



LAW amusements



Outrageous Lawsuits

Fraudulent Admission

Thomas Bentley of New Jersey is suing his former law school, St. Thomas University Law School of Miami, for having admitted him to law school (he was later one of 40 students expelled for insufficient grades). The Florida law school's attrition rate is in keeping with the national average.

Presumably, Bentley initially asked the university to admit him but that didn't stop his lawyer Michael Lombardi from saying, with a straight face:

"They're not supposed to accept students who don't have a reasonable prospect of completing law school."

Subpoena George Bush

On November 30, 2004, Gail Davidson swore private information in Vancouver, British Columbia accusing George W. Bush, President of the United States of America, of torture. She then sought to have the President arrested and brought to British Columbia to answer her complaint. But when the Court pressed the issue, she admitted that she was "not asking ... for process to issue". The Court realized that she was trying to use the justice system for "political" purposes.

"Pursuant to its inherent jurisdiction, wrote Justice Sattanove in Davidson v Attorney General in 2005 BCSC 1765, "this court may stay or dismiss a proceeding where the process of the court is employed for some ulterior or improper purpose or in an improper way. I am dismissing the applicant's Petition as an abuse of process."

Mev Me

An inmate filed a \$5 million lawsuit against himself (he claimed that he violated his own civil rights by getting arrested) -- then asked the state to pay because he has no income in jail.

He said, "I want to pay myself \$5 million dollars, but ask the state to pay it on my behalf since I can't work and am a ward of the state." The judge was not impressed by his ingenuity, and dismissed the suit as frivolous. (Source: CALA)

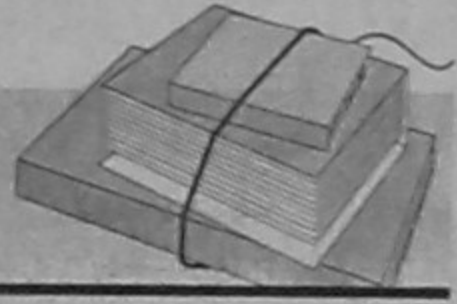
But You're More Stupider

A convicted bank robber on parole robbed a California Savings and Loan Branch. The bank robber placed the money roll containing the hidden Security Pac in his front pants pocket. The Security Pac released tear gas and red dye resulting in second and third degree burns requiring treatment at a hospital.

The bank robber sued the bank, the Security Pac manufacturer, the city the police and the hospital. (Source: ATRA: Candelario v. City of Oakland, No. 628960-3 Cal. App. Dep't Super. Ct. 1987)

Source: www.duhaime.org

LAW lexicon



Res judicata - A rule of civil law that once a matter has been litigated and final judgment has been rendered by the trial court, the matter cannot be relitigated by the parties in the same court, or any other trial court. A court will use res judicata to deny reconsideration of a matter.

Rescission - The unmaking or undoing of a contract; repeal.

Research - A careful hunting for facts or truth about a subject; inquiry; investigation.

Resolution - The formal adoption of a motion.

Respondent superior - Literally, "a superior (or master) must answer." The doctrine which holds that employers are responsible for the acts and omissions of their employees and agents, when done within the scope of the employees' duties.

Respondent - The person against whom an appeal is taken.

Rest - A party is said to "rest" or "rest its case" when it has presented all the evidence it intends to offer.

Source: Jurist International.

LAW interview

Unite to end gender discrimination

In view of the International Women's Day 2009, Law Desk (LD) sent a questionnaire to some concerned citizens so as to learn their positions on different issues related to women's rights movement. The response that we have received will be shared with you in two consecutive issues. Hereby we are publishing the replies from Ms. Saira Rahman Khan (SRK), Assistant Professor, School of Law, BRAC University, and Barrister Moyeen Firozee (MF), Advocate, Supreme Court of Bangladesh.

Law Desk (LD): What is the relevance of International Women's Day (IWD)? Does it make any difference?

