



CONSUMER corner



FACT file



Consumer rights : Where do we stand ?

QUAZI FARUQUE

PERHAPS two decades long or a bit more than that we have frequently been hearing about human rights in our country. And there are many individuals and organisations who are very much engaged in working in the sector of human rights. No doubt human rights are democratic rights. At the same time consumer rights are the integral part of the human rights. And all of us know how the consumer rights are being abused in our country. Almost everywhere in the world consumers are highly honoured, taken full care of their rights. It is told that consumers are the kings. But in our country it is quite reverse.

What we generally observe in our country is that consumers are treated negligently. While consumerism has become a strong movement and consumer organisations are highly powerful in the developed as well as in many of the developing countries including our neighbours, a great majority of the consumers in our country are still in the dark about their basic rights and obligations as consumers. Due to mass illiteracy, particularly the poor and the disadvantaged section, the consumers are not aware and conscious of their rights and responsibilities as consumers. In fact, consumerism is still a new concept in Bangladesh and the very term Consumer Rights is not known even to the great majority of those whom we are literate.

In the absence of appropriate and adequate protective laws, standards and effective implementation of existing laws consumers in our country are helplessly being cheated and exploited by some dishonest businessman and vested interest groups. The innocent, simple and illiterate consumers are revolving in a vicious circle of food and commodity adulteration, cheating in weighing & measures, hoarding and artificial price-hike. In the service sectors, the consumers are deprived of their legitimate services even after paying increased costs. The physicians are not sincere in their duties and responsibilities and do not adhere to minimum ethics in their professional practices. Incidence of death due to wrong treatment or intakes of adulterated and counterfeit drugs are often published in the newspapers. Surprisingly the drug administration is silent.

The transport sectors are more dangerous and horrifying. No one can be assured of safe-return home. In the absence of good road transport system and due to lack of effective implementation of existing traffic laws, road accidents have been increasing at an alarming rate causing heavy tolls of lives and damage to property. Defective bus, minibus, auto-rickshaw and rickshaws are plying on the road with excessive passengers and often causing accidents resulting in death and damage to lives of innocent passengers. In case of water way every year we see the overloaded launches capsizing and killing hundreds of people.

In the name of open market economy foods and commodities are being imported freely. But how much do we know about the standards and quality of these imported commodities? Are we sure that these imported products have undergone any safety and standards tests by any appropriate authority in the testing laboratories? Consumers Association of Bangladesh (CAB) conducted a survey on packaged biscuits of 66 brands (both imported & locally produced) made of 33 companies in July 2003. The survey revealed that 76% did not have BSTI certification marks and proper labelling, 86% had no expiry date on the label, in 83% cases weight was not mentioned and in 83% cases the sellers are taking more price.



CAB conducted another survey in August-September 2002 on 51 brands of Jams and Jelly of 31 companies and it was found that 52% of Jams and Jelly did not have BSTI certification marks, 13.72% did not mention ingredients, 23.52% did not mention date of production and date of expiry and in 54.90% cases retail price was not mentioned on the label.

Bangladesh Standard and Testing Institute (BSTI) is beset with numerous problems. It is not well equipped with modern facilities for testing products and commodities. The efficiency and integrity of the officials of BSTI are often questioned by the general consumers. Services of BTTB, DESA, WASA, Bangladesh Biman, BRTC, BTV and Bangladesh Betar hardly meet consumers' expectation. Rights are being abused in day to day life. Still they keep mum.

In the developed countries there are adequate laws to protect the consumers against violation of their rights and interests. There are separate consumer courts in those countries to deal with cases of violation of consumers' rights and interests. In India, Consumer Protection Law was enacted in 1986 with subsequent modification in 1992. Under this law consumer courts were established all over the country to try cases instituted by the consumers for violation of their rights involved in the purchase and use of commodities and services. Instances are there that physicians had to compensate the patients for medical

negligence and wrong treatment, trades and businessmen had to redress the grievances of the consumers by replacing or refunding money to the buyers for defective goods and commodities.

In Malaysia, Sri Lanka and even in Nepal consumer protection laws are in prevalence and being effectively implemented for protection of the rights and interests of the consumers of those countries.

