



## CONSUMER corner



## LAW week



# Comprehensive consumer protection law for Bangladesh

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This is the concluding part of the story.

FROM the ongoing discussion it is clear that the consumers in Bangladesh desperately need comprehensive consumer protection legislation. Such a legislation not only protects and promotes the rights and interests of its consumers, but also enhances various socio-economic targets of its macro economy, for example, poverty alleviation, efficient, fair and transparent market mechanism, good governance and above all, socio-economic justice for its citizens.

A consumer protection law is important for Bangladesh, because:

(a) It will clarify the current legal regime: I have already mentioned that the current legal provisions regarding consumer protection are 'scattered over a whole range of enactments'. Some of them are contradictory to each other, while some others are overlapping. Therefore, a comprehensive consumer protection law is a need of time to clarify the current legal regime of consumer protection in Bangladesh.

(b) It will ensure 'institutional protection' to the consumers: Currently there is no specialised advisory, regulatory and/or ad-judicial institutions in Bangladesh dealing exclusively with the consumer protection matters. A comprehensive consumer protection law would therefore ensure establishment of such institutions necessary for protecting the rights of consumers in Bangladesh.

(c) It will clearly define 'offences against consumerism': There are certain categories of offences, which are essentially committed against consumerism. These offences might not be well recognised under the general laws of the land. Alternatively, at times such offences fail to get due importance within the general legal regime. Bangladesh provides a classic example in this regard. Therefore, by enacting a comprehensive consumer protection law, Bangladesh will be able to clearly define such offences for the benefit of its entire society.

(d) It will fast make the society 'consumer right conscious': A comprehensive consumer protection legislation will create relevant consciousness in the society within a very short period. People, who remain unaware of such rights, will soon become careful and conscious about protecting their rights as consumers. Therefore, in a country like Bangladesh, where resources are essentially limited, a mere enactment of a comprehensive consumer protection law will itself become enlightening for the common mass.

(e) It will ensure effective enforcement of consumer law: When law remains scattered, it becomes difficult and confusing for the law enforcers to implement such



laws. If all consumer protection provisions are brought under one single umbrella, there is a possibility that the law will be enforced with less difficulty and with more efficiency. Therefore, the government of Bangladesh must enact a comprehensive consumer protection law as soon as possible and further strictly ensure the effective implementation of such legislation.

## Processes and steps undertaken to enact consumer protection law in Bangladesh

With the relentless effort of CAB since 1992, a draft Consumer Protection Act for Bangladesh was formulated in 1998 by the Ministry of Commerce in consultation with CAB and other relevant ministries, departments and agencies of the Government of Bangladesh. In February 2000, the Ministry of Commerce sent the draft Act (with necessary amendment suggestions) to the Bangladesh Law Commission to do necessary research on it. On 29 October 2000, the Law Commission suggested various changes to the draft act so prepared. Based on all these reforms, a bill was later introduced in the Parliament for due enactment.

The Awami League cabinet of 1996-2002 approved the relevant bill in principle but it was again sent to the Secretariat Committee meeting for further scrutiny. The following BNP government, formed in 2002,

enacted it in its priorities of 100 days and approved the bill again in 2004. However, in 2006, a revised draft of Consumer Protection Act was framed and the reality is that no such consumer protection legislation has yet been enacted. It is thus reported that:

'Government after government has been stalling with the draft ... (consumer) law - sending it from one ministry to another for scrutiny and endorsement. This process has been exhausted at least twice and the draft was approved in the cabinet meetings of two governments. But again it was sent for reconsideration and these games continue till today.'

Enactment of a comprehensive law to protect the rights of consumers of Bangladesh has become a priority. It is unfortunate that when other neighboring developing countries (like India, Pakistan, Nepal, Sri Lanka, Thailand, Indonesia, Malaysia and many others) have already enacted comprehensive consumer protection legislation in their respective countries, consumers in Bangladesh are being deprived of even their basic rights as consumers. More unfortunate is to note that matters relating to consumer protection have neither been a priority in the governmental agenda nor an issue of serious concern in the political manifesto of any of the political parties of the country so far.