Ms. Saira Rahman Khan (SRK): In reality IWD should be a reflection of our different realities as women, complete with contradictions, loopholes and different priorities. In Bangladesh, workshops and rallies are held to reflect these and to highlight issues such as violence, discrimination, etc. In my opinion, IWD should be the day where every woman should take the patriarchal bull by the horns and give it a good shake! However, it is also my opinion that women should not have just one day to air their collective grievances and voice their collective rights. Incidents of violence and discrimination happen every day in women's lives, even on IWD, some woman somewhere is being violated. IWD celebrations in Bangladesh, in my opinion, really do not make a difference, because nothing is being done to rectify the problems highlighted every IWD. In an ideal world, we should be able to celebrate being a woman every single day.

LD: What are the priority areas that need to be addressed in upholding women's rights and ensuring equality between women and men?

SRK: Before we get into 'gender equality', we need to ensure 'gender equity' and give women what is rightfully theirs. Women are deprived of property rights, discriminated in the law and by society and taken undue advantage of. The first priority is to ensure gender equity, ensure proper and effective implementation of laws, and change social attitudes towards women.

LD: Do you think our government is committed enough to dealing with women's issues?

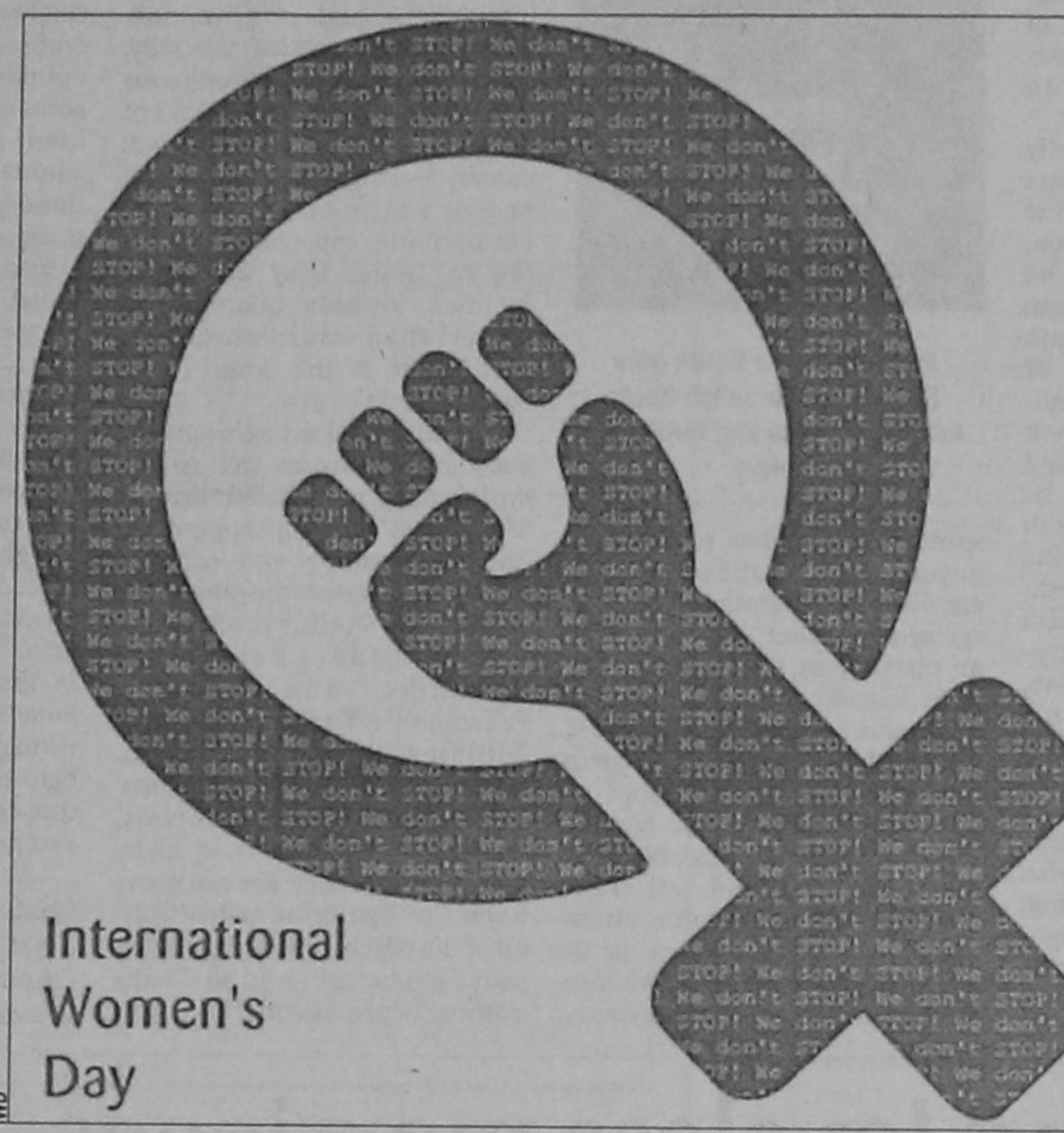
SRK: The fact that the government is yet to lift reservations on Article 2 of CEDAW speaks volumes in this regard.

