

NEWS BULLETIN



EDITORIAL

We are pleased to publish the sixth issue of the quarterly Legal Counsel News Bulletin with some important updates as a part of our continuing efforts to disseminate key information to clients and other stakeholders. Being the last issue of year 2020, it walks you through the vital updates and news from 2020 about Legal Counsel, depicting our moments of growth (both in knowledge and size), pride, joy and satisfaction in serving our rich clientele, of doing good for the community as well as for our colleagues, with a vouch to grow to an even bigger and better legal service provider in 2021.

NEW IMPORTANT LEGISLATIONS (OCTOBER 2020-DECEMBER 2020)

- Nari-O-Shishu Nirjatan Daman (amendment) Act, 2020.
- Marine Fisheries Act, 2020.

DO YOU KNOW

- Capital punishment (i.e. death penalty) pronounced by trial court does not get executed instantly and automatically. In Bangladesh, a death sentence must be confirmed by High Court Division (HCD) of the Supreme Court through a Death Reference Case. Besides being time consuming, the punishment can be changed and even the accused be acquitted by HCD.
- Appellate Division of the Supreme Court on 1st December, 2020 ruled that “life imprisonment” shall mean to remain behind bars for 30 years unless the trial court specifically mentions in the judgment that the convict is sentenced to imprisonment until his natural death.



Is Your Intellectual Property Protected?

Similar to tangible property, intellectual property (IP) is an asset to a business that has the potential to maximize the value of it. There are various forms of IP. Trademarks are marks, brand names, logos, designs, slogans, etc. that are unique to a business. Copyrights are associated with the exclusive rights to produce, reproduce, perform, publish, sell or give on hire any literary, dramatic or musical work, artistic work and computer programme. Patent refers to an exclusive right or title, to make, use, or sell an invention or authorize others to do so. Such important, and almost the core commercial, aspect for a company and matters of utmost priority and confidentiality, yet often ignored and left legally unprotected. These IP rights (IPR) may be acquired, exploited, licensed, assigned, sold, used as a vehicle for raising equity and even used as collateral to secure loans. Needless to say, being valuable property, they are at a constant risk of being stolen, misused, misappropriated by competitors or claimed as being theirs any day.

As IPR advisor, Legal Counsel advises those businesses, which have not done already, to prioritize for 2021 the development and implementation of a robust IP strategy for their organizations. It is necessary for making use of IP to empower businesses to secure high prices for their products and services, increase their market shares and maintain reduced costs than its competitors. With a carefully considered IP strategy, organizations can protect their creative works and inventions, keep its resources in check and identify the appropriate time for exploring new research and development opportunities.

To develop an IP strategy, organizations must first consider their type, the products/services they sell/provide. While generally all organizations should protect their trademarks, there may be IP specific to the type of organization or products and services that require protection. Organizations trading in consumer products may protect the design of their products' packaging, besides protecting the technology, know-hows, ingredients etc. of the products, to avoid having similar products, designs and packaging in the market. On the other hand, an IT firm may obtain copyright protection for its software to guard itself from anyone copying the particulars of its software.

Truer for FMCGs, such measures essentially armour all organizations to not only ensure brand protection by eliminating or reducing risks of counterfeit and look-alike products, but also to combat consumer protection issues. Even the organizations not involved in commercial activities should still consider protecting their logo, ideas etc.

The size of the organization is an important factor for formulating an IP strategy. Where an organization is small with fewer employees, a formal IP strategy may primarily include protective mechanism such as registration of its IPR. By contrast, for organizations which are large in size, formulation of a comprehensive IP strategy is pivotal. These organizations shall be able to identify its relationships with its employees, independent contractors, etc. in order to determine the rights of ownership vested in its products/services.

