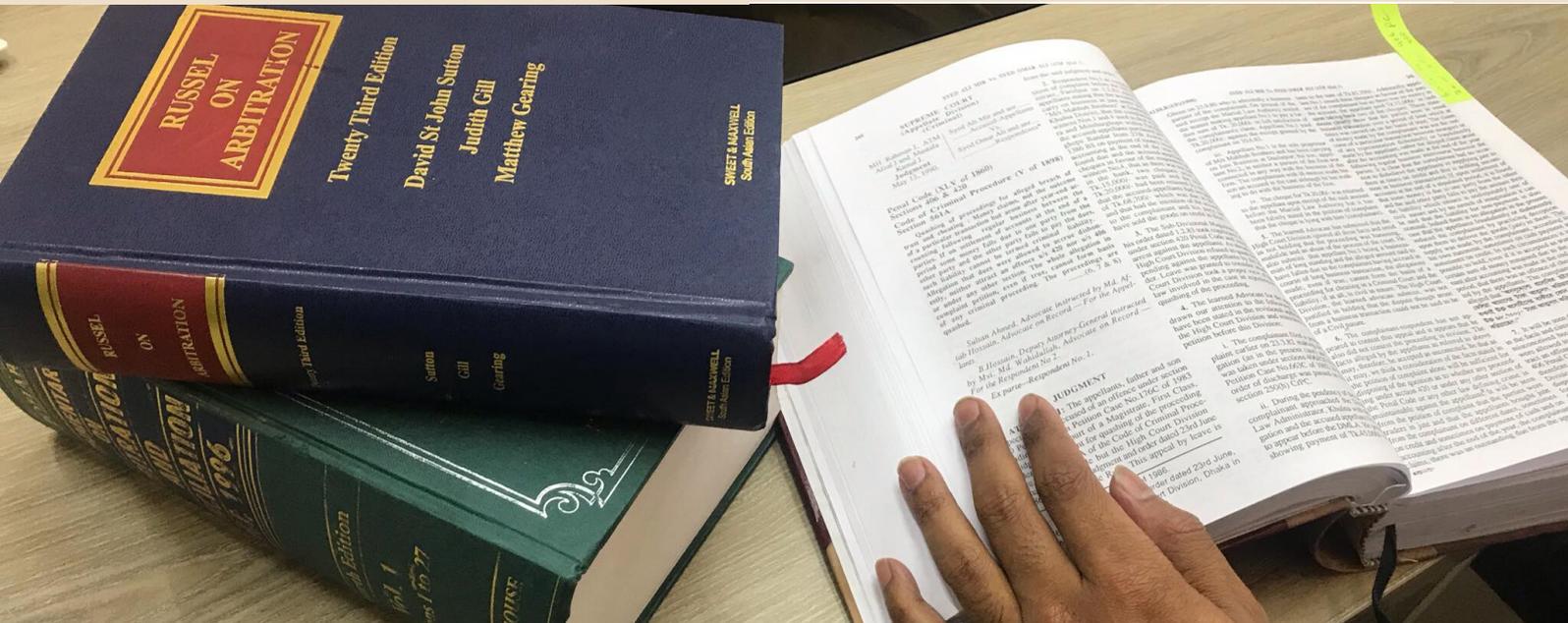


STELLAR CHAMBERS

QUARTERLY NEWSLETTER



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THE LAWREVIEWS

Expert Panel 2019

Global Law Experts

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The LEGAL 500
ASIA PACIFIC

"Do something today that your future self will thank you for."

Our actions and decisions today will shape the way we will be living in the future.



AN UPCOMING LAW FOR THE SOCIAL DEVELOPMENT ORGANISATIONS

The laws governing the registration and control of different local and foreign volunteer, private and social welfare organisations will experience significant changes as the Government of Bangladesh has prepared a draft Bill that will take precedence above other laws on the aforesaid matters. The proposed name for the draft Bill is *Volunteer Social Welfare Organizations (Registration And Control) Act 2019*. The changes being proposed by the draft Bill has not received universal appreciation.

As per section 11, sub-sections 1 and 2 of the draft Bill, all NGOs have to register, and renew their registrations every five years: failure to renew registration or rejection by the authority will result in the dissolution of the NGO. This requirement is being looked at as burdensome by the existing NGOs and social welfare organisations. Furthermore, section 17 of the draft Bill allows government authorities to dissolve a NGO if the government authorities have reason to believe they are not in the best interest of the public, or have broken the law. The draft Bill makes no mention of the threshold required to be satisfied by the government authorities before taking such a step. The absence of such a threshold gives the government authorities unjustified power and control.

