



BOOK review



Trade-environment discourse needs to be viewed within socio-environmental justice

Shawkat Alam, *Sustainable Development and Free Trade: Institutional Approaches*, Routledge, London and New York, 2008, pp. xxi+288

THIS stimulating book explores complex inter-relationship between sustainable development and trade, which is eminently topical issue in view of ongoing economic globalisation process. This well researched and thought provoking book is a most welcome addition to the growing literature on the subject. The author, who is currently working as a faculty member of Macquarie University of Australia, is well reputed scholar on the international trade law. Divided into nine chapters, the book presents a comprehensive survey of current debate on environment and free trade at both national and international policy levels. The central argument of the book is that the inherent inequities in the current international trading system and the inequitable power relationship between the North and the South must be addressed to advance global quest for sustainable development. The book is exhaustive and detailed study on the subject with extensive survey of global and regional trends, analysis of various perspectives of free traders and environmentalists and empirical survey of relevant international instruments.

Chapter 1 showed how recent decades have witnessed a shift from traditional discourse of economic growth and its ecological consequences to increasingly widespread recognition of the need for the integration of economy and ecology. It also examines how economic activity can be reconciled with concerns about the environment in order to promote sustainable development particularly in developing countries. It is underlined that trade-environment issues have to be addressed in a pragmatic way by considering the special needs and economic status of developing countries. Trade-environment discourse needs to be viewed within the broader framework of sustainable development, poverty alleviation, intergenerational equity and socio-environmental justice.

Chapter 2 examines the role played by the UN and its institutions in the integration of trade and environment and their inadequacies in achieving the goals of sustainable development. It has been observed that while the role of the UN is unique and indispensable in providing the global framework of trade and environment on the basis of equity, it has been increasingly marginalized from the main thrust of policy making in areas of international trade, and development, which are now seen more as the purview of the Bretton Woods institutions such as the World Bank and IMF. Given the fact that participation of developing states in decision-making process of these institutions is minimal in the area of trade and hence, decisions of such institutions do not reflect their legitimate interests. Therefore, it has been argued by the author that the decision making process of Bretton Woods institutions should be more democratic and there should be coordination and cooperation among UN entities, Bretton Woods institutions, and the WTO in order to ensure that various programmes and initiatives on environment and trade are mutually supportive.

Having examined the normative context of sustainable development, the chapter 3 highlights on the trade-environment interface within a legal and institutional context. In particular, it examines the main principles and rules of WTO which are relevant for the examination of the trade-environment issues and the dilemmas they pose for trade and development prospects of developing countries. In that context, it conjures up the pressing issues for developing countries in relation to multilateral trade liberalisation and environmental issues. The chapter has outlined the need for WTO to modify some of its rules in order to ensure that environment-related trade measures consistently takes into

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account the special needs of developing countries.

Chapter 4 focuses on the development of the trade-environment linkage in the WTO Ministerial Conferences in the post-Uruguay Round Context and highlights the difficulties that developing countries are encountering in dealing with these new developments. According to author, division and distrust between developed and developing countries in key issues of trade liberalisation must be addressed through multilateral cooperation to make global trading system operational.

Next three chapters of the book deal with linkages between free trade and sustainable development in the regional trading systems, and provide a comparative analysis of the principles and policies used by the EU, NAFTA and APEC in integrating trade and environment. It has been observed that the harmonisation of environmental concerns with economic integration in the regional trade agreements can further promote progress in the multilateral trading system.

Chapter 8 surveys use of trade measures under multilateral environmental agreements to regulate environmentally harmful trade. While trade sanctions are considered as an integral means of achieving environmental objectives, there is genuine apprehension that these environmental trade measures have the potential to be used as disguised protectionist measures against competition from the developing world. However, trade measure as enforcement tool has only limited success. Cost of compliance with trade measures appears to be increasingly difficult for the developing countries due to the absence of technology transfer from developed countries, resource constraints and lack of institutional capacity.

The last chapter of the book concentrates on challenges ahead of achieving sustainable development and argues that trade-environment issues have to be addressed in a pragmatic manner by considering the economic and social problems and development needs of developing countries on the basis of equity. For this reason, the competing North-South interests as manifested in the global economic and environmental governance must be reconciled as a matter of urgency.

The book is extremely readable, well researched and well-structured. The language of the book is lucid and arguments have been presented in a convincing and persuasive style. The book contains useful bibliography and indexes. No doubt, it will be of great interest to the students of environmental and trade law, academics and policy makers and will attract wider readership.

Dr. Abdullah Al Faruque, Associate Professor & Chairman, Dept. of Law, University of Chittagong, Bangladesh.