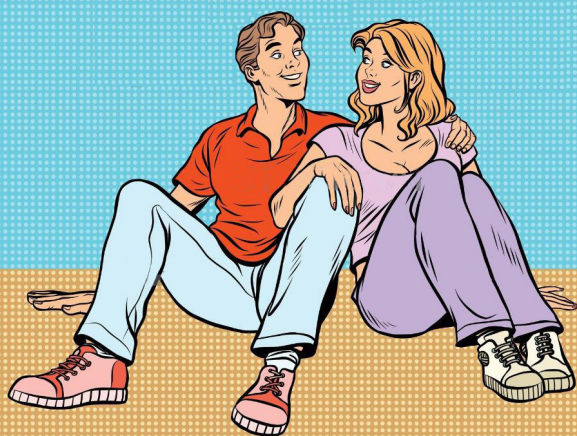
The stage of development of the organization should also be taken into account. At the beginning stages of a business while it is establishing a market, building and registering its IP rights should be focused on. At a developed stage, enforcement of such IP rights may take on a more significant role.

Organizations should conduct detailed market survey (i.e. product valuation, return on investment, etc.) before launching any new product/providing any new service. The key issue to be identified is if the brand, creative work or novel invention shall provide a competitive advantage in the market. Organizations should further look if the products/services are already in the market and if the IPR for the same is already protected or not. Moreover, organizations should also be updated at all times and stay vigilant on whether there is any potential infringement of their IP rights by anyone and undertake all possible proactive and reactive legal actions against such infringement.

ON A SERIOUS NOTE

The spouse of a lawyer told her husband: 'I love you'.

The lawyer husband replied: 'Do you have sufficient and admissible evidence to corroborate your statement?'



on the parties. During the COVID-19 pandemic, however, institutional arbitration has gained remarkable popularity, in most of the jurisdictions including Bangladesh. Besides experiencing a notable increase in the number of client briefs for arbitration in our Chambers, we noticed from different forums that disputes that usually dragged people to courts and lingered there for even decades, are now being referred to arbitration and being resolved quickly, amicably and with lesser efforts.

Unlike litigation, arbitration is private and customizable forum for resolving disputes. It offers a speedy solution, without requiring considerable time or having complexity and technical obscurity in relation to the process. The arbitrators may also be chosen by the parties, the freedom which is absent in litigation. The arbitral tribunal further has an overriding duty to be independent, impartial and bring about a fair resolution of every dispute they decide on. Where any party has justifiable doubts as to the independence or impartiality of an arbitrator, his/her appointment may be challenged. The timeline for providing statement of claim, defense, hearings, etc. is also tailored to provide decisions as promptly as possible. The final award, although binding upon the parties, may be challenged within the purview of relatively narrowly defined avenues.



Arbitration on the Rise

Over the years, due to various complexities associated with litigation and an increased number of cross border transactions with more foreign trade and investment, parties have opted to various alternative dispute resolution (ADR) procedures, with the view to resolving disputes amicably. One such ADR modality is Arbitration. It is a quasi-judicial process whereby, through agreement between the parties, a dispute is submitted to a neutral third party (an arbitral tribunal consisting of one or more arbitrators) whose decision is binding

Popularity of arbitration soared as lockdowns and restrictions of movements have little to no effect on the arbitration procedures; going virtual required little to no mess, no capricious rules/regulations, with parties freely choosing dates/times, platforms to hold hearings, media to share documents, etc.

Due to its flexibility, mechanism and effectiveness, in today's commercial world, arbitration is an ideal ADR process for parties in dispute. It aids parties in reaching an amicable settlement and further assisted in preserving their future relationship, as opposed to bringing a win-lose outcome.

CURRENT AFFAIRS



Preferential Trade Agreement with the Kingdom of Bhutan

In a historical move, Bangladesh has signed its first ever bilateral Preferential Trade Agreement ('PTA') with the jewel of the Himalayas: the Kingdom of Bhutan, on the 6th December, 2020. Bhutan was the first country in the world to recognize Bangladesh as an independent nation on the 6th December, 1971. Signing the PTA on the same date also marked the glorious celebration of the 50th anniversary of diplomatic relations between the two countries. Under the PTA, 100 Bangladeshi products

including 16 fresh goods, will also enjoy duty-free access to the Bangladeshi market.

