



CONSUMER *corner*



# Consumer protection law soon?

QUAZI FARUQUE

RECENTLY draft consumer rights law okayed in principle in the Cabinet proposing 10 years imprisonment for selling adulterated and counterfeit goods. There has been also kept provision of punishment for not providing services to the consumers as agreed or selling low quality; date expired medicines, drugs and so on. The draft law titled 'Consumers Rights Protection Law' proposes a special tribunal to try the accused responsible for selling and producing fake, low quality commodities injurious to human health. The Law, Justice and parliamentary affairs Minister Barrister Maudud Ahmed said, 'we will again send it to the Cabinet for final approval. After the final approval in the Cabinet it will be placed before the parliament for enactment of Law.' Commerce Ministry's high-level sources said that some of the points are being scrutinised very soon and sent to the ministry of Law for vetting. They will review the relevant laws of the different countries specially the consumer rights protection law of India, Srilanka, Nepal and other Countries. It may be mentioned here that these countries have passed this kind of laws long ago. But in our country it took more then ten years to bring this draft at this stage. But everyone must admit that due to strong and persistent lobbying of Consumers Association of Bangladesh (CAB) with the policymaking level, this proposed law has been approved in the Cabinet in principle. Now at least we can be hopeful that in near future we can get the Consumer Rights protection Law which is very much needed at this age of Globalization, open Market Economy, Trade Liberalization and many other affairs which have very close relevance with the changing global situation. Today at this age of open market it's true economy that consumer are given the priority but in our country we the consumer are simply helpless and mostly fallen to the mercy of unscrupulous business community whose only the motto is excess and excess profit making. And it is observed that in each and every sector either selling commodities or service providing, gradually syndicating growing up should really be dealt with propose laws. In absence of protective and appropriate laws in the country the mass people have become very much helpless. Many of us believe that due to the high handedness and sometimes-close alliance with the Government machinery enactment of these sorts of law has been delayed. Of course recent approval in principle of this proposed laws in the Cabinet must lead us to the long cherished goal. The consumers really need and make its best use. As proposed in the draft law, a national Consumer Council will be set up to formulate policies



PHOTO: AFP

to protect consumers' rights. A consumer bureau will investigate allegations by consumers and if it finds any proof, the matter will be sent to the tribunal. Besides the cabinet has decided to increase the proposed six members council and ask the law ministry to act in the line. The council members will mainly be from the private sector.

However, now if we look back to the history of contemporary consumer movement termed as consumerism started in mid sixties as essentially a loner's crusade by Ralf Nader. It's an organised movement of citizens and Government to establish rights and powers of the byres and to protect the interest as consumers from deception and fraud. With the adoption of United Nations Guide lines for Consumer protection in 1985 it gained the momentum and consumer rights were finally elevated to a position of international recognition and legitimacy, acknowledge a by developed and developing countries alike. Today consumerism in the advanced as well as in many of the developing countries is meant not only a social movement for realisation of consumers rights alone but it means a promise as well as to make a happy and resourceful world free from wants, exploitations and hazards. However, from right this moment attempts should be made to undertake a popular campaign through out the country using various methods and media to educate people about the provisions of the proposed laws, rights and responsibilities of the consumers. Apart from consumers' organisations,

business houses responsibility also lie with the Government to come forward to undertake these sorts of campaigning for consumer education. Such measures will help make effective implementation of consumers protection law in the country in the coming days. In UN guidelines doing so, each Government must set its own priorities for the protection of consumer in accordance with economic and social circumstances in the countries as per needs of its population.

The legitimate needs which the guidelines are intended to meet are:

- 1. The protection of consumers from hazards to their health safety.
- 2. The promotion and protection of the economic interests of consumers.
- 3. Access of consumers to adequate information to enable their views to make informed choices according to individual needs and wishes.
- 4. Consumer education.
- 5. Freedom to form consumer and other relevant groups or organisations to present their views in decision making processes affecting them.

These are the very small portions of the guidelines. There are lots of issues, which have mentioned in the guidelines adopted by U.N. however, now Government is to take appropriate measures and expedite enactment and effective implementation of the long awaited consumer protection law.

Author is the General Secretary, CAB.

FACT *file*



# Economic exploitation and rights of the child

OLI MD. ABDULLAH CHOWDHURY

CHILDREN in our country have to undergo through various experiences both bitter and sweet throughout their childhood. However, the experience of children from disadvantaged group is mostly bitter. A good number of children in our country are employed in economical activities from their childhood due to their socio-economic condition of their parents. As a result, they are economically exploited very easily. UN Convention on the Rights of the Child (UNCRC), the most venerated human rights convention guarantees child's right to be protected from economic exploitation.

