



RIGHTS corner

Children are everyone's business

At the opening of a major meeting of business leaders organised by the United Nations, 24 June, 2010, UNICEF the UN Global Compact and Save the Children called on the business community to work together to build universal principles that will place children's rights at the top of the global corporate responsibility agenda.

Campaigns to end child labour and other breaches of children's rights are nothing new, but to date there is no simple universal guidance that enables business to be confident their activities, including their social responsibility programmes, are a positive force for the youngest and most vulnerable global citizens.

The three organisations are asking business leaders to work with them to develop principles to be known as the Children's Principles for Business - so that they can avoid the negative impacts that their activities may have on children, and contribute to a better future for everyone.

"Protecting children's rights is a global responsibility that requires global commitment from us all, in every sector," said Anthony Lake, UNICEF Executive Director. "This new partnership will help to establish clear principles for businesses to participate in the global effort to help all children, and especially those most in need."

The Principles will be based on the Convention on the Rights of the Child (1989) which spells out the basic human rights of children everywhere: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.

"Business has an enormous potential to impact children's lives," said Georg Kell, Executive Director of the UN Global Compact. "While much progress has been made in managing and mitigating impacts in areas such as child labour, workplace policies, childcare or responsible marketing, the Principles seek to address the broader responsibilities and commitments of



business towards children as one of their constituencies." Recognizing that to be effective, these principles must meet the needs of all stakeholders and that everyone has something to bring to the table, the three partners are appealing to business leaders from all sectors and geographic regions to participate in the consultation process and contribute their expertise to shaping the Children's Principles for Business.

"It is important that corporations step up and realise that they play a crucial role in children's lives," said Elisabeth Dahlin, Secretary-General of Save the Children Sweden. "The Children's Principles for Business will raise the expectations of business behaviour towards children. Many companies can do more than they do today."

The Principles will serve as a unifying framework and as a reference point for business initiatives concerning children. They will help elaborate Principles 1 and 2 of the UN Global Compact, which ask business to respect and support human rights and not be complicit in human rights abuses. The Principles will seek to be relevant and useful to all businesses, whether or not they are Global Compact participants.

The multi-stakeholder consultation begins on 25 June 2010, and it is hoped that the Children's Principles for Business will be launched in 2011.

Source: Joint press release UNICEF, the UN Global Compact and Save the Children.

LAW lexicon

Concurrent jurisdiction - The jurisdiction of two or more courts, each authorized to deal with the same subject matter.

Concurrent sentences - Sentences for more than one crime that are to be served at the same time, rather than one after the other.

Condemnation - The legal process by which the government takes private land for public use, paying the owners a fair price.

Conditional release - A release from custody which imposes regulations on the activities and associations of the defendant. If a defendant fails to meet the conditions, the release is revoked.

Conformed copy - An exact copy of a document on which has been written things that could not or were not copied, i.e., a written signature is replaced on the conformed copy with a notation that it was signed by the parties.

Consecutive sentences - Successive sentences, one beginning at the expiration of another, imposed against a person convicted of two or more violations.

Consent - Agreement; voluntary acceptance of the wish of another.

Conservatorship - Legal right given to a person to manage the property and financial affairs of a person deemed incapable of doing that for himself or herself.

Consideration - The price bargained for and paid for a promise, goods, or real estate.

Conspiracy - A combination of two or more persons formed for the purpose of committing by joint collaboration some unlawful act.

Constitution - The fundamental law of a nation or state which establishes the character and basic principles of the government.

Constitutional law - Law set forth in the Constitution of the United States and the state constitutions.

Consumer bankruptcy - A proceeding under the Bankruptcy Code filed by an individual (or husband and wife) who is not in business.

Source: Jurist International.

YOUR Advocate

This week your advocate is Barrister Omar Khan Joy of the Supreme Court of Bangladesh and Head of 'The Legal Counsel'. His professional interests include commercial law, corporate law, family law, land law, constitutional law, banking law, arbitration and intellectual property laws. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.