A PTA is a trading agreement in relation to a certain geographical trading bloc that gives preferential access to certain goods from and within the participating countries. So far, Bangladesh has entered into few multilateral FTAs/ PTAs with other developing and emerging economies. The two multilateral FTA deals include the South Asian Free Trade Area (SAFTA) Agreement and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) Agreement. The three multilateral PTAs are the Asia-Pacific Trade Agreement (APTA), the Trade Preferential Scheme among member states of the OIC (TPS-OIC) and the Developing-8 (D-8) PTA. It is hoped that the government shall continue to seriously emphasize on entering into more and more effective and well-balanced bilateral PTAs.



Bangladesh Covid-19 Vaccine Update

Bangladesh is negotiating with almost all countries and/or organizations attempting Covid-19 vaccine development and is in touch with at least six of them.

From 8th December 2020, the U.K as the first country, started administering the vaccine developed by Pfizer Inc. and Germany's BioNTech SE, with a 90 year-old woman being the first to be vaccinated. The Government of Bangladesh (GoB) is not considering procuring the vaccines of Pfizer-Biontech or Moderna as those are not suitable for Bangladesh due to temperature-related storage and distribution issues.

The GoB has signed a memorandum of understanding (MoU) with the Serum Institute of India (SII) and Bangladesh's Beximco Pharmaceuticals to get 3 crore (30 million) doses of the vaccine developed by AstraZeneca/Oxford University. Under the deal, Bangladesh will get this vaccine at the early stage and the same will be preserved at Beximco's cold storage. The country will be able to give this vaccine to 1.5 crore (15 million) population in the first phase—two doses for each person, to be administered with a gap of 28 days in between. As per the Health Minister, the vaccines will be coming in phases over 6 months, with first slot expected to arrive early January 2021.

Interim results from Phase-3 trials in Britain and Brazil found the vaccine to be 70.4% protective (23/11/2020). Over 50% efficacy would suffice as per the World Health Organization (WHO).

Key Facts:

Priority recipients – health professionals, senior citizens (over-60), frontline administrative and law enforcement officials.

Listing – GoB started compiling list of senior citizens at ward levels using the NID Card database; GoB completed listing all public and law enforcement officials via data sent by all Civil Surgeons.

Long-term plans – to cover all segments of the population, in phases.

Vaccine cost – GoB to provide these 30M free of cost.

LEGAL COUNSEL NEWS



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New lawyers joined the LC family in 2020



1200+

Client instructions/briefs received throughout 2020



47

New clients instructed LC in 2020



270+

Free legal advice, opinions, services in 2020



New LC Website launched in December 2020



7

News Bulletins published including Special Bulletins on COVID-19



37

Internal and external capacity building training sessions and talks held at LC

5

LC Internal Policies, including Professional COC, Anti-Corruption / Bribery, Environment, Child Protection Policies

Policy Activations

Child Protection Policy: As an initiative of LC on the occasion of “World Children’s Day”, LC has had the privilege in arranging meals for 200 underprivileged children in Rajshahi, in association with Bidyanondo Foundation.



Environmental Policy: As a part of its social responsibilities towards environment, LC has, in association with Bangladesh Environment and Development Society (BEDS), with the help of local people and students of Uttar Banishanta village, planted 1000 mangroves at Banishta union of Dacope sub-district, close to the Sundarbans Mangrove Forest on 27 and 28 December 2020.



LC practices little or no printing, reusing papers, reduced electricity consumption, using of eco-friendly cleaning products, etc.

Pro bono Policy: Throughout the year, LC has been actively providing pro bono services in the form of free legal advice over phone/email/virtual correspondences, participating in webinars and TV shows and disseminating legal information through publications on various paper and online based newspapers.

Health and Wellbeing



To safeguard the health of LC members, LC implemented “Work from Home” from mid-March 2020 to mid-August 2020.



Upon opening of offices, to maintain health, hygiene and safety of LC members and office users, a “Safety Protocol of Legal Counsel” has been implemented.



In-house meetings are restricted and all meetings of LC are held virtually now.



A session on “Managing Stress Better” conducted by an external professional helped keeping LC members’ mental wellbeing at check, given the inevitable tension brought by the global pandemic



All kinds of health and safety materials are provided at the desks of all LC members.



Since Covid-19 prevents us from going outside, picnics or annual dinners, to break the monotony during this unprecedented time and keep our mental wellbeing at check, we embrace all those fun by holding luncheons every week, where each LC member cooks and brings food in turn as treats for everyone.