Consumer Protection Act, if enacted, will touch upon the life of every single citizen of this country and no other matter can be of more

importance than protecting the life and living of the total population of Bangladesh. The snail-pace movement of enacting the draft Consumer Protection Act in Bangladesh makes one wonder whether it will ever see the daylight!

## Key features of consumer protection law of Bangladesh

The (draft) Consumer Protection Act 2000 is very much similar to that of India and Sri Lanka. Some also claim that it borrows heavily from the consumer protection law of Nepal too. The essential features of the 2000 draft law are:

(a) It provides definition of certain relevant terms, such as, consumer, complainant, complaint, consumer, dispute, defect, deficiency, goods, service manufacturer, trader, restrictive trade, unfair trade practice etc.

(b) It proposes the establishment of a National Consumer Council (NCC) and sets down its composition, objectives, functions and responsibilities.

(c) It suggests the establishment of Consumer Disputes Settlement Agencies such as one National Consumer Tribunal (NCT) for the whole Bangladesh and at least one District Consumer Tribunal (DCT) for each district. The draft law provides details of the composition, power, jurisdiction, details of trial proceedings, and the appeal mechanism for both the National and District Consumer Tribunals.

(d) The most striking part of the

for protection of consumer rights.

The recently prepared draft Consumer Protection Act 2006 makes some new provision to the 2000 draft. Some of such new changes suggested are:

(a) The 2006 draft ensures more wide representation of the civic society in the proposed National Consumer Council (NCC).

(b) The 2006 draft establishes the Department of Consumer Affairs and the same is entrusted with a 'wide discretionary power' so that it can play an activist role to safeguard the interest of the consumers.

(c) Provisions regarding DCT and NCT are replaced by provisions of the 1st class Magistrate or the Metropolitan Magistrates to try the offences under the proposed Act. Appeals against the verdict of Magistrates will lie in the Court of Session judge.

(d) The 2006 draft Act incorporates the system of summary trial through mobile courts. This is aimed at providing speedy relief to the consumers. No such provision was incorporated in the 2000 draft.

(e) The 2006 draft Act defines specific offences against consumerism and provides punishments for such offences. An offender not only does have criminal liability but also are made subject to civil and administrative liabilities. In other words, the consumers now, can receive civil and administrative remedies for consumer offences committed.

(f) Provisions of 'interim order' in appropriate instances are introduced. The Director of the Department of Consumer Affairs is entrusted with the power to issue such orders. This was not there in the 2000 draft.

(g) No provision of 'constituting and maintaining' a permanent Consumer Affairs, the aggrieved consumer has a right to share at least 25% of the fined amount.

## Conclusion

Enacting a comprehensive Consumer Protection Law is a need of time. The innocent consumers of Bangladesh are in crucial need of having the protection of such comprehensive consumer protection legislation. Therefore, the government of Bangladesh must enact a comprehensive Consumer Protection Act as soon as possible and further strictly ensure the effective implementation of such legislation.

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(b) There is no provision of constituting and maintaining a 'Consumer Protection Fund' for protecting and promoting consumer rights in Bangladesh. By an amendment in 1980, provisions for such fund were incorporated into the Sri Lanka, the sources of such 'Consumer Protection Fund' generally come from the fines procured by the consumer courts for offences under the Act, profits from sale of goods forfeited under the Act, grants and donations, and finally from the budget sanctioned by the parliament

## RIGHTS corner



## International Day for the Remembrance of the Slave Trade and its Abolition

23 August 2007

The International Day for the Remembrance of the Slave Trade and its Abolition is celebrated on 23 August of every year. The night of 22 to 23 August 1791, in Santo Domingo (today Haiti and the Dominican Republic) saw the beginning of the uprising that would play a crucial role in the abolition of the transatlantic slave trade.

The International Day for the Remembrance of the Slave Trade and its Abolition is intended to inscribe the tragedy of the transatlantic slave trade in the memory of all peoples.

