

## **MURDEROUS TRADERS NEED FOR A LAW FOR PROTECTION OF CONSUMERS**

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### **I. Introductory:**

A few year back in a seminar at the Sonargaon Hotel organized probably by the Consumers Association of Bangladesh to discuss the pros and cons of and the need for a law for protection of consumers in Bangladesh, the then Commerce Minister, (incidentally who also happened to be an industrialist), beside whom I was sitting on the podium, remarked, “In an underdeveloped country like Bangladesh what we need is not a law for protection of consumers but a law for protection of producers”

I was a bit harsh in responding but said softly, “Mr. Minister, kindly don’t mortgage your reason and conscience to your office and kindly do not look at everything with only one eye as the party the blessings of which you enjoy has desired you to do. Don’t forget that every producer is also more a consumer than a producer. A producer may produce one or two or at best a dozen products but he has to consume hundred and one products on which even his very existence in this Mother Earth may depend.”

Baffled, and a fine gentleman as he had been, he did not retort and try to fight out his point of view which was obviously erroneous without a shadow of doubt.

### **II. Background of the Concept of Consumer Protection:**

Ralph Nader, an American, was born in 1934 in Winsted, Connecticut and was educated at Princeton and Harvard Universities. He became a lawyer and was twice a candidate for the U.S. Presidential office in 2000 and 2004 respectively.

The concept that the consumers of all categories need protection against dishonest traders first entered into his head when car manufacturers in the United States began to manufacture and market cars of questionable quality in mid-1960. He produced a booklet named ‘Unsafe at any Speed’ in 1965 and a revised edition thereof in 1972. This booklet provided the primary impetus for the National Traffic and Motor Vehicle Safety Act, 1964, passed by the U.S. Congress and signed into law by President Johnson on 9 September 1966. In brief, the Act provided for the creation of the National Traffic Safety Agency within the Department of

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Commerce. The Agency's function would be, in collaboration with the government, industry and academic experts, to assist the Commerce Secretary in establishing minimum safety standards for motor vehicles. The implementation of the Act ensured manufacture of motor vehicles in the United States and also import of such vehicles maintaining all possible safety standards. Possibly, the use of seat belts is, among many other measures, one of the results of the Act.

Nader then diverted his attention and efforts to other areas of consumer interests. One of them was environmental pollution endangering human life and public safety. He launched an attack on the atomic energy plants pointing out the danger involved in these plants. Other issues were health hazards in food, medicine, occupations, and fraud played by the large companies on the consumers by displaying attractive advertisement of their products although the products were really sub-standard or even unfit for human consumption. He also attacked the secrecy enjoyed by the companies in the materials used in, and the method of production of, their goods on the ground of protecting their patent right. He demanded transparency in production and condemned the immunities enjoyed by the companies. The immediate result was the enactment of the Wholesome Meat Act, 1967.

Nader now became a leader of the consumer protection movement. He organized investigative teams of young lawyers, consumer specialists and students known as 'Nader's Raiders', to conduct surveys of numerous companies, federal agencies and even the U.S. Congress.

He formed Green Party and contested the U.S. Presidential election in 2000 under its banner. His party sought the verdict of the U.S. electorate on two issues: (a) attack on the corporate power; and (b) protecting the environment; but, secured only 3 percent votes of the American voters.

Many enactments followed one after the other thereafter and various departments were set up to look after the rights of the American consumers. This law gave new impetus to safety measures pertaining to such products as automobiles, drugs, tyres, toys, food and textiles. A White House Office of Consumers Affairs headed by Virginia H. Kauner was to channel consumer complaints, foster consumer representation in government, assist in consumer education and press for consumer legislation law All these were possible because of pressure created by Ralph and his Raiders and public awareness built up by them against mal-practices of the traders. Various consumer protection groups also grew up and played effective roles in protecting the rights of consumers.

Nader's movement for consumer protection and enactment of appropriate law thereafter spread throughout the world and led to the enactment of laws for protection of consumers in many countries.

### **III. Does Bangladesh need a law for consumer protection:**

Bangladesh had and still does have some laws scattered hither and thither which aim at giving protection to consumers. These laws mainly contain penal provisions providing for penalizing mal-practice in trade and commerce.

Some of these laws were enacted even hundred years back and some are recent. But, all these enactments, rules, etc. provide for punishment for certain types of offences committed by traders, such as, adulteration of food products, semi standard drug products, and supplying underweight goods to (consumers) etc. But, there is no comprehensive law for consumer protection in respect of all types of goods produced for consumption and all types of services rendered to the consumers. There is also no comprehensive law for compensating the consumers for the sufferings and loss incurred from consumption of defective and dangerous goods and taking inefficient, neglectful and sub-standard services of all kinds on payment of considerable consideration.