LD: What role citizenry can play in making a safer world for all irrespective of gender?

SRK: Just as 'Charity begins at home', citizens of Bangladesh, irrespective of social or economic standing, must impart to their children, irrespective of sex, the lesson to respect mothers and sisters to ensure a safer, better and more respectful society.

LD: What is the relevance of International Women's Day (IWD)? Does it make any difference?

Barrister Moyeen Firozee (MF): Although historically IWD started as a



political event protesting against working conditions for women, the day to some extent has lost its political importance, and becomes simply an occasion for men to express their love to the women around them. Despite that IWD gives us an opportunity to remind ourselves about some core issues that often remain unnoticed.

LD: Do you see any marked change in terms of realising women's rights in all spheres of society during the last decade?

MF: Not in overall perspective. But most noticeable change is that people are freely talking about women's rights, specially women in Bangladesh themselves become more vocal which, I believe, will lead towards achieving success in establishing women's rights in all spheres of society.

LD: What are the priority areas that need to be addressed in upholding women's rights and ensuring equality between women and men?

MF: Nothing can be achieved unless we change our mindset towards women and their basic human rights. Most important priority area is the primary education. It is hard to change a grown-up person's mind. But appropriate curriculum with proper guidance from trained teachers can make a real difference from the very early age of a person. Schools also should have programme to educate the parents of the respective students. The phrase 'ensuring equality between women and men' can itself bring inequality. What is important is to give equal opportunity and equal treatment to both women and men whereby each woman will place herself in accordance with her own ability and aspiration.

LD: What role citizenry can play in making a safer world for all irrespective of gender?

MF: Abusive behaviour of one gender to the other is not what is worrying, it is the lack of social responsibility that tacitly endorses the view that abuse towards women is taken for granted. Mere enactment of laws will never address the issue, till more is done to create social awareness, give appropriate respect to each other and enhance family values and bond.

Compiled by: Law Desk.

LAW week



Khaleda's cantonment house allocated flouting rules

Prime Minister Sheikh Hasina yesterday said the 6 Shaheed Mainul Road house in Dhaka Cantonment was allocated to Khaleda Zia violating the Cantonment Board's rules and her cabinet would decide about cancellation of the allocation.

"She [Leader of the Opposition Khaleda Zia] should not keep the house ignoring the law. She should leave the house willingly," Hasina, also leader of the House, said in parliament.

The premier said if Khaleda returns the house the government would construct apartment buildings on that 2.72-acre land and allocate two apartments for each of the families of army officers, who were brutally killed in the BDR carnage. -The Daily Star, April 02, 2009

Fire safety laws enough, enforcement missing

Slack enforcement of existing laws and lack of public awareness make any multi-storied building vulnerable to fires, rendering life and property unsafe, said experts at a roundtable on "Fire Safety in Our Buildings".

Noted architects, structural engineers and high-ranking government officials took part in the discussion jointly organised by the Institute of Architects Bangladesh (IAB) and The Daily Star at the latter's conference room.

