

## CONSUM<sup>rights</sup>



# Protecting consumer rights

## How helpful will be the enactment of a new law?

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**C**ONSUMER is a person who is not directly involved in a trade, but receives goods and services from a person who is occupied in the business. To keep the business profitable and legal, some policies have been established by the government to create a balance between profit and quality. Such policies are largely about goods and services, supplied to the consumers or customers, who wish to purchase or hire goods and/or services from the sellers or manufacturers.

There are three pillars of consumer policy:

1. Consumer legislation and regulation;
2. Consumer representation;
3. Empowerment of individual consumer

India, Malaysia, Sri Lanka and Nepal have extensive consumer protection legislation that is successfully executed and ensures the access to justice. They have established a separate court for consumers so that if there is any violation of consumer protection law then the consumers can directly bring action through that court.

Now being a neighbouring country where does Bangladesh stand? Do we have similar extensive consumer protection law, which would ensure justice to the poor consumer of our country?

After a prolonged advocacy and lobbying by the CAB (Consumer Association of Bangladesh) with the government and the policy makers a draft Consumer Protection Law was formulated long time back. This draft act is still lying with the Ministry of Commerce to be processed for enactment by the Parliament. However we do have some existing laws on consumer protection but that are very

controversial and conventional.

Consumer protection in Bangladesh is referred in Articles 15 and 18 of the Constitution. Article 15 deals with the provision of basic necessities like food, clothing, shelter, education, medical care, right to work, right to work at reasonable wages, quantity and quality of work, social security etc. Article 18 deals with public health and morality, like preventing the consumption of alcoholic and other intoxicating drinks and of drugs, which are injurious to health.

In addition there are other numerous provisions of consumer law, which have been enacted from time to time. For example, the Control of Essential Commodity Act, 1956 has given power to the government to control the production, distribution, preservation, use, and business etc. of certain essential commodities for which a license/permit is a must.

With regard to maintaining the quality of food such as flour, oil, ghee, etc. the Department of Public Health has been entrusted with the duty of inspection and examination of the quality of foodstuff under the Pure Food Ordinance 1959. This Ordinance also prohibits persons with infectious diseases such as tuberculosis, from involvement in manufacturing/preparation of such food items.

The Price and Distribution of Essential Commodity Ordinance, 1970 was enacted to ensure the right price so that the importers, producers and the businessmen may not be able to earn unjust profits.

The Drug Control Ordinance 1982 empowered Government to establish control over manufacture, import, distribution and sale of drugs. This enactment makes provisions for constituting a Drugs Control Committee, which is known



as Drug Administration. Without its permission no drug can be manufactured for sale or be imported or distributed. In case of manufacturing of drugs, the firms are advised to follow the recommendations of the World Health Organisation.

The Breast Milk Substitute (Regulation of Marketing) Ordinance 1984 states that nobody is allowed to promote the use of any breast milk substitute or give any

impression that breast milk substitute is better than breast-feeding. That will amount to an offence. The Ordinance has also made it mandatory to inscribe that "there is no substitute to breast-feeding" on the package of the substitute.

Further on October 27, 1988 Bangladesh has joined anti-smoking campaign. The aim of such campaign is to reduce the use of tobacco. Sellers and manufac-

turers are instructed to give warning on the tobacco packet as "smoking is injurious to health". Without this caution they are not allowed to display or advertise any tobacco product.

Apart from these Ordinances there are some additional legislative provisions giving protection to consumer interests. For example: Section 272 of the Penal Code, 1860 prohibits any food or drink to be adulterated. Section 274 also imposes restriction on adulteration of any drug or medical preparation. Section 482 provides restrictions on any false trademark or any false property trademark. Section 267 provides restrictions on false statement to sell or disposes any instrument for weighting.

The Special Power Act 1974 provides for more severe penalties for advertisement, black-marketing, smuggling, adulteration of or sale of adulterated foods, drinks, drugs or cosmetics.

The Dangerous Drugs Act 1930 empowered government to put restrictions on cultivation of coca-plant, manufacture and possession of opium, cultivation of poppy etc.

The Trade Mark Act 1940 provides that all manufactured commodity should have a trademark, which will distinguish it from other commodity of the same nature and the consumers will get the liberty to choose their own brand. The object of this act is to give protection to the original trademark against unauthorised use of his Trade Mark by his competitor(s).

The Standards of Weights and Measures Ordinance 1982 provides that the establishment of standards of weights and measures shall be based on metric system and units of measurement and would be known in the country as System International (SI) units. All these Ordinances and Acts

have been enacted with good intention to protect the 'helpless' consumers of Bangladesh. Similarly the CAB (Consumer Association of Bangladesh) was established to protect the rights of those consumers. Nevertheless, the Bangladeshi consumers are still beset with various problems. These problems include:

**Lack of awareness:** Mass people of Bangladesh are unaware of their rights as a consumer. They do not know if the sellers cheat them, what they should do or where they should go. The reason behind is that consumers right is still a comparatively new concept to the people of Bangladesh.