But unfortunately in Bangladesh we do not have Consumer Protection Law as such even after prolonged advocacy and lobbying with the government and policy makers during the last one decade. But very recently the draft Consumer Protection law has almost been finalised in a meeting under the chairmanship of additional secretary, commerce Mr. B. R. Khan and hopefully it will go to the cabinet for final approval very shortly. However, there are some conventional laws in existence in the country, but these laws are so outdated that little or no protection is provided to the consumers. These laws are also inadequate and do not meet the present needs. The most prominent amongst these laws are:

1. Bangladesh Food Ordinance, 1959
2. Bangladesh Pure Food Rules, 1967
3. Bangladesh Essential commodity Act, 1978
4. Bangladesh Drug Control Ordinance, 1982
5. Bangladesh Standard and Testing Institute Ordinance 1984
6. The Breast Milk Substitute (Regulation of Marketing) Ordinance, 1984

Among rules and ordinances BSTI ordinance 1984 has been amended will be implemented soon. The most interesting features of these laws are that aggrieved consumers can not sue the violators themselves. It is only the designated government officials empowered under these laws, who can initiate and sue the violators. Besides, provision of penalty or punishment is so negligible that nobody cares to abide by the rules under these laws and as such there is no effective implementation of the laws. As a result the consumers in Bangladesh are completely dependent upon the mercy of the business houses, the professionals and the vested interest groups.

Quazi Faruque is General Secretary of Consumers Association of Bangladesh (CAB).

RIGHTS corner



Denied hope, denied respect

The Burmese refugees in New Delhi

HUMAN RIGHTS FEATURE

WITH temperatures approaching the high 40s, hundreds of Burmese refugees in New Delhi held a demonstration on 9 June, protesting the refusal of the United Nations High Commissioner for Refugees (UNHCR) to grant them refugee certificates and Subsistence Allowance (SA). The demonstration, the most recent in a series of protests organised by members of the Burmese refugee community, highlights a number of severe problems faced by refugees in New Delhi.

While Burmese refugees in Thailand and Bangladesh have received some attention, their situation in India is not well known internationally. India's Northeastern states, in particular Mizoram and Manipur, host the overwhelming majority of Burmese refugees in India. In recent years, in part due to the warming relationship between India and the Union of Myanmar, state and federal governments have undertaken campaigns of arrest and deportation of refugees. While many Burmese in the Northeast are able to integrate locally, for others harassment, exploitation and persecution are common. The change in Indo-Burmese relations has also added to the insecurity of the Burmese community in Delhi and makes the granting of legal rights to refugees less likely.

The UNHCR New Delhi Office is working under constraints and restrictions imposed by the Government of India as well as their head office in Geneva. However, notwithstanding these constraints, it has failed to adequately protect the Burmese refugee community. In addition, it has failed to appeal to and lobby the Government of India, the United Nations and the international community for support. UNHCR is thus breaching its mission to provide protection and seek out long-term solutions for these refugees.

The refugee community it is mandated to protect does not trust UNHCR. This is due to the poor and often insensitive treatment of refugees by UNHCR employees and the ineffectiveness of their programmes and the programmes of UNHCR's NGO partners.

Plight of the refugees

There is a great deal of confusion within the Burmese refugee community in New Delhi following the threatened withdrawal of financial support from UNHCR, which has led to the current "SA crisis." Some refugees believe that in order to receive financial support in the form of SA, they need to undertake vocational training with the Young Men's Christian Association (YMCA), while others think that if they did so, their SA would be cut off. Most are extremely anxious at the prospect of no longer receiving SA. Without the legal right to work in India or a genuine chance of becoming financially self-sufficient, many feel that there is no realistic means of survival for them in Delhi if their SA were to be terminated.

Most Burmese refugees in New Delhi are living in just adequate housing conditions; however, it is the numbers sharing a single accommodation that make their dwelling conditions so difficult. Routinely, between five and ten or more people share small single rooms, in which they live, cook, eat and sleep. This in part results from the number of people living in the community who have cases pending or have been rejected by UNHCR, as well as those people who have had their SA cut off. In addition, the level of financial assistance provided by UNHCR is such that few if any can afford to live on their own.

Role of UNHCR

UNHCR practices a sexually discriminatory policy of SA distribution, under which women are automatically considered dependants of their husbands. A single woman who originally registered as a primary applicant for SA, receiving Rs.1,400 a month (approximately \$30), will have



her SA automatically cut down to Rs.600 a month (\$13) if she later marries. Furthermore, the money is also no longer given to her directly, but to her husband, thus removing financial control and decision-making from women.