"There are adequate laws and code on fire prevention and safety measures," said Chief Architect of public works ministry's architecture department ASM Ismail, adding, "What we lack is implementation." -The Daily Star, April 01, 2009

Aug 21 grenade attack probe 'doctored'

Criminal Investigation Department (CID) filed a case against three of its former investigators in connection with intentionally misdirecting the probe into the August 21 grenade attack case.

They are also accused of destroying evidence and forcing people into making confessional statements. All three investigated the case during the BNP-led four-party alliance government's tenure.

CID's Assistant Superintendent of Police (ASP) Fazlul Kabir, the present investigation officer of the grenade attack case, filed the case Sunday night with Paltan Police Station against retired special superintendent (SS) of CID and former supervisor of the case Ruhul Amin and two retired ASPs Abdur Rashid and Munshi Atiqur Rahman, former investigation officers of the case. -The Daily Star, March 31, 2009.

Public procurement law to be amended

The government is going to bring fresh amendments to the Public Procurement Act, which was made to bring transparency in government expenditure under donors' pressure.

"Public Procurement Regulation (Now Public Procurement Act) is an impediment to implementation of government's development programmes including those in power sector... So, it would be revised," Finance Minister AMA Muhith said at a pre-budget discussion with Economic Reporters' Forum (ERF).

Muhith also said he approved a Tk 243-crore 'arrear' cash incentive in export sector as part of the bailout package to face the impact of global recession. -The Daily Star, March 31, 2009.

Banned Kuwait-based NGO runs covertly

The Bangladesh chapter of Kuwait-based NGO Revival of Islamic Heritage Society (RIHS) is still running its offices and covert activities although its registration was cancelled nearly two years ago.

The NGO spends at least Tk 2 lakh a month, said a few contractors who worked for RIHS. But the source of this money remains mysterious because foreign funding of RIHS was stopped and its bank accounts closed following the cancellation of registration, they said. -The Daily Star, March 31, 2009.

RTI bill passed

The House passed the much-awaited bill to continue people's right to information, incorporating a parliamentary body's recommendation to limit a few organisations' absolute authority to refuse to divulge information.

As per the provisions of the bill, all organisations registered under the law of the land will be bound to provide citizens with information on matters of public interests.

Organisations that enjoy legal coverage to keep some information undisclosed will have to take permission of the information commission to deny information sought, the parliamentary standing committee on information ministry recommended in its scrutiny report on the bill. -The Daily Star, March 30, 2009.

Bill on CrPC to be examined further

The government has decided to further scrutinise the Code of Criminal Procedure (CrPC) (Amendment) Bill 2009 empowering the executive magistrates to take cognisance of offences, Law Minister Shafigue Ahmed said.

Talking to reporters after a meeting with police top brass led by Inspector General of Police (IGP) Nur Mohammad, the minister said they would take seven more days to scrutinise the bill to avoid any conflict of power between the metropolitan police and the executive magistrates.

The police delegation told the minister at the meeting that the power the metropolitan police are exercising for long 33 years should not be curtailed through the bill. The law minister said the police officers apprehend the CrPC amendment, if passed, will pave the way for conflicts between the executive magistrates and the metropolitan police. -The Daily Star, March 30, 2009.

Equal edn, health rights for children

Prime Minister (PM) Sheikh Hasina said her government would revamp the Children Act 1974 suiting the situation of the day to ensure equal facilities for children of all strata of society.

"The Children Act 1974 will be amended to keep pace with the time. Children from capital Dhaka to a remote village will get equal facilities of education and health services," PM said.

The premier unveiled her grand alliance government's egalitarian policy about the rights of the children while addressing the prize giving ceremony of a national cultural competition at the Bangladesh-China Friendship Conference Center in the afternoon. -The Daily Star, March 29, 2009.

Sangsad to seal govt's judicial power

Parliament is scheduled to pass the much-talked about bill designed to continue separation of the judiciary.

Law, Justice and Parliamentary Affairs Minister Shafigue Ahmed told The Daily Star that unless the House decides otherwise, the new law will have a provision allowing the government to empower the executive magistrates to take cognisance of offences.