All the countries of the world have now comprehensive laws for protecting the consumers from the previously prevailing compulsion of consuming unwholesome and sub-standard goods and services and these laws have, contrary to the fallacious belief of the former Commerce Minister of Bangladesh whose comments have already been mentioned above, instead of retarding industrial development, led to booming economic growth and development of industry, trade and commerce. The enactment of the Consumer Protection Act, 1986 (Act 68 of 1986) did not create any slump in trade, commerce and industry in India. On the other hand, this Act immediately resulted in quality control in products as well as services of various kinds which in turn increased consumers interests in, and more consumption of, local products and taking local services, instead of running like Bangladeshis for foreign goods and also running to Singapore, Bangkok, Kolkata, Delhi or Channai for medical treatment. The Indian Act 68 of 1986 is a comprehensive law and has been giving very satisfactory results. The efforts of the Consumer Association of India in raising awareness of the people of their rights and of taking recourse to the various provisions of the Act in cases of violation of their rights as consumers have added to the efficacy of the Act.

The Commerce Minister's comments begs the question whether in our country we really need any law for protecting the consumers with regards to goods produced and services rendered by the producers.

Although belated but the most welcome move by the government during the last few weeks to launch drive against the eating houses of all categories and the stark real conditions prevailing in these even apparently posh eating houses as disclosed in those drives is a complete answer to the stand of the former Commerce Minister and all those who subscribe to his views. These drives have conclusively established that this country immediately needs a law for protection of the consumers, because, the current drives which are going on cannot be continued for months and years together. Secondly, the actions currently taken can only punish the wrongdoers but cannot compensate a consumer who has undergone sufferings for sub-standard goods or after taking sub-standard services provided to him by dishonest (traders). Consequently, a legal framework for compensating the victims of dishonest traders and at the same time, to bring the dishonest, rather murderous, traders to book is necessary.

#### **IV. Salient features of A Law for Consumer Protection in Bangladesh:**

Apart from the preliminaries, which should include the short title, commencement, definitions, etc. the law should provide for –

- (a) Establishment of a council at national level which should be broad-based and should lay down policies for protection of the interests of consumers;
- (b) Forums for resolution of disputes at the following level;
- (c) National level; and
- (d) District level.

The law is required to lay down the respective pecuniary jurisdictions of the national forum and the district forum. The territorial jurisdiction of the national forum must necessarily be the whole of Bangladesh, whereas, the territorial jurisdiction of the district forum shall be confined within the district. One forum may also be vested with territorial jurisdiction over more than one district or more than one forum may be established in one district according to the number of complaints filed. The original pecuniary jurisdiction of the national forum should be unlimited and the pecuniary jurisdiction of the district forum should be up to a certain amount. In addition to original jurisdiction, the national forum may be vested with powers to hear and decide appeals from the decisions of the district

forums. The appeals from the decisions of the national forum should lie to the High Court Division.

The law is required to lay down the procedures to be followed by the forums while deciding complaints from consumers.

The composition of the national and district forums must also be spelled out in the law.

The forums may be vested with powers to grant compensation under pains of penalty in case of failure to comply with their orders to this effect and in other respects. The forums may also be vested with powers to grant certain other related reliefs including the power to give direction to the opposite party to –

- (a) remove the defect pointed out by the appropriate laboratory from the goods in question;
- (b) replace the goods with new goods of similar description which shall be free from defect;
- (c) return to the complainant price of goods, or, as the case may be, the charges for services paid by the complainant;
- (d) pay such amount as may be awarded as compensation to the consumers for any loss or injury suffered by the consumer due to the negligence of the producers;
- (e) remove the defects or deficiency in goods or services in question;
- (f) discontinue the unfair trade practice or the restrictive trade practice as may be defined in the definition clause and from repeating them;
- (g) not to offer the hazardous goods for sale;
- (h) withdraw the hazardous goods from being offered for sale and;
- (i) provide for adequate costs to the parties.

In addition, certain expressions to be used in the Act have to be defined

Lastly, in the miscellaneous part of the law provisions will be required to be made for certain related miscellaneous matters.

## **V. Conclusion:**

The immediate need for a law for protection of the consumers from primarily profit-seeking and murderous traders in goods and services cannot be overemphasized. But, the political will to do so is significantly absent because of vested interests of a handful of people who frame, dictate and decide government policy.

To my knowledge, the Consumer Association of Bangladesh (CAB) has been trying for several years to convince the government of the dire necessity

for coming forward to save millions of people inhabiting this country. In vain, of course.

Also to my knowledge, as back as in 2000, on the initiative of the then Commerce Secretary, Government of Bangladesh, Mr. Alamgir Faruque Chowdhury, the Law Commission prepared a detailed report along with a draft of the Act for consumer protection. Two governments have since been in power during this period of five years. It appears that both the governments have binned the report and the draft Act prepared by the Law Commission forever.

Now the only alternative before us is to appeal to Almighty Allah for saving us from murderous traders and their political patrons.