Attempts by UNHCR to make Burmese refugees "self-reliant," by providing vocational training courses through the YMCA and other partner NGOs, have been unsuccessful. Most refugees are unemployed and see little hope for finding work, let alone achieving financial self-sufficiency. This is in large part due to lack of language skills in Hindi and English and hostility or discrimination on the part of the local community. It is also illegal for refugees, as for all foreigners, to work in India without proper permits. UNHCR has also largely failed to encourage or support economic initiatives that have originated from within the refugee community itself.

Families report widely varying amounts of money received for the education of their children. There is a strong commitment in the Burmese community to both primary and higher-level education, but many can simply not afford it especially those who have had their SA cut off, or those with large families or additional dependants to provide for.

The drawbacks

UNHCR's continued policy of reimbursing refugees for expenses related to medical care and treatment provided that it is obtained at a government hospital fails to meet the needs of all refugees. Many refugees feel that government hospitals are not a realistic option for them and they therefore have to finance private medical treatment. The main reasons given for this are that the illness or health problem is too urgent (and they are unable to wait for long periods of time at a government hospital), that the treatment is ineffective, or that they have had prior negative experiences with government hospital staff. The latter includes everything from neglect to physical and verbal abuse.

Resettlement in third countries is seen by many Burmese refugees as the only long-term, realistic solution to their problems. However, the lack of transparency of UNHCR's policies for recommending individuals for resettlement and their failure to adequately inform the refugee community about the procedures and criteria used by third-country governments considering resettlement applications has led to disappointment, frustration, anger and distrust within the Burmese community. UNHCR has also not effectively lobbied third country governments to accept and prioritise Burmese refugees for resettlement.

Concluding remarks

The current situation for many Burmese refugees in Delhi is perilous. The recent violence and detention of pro democracy leader Aung Sang Suu Kyi does not augur well for their already vulnerable condition. Without a secure legal status, and with limited capacity for economic self-sufficiency, the withdrawal of financial support by UNHCR will place many in a situation of considerable risk. As SAHRDC's research has shown, UNHCR in India has been failing to fulfil its mandate. It does not adequately protect the refugees within its jurisdiction and has failed to seek out and promote realistic durable solutions. These failings are compounded by the manner in which the UNHCR office and its employees have treated the refugee community. As a result, refugees have a fundamental lack of trust in the organisation.

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LAW reform



A new chapter in search for truth and justice

Amnesty International welcomes the decision of the Argentine Senate to declare the Full Stop and Due Obedience laws null and void. These laws, also known as the amnesty laws, have blocked the investigation of thousands of cases of human rights abuses committed during the time of the military governments of 1976-1983.

"After years of frustration, thousands of victims of human rights violations and their families can finally begin their search for truth and justice," Amnesty International said. "The vote to annul these laws also sends a powerful message that there is no legal hiding place for perpetrators of human rights violations in Argentina."

Following the vote by the Chamber of Deputies declaring the laws null and void, the Senate's approval was required for the annulment to enter into.

Argentine legislation. The decision opens the way for judicial proceedings in thousands of cases concerning victims of "disappearance," torture, and extrajudicial execution, committed under the period of military rule.

The constitutionality of the annulment is, however, likely to be challenged in the courts. The Argentine Supreme Court is due to make a final ruling on the constitutionality of the amnesty laws, following recent decisions by Argentine judges ruling them null, void and unconstitutional.

"The Argentine judiciary should follow the positive lead of the Argentine Congress in 1986 and 1987 respectively, the Full Stop and Due Obedience laws have obstructed investigations into human rights violations committed under the Argentine military governments. Although the laws were repealed in March 1998, the repeal was interpreted as being without retroactive effect, meaning that human rights abuses committed during the military governments remained covered by them."

The United Nations Human Rights Committee, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights of the Organisation of American States (OAS) have stated that amnesties and other measures allowing those responsible for human rights violations to go unpunished are incompatible with States' international obligations.

The National Commission on Disappeared People (CONADEP), created by the Argentine government in 1983, documented 8,960 cases of "disappearances" during the period of military rule and indicated that the true figure could be even higher.

Source: Amnesty International.

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