LAW letter

Need for a quasi-judicial body to redress consumer disputes



A consumer is a person, who purchases goods or services for his own consumption and not for resale. In a free market economy, consumers have a great importance. So, it is said that "Consumer is a king, in a free market economy"

In Bangladesh, there is an association for consumers, which is called "Consumer Association of Bangladesh" (CAB). CAB is performing a great role for the protection of consumers' rights. Moreover, Consumer Protection Act is expected to be passed within a short time.

Presently, we are in need of a "Quasi-judicial" body for redressing consumer disputes. The proposed quasi-judicial body can be similar, in hierarchy and in structure, to that of our neighbouring country.

The structure of the quasi-judicial body of India is as follows:

- (i) District Forum
- (ii) State Commission
- (iii) National Commission

Thus our neighbouring country has three-tier redressing machinery. At the bottom of which is the District Forum, above it is the State Commission and at the top is the National Commission.

Since Bangladesh is a smaller country, it can have two tiers of redressal mechanism instead of three. Bangladesh can have, (i) District Forum and (ii) National Commission. Bangladesh can omit the State Commission because it does not have provinces. Further Bangladesh can also change the nomenclature of the quasi-judicial bodies. The names of the quasi-judicial bodies can be as follows:

- (i) District Consumer Tribunal
- (ii) National Consumer Tribunal

The jurisdiction of the proposed redressal body can be as follows:

(i) The District Consumer Tribunals can have territorial jurisdiction throughout respective districts of Bangladesh.

Regarding pecuniary jurisdiction, it could be limited to, say for example, 5 lac or 10 lac taka. Regarding the subject matter it should be able to entertain all cases regarding consumer disputes.

(ii) The National Consumer Tribunal should have territorial jurisdiction all over Bangladesh. As for pecuniary jurisdiction it should have original jurisdiction for cases above the District Consumer Tribunal's limit, that is to say from above 5 lac or 10 lac taka to unlimited amount. The National Consumer Tribunal should have appellate and revisional jurisdiction. It should be able to receive appeals from the District Consumer Tribunal and it should also have the power to call for revision of any case which is pending before or has been decided by the District Consumer Tribunal.

According to Article 109 of Bangladesh Constitution, the High Court Division shall have superintendence and control over all courts and tribunals subordinate to it. Since the proposed quasi-judicial bodies for redressing consumer disputes falls within the category of a tribunal, they should be under the supervisory jurisdiction of the High Court Division.

So, by the establishment of quasi-judicial bodies, consumers can have great relief. The trial will be much quicker, cheaper and easier. The procedures of the civil courts are very lengthy, expensive and complicated.

Syed Gouseuzzaman Haideri Ali
Advocate of the Supreme Court of Bangladesh

Our Constitution is silent about the "Office of Profit"

According to Article 99(1) of our Constitution, "A person who has held office as a judge otherwise than as an Additional Judge shall not, after his retirement or removal therefrom, plead or act before any court or authority or hold any office of profit in the service of the Republic not being a judicial or quasi-judicial office (or the office of Chief Advisor or Advisor)".

The Supreme Court held in its decision that the posts of President, Prime Minister, Minister, Chief Advisor or Advisor are not Offices of Profit. Now the question arises that which posts would be called offices of Profit. It's disappointing that our constitution is silent about the definition of Office of Profit. At present, some people are surfacing their voice for bringing about changes in our Constitution. My earnest request would be to consider change in this regard.

Mohammad Rayhan Uddin
Student, Faculty of Law, Premier University, Chittagong

LAW event

UN urges better protection for women in fight against torture

DESPITE a strong international legal framework outlawing torture, much more needs to be done to end this scourge, United Nations human rights officials have stressed, adding that special attention be given to ensuring better protection for women.

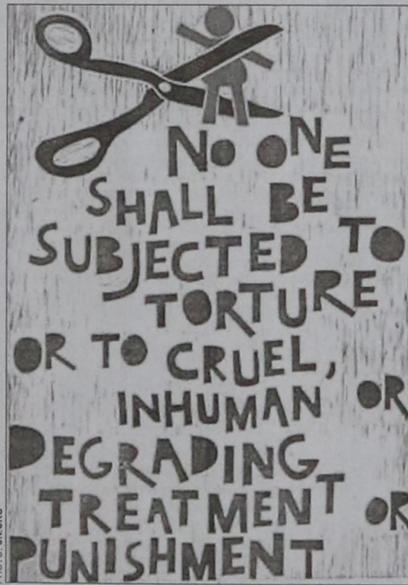
The Universal Declaration of Human Rights, which is celebrating its 60th anniversary this year, provided for the first international prohibition of torture, and successive human rights treaties have built on this provision.

