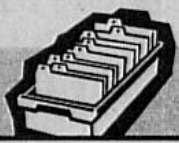


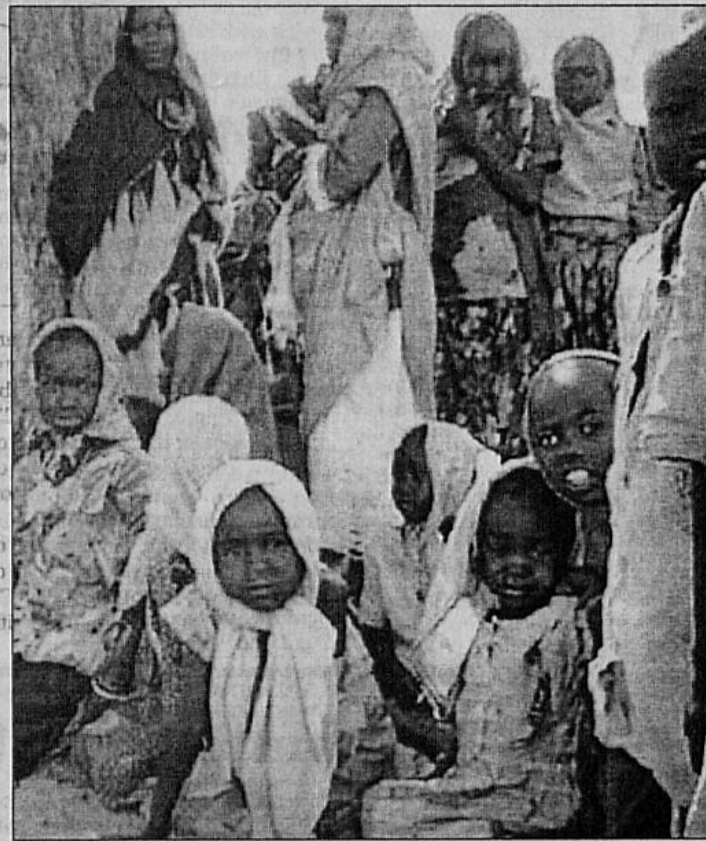


FACT file



SUDAN: DARFUR

Rape as a weapon of war



Girls as young as eight are among the victims of mass rape in Darfur, western Sudan, said Amnesty International on 19 July 2004, as it published a new report on the impact on women and girls of 'Janjawid' militia raids in Darfur.

In some cases women are having their arms or legs broken in rape attacks and mass abductions are also taking place, with women as old as 80 taken hostage and used as sex slaves.

The report comes after a recent letter from the human rights organisation to Jack Straw, the Foreign Secretary, calling on the UK government to take action on Sudan. Amnesty International is calling for a strong UN Security Council resolution to address the situation.

Interviewing hundreds of refugees in camps in neighbouring Chad in May of this year, Amnesty International has compiled over 100 testimonies, collected the names of 250 raped women and has information on at least another 250 further rape cases.

While only a small proportion of the overall picture, these testimonies show that women and girls are being systematically raped, abducted and forced into sexual slavery by the Janjawid. In almost all the attacks the government's army were either directly involved or direct witnesses.

The wave of rapes, including of pregnant women and sometimes involving extreme violence, constitute war crimes and crimes against humanity and Amnesty International is calling for emergency action from the international community.

Sources: Amnesty International, 19 July 2004.

CONSUMER corner

Consumer rights and the fight against poverty

JULIAN EDWARDS

CONSUMER rights are a fundamental part of the fight to eradicate global poverty. Surprised? Your thoughts may have been turning to getting value for money when buying a vacuum cleaner or obtaining a refund on a faulty toaster.

For much of the world's population, such concerns are very distant. But poor people have consumer rights too -- above all, to be consumers of the basic services which support dignity and independence, and to a healthy sustainable environment.

Consumerism maybe a Western phenomenon, but consumption is a global necessity. Consumers International, with a membership of over 250 organisations in 115 countries, strives to put consumer rights and social justice at the centre of the international development agenda.

A growing movement

The fight for consumer rights dates back to the turn of the 19th century with the formation of the Consumer League of New York. The group sought to direct the purchasing power of the working class towards companies that respected labour rights, decent working conditions, a fair wage and no child labour.

From its inception, the consumer movement has been immersed in the struggle for civic, social and political. From its inception, then, the consumer movement has been immersed in the struggle for civic, social and political rights.

The consumer movement grew across the US throughout the first half of the 20th century, before establishing itself in postwar Europe, a major base of action and support ever since.