The draft Bill has also proposed that all NGOs will have to register with the Ministry of Social Welfare, in addition to obtaining registration with NGO Affairs Bureau. The controlling system of two different government offices to a development organization will create double rule and create bureaucratic problems which will create risk of significantly curtailing NGO operations. The most restrictive part of the law comes in the form of section 10 which stipulates that all NGOs will be able to work in only one district, when they first register. After registration, NGOs can expand their scope of work, but only to five districts at a time. As per some of the leading NGOs and social welfare organisations, this provision will create obstacles for NGOs currently carrying out development work in different districts.

ONE PERSON COMPANY

The Government of Bangladesh has proposed reforms to the Companies Act 1994 for the purpose of encouraging foreign investment. The principal change being proposed is the creation of one person company. It is perceived that the proposed reform to the existing Companies Act 1994 is aimed at increasing the number of entrepreneurs in Bangladesh as it will allow many local and foreign nationals to set up his/her own company alone. The ultimate goal is to achieve a higher status at the global rank of 'Ease of Doing Business' of the World Bank than to its current position and to attract foreign and local investments.

In order to complement the provision permitting the creation of one person company, the following amendments have also been proposed: (1) a provision for adding "PLC" in case of public limited company, "Pvt" in case of private limited company and "OPC" in case of one-person company to their names, (2) The said lone sponsor is to be treated as first director of the respective company, (3) There is a requirement for there to be a nominee who will be responsible to run the business of the one person company in case of death and inability of the said lone sponsor/first director, (4) The one person companies will be required to hold one meeting at least in six months, (5) the lone sponsor will also be required to sign balance sheet and other financial statements, and (6) the said lone sponsor will also be able to appoint directors, managers and company secretary. In addition to introducing a new concept in the business arena of this country, the office of the Registrar of Joint Stock Companies and Firms will be empowered to rectify registration of mortgages. There are probabilities that further changes could be introduced to the Companies Act 1994 as the proposed reforms have recently been called for a fresh review by the Ministry of Finance. It will thereafter go to the Cabinet again for approval of any changes introduced by the ministry of finance.



WORK UPDATES

ARBITRATION

- Represented a Belarusian state-owned company in an international commercial arbitration over contractual disputes worth US \$ 170 million.
- Represented a land owner against a real estate company in a local arbitration appertaining contractual disputes arising from failure to handover the project within the specified period.

CONSTITUTIONAL LAW

- Filed 11 writ petitions in the last quarter and had obtained interim reliefs on all those matters for its clients. The matters are pending hearing at the High Court Division of the Supreme Court of Bangladesh.

INTELLECTUAL PROPERTY LAW

- Obtained trademark and copy right registration for a leading AI and Machine Learning company.

PROPERTY LAW

- Obtained favourable judgment for its client in relation to determining compensation payable under the Acquisition and Requisition of Immovable Property Act 2017.

PUBLIC PROCUREMENT

- Represented a renowned healthcare company of Bangladesh in securing tender before the Review Panel of Central Procurement Technical Unit (CPTU) which was unfairly awarded to another company.

LABOUR LAW

- Advised an Indian company regarding provident fund and gratuity payable to a Bangladeshi worker.
- Represented a renowned RMG company in more than 60 cases pending before the Labour Court of Bangladesh.

COMPANY LAW

- Advised on the creation of a partnership for an academic law institution having affiliations with foreign universities.
- Advised on the incorporation of four private limited companies and is currently providing legal services to them on a monthly retainership basis.
- Obtained stay on behalf of its client in a matter of minority shareholder's protection under section 233 of Companies Act 1994.
- Advised on share acquisition of a leading RMG company.

FAMILY LAW

- Submitted expert report to the Royal Court of Justice, UK in relation to child custody matter in Bangladesh and also appeared via video as an expert to give evidence before the same Court.
- Obtained alimony and maintenance payments as remedy for its clients in five divorce proceedings.



MERGERS AND ACQUISITIONS AT A GLANCE

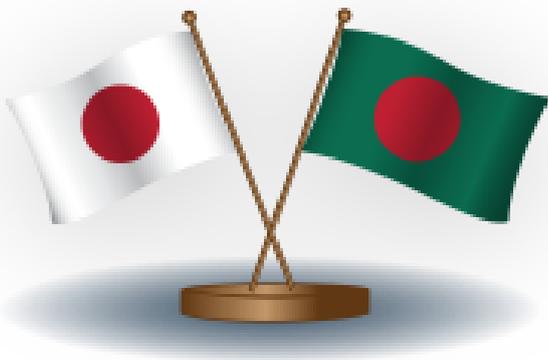
Mergers between unrelated entities have been a rare phenomenon in Bangladesh but the case of ***Robi Axiata Limited, A Public Limited Company ... V The Registrar, Joint Stock Companies And Firm And Others 36 BLD (HCD) 599*** has altered this scenario by paving the way for mergers between unrelated entities.