Reader's query

For the second time I feel a sense of fraud practiced upon me. I bought a laptop one year back. The seller told me that it would give a power back up for 4 hours. But from the beginning it gave support just for two hours or more. As of now the battery even does not give me support for a second. I have lost the warranty papers and the buying receipts as I was and am always an oblivious customer. Prior to this I bought a computer from elephant road market, which also betrayed with me and didn't give me proper service, used to hang during typing. So happens in buying CDs and DVDs, pen drives etc. I'm sick of buying all these things. How can we take actions against all these unfair business practices? Under which law and where?

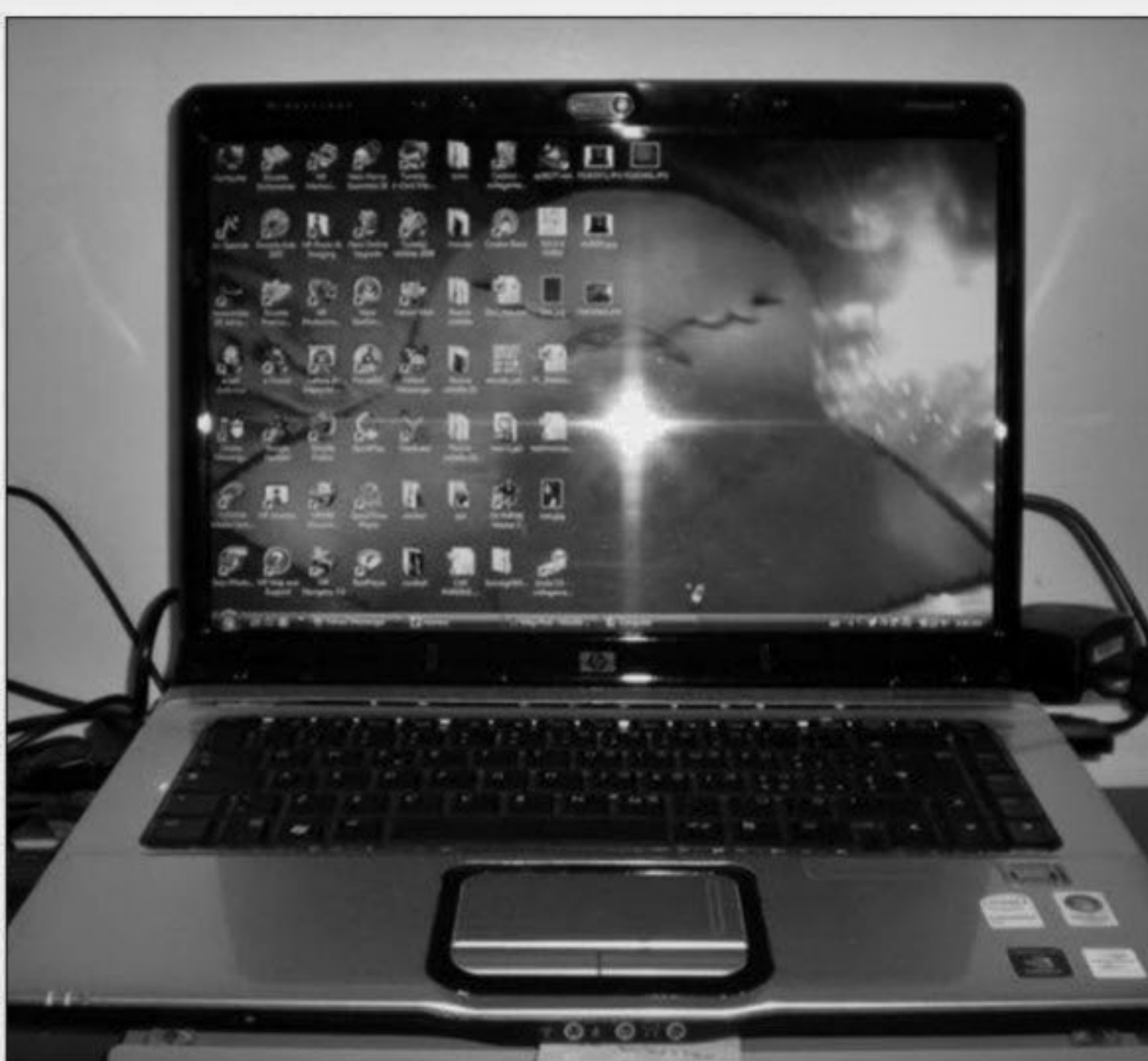
Rahad Kabir, Kolabagan, Dhaka

Response

I would like to thank you very much for asking me to provide my opinion regarding matters related to unfair business practices as stated in your query. It has been understood that the laptop that you have bought does not correspond with the descriptions given by seller and you are facing similar problems with many other electric equipment. This is unfortunately a very common phenomenon in our country where the market is full of fake and cheap products. I think at least all city dwellers have faced similar problems.

Of course there are legal avenues for redressal of your grievances. But, it is not always the wisest thing to seek formal legal remedies in such regular day-to-day matters. Though, it is certainly very important to be acquainted with your lawful rights so that if needed you can enforce them in the most appropriate manner. Consequently, before exploring the law, I am more inclined to give some practical tips, which may help the consumers to make them self protected. Prevention is certainly better than cure, isn't it? Self-awareness is particularly important in a country like ours where the process of seeking legal remedy is not very conducive to litigants.

Whenever you are buying an expensive electronic, the rule of thumb is to buy it only from an authorized shop. There are now-a-days many authorized dealers, franchisees and shops who sell the original products with proper warranty. In case you are not buying a popular brand item, even then you should go for those shops that will be ready to provide you with some kind of warranty. If, on the other hand, the consumers want to make very short time benefit by buying a prod-



