

"ALL CITIZENS ARE EQUAL BEFORE LAW AND ARE ENTITLED TO EQUAL PROTECTION OF LAW" -ARTICLE 27 OF THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH

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FROM sugar to steel, an endemic problem haunts cash strapped consumers of today; an exorbitant and uncontrolled hike in price on a daily basis. Ordinary citizens are generally seeing this as the first and foremost failure of the Grand Alliance government, who rode the wave of public discontent over the last government's failure to control price and formed government with mammoth mandate.

In the 1990s when Bangladesh finally embraced the free market with full zeal, all the hopes of regulation were rested on the "self-regulating" nature of the market. This hands off, free style approach was convenient for the policy makers. From governance point of view, whatever the problem, be it price hike or defective products, they could have blamed them on to the market and left to be self-regulated. It never occurred to them that for an immature, weak, and asymmetrical emerging market economy, absence of any regulation would ultimately harm the objective of the free market, that is consumer welfare. Eventually, with a peripheral and weak government, an infrastructure and information poor disconnected geography and population, and with access to power and financial credit sporadic and limited to a few, syndicated price fixing and practice of manipulating the market has become real and the norm.

Considering the existing legislations on regulating price of essential commodities and market regulation, they are not only outdated but also out of context. There is no agency or enforcing authority to investigate and prosecute activities for malpractice. Statutory definitions of offences related to market manipulation are sporadic and exist in such a vague manner that there has not been any successful prosecution in the last twenty years. The two relevant legislations The Control of Essential Commodities Act, 1956 and The Essential Commodities Act 1957 are so outdated and beyond the scope of modern economy that not surprisingly, they have never been used. These Acts are all about establishing the government's control over commodities trading and have no scope of appreciating supply and demand dynamics leading to competition to determine optimum price level. The acts are mostly about prohibition and are very typical of a country in transition. Another much touted law in relation to this is the Consumer Protection Act 2009. This Act is mostly about product safety, product quality and ensuring consumer rights thereof.



Maintaining the market equilibrium



The most relevant and yet never utilised legislation in this matter is The Monopolies and Restrictive Trade Practices Ordinance, 1970. Although a Pakistan era ordinance, technically this has become part of our rulebook since 1971. It has never been invoked in any prosecution neither has it had any noticeable attention from the policymakers. Interestingly Pakistan, the original initiator of this ordinance had a functioning Monopoly Control Authority MCA to enforce this ordinance. The MCA is now a specialist quasi-judicial body, Competition Commission of Pakistan. Looking at our neighbouring country India, it has, arguably the most advanced regulatory framework in the sub-continent. Out of several agencies that are authorised to monitor market, Competition Commission India sits at the core. It is an independent organisation mandated by an act of parliament working in supervisory, investigative and judicial capacity. It has now become a cornerstone of regulatory authorities around globe setting precedence in regulating a transition economy. Besides Competition Commission, India has Tariff Commission, Food Corporation of India and other agencies with their defined jurisdiction intervening where it is necessary and suggesting policy to government where there is scope to do so.

It is interesting to note the Awami League in their election manifesto had management of market and price con-

trol issues as their first agenda. The 2008 Election Manifesto "A Charter for Change" reads, point 1 (i): Commodity Price Hike: Measures will be taken to reduce the unbearable burden of price hike... A multi-prong drive will be made to control prices along with monitoring the market. Hoarding and profiteering syndicates will be eliminated. Extortion will be stopped. An institution for commodity price control and consumer protection will be set up. Above all, price reduction and stability will be achieved by bringing equilibrium between demand and supply of commodities."

This was indeed a visionary suggestion that recognises market failure and syndicated practices that are endemic in the country. It recognises the significance of demand and supply factors and the need for maintaining the equilibrium thus keeping the market competitive and conducive to consumers. Above all this key promise specifically suggests an institutional solution to the problems, that is, creation of an agency for market monitoring and regulation. Two years have passed since the government has taken oath, sadly the very first promise seems to be most neglected one.