However, six decades later, greater efforts are needed to prevent torture, punish the perpetrators and ensure adequate assistance for the victims, six UN entities that deal with the issue stressed in a statement marking the International Day in Support of Victims of Torture, observed annually on 26 June.

They noted that women fall victim to torture in different ways, as highlighted by Secretary-General Ban Ki-moon's global campaign to end violence against women, launched in February of this year.

"Certain forms of gender-specific violence perpetrated by State actors, as well as by private individuals or organisations, clearly amount to torture, and it is now recognised that gender-specific violence falls within the definition of torture in the Convention against Torture," they stated.

They called for strengthening the global campaign to end violence against women, by ensuring a broader scope of prevention, protection, justice and reparation for victims, including access to international assistance, than currently exists.



In addition, they appealed for increased contributions to the UN Voluntary Fund for Victims of Torture which distributes funds to non-governmental organizations (NGOs) and

expression, and support implementation of the transitional justice agenda.

Source: UN News Service

Withdraw reservation regarding compensation of torture victims

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Odhikar, on June 26, 2008, organized an event on the occasion of International Day in Support of Victims of Torture, at the Dhaka Press Club. Torture is one of the most profound human rights abuses, taking a terrible toll on millions of individuals and their families. The speakers of the roundtable included A B M Musa, Khushi Kabir, Ataus Samad, Professor Mizanur Rahman, and Professor Anwarul Hassan.

Farhad Mazhar, Adviser, Odhikar, informed that Bangladesh acceded the Convention Against Torture (CAT) in 1998. However the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) had not been adopted. Upon accession these laws become a part of the domestic law and are directly applicable in the courts.

Article 14, of the Convention against Torture

states, "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation."

However this Article has been reserved by Bangladesh Government which actually frustrated the very spirit of the CAT.

Worldwide a lot of debate on the issue of torture is taking place. The debate is on whether protection of national security precedes over the violation of human rights of citizens. Definitions are better defined. There is now profound knowledge of torture methods, the effects of torture, and how to diagnose and rehabilitate torture victims.

Odhikar has reported 29 case studies and circulated to persons concerned about human rights situation in Bangladesh. At the roundtable Odhikar brought out three victims

of torture by law enforcing agencies and each of them shared their experiences and sufferings with all those present at the roundtable. Blows to the soles of the feet, suffocation in water, burns, electric shocks, sleep deprivation, torturers to break down an individual's personality are commonly used shaking and beating. As terrible as the physical wounds are, the psychological and emotional scars are usually the most devastating and the most difficult to repair. Many torture survivors suffer recurring nightmares and flashbacks. They withdraw from family, school and work and feel a loss of trust.

At the roundtable the speakers urged that infliction of torture unacceptable in any form of government or at any time. They also urged to withdraw the reservation over Article 14 and adopt the OPCAT. Torture is not just a matter of debate; it's a matter of feeling the pain, the trauma, which one suffers. It's intolerable.

-Law Desk

LAW week



Over 200 graft cases against bigwigs challenged

Over 200 cases filed by the Anti-Corruption Commission (ACC) and National Board of Revenue (NBR) against some high-profile politicians and businessmen have been challenged in the High Court (HC).

Most of these cases have same charges of amassing ill-gotten wealth, concealing wealth information, taking bribes and evasion of income taxes. ACC counsel advocate Khursid Alam Khan recently told The Daily Star the commission has filed all the cases on the basis of documents and papers. But most of the co-accused, who are charged for abetting the prime accused in committing corruption, are getting bail in the cases, he added.

At least 20 tax evasion cases have been pending with the HC now, sources add. -The Daily Star, June 26, 2008.

'Criminals' back on scene with hope of running in polls

Many grassroots level political leaders of major parties including incumbent ward commissioners, who were allegedly involved in criminal activities, are preparing to contest in the August 4 polls to four city corporations.

Many of them already collected application forms for candidacy, although all major political parties have yet to announce their acquiescence to the local government polls before the parliamentary one. -The Daily Star, June 25, 2008.

Arrest warrant issued against 8 Huji fugitives

A Dhaka court issued arrest warrants against eight absconding Harkatul Jihad (Huji) members including Maulana Tajuddin, brother of detained former BNP lawmaker Abdus Salam Pintu, in the August 21 grenade attack case.