Additionally, the case had laid down some guiding principles and guidelines for large scale mergers between entities. For instance, it stated that large scale mergers must take note of a broad spectrum of interests, including socio-economic factors. It has identified public's interest as a vital and co-equal factor along with the economic effect of the Merger, the accruals to Government revenue through spectrum auction, employment security, and share-pricing in the amalgamated company.

The case also stressed on the importance of employees' rights and interests. It has opined that mergers will be better served by greater consideration of employee rights and interests in the context of not only their continued secured employment but also in a retirement or severance plan firmly entrenched securing, thereby, the long-term interests of those desirous of exiting from the the entity proposing to be merged.

"Mergers are like marriages. They are the bringing together of two individuals. If you wouldn't marry someone for the 'operational efficiencies' they offer in the running of a household, then why would you combine two companies with unique cultures and identities for that reason?"

Simon Oliver Sinek

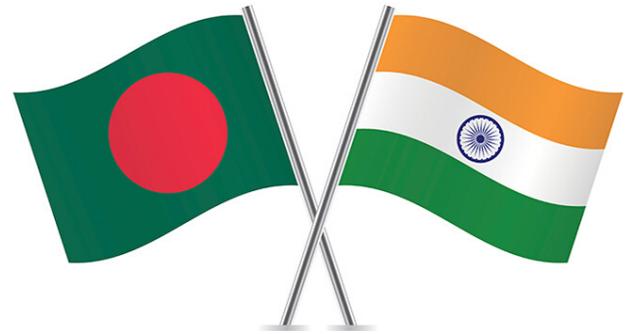


JAPAN'S CONTRIBUTION TO THE GROWTH OF BANGLADESH

Japan is Bangladesh's largest bilateral development partner and the two countries have always enjoyed a close bilateral relationship based on mutual trust and cooperation. Bangladesh has received nearly \$ 11.3 billion in official development aid (ODA) from Japan. Recently, the 40th ODA agreement was signed between the two countries for an amount of \$2.5 billion which is 35% higher than that of 2018. The funds under the new ODA will be used to implement the Matarbari Port Development project, Dhaka Mass Rapid Transit Development Project (Line 1), Foreign Direct Investment Development Project (II), Energy Efficiency and Conservation Promotion Financing Project (Phase-2), and Matarbari Ultra Super Critical Coal-Fired Power Project (V).

Currently more than 280 Japanese organisations are operating in Bangladesh. The number has increased exponentially over the last decade. Different surveys conducted by Japanese institutions revealed that the confidence of Japanese-affiliated firms in doing business in the country is improving. The launch of the Japan-Bangladesh Public-Private Economic Dialogue has significantly contributed to strengthening business and investment ties between the two countries including six projects under public-private partnership in government-to-government cooperation. The Japanese government has been actively engaged in the development of the Japanese Economic Zone located at the Araihasar Upazila in the Narayanganj district. In the Moheshkhali-Matarbari Integrated Infrastructure Development Initiative, there is a large presence and involvement of Japanese companies, including joint venture projects. Furthermore, the formation of Japan External Trade Organisation (JETRO) Dhaka has paved way for further promotion and ease of business between the two countries. JETRO is the official investment and trade promotion organization of the government of Japan.

Our friendship was tested in the terror attack in Dhaka in July 2016, which led to the tragic death of seven Japanese nationals. It was at that moment of national anguish and mourning that the Japanese people and its government, yet again, stood by us and reassured us of Japan's continued support to Bangladesh's development.



INDIA'S ROLE IN BANGLADESH'S GROWTH

India is by far the most important neighbour of Bangladesh. Since 1971 independence war, India had been a trusted friend. It played a pivotal role in securing our freedom and establishing the name of Bangladesh on the world map and has played a key role in Bangladesh's graduation from Least Developed Country (LDC) category to Developing Country status through investments, Line of Credit at concessional rates, grants, market access for Bangladeshi products and easier visa regime. The relationship between the two countries is currently at its peak resulting in mutual benefits for both.

Bangladesh is the biggest recipient of India's Line of Credit amounting to almost USD 8 billion being used for the country's infrastructure, power and railway sectors. India's private sector has also committed to invest over USD 13 billion in Bangladesh, particularly in the power sector. Due to the growing bilateral relations between the two countries, citizens of both have also gained access to the job market of one another.

India and Bangladesh are now a model of good neighbourliness –the agreement to supply gas to Tripura, and the use of the Chattogram and Mongla ports to serve the north-east states testify to the goodwill between the two countries. The agreement for a skill development centre in Bangladesh to train the youth is another example of mutually beneficial efforts. Recently, the Prime Minister of both countries have inaugurated the construction of 130km Bangladesh-India Friendship Pipeline between Siliguri in West Bengal and Parbatipur in Dinajpur. A plethora of connectivity projects, unthinkable earlier, are either in place or in advanced stages of negotiation. While trans-shipment of goods using river ports and roads is on, many bus and train routes have been operationalised.