At present in Bangladesh, deployment of law enforcement agencies against perceived manipulators seems to be the only measure for regulating the market place. Often the government seems to rely on media reporting and civil society reactions. Actions thereof are often

based on subjective observation by unrelated policy makers at different levels. One recent example would be cancellation of "Delivery Order" (DO) system in Oil and Sugar trading. It has been replaced with Dealership system as an attempt to stop price rise. No empirical or coordinated study has been done before abruptly bringing this structural change. Setting aside some of these sporadic knee jerk reactions, the sad reality is, due to absence of legislation or authority there has not been a single case of conviction or prosecution for malpractice. If a group of businessmen decide to fix the price of any commodity either by implicit conduct or in agreement, except social, political and arbitrary pressure of the state no lawful action could be taken against them.

As a first step towards delivering on the first promise of the Charter for Change it is now imperative that the policymakers start to hold wide ranging consultation with all the stakeholders; lawyers, economists, business leaders, and consumer groups. The proposed agency created through a due act of parliament cannot be a talking shop or a harassing organ of the state. It has to have investigative and prosecution wing, for self-initiated investigation and allowing private citizens to file cases. It needs to have an inquisitorial approach whereby it will commission expert panels to file their findings in an independent adjudication and appellate specialist tribunal comprising of judicial and academic members empowered to take punitive actions. This agency could also have an expert advocacy panel that will look into specific markets and suggest relevant policy actions to government to withstand adverse times and protect consumers.

In this age of limited public sector and growing liberalisation there is no alternative to building effective regulatory agency. Governments in both the developed and developing world have increasingly taken the role of a "referee" in the free market where they oversee whether the players are abiding by the rules and ultimately consumers are being benefited. In our transitional economy we are in dire need of legislations leading to creation of effective regulatory body and legislative framework. Despite having been promised of a market monitoring and regulation agency deliverance in this key electoral promise remains far from reality.

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Support human rights defenders

HUMAN rights defenders expose violations and campaign for redress for victims. They are the people who on their own or with others take action to ensure the promotion and protection of human rights for all. The important thing is not who they are, but what they do. Human rights defenders take peaceful action and believe everybody has equal rights. Supporting the rights of human rights defenders is one of the most important ways to ensure human rights for all.

Human rights defenders include:

- Journalists exposing human rights violations
- Community workers teaching human rights education
- Trade unionists defending workers' rights
- Women working for the promotion of reproductive rights
- Environmentalists highlighting the impact of development projects on Indigenous Peoples land rights
- Human rights defenders are individuals, groups of people or organizations who promote and protect human rights through peaceful and non-violent means. They:
 - uncover violations
 - subject violations to public scrutiny
 - press for those responsible to be accountable
 - empower individuals and communities to claim their basic entitlements as human beings.

Throughout history, courageous and visionary people have sought to extend the boundaries of human rights protection to those outside its boundaries, whether it is those living in slavery, workers unprotected against exploitation or women denied the vote.

Today, despite international laws that protect them, human rights defenders are needed all over the world to monitor and challenge abuses and violations.

Because of this work, human rights defenders face a range of challenges. In many countries they are:

- subjected to death threats and torture
- persecuted through the use of the judicial system
- silenced by restrictive laws
- disappear or are murdered.

This is why human rights defenders need our support.

SOURCE: AMNESTY INTERNATIONAL. COMPILED BY LAW DESK.



World report 2011: A facade of action

THE RAB acknowledges that its officers have killed at least 622 people since the force was established in 2004. But in press statements, the RAB has claimed that the victims were shot and killed in "crossfire" after their accomplices opened fire on the force. The home minister has also supported the claim that RAB officers who have killed were acting in self-defense. In a worrying development, the police appear to have increasingly adopted the RAB's extrajudicial methods, and several hundred killings have been attributed to the police force in recent years. Investigations by human rights organizations regularly find that victims were executed while in RAB custody. The bodies of the dead often bear marks of torture, and many survivors of RAB custody have repeatedly alleged ill-treatment and torture. The chairperson of the National Human Rights Commission recommended in December 2009 that all allegations of RAB killings be investigated by an independent commission of inquiry. At this writing the government has taken no action on this, and not a single member of the RAB has been criminally prosecuted for involvement in torture or killings. In one abortive attempt at justice, the High Court issued a suo moto ruling calling on the govern-

ment to explain why action should not be taken against the RAB officers responsible for the "crossfire" killing of Lutfar and Khairul Khalashi in November 2009. However, before a ruling could be issued, the relevant judicial bench was reorganized and the case has not since been heard by the court.