The parliamentary standing committee on the law ministry recommended the provision in its scrutiny report on the bill.

Meanwhile, Parliament Secretariat officials said another crucial bill, Right to Information Act-2009, too has been included in the orders of the day for the House, which returns from a 10-day recess. -The Daily Star, March 29, 2009.

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RIGHTS investigation

Human Trafficking: Everybody's business

THE increased global scope of corporate activity today demands that businesses remain attentive to the many ways their operations can both positively and negatively affect human rights around the world. Although the connection between business and human trafficking may not be initially evident, human trafficking should be of pressing concern to companies especially those with international operations and/or complex supply and production chains.

Human trafficking is defined in international law as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability [...] for the purpose of exploitation.

Exploitation includes sexual exploitation, forced labour, slavery-like practices, servitude or the removal of organs. Forced or compulsory labour is all work or service, which is exacted from any person under the menace of a penalty and for which the person has not offered himself or herself voluntarily. It is irrelevant whether the person was paid for the work or service.

The definition of trafficking consists of three core elements, the action of trafficking, the means and the purpose. If all the elements of human trafficking are present, the fact that an adult initially consented is irrelevant. It is also considered trafficking if the victim had no real or acceptable alternative but to submit to the abuse. If the victim is a child, it is considered trafficking even if

there is no threat or use of force. Trafficking need not be across borders; it can occur within the borders of a single country.

Why businesses should be concerned: The increasingly complex composition of corporate activity, with various supplier and subcontractor relationships, challenges the ability of companies to monitor their activities around the world. However, because human trafficking violates international human rights norms and laws, often defies international labor standards, and regularly involves corruption, businesses should ensure that all

elements of their operations, including their products, premises and services are not contributing to human trafficking. Doing so enables companies to manage risk and ensure that their reputation and integrity remain intact. Further, companies should consider ways to help eliminate the existence of human trafficking through the promotion of codes of conduct and corporate social responsibility in an effort to enhance stakeholder relationships and improve business environment.

Private sector survey on human trafficking: In order to better understand corporate perceptions and concerns

regarding human trafficking, raise awareness of the issues, and determine how the UN system can more effectively support business efforts to combat the problem, the UN Global Compact, UN.GIFT and the ILO teamed up to produce and administer a 'Private Sector Survey on Human Trafficking'.

While companies did indicate that they were aware of human trafficking and there was a general consensus amongst participants that human trafficking is morally unacceptable, the relationship between business and human trafficking proved less evident to those who took the survey. Less than 20% of participants indicated that human trafficking posed a serious threat to the security of their global supply chains and only 31% identified being motivated to address human trafficking in order to manage risk and maintain the company's reputation.

Further, less than 60% of businesses consulted reported having a company policy that addresses human trafficking and only 18% of companies made use of risk assessments.

Similarly, while 72% of participants indicated that their CSR staff would benefit from guidance material and or training on human trafficking, only 36% believed that engagement with senior management was necessary.

