



The Handwritten original Constitution of the People's Republic of Bangladesh.



Trunk used by the Honourable Chief Justice of Dacca High Court (then East Pakistan).



The used gown, wig and band by the honourable Chief Justice of Dacca High Court (then East Pakistan).



This is a Judgment of a Partition Suit written on Palm tree leaves in Sanskrit language in the year of 1710. This Judgment was sent from the Record Room of Barisal District & Sessions Judge Court to Potuakhali District & Sessions Judge Court. After that it was collected from the Record Room of the Potuakhali District & Sessions Judge Court.



The Inkpot, Pens and Nibs used by the honourable Justices.



The wig used by the honourable Chief Justice of Dacca High Court (then East Pakistan).



Record of Agartala Conspiracy Case (Volume 4-7).



Front view of the Main Building of the Supreme Court.



Conference room of the Supreme Court



Judges' Lounge of the Supreme Court



Inner courtyard of the Main Building of the Supreme Court



Old High Court Building



Annex Building of the Supreme Court



Sky view of the Main Building (back side) of the Supreme Court of Bangladesh.



SUPREME COURT OF BANGLADESH