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery Adopted by a Conference of Plenipotentiaries convened by Economic and Social Council resolution 608(XXI) of 30 April 1956 and done at Geneva on 7 September 1956 entry into force 30 April 1957, in accordance with article 13.

The States Parties to the present Convention, Considering that freedom is the birthright of every human being, Mindful that the peoples of the United Nations reaffirmed in the Charter their faith in the dignity and worth of the human person. Considering that the Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations as a com-

mon standard of achievement for all peoples and all nations, states that no one shall be held in slavery or servitude and that slavery and the slave trade shall be prohibited in all their forms.

Recognizing that, since the conclusion of the Slavery Convention signed at Geneva on 25 September 1926, which was designed to secure the abolition of slavery and of the slave trade, further progress has been made towards this end. Having regard to the Forced Labour Convention of 1930 and to subsequent action by the International Labour Organisation in regard to forced or compulsory labour. Being aware, however, that slavery, the slave trade and institutions and practices similar to slavery have not yet been eliminated in all parts of the world.

Having decided, therefore, that the Convention of 1926, which remains operative, should now be augmented by the conclusion of a supplementary convention designed to intensify national as well as international efforts towards the abolition of slavery, the slave trade and institutions and practices similar to slavery.

Source: UNESCO

## Message from Mr Koïchiro Matsuura, Director-General of UNESCO, on the occasion of the International Day for the Remembrance of the Slave Trade and its Abolition

23 August 2007

Since 1998, UNESCO has been reminding the international community of the importance of commemorating 23 August, International Day for the Remembrance of the Slave Trade and its Abolition. This date not only commemorates the historic night in 1791 when the slaves of Santo Domingo rose up to break their chains and launch the insurrection that eventually led to the Haitian revolution, it also serves to pay tribute to all those who worked collectively and individually to trigger the irreversible process of the abolition of the slave trade and slavery throughout the world. This commitment and the strategies of action used that were conducted to fight the inhumane system of slavery were to have a considerable impact on the human rights movement.

Beyond the act of commemoration, this international Day aims at eliciting reflection on a tragic past that may be distant but whose repercussions continue to fuel injustice and exclusion today. This reflection on the barbarity our society is capable of unleashing with a clear conscience is all the more necessary, salutary even, as millions of men, women and children still today suffer the horrors of new forms of slavery. This is how the remembrance of past tragedies serves to enlighten us about present-day tragedies of exploitation and dehumanization.

Reconciling the demands of the historical truth and the duty of keeping the past alive, while stimulating the debate on the problems of dealing with painful memories, intercultural dialogue and democratic citizenship in multi-ethnic and multicultural societies is, ultimately, the objective of proclaiming this day of remembrance.

Source: UNESCO

This year, the celebration of International Day for the Remembrance of the Slave Trade and its Abolition takes on a particular significance, because 2007 marks the bicentenary of the bill passed in the United Kingdom's Parliament that, in 1807 abolished the slave trade in the British colonies. Throughout this year, the United Kingdom and a number of Commonwealth countries are engaging in initiatives and activities to ensure greater awareness of the impact of the slave trade in the way the world has changed. These events include, among others, the commemoration ceremony on 25 March 2007 at the United Nations General Assembly, the inauguration of a slavery memorial day by the Mayor of London, the opening of a National Museum and Centre for the Understanding of Transatlantic Slavery in Liverpool and the launching of the "Joseph Project" in Ghana. New scientific discoveries in new fields, virtually uncharted to date, have also

relaunched the Slave Route Project. The actions within the framework of this bicentenary are as varied as the routes of the slave

Source: UNESCO

trade and the circumstances of slavery. UNESCO is pleased to have contributed to this movement favouring the recognition and commemoration of the history of the slave trade and slavery throughout the world. There is a greater awareness even in countries and regions of the world that did not feel concerned or were reluctant to re-open dark chapters in their history.