Metropolitan Sessions Court Judge Mohammad Azizur Haque accepted the charge sheet of the case and took the charges into cognisance for trial after examining all relevant documents. The court directed the authorities concerned to send copies of the arrest warrants to the addresses of the absconding accused. It also fixed July 24 for returning the arrest warrants to the court. -The Daily Star, June 24, 2008.

Fresh MRP project drafted in ADP

The Department of Immigration and Passport (DIP) could start issuing machine-readable passports and visas from July next year as a Tk 560 crore fresh project for this purpose has been included in the Annual Development Programme of 2008-2009.

The project, awaiting approval, is required for Bangladesh to comply with the International Civil Aviation Organisation (ICAO) deadline of April 2010 for completing the job. "Once implemented, the Department of Immigration and Passport hopes to start issuing machine-readable passports (MRP) and machine-readable visas (MRV) from July next year," said Abdur Rob Hawlader, director general (DG) of DIP.

Four honorary consultants from the International Organisation for Migration (IOM) have been assisting the DIP for the last six months for preparing the tender documents, said a DIP official adding that besides helping in the MRP-MRV project, the four IOM consultants will also monitor the work of the consulting firm to be appointed by the DIP soon. -The Daily Star, June 24, 2008.

Personal details to be on EC website

Election Commission (EC) ensures public access to information about candidates in the August 4 polls to four city corporations and nine municipalities.

Applicants seeking candidacy must submit affidavits of personal information to returning officers (RO) during filing of the applications including details of their wealth, sources of income, backgrounds, and records of criminal cases if any existed in the past, officials in the EC Secretariat said adding that voters will have access to those information.

The EC will post the personal information of the selected candidates on its website for public viewing after July 13, the deadline for withdrawing candidacies, senior officials in the EC Secretariat said. -The Daily Star, June 23, 2008.

Altaf charged with amassing Tk 2.5cr wealth illegally

The Anti-Corruption Commission (ACC) pressed charges against detained former home minister Altaf Hossain Choudhury in a case filed for amassing wealth illegally and giving false information in his wealth statement submitted to the commission.

The same day, a Dhaka court rejected the bail petition of detained Sigma Huda in a case filed for taking Tk 6 lakh bribe. -The Daily Star, June 23, 2008.

No constitutional bar to holding local polls first

Eminent jurist and Gono Forum President Dr Kamal Hossain said there is no constitutional bar to holding the local government polls prior to the national elections.

"According to section 119 of the constitution, the Election Commission is free to hold the local government elections," Dr Kamal told journalists at a press briefing at his Bailey Road residence in the capital. -The Daily Star, June 23, 2008.

Delwar seeks UN probe into 'HR violation'

Khandaker Delwar Hossain, secretary general of pro-Khaleda faction of BNP, urged the United Nations to investigate human rights violations in the country including alleged torture of Tarique Rahman, elder son of party chairperson Khaleda Zia.

"Everyone knows the human rights situation in the country. Tarique Rahman is now fighting death as his spinal cord has been damaged. But the government is not investigating the matter," he said urging the UN to initiate an investigation for collecting information. -The Daily Star, June 23, 2008.

Confusion over EPR relaxation

A confusion has arisen regarding the recent relaxation of the Emergency Powers Rules (EPR) in four city corporations and nine municipalities where local government polls will be held on August 4, since the home ministry notification did not specify the timeframe for the relaxation.

The Election Commission (EC), in its proposal sent to the government last week, had sought relaxation of EPR from the day the poll schedule was announced till publication of the election results in official gazettes, sources in the commission said. -The Daily Star, June 22, 2008.

Over 1 lakh illegal links in Wasa supply network

Dhaka Water Supply and Sewerage Authority (Wasa) loses around Tk 35 crore a year because of 35 percent systems loss caused mainly by illegal connections, cracks in supply lines and underhand dealings of unscrupulous officials.

The 2,534km-long Wasa supply network in the capital and Narayanganj has over 1 lakh illegal connections, which causes the most systems loss. The Wasa is deprived of Tk 1 crore a year for 1 percent systems loss, said an official of the organisation.

Wasa Managing Director Raihanul Abedin said the number of illegal connections from Wasa supply lines is huge because the Wasa covers areas beyond the city corporation area.

"We have requested the Army through the LGRD ministry to conduct a customer survey-which will take about six months to complete--and then we will know the exact number of illegal connections," Abedin said.

The underhand dealings between the Wasa officials and employees and customers are another reason for the systems loss. These Wasa officials take bribes from the customers and prepare bills much less than the actual, thus depriving the government of huge revenue, said an official, adding, "We will take action against the officials and employees found guilty of any irregularity." -The Daily Star, June 22, 2008.

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