All human rights mechanism covers both adult and children. But a special UN Convention on the Rights of the Child (UNCRC) was required because existing human rights norms have proven inadequate to meet children's special needs. Though Bangladesh is one of the earliest signatory of UNCRC, rights of the child domestic workers are greatly violated in our country. Obviously, there are examples of good practices and better treatment received in some homes where children work. In order to protect children from economic exploitation, there should be safeguards also.

However, it has been declared in the Universal Declaration of Human Rights (UDHR), Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. It has been articulated in the Article 23 of UDHR.

Child domestic workers are both deprived of free choice and a favourable condition. Although they have the right to equal pay for equal work, children seldom get it.

Moreover, it has been asserted in the article 24 of UDHR, that everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. Let alone rest and leisure, children domestic workers neither have any working hours nor do they enjoy periodic holidays. Some of them are generally given an opportunity to go home once in a year. Even they have to work on the day of *Eid*, the greatest religious festival in Bangladesh.



PHOTO: AFP



Furthermore, UNCRC has made State Party accountable for the protection of child from economic exploitation. "States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development" - as stated in Article 32(1) of UNCRC. Later part of the article gives clear guidelines, nevertheless. States Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article. It has been reported in the newspaper that children employed in some industries are engaged in force labour. Being a signatory of not only UNCRC but also ILO Convention 182, children employed in dry fishes industries in the remote islands of Sundarban lead their lives like almost slaves as reported in a weekly, nevertheless. Again, Children Act, 1974 has preceded UNCRC by 15 years and theoretically is a good piece of legislation. Practice of the last almost 30 years shows that the law in its present form may not be implemented in many cases. Suppression of violence against women and children act and other laws regarding children does not always match with either Children Act 1974 or the international convention like UNCRC, signed and ratified by Bangladesh as state party. As a result, these laws have failed to serve the best interest of the child as described in the UN Convention on the Rights of the Child.

To recapitulate, children have the rights to be protected from economic exploitation. Law-enforcing agencies should be proactive in those areas where communication is difficult for example, in the remote islands of Sundarban. On the other hand, a separate law could be enacted for children that would also cover the issue of child domestic workers since the Suppression of Violence against Women and Children Act covers very little area of child rights apart from Children Act 1974.

Author is a human rights worker.

LAW *news*



# Japan for permanent security council seat

Japanese Prime Minister Junichiro Koizumi will ask the United Nations to give Japan a permanent seat on the Security Council when he travels to New York next month to address the assembly.

"Reform of the UN is a crucial issue," Koizumi told reporters in Tokyo. "Other nations should be included on the Security Council."

A permanent seat on the council would give Japan, the second- biggest contributor to the UN, greater say over peacekeeping operations and the use of military force to back UN resolutions. Japan's pacifist constitution prohibits its troops from fighting in any UN-mandated force.

Koizumi's decision to send Japanese troops to southern Iraq last year prompted opposition lawmakers to seek his resignation. The troops, tasked with delivering aid, were deployed in an area removed from combat and ordered to retreat if attacked.

The five permanent members of the Security Council, with the power to block any proposed resolutions, are the U.S., China, Russia, the U.K. and France. Japan, Germany and other nations defeated in World War II are excluded.

U.S. Secretary of State Colin Powell earlier this month said Japan should revise its constitution.

"The U.S. supports our bid for a seat and they have said that isn't on condition we amend the constitution," Chief Cabinet Secretary Hiroyuki Hosoda said at a press briefing earlier today.

Japan's ruling Liberal Democratic Party has begun discussions on a possible review of the war-renouncing constitution. Any changes to the document, which hasn't been amended since its creation after World War II, would require approval from two-thirds of lawmakers and a majority of voters in a national referendum.

Courtesy: Bloomberg.com, August 24.

READER'S *queries*



# Your Advocate

**Q:** My query pertaining to "Will" is that, once it is written in Taka 150/- Non-Judicial Stamp Paper, is it mandatory to have it Registered in the Court of Law? I do vaguely recall that, you already stated once to a query that, Registry is not essential!

Thanking you very much in anticipation, I remain, Sincerely,  
**Jamal, on email.**

**Your Advocate:** Will is something to do with secrecy. The testator may want the will to be public after his death and therefore, may not disclose anything about it. Since will takes effect after death of the testator its disclosure during his or her lifetime may entail various complications. The persons who feel deprived may create problems. Again the persons who are given the property are not always unlikely to wish earlier death of the testator. So on both the counts disclosure is not wise. Therefore, a document, which is related to secrecy, cannot be made compulsorily registrable. But that does not mean that a will must be secret and cannot be registered at all. The testator may well have open talk about his intention with the prospective legatees and others to settle own the shares he wants to give to each of them and get the deed registered. The mere registration of will does not create any binding on the testator. He can ignore the will created earlier and make a fresh will in the names of fresh set of people. Law says that the latest amongst the wills made by the testators will be treated as valid.