The growing and more effective mobilization within the educational and scientific fields, of artists and performers, youth associations and non-governmental organizations amply justifies our commitment and our decision over 13 years ago to create the Slave Route Project. Its clear definition of the ethical and political stakes involved in the issue, its emphasis on a multidisciplinary scientific approach and its prioritizing a holistic view of this tragedy, meant that the Slave Route Project had a significant impact both internationally and locally.

We must all nevertheless step up our efforts to ensure that the history of the slave trade and of slavery takes its rightful place in civic education programmes, school textbooks and audiovisual productions.

Source: UNESCO

## Judicial service, ACC organograms okayed

The government approved organograms for the Judicial Service consisting 4,500 posts and the Anti-Corruption Commission (ACC) having 1,281 posts. This measure of the government is seen as a key step towards separation of the judiciary from the executive as per directives of the Supreme Court (SC) as well as strengthening the ACC further.

After a meeting of National Implementation Committee for Administrative Reforms (NICAR) held in the Chief Adviser's Office, presided by Chief Adviser Fakhruddin Ahmed, Law Adviser Barrister Mainul Hossain informed the journalists of the approval.

He said almost all formalities have been completed to separate the judiciary from the executive branch of the government. The judiciary will become "absolutely separate" from the day the SC fixes for implementation of an amendment to the Criminal Procedure Code (CrPC), said Mainul. Organogram of the Anticorruption Commission has also been approved during the meeting of NICAR, he added. Under the Judicial Service organogram, 655 out of 4,500 posts will be of magistrates. Among them, 600 will be judicial magistrates and 55 metropolitan magistrates. The rest of the positions are reserved for 2nd, 3rd and 4th grade employees. -- *The Daily Star, August 20.*

## Govt decides to sell 3 licences for VoIP

The government finally declared yesterday that it will sell licences to private operators at an auction in October for running the Voice over Internet Protocol (VoIP) business.

It has decided to sell licences for three international gateways (IGW) and two interconnect exchanges (ICX) to the highest bidders. The much-awaited declaration that came at a press briefing at the telecommunications ministry will mean an end to the government's monopoly over IGW, the mechanism through which international calls are sent and received. In a written statement, the telecoms authorities announced that the government has approved the much-awaited International Long Distance Telecommunication Services (ILDTS) Policy, 2007 to liberalise VoIP, also called internet telephony. Telecommunications Secretary Sheikh Khurshid Alam and Bangladesh Telecommunications Regulatory Commission (BTRC) Chairman Maj Gen (retired) Manzurul Alam were present at the briefing. Under the ILDTS policy, no foreign companies including the present land and mobile phone operators will be eligible to take part in the bidding for the licences. "This is for the first time the government will give private outlets licences for international gateways and interconnection exchanges," said Manzurul Alam. -- *The Daily Star, August 21.*

## EC to ask again for lifting politics ban

The Election Commission (EC) will ask the caretaker government once again for lifting the ban on indoor politics if it sees no sign of withdrawal of the ban by August 30, Chief Election Commissioner (CEC) ATM Shamsul Huda said. "Implementation of the electoral roadmap will be hampered if the ban on indoor politics is not lifted for holding dialogue with the political parties from September," CEC Huda told reporters. The caretaker government had earlier assured the EC of withdrawal of the ban on indoor politics by August, allowing the commission to hold talks with the parties from early September according to the roadmap, sources in the EC said. But the government has apparently retreated from its stance on lifting the ban in view of the prevailing situation, they added. "We will wait till August 30 with the hope that the ban on indoor politics will be no more from early September. If we see no sign for withdrawal of the ban, we will request the government before end of this month to lift the ban. We have no alternative but to ask the government for it [lifting the ban]," Huda said. -- *Prothom Alo, August 21.*