Following the establishment in 1960 of the

International Organisation of Consumers Unions (IOCU) -- known today as Consumers International (CI) -- the movement extended into Asia, Latin America, and Africa in the 1970s and 1980s and throughout the former Soviet Union in the 1990s. Inevitably, the global character of today's consumer movement has recast the agenda. Most of the CI's member organisations are from the developing world, reflecting the geographical spread of the 6 billion consumers they represent. It is now their needs and their struggle that takes centre stage.

Grim figures

How can people in the developing world be classified as consumers when 1.3 billion of them subsist on less than a dollar a day? The answer lies at the heart of the consumer movement's fight against poverty.

The statistics: 160 million children worldwide suffer from malnutrition; 680 million people have no access to basic health care; 1.1 billion people lack an adequate supply of safe water, while 2.4 billion people lack access to sanitation; over 2 billion people have no access to electricity.

These grim figures are not only a cause for concern of poverty. They are symptomatic of an inability among the world's poor to exercise the most basic consumer right: access to the essentials of everyday life.

Access to the means to meet basic needs is the first of the Eight Consumer Rights which, reflecting the UN Guidelines on Consumer Protection, form the basis of policy for consumer organisations. Such access is a precursor to the abolition of poverty and the driving force behind many of the global and regional campaigns pursued by Consumers International.

Water and sanitation: Multi-stakeholder

approaches

Every year on 15 March, consumer organisations around the world celebrate World Consumer Rights Day with protests, awareness campaigns and public forums. The theme in 2004 is the right to safe water and proper sanitation.

As the figures show, one in six of the world's population do not have access to adequate water, and two-fifths lack sanitation. Yet the views of these people are largely ignored in national and international policy decisions about water access, ownership, cost and environmental impact.

Consumers International's approach is to push for a multi-stakeholder decision-making process that allows those whose lives are most affected to have an equal say. A set of 10 consumer principles provides a framework for results which serve the whole community.

CI attempts to influence policies that are all too often dictated by free market fundamentalism.

At the international level, the contribution of CI to the Global Water Scoping Process -- a working group of public and private providers, labour organisations, government bodies and NGOs set up to assess the impact of private participation in water supply -- has helped keep the concerns of the poor on the water agenda.

The position of CI is further evident in the organisation's campaigns to regulate GMOs, eradicate agricultural dumping, encourage corporate social responsibility, and ensure fairness within international trade agreements.

Listening to the consumer

The water example embodies the vital role of consumer organisations in the fight to eradicate poverty. In advocating the rights of the consumer, CI attempts to influence economic, political and social policies that are all too often dictated by free market fundamentalism. Consumer groups recognise the benefits that market economies can provide. Indeed, market economies are now the accepted norm for economic management. But most debate about poverty, development and the benefits of trade focuses on production -- the supply side of the market equation. In reality, markets cannot be effective without a well organised demand side.

This requires the empowerment of consumers with information, legal protection and necessary regulation (especially of essential services) to balance the interests of the providers of goods and services. It market economics and the processes of globalisation are ever to realise the widespread human benefits so regularly claimed for them, demand-side considerations must carry the same weight as supply.

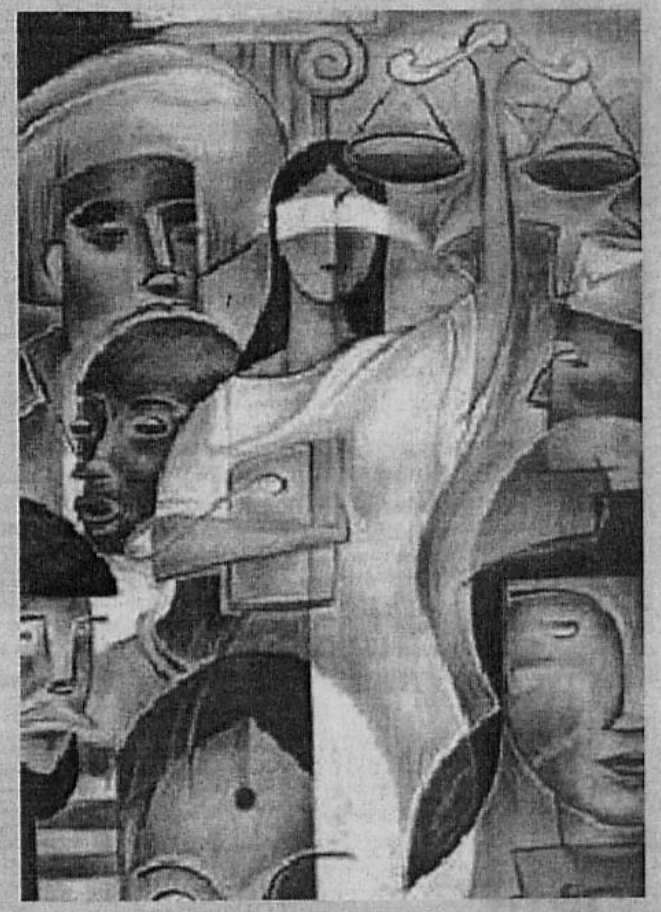
The consumer movement's role is to ensure that this happens.

