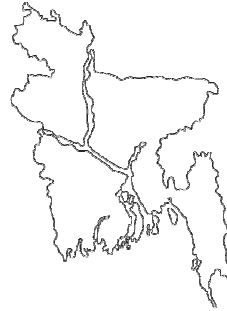
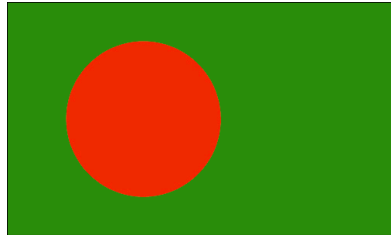


PEOPLE'S REPUBLIC OF BANGLADESH

(GANA PRAJATANTRI BANGLADESH)



BACKGROUND AND LEGAL SYSTEM

LEGAL SYSTEM	Mixed legal system of personal, religious, and common law system.
POLITICAL SYSTEM	Unicameral Parliamentary Democracy.
HEAD OF STATE	<p>President, elected by the Parliament for a five-year term with the right to only one re-election.</p> <p>The president's duties are normally ceremonial, appointing the Prime Minister from the majority leader of the Parliament and the Chief Justice of the Supreme Court from the senior judge from amongst the judges of the Appellate Division. However, under the 13th amendment to the constitution ("Caretaker Government Amendment"), the president's role becomes significant when Parliament is dissolved and a caretaker government is installed, at presidential direction, and to supervise the elections.</p>
HEAD OF GOVERNMENT	<p>Prime Minister, elected following legislative elections. The leader of the party that wins the most seats is appointed prime minister by the president. Though not written down, this function is based on Article 58(3) of the Constitution, which states the President shall appoint as Prime Minister the member of Parliament who commands the majority of its members.</p>
SUBNATIONAL ENTITIES	<p>There are 6 Divisions - Barisal, Chittagong, Dhaka, Khulna, Rajshahi, Sylhet. The capital is Dhaka.</p>

SUBLOCAL ENTITIES	There are 64 Districts (<i>Zila</i>), 507 Townships (<i>Thana</i>), 4484 Unions, and over 88,000 villages.
TRANSLITERATION SYSTEM	Disagreement exists between Bangladeshi and foreign scholars. The Department of Law of the South Asia Institute of Heidelberg University has been working on translation project for all laws since 1985-1995, but focused on only selective laws, rather than the total body of Bangladeshi law. Local consultants assert that the effort is not inline with the traditional style of Bangladesh's legal system.
LANGUAGES	Bangla (official, also known as Bengali), English.

CONSTITUTION

OFFICIAL NAME	The Constitution of the People's Republic of Bangladesh.
ENACTMENT	Adopted November 4, 1972; suspended following coup of March 24, 1982; restored November 10, 1986; amended up to May 17, 2004.
CITATION FORMAT	BANGL. CONST., art. <number>, section <clause number if applicable>.
<i>Example</i>	BANGL. CONST., art. 8(1A).

STATUTES

GOVERNMENT STRUCTURE	<p>The Executive Branch consists of a President, the head of state, and a Prime Minister, the head of government. The President is elected by Parliament for a five-year term. The Prime Minister is appointed by the President. During election times, Parliament dissolves and there is a “Caretaker Government,” appointed by the President to oversee the elections. The Legislative Branch operates as a unicameral parliament; <i>Jatiya Sangshad</i> (“House of Nation” or “Parliament”). There are 345 seats; including 300 elected by popular vote from single territorial constituencies and 45 seats reserved for women. Members are elected by popular vote for five-year terms. The Judicial Branch consists of a Supreme Court, having two divisions (Appellate Division and High Court Division) and subordinate appellate courts and tribunals. There are independent civil and criminal courts.</p>
LEGISLATIVE PROCESS	<p>Parliament enacts laws in compliance with the Constitution. To enact laws, Parliament first debates and then votes on legislative bills, which are decided by a majority vote. A bill that passes then goes to the President for his approval. He may return the bill to Parliament within 15 days with his observations and recommendations. Parliament must pass the bill with a majority vote and it is sent to the President. If he doesn’t approve the bill within 7 days, it automatically becomes law.</p>
REPORTER	<p><i>The Bangladesh Code (1799-1938)</i> <i>The East Pakistan Code (1939-1965)</i> <i>The Pakistan Code (1948-1971)</i> <i>Dacca Gazette (1947-1971).</i> <i>The Bangladesh Gazette, Extraordinary (1971-).</i></p>
CITATION FORMAT	<p>The <name of act, law, or order> [<year of enactment>, <act number within that year> of <year>].</p>
<i>Examples</i>	<p>The Contract Act, 1872 (Act No. IX of 1872) The Bangladesh Bank Order, 1972 (President’s Order No. 127 of 1972) The Dhaka Metropolitan Police Ordinance, 1976 (Ordinance No. III of 1976))</p>