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Webinars and Seminars Hosted/attended by LC / members Highlights

- ✔ Webinar on ‘Employment Situations during Covid-19’ with the legal practitioners of India, Pakistan, Australia and Nigeria, organized by: Legal Counsel, held on 14 June 2020, Broadcasting Partner: Channel-I. https://youtu.be/CCnCs_ljm88
- ✔ Webinar on “Mental Well-being of Professionals during Covid-19”, organized by Legal Counsel & Pulse Healthcare Services Ltd, held on 4 July, 2020. Mr. A M Aminuddin: Attorney General of Bangladesh and the President, Supreme Court Bar Association attended amongst other. <https://youtu.be/OP0luoLtM-Y>
- ✔ Webinar on ‘Digital Communication, Data Protection & Privacy’, organized by Legal Counsel, held on 12 June, 2020, graced by the Hon’ble Minister, Ministry of Post, Telecommunication and Information Technology, Mr. Kamal Quadir. Broadcasting Partner: Channel-I and Channel-I online. <https://youtu.be/d5ROXr7gy9M>

PRO-BONO WORKS: PUBLICATIONS AND TV SHOWS (OCTOBER 2020-DECEMBER 2020)

OUR PUBLICATIONS

- ✓ 'Resignation & disciplinary procedures under Employment Law' | Barrister Omar H. Khan, Managing Partner of Legal Counsel | The Daily Star | October 6, 2020. <https://diz.ae/vfq31>
- ✓ 'Cyber Law' | Barrister Miti Sanjana, Partner of Legal Counsel | BBC News | October 11, 2020. <https://diz.ae/UbPqG>
- ✓ 'Property Law' | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | October 7, 2020. <https://diz.ae/9rSsZ>
- ✓ 'Death penalty for Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | leading international broadcaster Deutsche Welle, DW (Germany) | October 14, 2020. <https://diz.ae/fVWzx>
- ✓ 'Cyber crime and women security' | Barrister Miti Sanjana, Partner of Legal Counsel | Ittefaq online | October 16, 2020. https://youtu.be/IPLUHG5y_FI
- ✓ 'Adverse possession and dispossessed land' | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | October 21, 2020. <https://diz.ae/iAIO3>
- ✓ 'Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | the Daily Prothom Alo | November 03, 2020. <https://diz.ae/XKycd>
- ✓ 'Dissolution of christian marriages' | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Star | November 03, 2020. <https://diz.ae/sQecV>
- ✓ 'Experiencing of writing at the Prothom Alo fortnightly column on the occasion of 22nd Anniversary of Prothom Alo' | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | November 04, 2020. <https://diz.ae/OKU0t>
- ✓ 'Massacre, atrocities are spreading through the mass beatings' | Barrister Miti Sanjana, Partner of Legal Counsel | leading broadcaster BBC Bangla news report | November 07, 2020. <https://diz.ae/oHDUM>
- ✓ 'Avoidance of double taxation' | Barrister Omar H. Khan, Managing Partner of Legal Counsel, | The Daily Star | November 17, 2020. <https://diz.ae/h7MGD>
- ✓ 'Committing adultery' | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | November 18, 2020. <https://diz.ae/tPlnH>
- ✓ 'The Indemnity Act, Humanity's darkest law' | Barrister Miti Sanjana, Partner of Legal Counsel, | Asian News International (ANI), South Asia's leading multimedia news agency | November 19, 2020. <https://diz.ae/wtDkm>
- ✓ 'Necessity of Gender-neutral domestic violence law and Male rights' | Barrister Miti Sanjana, Partner of Legal Counsel | leading international broadcaster Deutsche Welle, DW (Germany) | November 20, 2020. <https://diz.ae/5rGnO>
- ✓ 'Occasion of 23rd anniversary of the Hill Peace Accord' | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Ittefaq | December 2, 2020. <https://diz.ae/gS5u4>
- ✓ 'The Hill Peace Accord on the occasion of accord's 23rd anniversary' | Barrister Miti Sanjana, Partner of Legal Counsel | News Bangla 24.com | December 2, 2020. <https://diz.ae/Y6ZMX>
- ✓ 'Chittagong Hill Tracts Peace Accord' | Barrister Miti Sanjana, Partner of Legal Counsel | The Bangla Herald | December 02, 2020. <https://diz.ae/l7g8d>
- ✓ 'Chittagong Hill Tracts Peace Accord' | Barrister Miti Sanjana, Partner of Legal Counsel | The Business Standard | December 2, 2020. <https://diz.ae/HlrUB>
- ✓ 'Preserving history through sculpture' | Barrister Miti Sanjana, Partner of Legal Counsel | Dhaka Tribune | December 08, 2020. <https://diz.ae/r40Jl>
- ✓ 'Cyber Crimes' | Barrister Miti Sanjana, Partner of Legal Counsel | the Bengali Tribune | December 09, 2020. <https://diz.ae/AgsKG>
- ✓ 'Marriage' | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | December 09, 2020. <https://diz.ae/5ZDtk>
- ✓ 'The 'Historical and Economic Significance of Bilateral Preferential Trade Agreement (PTA) with Bhutan' | Barrister Omar H. Khan, Managing Partner of Legal Counsel | the Business Standard | December 09, 2020. <https://cutt.ly/Eh7vlut>
- ✓ 'Bangladesh has set a shining example in the establishment of human rights' on the occasion of International Human Rights Day | Barrister Miti Sanjana, Partner of Legal Counsel | United News 24.com | December 10, 2020. <https://cutt.ly/WjqCp2l>
- ✓ 'Domestic violence against women' | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | December 23, 2020. <https://cutt.ly/AjqBamY>
- ✓ 'Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Prothom Alo | December 29, 2020. <https://cutt.ly/vjqBbcC>