Julian Edwards is Director-General of Consumers International in London.

READER'S queries



Your Advocate



This week your advocate is M. Moazzam Husain of the Supreme Court of Bangladesh. His professional interests include civil law, criminal law and constitutional law.

Q: I have taken my LL.M. from a university in Bangladesh and have already joined the Bar. I want to become a successful lawyer and that has been my cherished dream. After joining the Bar I find dearth of seniors having positive attitude towards the juniors. The days of senior-junior relationship seems to have gone by. Bar is pervaded by chaos and free-style. The mutual respect and time honored values are fast declining. Success as lawyer seems no more destined for those who are lawyers of integrity, industry and knowledge. Success at least in terms of money is much more destined for lawyers having party affiliations. They wait for their parties to come to power and make fortune once for all. They are also taking upper hand in Bar politics and are being elected presidents, secretaries etc. thereby flourishing their practice. The lawyers doing no politics and only engaged in the profession in its traditional sense and expecting to succeed at the same time seems to be sidelined and often neglected from every corner. Is this not a very discouraging situation for one who wants to become a lawyer by dint of his merit? Are the days for practicing law in its ideal form gone? Sir, can I hope to survive in my pursuit to fight through all the odds and succeed one day? I expect your comments.

Anik Mahmood, Wari, Dhaka.

Your Advocate: I have replied to many queries that came in over the years. Some of them seemed to be difficult but never impossible for a reply. This time I am inwardly feeling devoid of any. This may be for two reasons. Firstly, the questions you have asked are essentially a depiction of the disappointing state of affairs now prevailing at the Bar and in fact no question is asked touching upon any legal issue and secondly, the answer is something we all are struggling to know.

Be that as it may, as a lawyer apparently much senior to you I certainly owe you an explanation, though, I am afraid, I have none. The present state of the Bar is clearly articulated in your words. I don't think that anybody at the Bar can deny any word of it. There is quite dearth of seniors at every single Bar. The reason is not far to seek. A lawyer comes to an attainment after long years of practice. Moreover, mere length of practice does not make anybody a senior. It is, therefore, understandable that number of seniors cannot keep pace with the number of juniors joining the Bar every year. Except the ones you have indicated the true seniors, besides being overburdened with juniors, also are fed up with the declining trend of things and are found skeptical about the true intention of the juniors, that is, whether they are coming to learn and then earn or earn only by any means. So seniors cannot be expected to welcome a new entrant at the outset. The junior must show his bona fide as a lawyer of high potentials. Let me quote from a book titled "Bar On Trial" edited by Robert Hazell: "The responsibility for finding pupilage falls entirely on the would-be pupil, who must obtain introductions to potential pupilmasters and then go to see them to find out if they can accept him as a pupil."

The question of success at the Bar is a big question everywhere across the globe. None can possibly adequately address the same. There is no short cut to or straightjacket theory of success at the Bar. Neither higher degrees nor the brilliant academic career by themselves can lead anyone to success. Of course, they can pave the way to success. Success is the result of many factors harmoniously inter-played. One thing may be said in common that is-for success one needs to have tenacity of purpose, perseverance and last but not the least, is a high degree of integrity. These should be enough in normal and healthy situations. In the present day reality you have to add to the above one new attribute, that is, infallible endurance and nerve to fight through the odds and adversities.

Politics and lawyers are in a sense interrelated. History of the Bar is the history of politics. We are proud of our political traditions. But politicization of the Bar has seriously told upon our rich heritage particularly in terms of unity, integrity and progress of learning and gradual emergence as good lawyers. It has split a negative impact on the judiciary also. Still you have to build up your career and materialize your dream. Commitment is the thing that counts. As for me I have never seen a lawyer working with sincerity and commitment didn't have come to standing at the Bar at a point of time. So, without bothering much about the surroundings, which you cannot correct, you must sail through. Success can only be delayed not prevented.

LAW amusements



A restaurant full of lawyers was held hostage. The bad guys threatened that, until all their demands were met, they would release one lawyer every hour.

What's the difference between a shame and a pity? If a busload of lawyers goes over a cliff, and there are no survivors, that's known as a pity. If there were any empty seats, that's a shame.