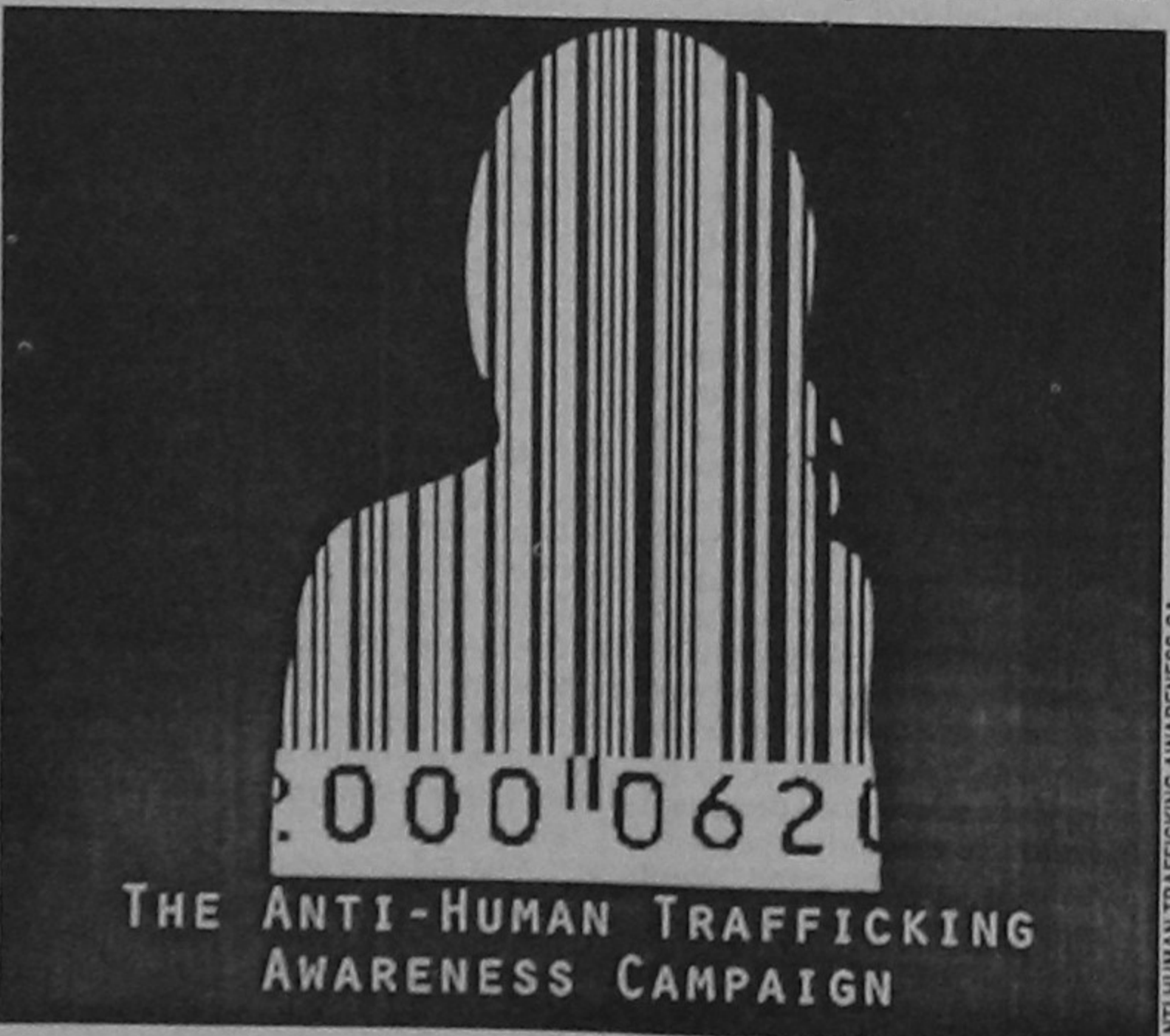
The survey's results clearly indicate that companies are in need of increased access to information about human trafficking and the relationship between human trafficking and

business activities. Participants showed particular interest in gaining greater knowledge about international standards and showed interest in exchanging information about industry best practices. Additionally, with respect to technical guidance, company participants were particularly interested in training and policy development and also indicated that guidance on measuring impact and auditing, as well as communications, would be beneficial.

As the 'Private Sector Survey on Human Trafficking' indicates, the connection between human trafficking and business has yet to be sufficiently recognized by most companies. While unmonitored business activity has the potential to aid human trafficking, companies also have the means to contribute to its eradication. Further, businesses must realise that by failing to address human trafficking they risk violating international standards and laws, tarnishing their reputation, and ruining stakeholder relationships.

Companies can avoid the risk of human trafficking by taking steps to make it harder for traffickers to traffic people using their products, premises or services and by helping raise awareness of the problem. Some other steps include adopting and implementing corporate policies with commitments to respect human rights, labour standards and anti-corruption.

Source: The United Nations Global Initiative to Fight Human Trafficking (UN.GIFT).



THE ANTI-HUMAN TRAFFICKING AWARENESS CAMPAIGN