In view of the above mere putting the will into black and white on any paper does not create a legal obligation to get the same registered.

**Q:** Dear Sir, I have a legal question and was wondering whether I could get an answer for it. The scenario is: I own a factory, which has fixed assets and incorporated under company law. I am the MD and my son and wife are directors of the company. My father passed away and mother is still alive. Suppose, if I pass away with the above scenario, who will get the shares of the company and what percentages under Muslim law. Will my mother be entitled to get shares even though she is not part of the board of directors. Could you please explain. Looking forward to your reply. Best wishes and thanks.  
**Masroor, Dhaka.**

**Your Advocate:** You have possibly missed my interest-area routinely mentioned about me in this column. Any issue touching upon company matters does not fall within my interest area. Nonetheless I can possibly give you the answer. In case of your death your shares in the company shall devolve upon your son, wife as well as upon your mother according to the Muslim law of inheritance of course after satisfying the debt, if any. Your mother, though not a part of the Board of Directors of the company, is entitled to inherit the share left behind by you. As per law your wife and mother as Quranic sharers will take 1/6th and 1/8th of the shares respectively. And your son will take the rest. The shares do not make any difference and are heritable in the same way in accordance with Muslim law of inheritance as other property of the deceased are.

Your advocate M. Moazzam Husain is a lawyer of the Supreme Court of Bangladesh. His professional interests include civil law, criminal law and constitutional law.

FOR YOUR *information*



"Everyone has the rights to the freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through and media and regardless of frontiers" Universal Declaration of Human Rights, Article 19.

FREEDOM OF EXPRESSION

Freedom of expression is a cornerstone of democratic rights and freedoms. In its very first session in 1946, before any human rights declarations or treaties had been adopted, the UN General Assembly adopted resolution 59(I) stating "Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated."

Freedom of expression is essential in enabling democracy to work and public participation in decision-making. Citizens cannot exercise their right to vote effectively or take part in public decision-making if they do not have free access to information and ideas and are not able to express their views freely. Freedom of expression is thus not only important for individual dignity but also to participation, accountability and democracy. Violations of freedom of expression often go hand in hand with other violations, in particular the right to freedom of association and assembly.

Progress has been made in recent years in terms of securing respect for the right to freedom of expression. Efforts have been made to implement this right through specially constructed regional mechanisms. New opportunities are emerging for greater freedom of expression with the internet and worldwide satellite broadcasting. New threats are emerging too, for example with global media monopolies and pressures on independent media outlets.

Source: Human Rights Education Associates.

# 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**

LAW *week*



# Assassination attempt on Hasina

A wave of grenade attacks on opposition chief Sheikh Hasina's rally on Bangabandhu Avenue August 22 left at least 20 people killed including Ivy Rahman and 200 including top Awami League (AL) leaders Abdur Razzak, Amir Hossain Amu, Suranjit Sengupta, and Kazi Zafarullah critically injured. Hasina, who was the apparent target of the attacks carried out from buildings in front of the AL headquarters, escaped unscathed as activists formed a human shield to protect their leader aboard a truck. One of her personal security staff, Mahbub Alam, 42, who stood close by her, died. The unknown assailants fired seven bullets at the bullet-proof sports utility vehicle (SUV) that Hasina boarded immediately after the blasts. A bullet also punctured the rear wheel of the vehicle and there was a large hole on the rear right side of its window shield.

At least three bullets hit the right side of the front window shield, just opposite the front seat where the former Prime Minister sat. The deadly attacks started at 5:23pm just when Hasina wrapped up a rally of around 25,000 supporters protesting the recent Sylhet blasts with a call 'to end the rule of the government that inspires bomb attacks'. The AL central leaders were on the truck with Hasina. Daily Star, August 22.

# Dhaka upgraded in US trafficking ranking

Washington has withdrawn an imminent threat to impose "non-trade and non-humanitarian sanctions" on Dhaka as it has upgraded Bangladesh from the bottom rung of its list of countries marked for being origins of human trafficking. US state department officials conveyed to the government that Bangladesh has been moved to tier-2 from tier-3 in the Trafficking in Person Report 2004, the previous position meaning that the country was marked as one of the most vulnerable in the world in terms of origin of human trafficking. The TIP report issued on June 14 relegated Bangladesh's status to tier-3 on the ground of failure "to make significant efforts to prosecute traffickers". This upgrade follows a rally by a delegation of the US state department that had praises for the government regarding the steps taken in this respect, especially in meeting the six-point recommendations.