Law Professor
The professor of a contract law class asked one of his better students, "If you were to give someone an orange, how would you go about it?"

The student replied, "Here's an orange."
The professor was outraged. "No! No! Think like a lawyer!"

Corresponding with the Law Desk
Please send your mails, queries, and opinions to: Law Desk, The Daily Star, 19 Karwan Bazar, Dhaka-1215; telephone 8124944, 8124955, 8124966; fax 8125155, 8126154; email <dslawdesk@yahoo.co.uk>

CRIME punishment

Criminal breach of trust

FROM LAW DESK

If any person entrusted with any property or have any dominion over the property that is not his own, willfully and dishonestly misappropriates or converts or use that property as his own which is clear violation of the trust that he is obliged to be discharged with express or implied, then the person commits criminal breach of trust. For example we can say if a person being an executor of a will of a deceased person, dishonestly disobeys the will and misappropriates the will for his own use. That person has committed criminal breach of trust. Section 405 to 409 of Penal Code deal with the offence of criminal breach of trust.

A person is entrusted with the property when he receives it from another person. Where there is no entrustment of property there can be no conviction for breach of trust. For an offence of criminal breach of trust besides showing that the property was entrusted with the accused, it is further necessary to show that he had dishonestly misappropriated or converted it to his own use. Criminal intention or Mens rea is the basic essence of criminal breach of trust.

The ingredients for criminal breach of trust:

- Entrusting any person with property or with any dominion over that property.
- The person entrusted with:
 - Dishonestly misappropriates or converts the property for his own use or
 - Dishonestly use or dispose that property or willfully suffer any other person to do so in violation of any direction that is prescribed by law.

We can give another example that a revenue officer is entrusted with public money and is either directed by law or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. If the dishonestly appropriates the money then he has committed criminal breach of trust.

Punishments

Every breach of trust is not criminal. It may be intentional without being dishonest or it may appear to be dishonest without being really so. In such cases the court should be slow to move for punishments. Section 406 of Penal Code describes punishments for criminal breach of trust. When any person commits criminal breach of trust then he shall be punished with imprisonment for a term, which may extend to three years or with fine or with both. Every breach of trust gives rise to a suit for damages, but it is only when there is evidence of a mental act or fraudulent misappropriation that the commission of embezzlement of any sum of money becomes penal offence is punishable as criminal breach of trust. (39 Cr. LJ 349).

Moreover, if any person is entrusted with property as a carrier or warehouse keeper, commits the offence shall be punished with imprisonment up to seven years and shall also liable to fine.

When a clerk or servant in any manner commits criminal breach of trust then he shall be punished for a term that may extend to seven years and shall also be liable to fine. Simultaneously a person, being a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent commits criminal breach of trust in respect of any property shall be punished with life imprisonment or for a term up to seven years or shall also be liable to fine.

LAW week

Women's reserved JS seats challenged

Opposition political parties and civil society members filed a writ petition with the High Court against the government, the speaker and the Election Commission yesterday, challenging the new constitutional provision of 45 reserved seats for women in parliament. The petition said the 14th amendment to the constitution, which parliament passed on May 16 introducing 45 reserved seats in the House for women, goes against the fundamentals of the constitution. It also termed the new provision contradictory to the fundamental principles of the national policy for the development of women. The provision for reserved seats will be effective for 10 years from the first sitting of the next parliament. Daily Star, 20th July.

Army official looks to HC for ducking court appearance

The lone army officer among four top government officials facing contempt charges for violation of court order for army deployment in Dhaka-10 by-polls will seek exemption from appearing in the High Court (HC) in person. Lawyer of the four said the rest -- Prime Minister's Principal Secretary Kamal Uddin Siddiqui, Home Secretary Omar Farooque and Defence Secretary KM Ehsanul Huq -- will appear in court. On July 12, the bench asked the four to explain why they should not be charged with contempt of court after Bikalpa Dhara candidate Abdul Mannan brought the contempt charge for non-deployment of army in each polling centre in the July 1 ballot as ordered by the HC. The chamber judge directed full-bench hearing of the appeal on last Saturday, but Mahbubur withdrew the prayer as the petitioners decided not to proceed with the petition. Daily Star, 20th July.

Ctg Arms Haul

The Court of Metropolitan Sessions Judge here yesterday accepted the charge sheet in country's biggest ever arms haul case and suggested departmental action against the first investigation officer (IO) and rectification of flaws detected in the charge sheet. Metropolitan Sessions Judge Fazlul Karim also ordered a supplementary charge sheet to be submitted within the next 30 days and fixed August 12 as the date for hearing of the case. Earlier the charge sheet was submitted on June 11. But the court could not accept it immediately as there surfaced some discrepancies between the first information report (FIR) and the charge sheet. The first hearing to decide on the acceptance of the charge sheet was held on July 15. Daily Star, 20th July.