uct by paying a relatively cheaper price where the seller does not provide any warranty, then it is understandable that the product is either fake or not of good quality. In such cases, it is more likely than not that the customer will soon face troubles of numerous kinds. So far as the warranty card or the invoice/ cash memo is concerned, it is important that you preserve it carefully at least during the warranty period. Without the production of any purchase document or warranty card, it may be hard to get a replacement or get it repaired. Though, you may request the seller to search in his sale record, but practically you may not force him. Regrettably, the business practice in our country has not yet developed in a consumer friendly manner and as such it is imprudent to expect any real support from the seller in case the warranty card is lost.

Having explored the practical sides let me briefly discuss the legal points. The Contract Act 1872 and the Sale of Goods Act 1930 provide the relevant provisions regarding consequences of the contracts of sale of goods.

The law provides that in case of any sale of goods, the goods in issue must correspond with the verbal or written description. If the features of the goods or its performance does not match with what has been stated then there is a breach of the terms of the contract. Furthermore, this is also likely to be termed as misrepresentation. The law said the goods must be of satisfactory quality and fit for the purpose. In case

where the goods are unsatisfactory, this may also be treated as a breach of contract. Your remedy will lie for breach of contract and for misrepresentation. If you want to go for legal action, it is prescribed that before going to the court, you should serve a legal notice through a lawyer asking your demand of compensation. In case where the legal notice remains unattended by the seller's side you may go for a suit in the appropriate civil court.

As far as the purchasing of CDs and DVDs are concerned, these items are mostly pirated. Thus, it is upon the owners to bring an action for the violation of Intellectual Property Rights in these items. I suggest you to purchase genuine CDs, DVDs (if at all available). In most of the cases, for these smaller items the vendor will simply change it in case of a glaring defect in it.

It may be mentioned here that the parliament has enacted the long awaited Consumers Rights Protection Act in April 2009 but unfortunately the necessary bodies under the Act has not yet been established. Once the proper implementation of the Act will start, the consumers may lodge their complaint within 30 days from arising cause of action to the magistrate with prior approval of relevant authority (for example from the DG of national consumers rights directorate).

I hope that the aforesaid guidelines shall help you to understand your queries regarding the issues of unfair business practices.

For detailed query contact omar@legalcounselbd.com.