**Illiteracy:** Most of the people in Bangladesh do not know about the existence of their rights as consumer. One of the main reasons for this is the lack of basic education. They cannot think up to the level that they can have such rights which would give them protection against adulteration of food, medicine etc. and the right to get proper service for which they are paying.

**Economic condition:** We cannot avoid thinking of the economic condition which does not provide the atmosphere fit for consumers who are careful and demand quality.

**Compromising attitude:** Sometimes we do compromise with the quality of goods bought because of our financial limitation. If we are incapable of paying the accurate price for the goods we buy, we cannot expect a high standard of quality for the same.

These are the small fractions of problem related to the consumers. However, there are other problems too. For example, in Bangladesh there is no separate court for consumers' rights. Also the consumers lack proper authority to go to the court to bring action against those



who violate the consumers' rights. Therefore, the consumers need to rely upon the government officials concerned to bring any effective action against the alleged parties.

Those alleged parties are also taking advantage of this vague situation. The corrupt businessmen tend to establish a good relationship with corrupt government officials who might help them to cheat and exploit the innocent consumers. Moreover, the BSTI (Bangladesh Standards and Testing Institute) is beset with lots of problems, like it does not have modern equipment and facilities for testing of many products. Also, the general consumers very often question the efficiency and integrity of the officials in the BSTI.

Many claim that, our present law

is outdated, unable to protect the consumers, faulty and does not meet the present requirements. Hence, enactment of new law is a must. However, one may question, how far the enactment of new law will in any real sense solve the current consumer problem? If the already existing law is not fully enforced then how come we can expect that the new law will protect our consumers and their rights properly better than today?

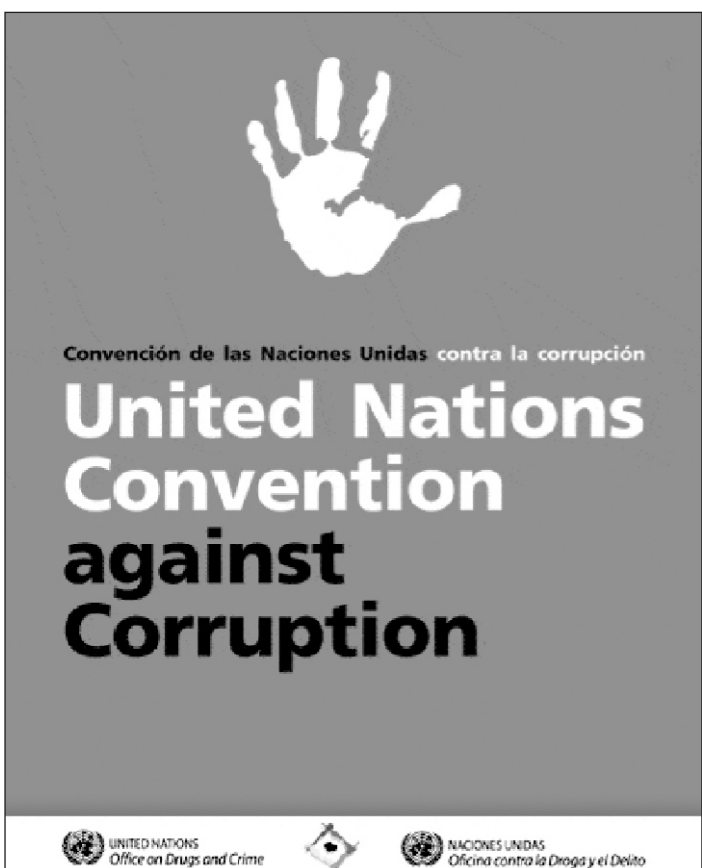
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## FOR YOU information



# UN convention against corruption

## An overview



KHAN FERDOUSUR RAHMAN

**S**INCE 2003, it had been a continuous demand from the civil society to the last elected government to ratify the United Nations Convention against Corruption (UNCAC). Recently, the present non-party Caretaker Government (CG) has decided to ratify the UNCAC. The Advisor on Foreign Affairs of the CG, Dr. Iftekhar Ahmed Chowdhury said that his ministry has prepared the necessary draft. Once the Chief Advisor of the CG approves it, he will take all necessary measures to ratify the Convention.

On December 04, 2000 the General Assembly of the UN recognised that an effective international legal instrument against corruption was desirable and decided to establish an ad hoc committee for the negotiation of such instrument in Vienna through a resolution. The Convention approved by the said committee was adopted by the General Assembly by another resolution on October 31, 2003. The General Assembly also accepted the offer of the Mexican government to host a high-level political conference for the purpose of signing the Convention and invited all States

to be represented at the Conference at the highest possible level of government. Between December 09 and 11, 2003 high-level representatives from more than 120 countries gathered in Merida, Mexico and 95 countries signed this historic Convention. The Convention entered into force on December 2005 with 30 ratifications.