In case of a subsequent amendment of the Law, the following

style is followed:

The Dhaka Metropolitan Police (Amendment) Ordinance, 1979
(Ordinance No. XV of 1979)

ADMINISTRATIVE REGULATIONS

ADMINISTRATIVE SOURCES	<p>Executing authorities and ministries are granted authority from Parliament to adopt by-laws that make-up administrative law.</p> <p>The usual contents of the Gazette as of 1985:</p> <ul style="list-style-type: none"> Part 1. Statutory Rules and Orders; Part 2. Government Service Announcements; Part 3. Ministry of Defense notices; Part 4. Patent Notices; Part 5. Acts and Bills of Parliament; Part 6. Notices of the Supreme Court, Auditor-General and Public Services Commissions; Part 7. Miscellaneous government notices; Part 8. Advertisements and company notices. <p>All Acts since 1985 are published in Bengali, with a few exceptions. For example, the Companies Act, 1994 (Act No. XVIII of 1994) is also published in English.</p>
REPORTER	<p><i>Bangladesh Gazette</i> (1971-). The Bangladesh Gazette, Extraordinary.</p>
CITATION FORMAT	<p><name of administrative order or regulation> (Act No. < act number within that year> of <year> [<gazette name>, <date>].</p>
<i>Example</i>	<p>The Environment Court Act, 2000 (Act No. 11 of 2000) [Bangladesh Gazette dated 10 April, 2000].</p>

CODES

NOTE ON
BANGLADESHI
CODES

The Ministry of Law, Justice and Parliamentary Affairs is responsible for examining the existing laws for adaptation and codification. Accordingly, Bangladesh Code Volumes I-XI was published containing the laws enacted from 1799 to 1938. But due to lack of resources, the process has not further proceeded. As a result, laws enacted after 1938 have been kept scattered and there is currently no codification of Bangladeshi law.

But the Ministry of Law, Justice and Parliamentary Affairs have started a Project, which is in final stage, with the aid of Canadian International Development Agency (CIDA) to update the Bangladesh Code and codify all existing laws of Bangladesh.

CODE OF CRIMINAL
PROCEDURE, 1898

The Code of Criminal Procedure, 1898 (Act No. V of 1898) is the principal procedural law in criminal matters. The law includes provisions relating to the establishment of sessions and magistrate courts to try and hear criminal cases, bail, trial etc.

The law was amended more than fifty times. Some of these amendments are the Code of Criminal Procedure (Amendment) Act, 1991 (Act No. XVI of 1991); the Code of Criminal Procedure (Amendment) Act, 1992 (Act No. III of 1992); the Code of Criminal Procedure (Second Amendment) Act, 1992 (Act No. 42 of 1992).

PENAL CODE, 1860

The Penal Code of 1860 is the main substantive law in criminal matters and includes categories of punishable offences. However, it does not list all offenses.

The list of other penal law includes: The Cattle Trespass Act, 1871; The Arms Act, 1878; The Explosive Substances Act, 1908; The Prevention of Corruption Act, 1947; The Anti-Corruption Act, 1957; The Special Powers Act, 1974; The Dowry Prohibition Act, 1980; The Narcotics (Control) Act 1990; and The Nari O Shishu Nirjatan Damon Ain 2000 etc.

CITATION FORMAT

The <title of the law with year or enactment>, section <sec. number>.

Or

<title of the law> of <year>, section <sec. number>.

Example

The Penal Code, 1860, section 312

Or,

The Penal Code of 1860, section 312.

“S” is used to abbreviate “section” and “ss” is used in the case of multiple sections.