LAW letter

Calling Hartal: Double standards and lawlessness

THE right to call a general strike (hartal) and to advocate on its behalf is a fundamental one that cannot and should not be abridged in a free society of laws. Forcing, threatening, intimidating others to join in the said general strike is, however, a different matter altogether. For the Bangladesh Nationalist Party (BNP) to call the hartal is fine and dandy; for it to 'enforce' it is criminal. Sadly, the government of the

did in forcing hartals upon people during its stint in the opposition. I suspect the gentleman's tune will change very quickly once his party is in the opposition again.

Yes, when it comes to hartals, the body politic in Bangladesh is steeped neck deep in sheer hypocrisy. Both major parties oppose hartal when in power and support when in opposition. Major businessmen oppose it in principle but pour

lengthy editorials about loss of life and property but dare not make a firm statement that tells the blunt truth: forcing someone to follow a hartal call is as undemocratic, criminal and illiberal as it can get.

Enforcing hartals is about cowardice. If the hartal callers truly believed that the people were for them, they would have no need to send out thugs to force people. And those pickets are exactly that, thugs, no matter what kind of euphemisms like activists, workers, student leaders, and youths we use for them. It does not take a sophisticated pollster to realize that a vast majority of ordinary Bangladeshis are sick and tired of hartals and its twin, 'student politics'. Such politics of agitation cost lives and keep us back from progress in education, business, and industry. It seems the aging intellectual class of the country remains ossified in its 20th century mindset of street politics and hence unable to come to terms with the idea that individual rights matter, even when those rights are being violated by someone other than the government of the day.

This is the twenty first century where dormitory brawls and violent picketing have no place in a modern democratic republic. It would appear that the intellectuals and major political party leaders of Bangladesh simply do not belong to this century. The sooner they go into professional retirement the better it would be. A hartal culture is not going to get us to being an Asian tiger or whatever the new watchword is for rapid progress.



day has little credibility on the issue as the ruling Awami League's (AL) record of 'enforcing' violent hartals is no different from that of the current Opposition. In a rare moment of candor, one of the AL's own presidium members admitted that it was wrong of his party to act in the way it

millions of takas in the coffers of parties whose vandal 'activists' routinely use hartals to assault innocent people and burn property. Intellectuals bemoan the violence of hartals but are too cowardly to confront their party patrons to reign in their activists. Newspaper editors write

Esam Sohail, MA, MBA
Educational research analyst
Kansas, USA

LAW week

Jamaat trio linked with glut of cases

Jamaat-e-Islami Ameer Motiur Rahman Nizami, Secretary General Ali Ahsan Mohammad Mahjib, and Nayeab-e-Ameer Delwar Hossain Sayedee were shown arrested in a slew of cases including four in connection with car crimes. They were also remanded for 16 days each. The move came a day after they had been arrested for failing to appear in a Dhaka court in connection with a case of hurting the religious sentiment of the country's Muslims. The court however granted the three Jamaat top brass bail in that case. Meanwhile, law enforcers arrested at least 100 leaders and activists of Jamaat and allied student organisation Islami Chhatri Shibir from different parts of the country, for putting up road barricades, burning of tires, and bringing out marches protesting the arrests of their leaders. - The Daily Star, July 1, 2010.

Law soon to stop yellow journalism

The government is actively considering enacting a law to stop "yellow journalism," Information Minister Abul Kalam Azad told the House. Replying to lawmakers' queries, he said the government will also actively consider specifying previous experience of an individual for being an editor of a newspaper if it gets any proposal in this regard. Ruling Awami League lawmaker ABM Anwarul Haq in a scripted query said land grabbers and state wealth looters are becoming editors of newspapers to use journalist community to safeguard their wealth. This trend is increasing gradually, he observed. The AL lawmaker wanted to know whether the information ministry will move to make it mandatory that an individual must have 15 years' experience in journalism to become an editor of a newspaper. - The Daily Star, July 1, 2010.