SC declares illegal DCC shopping complex

The Appellate Division of the Supreme Court yesterday declared illegal the initiative of Dhaka City Corporation (DCC) to construct a multi-storied shopping complex in front of GPO near Bangabandhu Avenue. The 1.2-acre land of the under-construction shopping complex, Udayan Market, was earmarked in the master plan of the city for car parking. The site is the only open land, through which air and light pass to the adjoining buildings. Besides, if the DCC constructs the complex with 34 shops and more office spaces, the area will suffer more traffic congestion, Bela said. Following the beginning of the construction in 1995, Sharif Nurul Ambia, joint secretary of the Jatiya Samajtantrik Dal, filed a petition with the High Court (HC) with legal support of Bela. However, the HC vacated the stay order and discharged the petition in the final hearing in 2000, against which Bela appealed. Prothom Alo, 20th July.

Post mortem of Suman reaches Tongi police

The post mortem report of Suman Ahmed Maumder, a charge-sheet witness in the case of the Awami League lawmaker Ahsanullah Master, was sent to the Tongi police station on Tuesday. The police admitted that they have received the post mortem report in the afternoon. A leader of the Juba League, AL's youth wing, Suman, died a few hours after being held by the Rapid Action Battalion, on July 10 in the industrial town. New Age, 21 July.

HC grants bail to Baten

The High Court on Tuesday granted bail to MA Baten, a special superintendent of the police, till the charge is framed against him for trying to bribe the state minister for home affairs. Baten of the Criminal Investigation Department was arrested on June 3 from the office of Lutfozzaman Babar for offering the state minister a bribe of Tk 300,000 to cancel his transfer order. Baten was the investigation officer in the murder case of Awami League lawmaker Ahsanullah Master, who was shot dead at a political rally in Tongi on May 7. New Age, 21 July.

Man arrested by Rab dies in Kushtia

An alleged criminal died at a Kushtia hospital yesterday, 10 days after the elite anti-crime Rapid Action Battalion (Rab) arrested him with two others in the town. Jumman Khan, 26, son of Abdus Sobhan of Charkuthipara, died at Kushtia General Hospital, sources said. The body was handed over to his family members in the noon after autopsy. On July 10, Rab officials held Jumman, Minar Hossain, 25, son of Abdus Shahid, and Anwar, 30, son of Erfan Ali at Minar's house in the town with two foreign rifles, four bullets and three other weapons, police said. Of them, Minar died at Kushtia General Hospital on July 11, sources added. Rab officials handed over Anwar and Jumman to police soon after Minar's death. Both were undergoing treatment at the same hospital, police added. Families of Jumman and Minar claimed that the crack-down force tortured them in a Rab camp and both died due to torture. Daily Star, 21st July.

Ctg arms case IO relieved of charge

The Criminal Investigation Department has relieved its Chittagong zone assistant superintendent of police, AKM Kabiruddin, investigation officer of three sensational cases, including the April 2 arms haul. Kabiruddin on Wednesday handed all the documents and relevant papers of the three cases arms haul, smuggling and murder of businessman Rezaur Rahman Zakir over to a Chittagong Metropolitan Police official, an official of the Chittagong police said. The CID headquarters on Tuesday issued the order on charge of alleged negligence in duty. The headquarters have also made a reshuffle. Sylhet zone CID assistant superintendent of police Mir Nowsher Ali has been assigned to investigate the cases of the arms haul and the smuggling. New Age, 22 July.

EC to ask ministry to punish surgeons

The Election Commission (EC) decided to ask the health ministry to initiate departmental action against two of its officials for violating the public servants' code of conduct as well as electoral rules by campaigning for the ruling coalition candidate in Gazipur-2 by-election slated for August 1. The EC also summoned the four-party alliance candidate, Prof Abdul Mannan, to appear before it on July 25 Sunday. The commission requires Mannan to clarify his position regarding an accusation of transgressing electoral code of conduct, which the electoral inquiry committee (EIC) for Gazipur-2 by-polls has brought against him. Daily Star, 23 July.

Account number must for AIT collection

The government will soon make tax collection account number mandatory for both public and private sectors to ensure that advance income tax is properly deposited with the exchequer. The plan follows widespread allegation that a handful of government offices never deposit the tax money collected at source, the sources said. A good number of government officials in connivance with a section of bank officials have allegedly been taking advantage of the absence of a mechanism to ensure that the money deducted at source in advance income tax is deposited properly. New Age, 23 July.