CASE LAWJUDICIAL
OVERVIEW

The Judiciary of Bangladesh consists of a Supreme Court, subordinate courts, and tribunals. All courts are subordinate to the Supreme Court. The Supreme Court is divided into an Appellate Division, which is bound by its own decisions and the High Court Division, which is bound by Appellate Division decisions as well as its own decisions. Although it is a part of the Supreme Court, the High Court is essentially an independent court with well-defined powers, functions, and jurisdictions.

District courts handle civil suits and Courts of Sessions deal with criminal matters. Magistrate Courts assist the Courts of Sessions.

There are also a variety of other specialized courts and tribunals of special jurisdiction created by statute, such as Labor Court, Administrative Tribunal, Environment Court, Family Court, etc.

REPORTER	<p>Bangladesh Supreme Court Reports. Vol. x, no. x (Mon. Date) –[Dhaka] Bangladesh Institute of Law and International Affairs, year.</p> <p>Dacca Law Reports (DLR) – Supreme Court (High Court Division & Appellate Court Division opinions). Vol. x, no. # (1949-1982). Dacca, Al-Afsat Press, (1949-1982).</p> <p>Dhaka Law Reports (1977-).</p> <p>Bangladesh Case Reports. (year). [Dacca] 1981.</p> <p>Bangladesh Legal Decisions. (mon. year) –.</p> <p>Dacca, Bangladesh Bar Council, (year).</p>
CITATION FORMAT	<p><reporter name>. Vol. <volume number>, no. <law number> (<year>).</p> <p>Each reporter employs a slightly different style; please see below for specific formatting.</p>
Example	<p>Dhaka Law Reports:</p> <p>(a) Decision of the Appellate Division of the Supreme Court: <i>Abu Siddique and another vs Ministry of Defence</i> 54 DLR (AD) 154.</p> <p>(b) Decision of the High Court Division of the Supreme Court: <i>Kashem vs State</i> 54 DLR 212</p> <p>Bangladesh Legal Decisions:</p> <p>(a) Decision of the Appellate Division of the Supreme Court: <i>Nishat Jute Mills Ltd. Vs. Md. Sanaulah</i>; 8 BLD (AD) 212</p> <p>(b) Decision of the High Court Division of the Supreme Court: <i>Azimuddin Vs. Government of Bangladesh</i>; 4 BLD (HCD) 199</p> <p>Bangladesh Law Times:</p> <p>(a) Decision of the Appellate Division of the Supreme Court: <i>Bangladesh Textile Mills Vs. N. A. Chowdhury & Others</i> 11</p>

BLT (AD)-186.

(b) Decision of the High Court Division of the Supreme Court:

Islamic Trade & Commerce Ltd. Vs. Bangladesh Bank & Others 9 BLT (HCD)-183

Mainstream Law Times:

(a) Decision of the Appellate Division of the Supreme Court:

Basu Dev Chatterjee Vs. Umme Salma and another-4, MLR (1999) (AD) 209.

(b) Decision of the High Court Division of the Supreme Court:

Shamim Vs. The State- 5 MLR (2000) (HC) 37.

SOURCES

The CIA Factbook: Bangladesh

<http://www.cia.gov/cia/publications/factbook/geos/bg.html>

The State Department Background Note: Bangladesh

<http://www.state.gov/r/pa/ei/bgn/3452.htm>

The Heidelberg Law Translation Project

<http://www.sai.uni-heidelberg.de/workgroups/bdlaw/>

Library of Congress Country Study: Bangladesh

[http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field\(DOCID+bd0106\)](http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+bd0106))

Bangladeshi Constitution, Prime Minister's Office Website,

<http://www.pmo.gov.bd/constitution/index.htm>>

Bangladeshi Ministry of Law, Justice and Parliamentary Affairs,

<http://www.minlaw.gov.bd>

The British Library

<http://www.bl.uk/collections/social/saop-b.html>

The International Labour Organization: Bangladesh

<http://www.ilo.org/ilolex/english/cprofiles/bangladeshE.htm#legalsystem>

THOMAS H. REYNOLDS AND ARTURO A. FLORES, FOREIGN LAW, CURRENT SOURCES
OF CODES AND BASIC LEGISLATION IN JURISDICTIONS OF THE WORLD, VOL. III AFRICA,
ASIA, AUSTRALIA, AMERICAN ASSOCIATION OF LAW LIBRARIES SERIES No. 33, (2003)

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