## Travesty of a judicial probe

Due to lack of substance, the judicial probe report into the heinous grenade attack on the Awami League rally in which 22 were killed and 200 injured on August 21, 2004, has failed to generate any follow up actions of the government against the culprits. Instead of casting light on the terror attack the comment of the one member probe committee of Justice Joydul Abedin created unnecessary confusion. Abedin's biggest finding was "a link to foreign enemies apart from local ones" in the terror attack. Other investigators in the last three years, however, did not find any evidence that supports this kind of conclusion. The Justice Abedin probe committee was set up on August 22, 2004 and within just 40 days on October 3 he submitted a 162-page report to the Ministry of Home Affairs. Before submitting the report in such a short time, he told *The Daily Star*, "I am now hopeful that the enquiry commission would be able to reach a decision on the carnage with the information and data that are on hand." Even though in that report he drew a conclusion about a foreign link, a home ministry high official said, "The report was not at all conclusive. It was shallow. The government had a look into it, but as it lacked substance, there was nothing to work on." During that time the probe report generated public interest. Yet, the investigators of the case are not aware of the contents of that report. The government also never shared the report with them. -- *The Daily Star, August 21.*

## Withdrawal of army camp at DU

The caretaker government ordered withdrawal of the army camp from Dhaka University (DU) campus by today, and a judicial enquiry into the violent incidents that left over 250 people, mostly students, injured in the last two days. Action will be taken against persons responsible for the incidents, the government said. The process of withdrawal of the army camp began. Reviewing the situation arising out of disturbances on the DU campus since Monday evening, the interim government deeply regretted the incidents and appealed to all concerned to maintain peace and discipline on campuses. In the face of violent protest by thousands of students at beating up students and demand for withdrawal of the army camp, a high level meeting chaired by Chief Adviser (CA) Fakhruddin Ahmed at his office took these decisions. "An enquiry has been initiated by the army into the 'unfortunate incident' that took place yesterday (Monday) on the Dhaka University playground, and the investigation would be concluded as soon as possible, and action against those found responsible will be taken," said an official statement after the meeting. In the wake of violence on the DU campus, the chief adviser initiated the move to defuse the tense situation on campuses and discussed the overall situation at the meeting he chaired. -- *The Daily Star, August 22.*

## Duta for lifting state of emergency

The Dhaka University Teachers' Association (Duta) in an emergency general meeting demanded lifting of the state of emergency to pave the way for establishing democratic environment. The meeting held in the afternoon also demanded resignation of the adviser for home, the home secretary and the inspector general of police (IGP) for the incidents on the campus. They urged the army and police department to apologise for the incidents.

It also demanded withdrawal of case, if any, filed against any student in connection with the incidents. It also demanded withdrawal of the army camp from the campus.

The Dhaka University (DU) Syndicate in a meeting last night decided not to allow police inside the campus without prior permission of the university authorities. The Syndicate also condemned the army and police actions on the students. The syndicate also endorsed some of the resolutions adopted at the meeting of the Dhaka University Teachers' Association (Duta). -- *The Daily Star, August 22.*

## Judge refuses to try Prof Taher killing case

The judge of a public safety tribunal in Rajshahi refused to conduct the proceedings of Rajshahi University (RU) Prof S Taher Ahmed murder case filed against six people, including Islamic Chhatra Shibir leader Salehi, due to "unavoidable circumstances". Judge Jahangir Alam Mollah, also the special sessions judge, moved the proceedings of the case to Rajshahi District and Sessions Judge's Court Monday saying that he is doing so due to unavoidable circumstances, which he did not explain. Prosecution lawyer Golam Arif Tipu told newsmen that the judge on Monday was repeatedly telling the defence lawyers, "I never bow to any pressure... these will not work with me." Arif told reporters, "The recording of accounts of two of Taher's colleagues was scheduled for Monday. The judge fixed September 9 for the witness hearing." "Coming out of the court, the defence lawyers informed me that the judge was feeling embarrassed and we came to know today [Tuesday] that he refused to try the case," he said. Talking to *The Daily Star*, Judge Jahangir Alam Mollah said he declined to try the case as he felt that providing justice in this case would not be possible for him. -- *The Daily Star, August 22.*

## Corresponding with the Law Desk

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