Harassment and intimidation of Apparel Industry workers

In 2010 the government continued to severely restrict the work of trade unionists pressing for an increase in the minimum wage. On June 3 the government's NGO Affairs Bureau suddenly revoked the operating license of the Bangladesh Centre for Workers Solidarity (BCWS), a group with ties to international trade union and labor rights groups and representatives of foreign clothing brands sourcing from Bangladeshi factories.

In July the government raised the monthly minimum wage for garment workers from 1,662 to 3,000 taka (US\$24 to \$43). Workers contended that the increase was inadequate to meet the rising urban cost of living. On July 30 and 31, as they have often done in the past, angry garment workers took to Bangladesh's streets. They blocked roads and damaged factories and other property. Government security forces responded with force,

injuring scores of protesters.

On July 30 the government accused Kalpona Akhter, Babul Akhter, and Aminul Islam, the direc-

The Bangladesh government has not yet stopped torture and extra-judicial killings and there is no end of systematic human rights abuses

tors of the BCWS, of inciting workers to protest, which the directors denied. Babul Akhter later alleged that on the night of August 28, he was beaten in custody. Kalpona and Babul Akhter were released on bail in September and are awaiting trial at this writing. Islam, who had man-

aged to escape police custody after being detained and allegedly physically abused by the police in June, remains in hiding.



COURTESY-HUMAN RIGHTS WATCH

Impunity In 2010, members of the security forces regularly escaped accountability for killings, acts of torture, and illegal detentions. Several legal provisions effectively shield members of the security forces and other public officials from prosecution by

requiring government approval for criminal actions to be initiated.

Military and police regularly employ torture and cruel, inhuman, or degrading punishment against detainees, despite constitutional guarantees against torture and Bangladesh's ratification of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The government failed to investigate the causes of numerous deaths in custody, and there was little action to hold accountable those responsible for the deaths of alleged mutineers from the Bangladesh Rifles border force.

In 2009 the parliament passed amendments to the International Crimes (Tribunals) Act of 1973 in order to bring to trial those responsible for human rights crimes in the war of 1971, but the law still falls short of international standards. Five members of Jamaat-e-Islami, a religious right-wing political group alleged to have collaborated with Pakistani forces, were in 2010 charged with war crimes, including genocide, and at this writing are awaiting trial before a special war crimes tribunal established in March to investigate crimes committed during Bangladesh's battle for independence four decades ago.

Women's and Girls' Rights Border Killings

According to Odhikar, a Bangladesh human rights monitoring group, at least 930 Bangladeshi nationals were killed by India's Border Security Force between the year 2000 and September of 2010. A number of Indian nationals have also been killed by Indian forces deployed at the border.

Acute poverty and unemployment prompts millions of Bangladeshi nationals to cross the border into India in search of jobs and commerce. While some of those killed are engaged in smuggling goods and contraband, Indian border forces systematically use lethal force without justification. Bangladeshi authorities have repeatedly complained about killings of Bangladeshis, as have human rights groups in both countries. Bangladeshi Home Minister Sahara Khatun in May 2010 said that she would again ask officials in New Delhi, India's capital, to stop these incidents. Indian authorities declared that their forces have been instructed to exercise restraint, but there was little sign of progress in ending violations during 2010.

SOURCE: HUMAN RIGHTS WATCH. THIS IS THE ABRIDGED VERSION OF THE WORLD REPORT, 2011.