No registration no permission

Private land developers and real estate companies, who are not registered with Rajdhani Unnayan Karttripakkha (Rajuk), will not get its approval for developing plots and constructing apartments from July 1. Only nine, out of 728 members of Real Estate Housing Association of Bangladesh (REHAB), have so far applied for registration in prescribed forms as the authority made it mandatory before June 30, officials said. They said there are around 1,500 other private companies, who are neither members of REHAB and nor affiliated with Rajuk. The capital development authority asked private land developers and real estate companies to get enlisted with it as per the Dhaka Metropolitan Building (construction, development, preservation and removal) Rules, 2008. - The Daily Star, June 30, 2010.

Another 'custodial' death

A CNG-run auto rickshaw driver was killed when he ran from police custody and fell on the street in the city's Moghbazar, claimed police. However, the family had different story to tell. The dead was identified as Babul Kazi, 40, of Modhubagh area in the city. The victim's family members alleged that Bab seized two CNG-run auto rickshaws, which Babul took on hire. They also alleged that Sub-Inspector (SI) Altaf Hossain of Ramna Police Station demanded Tk 2 lakh in exchange of returning the auto rickshaws.

They said Babul gave SI Altaf Tk 70,000 in two installments last week. When he refused to give rest of the money, Altaf and his colleagues beat him to death, they alleged. - The Daily Star, June 30, 2010.

Govt readies reform recipe for bureaucracy

The government is planning a thorough reform of the civil administration in a bid to rout out political partisanship, and to cut down administrative cost. The move will be made under the Civil Service Act 2010, a draft of which is now getting the final touches from a high-powered committee headed by Cabinet Secretary M Abdul Aziz. The committee was formed under direct supervision of Prime Minister Sheikh Hasina, who asked it to submit the draft to her. Currently civil service officials and employees are guided by a plethora of disjointed rules and regulations instead of a comprehensive law which, the incumbent government believes, is the reason why partisanship was able to creep into the ranks and files of the country's civil administration. - The Daily Star, June 29, 2010.

JS committee not happy

A parliamentary body opposed the government getting sweeping authority to issue licences to telecom- and ICT-based entrepreneurs and make financial and policy decisions in the sector by curtailing the BTRC's jurisdiction. Post and Telecommunications Minister Raziuddin Ahmed Razu on June 13 placed a bill in parliament seeking to bring some amendments to the Bangladesh telecommunications act. It proposed that the authority to issue licences, make financial and policy decisions should rest with the government not the BTRC, which now enjoys the privileges exclusively. The Bangladesh Telecommunications Regulatory Commission (BTRC) would issue licences on prior approval of the government, the bill proposed. - The Daily Star, June 29, 2010.

Member Prof Gias replaced

The government has cancelled the appointment of Prof Giasuddin Mollah as a member of the recently constituted National Human Rights Commission (NHRC). Dr Giasuddin, a professor of the department of political science of Dhaka University (DU), was appointed as an honorary member of NHRC along with five others on June 22. But a law ministry press release said that President Zillur Rahman has appointed Nirupa Dewan, a retired headmistress of Rangamati Government High School on June 24, to the post of honorary member of NHRC, by replacing Giasuddin Mollah. - The Daily Star, June 28, 2010.

Black law always boomerangs

A legal weapon introduced by the last BNP-led government in 2002 for use against Awami League is likely to be a boomerang for them when they take to the streets to enforce hartal. In the face of strong protest from the then main opposition Awami League, the erstwhile BNP government in October, 2002, made a law titled "The Law and Order Disruption Offence (Speedy Trial) Act". The then main opposition had then termed it a black law and accused the BNP-led government of suppressing the opposition agitations. The then BNP government rejected the opposition's allegations and deployed law enforcement agencies to thwart hartals. It also extended the term of the act after expiry of its first two years' term. A large number of cases were also filed against the then opposition leaders and activists under the speedy trial act for their activities during hartals. - The Daily Star, June 27, 2010.

Dear reader,
You may send us your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those. Please send your mails, queries, and opinions to: LawDesk, The Daily Star 19 Karwan Bazar, Dhaka-1215; telephone: 8124944, 8124955; fax 8125155; email: dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net