UNCAC has a preamble, 08 chapters and 71 articles. Chapter I (Article 1 to 4) deals with general provisions, Chapter II (Article 5 to 14) with preventive measures, Chapter III (Article 15 to 42) with criminalisation and law enforcement, Chapter IV (Article 43 to 50) with international cooperation, Chapter V (Article 51 to 59) with asset recovery, Chapter VI (Article 60 to 62) with technical assistance and information exchange, Chapter VII (Article 63 to 64) with implementation mechanism; and Chapter VIII (Article 65 to 71) with the final provisions.

The UNCAC was negotiated and agreed upon among the nations and represents international consensus about what states should do in the areas of corruption prevention and criminalisation, as well as international cooperation and asset recovery. It recognises the commonality and complexity of the problem among all nations and shared responsibilities in cases of cross-border corruption activities. It covers both public and private sector corruption which includes domestic and overseas bribery, embezzlement, trading in influence and money laundering.

For monitoring of UNCAC, the first session of the Conference of the parties to the UN Convention against Corruption (COSP-1) was held at King Hussein Bin Talal Convention Centre, Dead Sea, Jordan from December 10 to 14, 2006. The responsibilities of the Conference were to review the implementation of the Convention

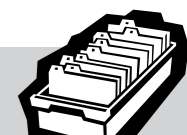
by State parties and make recommendations to improve the Convention and its implementation. The Conference was at liberty to put into effect supplemental review mechanisms to assess the measures taken by State parties to implement the Convention. The COSP-2 and COSP-3 will be held in 2007 and 2008, respectively.

Among the significances, it is the only Convention that is truly global and has set a common standard, having the provision of asset recovery. It has put importance on international cooperation especially in extradition and investigation. It has included private sector corruption and has covered means and standards for preventive measures for both public and private sectors. It has recognised the role of civil society in fighting corruption, need for access to information, accountability of legal professionals, and protection of witnesses, reporting persons and victims. It has also included compensation provision for the persons suffering damages and finally information exchange including technical and financial assistance for the developing countries.

UNCAC is the first legal instrument against corruption for both developed and developing countries, and both public and private sectors. The Convention provides a great breakthrough in international cooperation for mutual legal assistance and recovery of illicit assets related to corruption. Finally, the need for an effective monitoring mechanism to any international instrument can hardly be overemphasised.

The author is a freelancer.

## FACfile



# Darfur: Summons for two war crimes suspects by ICC

**A**MNESTY International said that the application by the Prosecutor of the International Criminal Court (ICC) to issue summonses to two people suspected of crimes against humanity and war crimes in Darfur was a small but significant step towards securing justice for the millions of victims of these crimes in Darfur. The organization urged the Prosecutor to seek further summonses or arrest warrants as soon as possible.

Amnesty International also called on the UN Security Council to demand that the government of Sudan not only arrest and surrender the two suspects, if they do not appear voluntarily, but also to enact and implement the necessary legislation to bring to justice all those responsible for crimes against humanity and war crimes in Darfur.

Ahmad Harun and Ali Muhammad Ali Abdelrahman (aka Ali Kushayb) are charged with war crimes and crimes against humanity including killings, destruction of property, pillage, forcible transfer of population, rapes, deprivation of liberty, torture, outrages upon personal dignity and other inhumane acts. Ahmad Harun is the former State Minister of Interior and Ali Muhammad Ali Abdelrahman is a renowned Janjawid leader.

The warrant for Ahmed Harun is particularly significant as it marks the first time the ICC has sought to prosecute a former government official. It also reflects the links between the government and Janjawid militia -- something the Sudanese government continues to deny.

The application for the summonses for the two men comes a year and a half after the opening of the investigation into crimes against humanity and war crimes in Darfur. Until today, no prosecutor in Sudan or elsewhere had made any serious attempt to investigate or prosecute such crimes. Today's application illustrates the scale of the challenge facing the international community in ensuring that the thousands of people who have committed -- and are continuing to commit -- such crimes in Darfur with complete impunity are brought to justice and that the millions of victims and their families obtain full reparations in the ICC, Sudanese national courts or the courts of other states exercising universal jurisdiction.



The ICC Prosecutor has indicated that although he has the power under the Rome Statute establishing the ICC to investigate and prosecute anyone suspected of war crimes and crimes against humanity when states are unable and unwilling to do so, he will only pursue "the leaders who bear most responsibility for the crimes". It is clear that there are many others in Sudan who fit this category against whom sufficient admissible evidence can be obtained and that to implement his policy he will need to seek many more summonses or arrest warrants in the near future. Amnesty International welcomes his commitment today to investigate other crimes which are continuing in Darfur.

The scale of the crimes committed in Darfur is enormous. Over two million people have been displaced, some 85,000 killed, and thousands of women raped since the conflict began.

As the Security Council has already recognized in the case of Rwanda, the responsibility to investigate and prosecute those suspected of war crimes and crimes against humanity is a shared one. In addition to requiring Sudan to play its part, the Security Council should also call upon all other states to ensure that they do not become safe havens for persons suspected of crimes against humanity and war crimes in Darfur. All states should have the necessary legislation in place to try suspected war criminals, and implement this legislation whenever suspects are found in their territory. They should also be willing to accept the transfer of cases from other jurisdictions unable or unwilling to try them.

Source: Amnesty International.