The home secretary added that the government has undertaken a plan of action to combat human trafficking. He mentioned that an additional 30 cases of trafficking were selected to be dispose of under speedy trial tribunals and the home ministry officials would sit every week to select at least 10 pending cases of human trafficking and public prosecutors would be trained to prosecute effectively. An annual report on the trafficking situation will also be published. New Age August 22.

# Verdict on jail killing Sept 7

A Dhaka court fixed September 7 for the delivery of judgement in the sensational jail killing case. After completion of the arguments of the prosecution and the defence, Judge Mohammad Motiur Rahman of the Metropolitan Sessions Judge's Court fixed the date.

The court recorded the statements of 64 of 75 prosecution witnesses and the trial was completed in 277 workdays. -Daily Star, August 22.

# River linking will violate Ganges water treaty

A vested group in India has been trying to implement the controversial river interlinking project keeping quarters concerned completely in the dark as far as surveys and studies are concerned, Indian experts told a South Asian consultation. Reaz Rahman, foreign affairs adviser to the Prime Minister, said implementation of the project would violate the 30-year water treaty between Bangladesh and India. The experts stressed on a common regional position to devise a strategy for fair and justifiable utilisation of common water. -New Age August 22.

# Lawyers won't call 'My Lord' to new HC judges

The appointment of 19 additional judges to the High Court has triggered resentment among lawyers who described the recruitment as the worst-case example of political motives. The Supreme Court Bar Association resolved that the judges whom the lawyers called unqualified should not be addressed as "My Lord" which should be replaced by a new term in consultation with the association. -Daily Star, August 24.

# Limits on journo's' entry

The home ministry August 23 restricted journalists' entry to the ministry and asked them to make prior appointment from now on to get in there. The on-duty policemen on the ground floor of the ministry barred the journalists in the morning from taking the lift upstairs, where the state minister and other high officials sit, on instructions from 'the high-ups'. Journalists from now on will have to contact the home ministry officials beforehand for appointment and gather information from the public relations officer. But the restriction was withdrawn later. -Daily Star, August 24, 25.

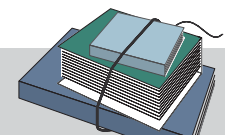
# SC Bar asks 19 new addl judges to stand down

The Supreme Court Bar Association asked the 19 newly appointed additional judges of the High Court (HC) to stand down voluntarily and protested the chief justice's swearing them into office ignoring their reservations about the fresh appointees. The lawyers also boycotted both divisions of the Supreme Court yesterday in line with a decision of Sammillita Ainjibi Samannay Parishad, an association of lawyers, protesting the appointment of judges on what it said were political grounds. The lawyers also boycotted courts across the country. -Daily Star, August 25.

# Interpol to help probe rally attack

Interpol will assist Bangladesh in investigating Saturday's deadly grenade attacks on an Awami League (AL) rally that killed 19 people and injured 200 others. But the decision did not satisfy the AL that demanded an independent international body to probe the incident on its own rather than assist the government or the police. -Daily Star, August 27.

LAW *lexicon*



# Solicitor

A lawyer that restricts his or her practice to the giving of legal advice and does not normally litigate, that court room. In England and some other Commonwealth jurisdictions, a legal distinction is made between solicitors and barristers, the former with exclusive privileges of giving oral or written legal advice, and the latter with exclusive privileges of preparing and conducting litigation in the courts. In other words, solicitors don't appear in court on a client's behalf and barristers don't give legal advice to clients. In England, barristers and solicitors work as a team: the solicitor would typically make the first contact with a client and if the issue cannot be resolved and proceeds to trial, the solicitor would transfer the case to a barrister for the duration of the litigation. Lawyers in some states, such as Canada, sometimes use the title "barrister and solicitor" even though, contrary to England, there is no legal distinction between the advising and litigating roles. Canadian lawyers can litigate or give legal advice (as is the case in the USA, where lawyers are referred to as "attorneys").

# Split custody

A child custody decision which means that legal custody goes back and forth between parents like a ping-pong ball, as they, in turn, take care of the child. They are very rare (for example, only 5% of all custody orders in the USA) because they work against consistent upbringing decisions for the child. Also known as "divided custody" although the latter concept is mostly used to describe split custody over greater periods of time such as alternate years with each parent.