OUR TV SHOWS AND INTERVIEWS

- ▶ 'The Judgement of Rifat Murder Case' | Barrister Miti Sanjana, Partner of Legal Counsel | Asian TV | October 1, 2020. <https://youtu.be/Po7lvDOZ-oQ>
- ▶ 'Economic Growth Amid COVID-19' | Barrister Miti Sanjana, Partner of Legal Counsel | Channel i | October 3, 2020. <https://youtu.be/Ki2Es6IZI8s>
- ▶ 'Domestic violence and criminal offences due to the COVID-19 lockdown' | Barrister Miti Sanjana, Partner of Legal Counsel | Independent TV | October 5, 2020. https://youtu.be/HL67pg3_gXO
- ▶ 'Women harassment and abuse' | Barrister Miti Sanjana, Partner of Legal Counsel | ATN News | October 5, 2020. <https://youtu.be/7gcltddR6Sw>
- ▶ 'Recent brutality against women' | Barrister Miti Sanjana, Partner of Legal Counsel | Ekattor TV | October 6, 2020. https://youtu.be/_oMZ03CTfbQ
- ▶ 'Recent brutality against women' | Barrister Miti Sanjana, Partner of Legal Counsel | DBC News | October 6, 2020. <https://youtu.be/vBJ2ckuQg8k>
- ▶ 'Prevention of women violence' | Barrister Miti Sanjana, Partner of Legal Counsel | Bangladesh Initiative, Jagoron Barta | October 7, 2020. <https://youtu.be/t-NgUEYnOvM>

- ▶ 'Punishment for Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Somoy TV | October 7, 2020. <https://youtu.be/B8hm3PYiQf8>
- ▶ 'The proposed amendment of the Nari-O-Shishu Daman Ain 2000' | Barrister Miti Sanjana, Partner of Legal Counsel | Independent TV | October 8, 2020. <https://youtu.be/xVh24YFcKzc>
- ▶ 'The Law Reform of the maximum punishment for Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Independent TV | October 12, 2020. <https://youtu.be/ldGUca2Q2QU>
- ▶ 'Current protest on Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Ekattor TV | October 12, 2020. https://youtu.be/_oMZ03CTfbQ
- ▶ 'The proposed approval of the maximum punishment for Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Independent TV | October 12, 2020. <https://youtu.be/ldGUca2Q2QU>
- ▶ 'The maximum punishment for Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Channel i TV | October 12, 2020. <https://youtu.be/F7mMygKUp-8>
- ▶ 'The Death penalty for Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | JamunaTV | October 12, 2020. <https://youtu.be/KF2tz1CULQo>
- ▶ 'Death penalty for Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Asian TV | October 14, 2020. <https://youtu.be/ZlvZXFgfPuY>
- ▶ 'The topic of Online Business' | Barrister Miti Sanjana, Partner of Legal Counsel | ATN Bangla | October 18, 2020. <https://youtu.be/UAOfUkL2P4s>
- ▶ 'Myanmar Issues' | Barrister Miti Sanjana, Partner of Legal Counsel | Jamuna TV | October 20, 2020. <https://youtu.be/a7H4-LvWITg>
- ▶ 'Children are becoming a crime-tool' | Barrister Miti Sanjana, Partner of Legal Counsel | Somoy TV | October 21, 2020. <https://youtu.be/oH4t7padMNQ>
- ▶ 'Punishment relating to Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Channel 24 | October 25, 2020. <https://youtu.be/UBYbtliViq8>
- ▶ 'Digital Security' | Barrister Miti Sanjana, Partner of Legal Counsel | DBC News | October 26, 2020. https://youtu.be/_oPIPFpk7BM
- ▶ 'US Election and Bangladesh's Economy' | Barrister Miti Sanjana, Partner of Legal Counsel | Channel i TV | November 08, 2020. <https://youtu.be/mxXIWU-J-84>
- ▶ 'The Judgement of Rape in a first track case basis' | Barrister Miti Sanjana, Partner of Legal Counsel | Asian TV | November 24, 2020. <https://youtu.be/SnFlvTxBQx4>
- ▶ 'All Woman Police Unit to Fight Cyber Crimes against Women' launched by Bangladesh Government | Barrister Miti Sanjana, Partner of Legal Counsel | Somoy TV | November 24, 2020. <https://youtu.be/ROK5S9hVlwz>
- ▶ 'Cyber security laws' | Barrister Miti Sanjana, Partner of Legal Counsel | DBC News November 28, 2020. <https://youtu.be/8efurY7r3NI>
- ▶ 'Violence against women' | Barrister Miti Sanjana, Partner of Legal Counsel | Independent TV | November 29, 2020. <https://youtu.be/Najcs1yGi5c>
- ▶ 'Punishment of Life Imprisonment' | Barrister Miti Sanjana, Partner of Legal Counsel | Ekattor TV | December 02, 2020. <https://youtu.be/NxFMs4wDDtc>
- ▶ 'The Hill Peace Accord on the occasion of accord's 23rd anniversary' | Barrister Miti Sanjana, the Partner of Legal Counsel | Ekattor TV | December 02, 2020. <https://youtu.be/lfjSYkzeQuY>
- ▶ 'The Hill Peace Accord on the occasion of accord's 23rd anniversary' | Barrister Miti Sanjana, the Partner of Legal Counsel | Channel i | December 02, 2020. <https://youtu.be/j0PVY6Mf0VI>
- ▶ 'Chittagong Hill Tracts Peace Accord' | Barrister Miti Sanjana, Partner of Legal Counsel | ATN NewsTV | December 02, 2020. https://youtu.be/ao_Vq5hSoWo
- ▶ 'The relocation of Rohingyas to Bhasan Char' | Barrister Miti Sanjana, Partner of Legal Counsel | ATN News | December 04, 2020. <https://youtu.be/7hwyOHUq4tA>
- ▶ 'Workplace harassment | Barrister Miti Sanjana, Partner of Legal Counsel' | Sara Bangla. net | December 18, 2020. <https://youtu.be/XXslaHrPUkk>
- ▶ 'Shimul's murder case' | Barrister Miti Sanjana, Partner of Legal Counsel | Independent TV | December 21, 2020. <https://youtu.be/oeMtnBBNrgA>
- ▶ 'Expressing views on bringing public transport under CCTV' | Barrister Miti Sanjana, Partner of Legal Counsel | Somoy TV | December 27, 2020. <https://youtu.be/sCHa48wwg0M>
- ▶ 'Punishment for Rape' | Barrister Miti Sanjana, Partner of Legal Counsel | Independent TV | December 28, 2020. <https://youtu.be/odG2pQh3rnQ>

