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'A' offered 'B' through facebook to enter into a contract and 'B' accepted the offer. Is it a valid contract? The Contract Act, 1872 is silent regarding facebook, twitter, email or any other modern mode of communication.

If we analyse section 4 of The 1872 Act, it covers all modes of communications along with facebook, email. Section 4 signifies that "the communication of an acceptance is complete as against the proposer, when it is put in a course of transmission to him, so as to be out of the power of the acceptor and as against the acceptor, when it comes to the knowledge of the proposer". Here it is said to put in a course of transmission but no specific transmission is mentioned; so it includes all kinds of transmissions even email and facebook. Though email or facebook communication is within the purview of section 4, no specific rule is constituted whether postal rule or rule of instantaneous communication will be considered same as email and facebook contract.

If someone sends a message through facebook or email and opposite party replies instantly it seems to be instantaneous communication. In contrast, if a person sends a message through email or facebook-chat messenger but opposite party does not reply instantly; then it seems to be non-instantaneous communication in nature. Analysing the nature of email and facebook communication, it seems to be instantaneous as well as non-

Dealing with modern modes of communications

instantaneous communication.

Now, the question arises what rule of communication should be applied, whether rule of instantaneous communication or postal rule? India and USA constituted

it enters a computer resource outside the control of the originator and the receipt would occur in the case of e-mail when the message enters the addressee's electronic mailbox; so contract is complete when the

Bangladesh? In pursuance of the *Entores Ltd v Miles Far East Corpn* [1955] EWCA Civ 3, if we categorise email or facebook communication as instantaneous communication i.e. telex, telephone, fax; the contract is


when the acceptance comes to the knowledge of the proposer, the common practice is we follow English law Under *Kmissetti Subbiah v Katha Venkataswamy* [1903] and contract is complete when the acceptance is sent.

Considering the nature of facebook and email communication we should apply rule of instantaneous communication as well as postal rule as it is mentioned earlier that nature of instantaneous communication and postal rule are existed in these modern modes of communications. When the nature of initiation of negotiation is instant, the instantaneous communication should be applied whatever the nature of completion of the negotiation and contract is complete when acceptance comes to the knowledge of the proposer. But when the nature of negotiation is not instant, the postal rule should be applied and the contract is complete when the acceptance is sent and gone beyond the control of the acceptor. If it is instant nature the offeror has option to revoke the contract before the acceptance coming to his knowledge and in non-instant contract, the offeror has enough time to revoke the proposal before the acceptance is sent.

To have a more effective and reliable communication rules, we need to implement a specific law to resolve disputes arising out of the contract made by modern modes of communications.

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LAW OPINION

Teesta water rights and INTERNATIONAL LAW

MD. KAMRUL HASAN ARIF

It has been argued that water shall become a major source of conflict in the 21st century. The world's most utilised trans-boundary watercourses are located in Asia. More than 400 treaties apply to various aspects or forms of trans-boundary water sources. The most important legal rule of this body of law is the principle of "equitable and reasonable use" which encompasses both a right and a duty to use an international watercourse in an equitable and reasonable manner.

The Teesta River is a non-navigable and trans-boundary water resource. Teesta River flows through three states in two countries, originating in Sikkim, and flowing through West Bengal and finally merging with Brahmaputra River in Bangladesh. Teesta is one of the important rivers in Bangladesh and also the major source of water for agriculture. In Bangladesh, directly and indirectly more than 20 million people who are highly dependent on its use for domestic and agricultural consumptions.

The Joint River Commission (JRC) was a bilateral working group established by India and Bangladesh in the Indo-Bangladesh Treaty of Friendship, Cooperation and Peace that was established in 1972. As per the treaty, the two nation's works for the common interests and sharing of water resources. The JRC contributed directly to the efforts of both nations to resolve the dispute over the Sharing of Ganges Water, facilitating bilateral

agreements in 1996.

The Trail Smelter Arbitration stated that, "no State has right to use or permit the use of its territory in such a manner as to cause injury to other territory". In 1949 ICJ decision in the Corfu Channel case, confirmed the principle of State responsibility for acts contrary to



reasonable manner. And States shall participate in the use, development and protection of an international watercourse in an equitable and reasonable manner." Article 7 clearly stated that, "Watercourse States shall, in utilising an international watercourse in their territories, take all appropriate measures to prevent the

the use of the waters for any beneficial purpose or to the living resources of the watercourse.

The Teesta has been negotiated for several times, and along the way different arrangements have been proposed. In July 1983, India and Bangladesh entered into an ad hoc agreement which stipulated that 36 per cent of the Teesta water would go to Bangladesh while 39 percent would be India's share. However, the agreement was not implemented. In 2010, the JRC at the ministerial level of the two countries decided to sign an agreement on Teesta water sharing by 2011 and for that purpose, a draft agreement was exchanged between the parties. The draft stipulates that India and Bangladesh would each get 40 percent of the actual flow; keeping 20 percent reserved as environmental flow. However, the CM of West Bengal opposed the agreement and argued that the state needed to give its consent to the central government prior to any agreement with Bangladesh.

Teesta water is an absolute right of Bangladesh, which is recognised by many international instruments and customary international law. Earlier, Indo-Pakistan Krishenganga water sharing disputes was settled under the World Bank as a third party. Now it is high time for Bangladesh to seek remedy by such kinds of international Organizations and International courts.

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Joining together to fight against trafficking

Persons (Trafficking in Persons Protocol).

UN Secretary-General Ban Ki-moon in his Message regarding this year World Day against Trafficking in Persons 2015 said that around the world, criminals are selling people for profit. Vulnerable women and girls form the majority of human trafficking victims, including those driven into degrading sexual exploitation.

Trafficked persons are often tricked into servi-

passports, forced into debt and exploited for labour. Children and young people can find their lives stolen, their education blocked and their dreams dashed. It is an assault on their most basic human rights and fundamental freedoms.

Criminal trafficking networks thrive in countries where the rule of law is weak and international cooperation is difficult. I call on all countries to fight money laundering and sign and ratify the UN Conventions against corruption and transnational organised crime, including the latter's human trafficking protocol.

We must also provide meaningful assistance to those in need, including protection and access to justice and remedies I applaud the donors who have enabled the UN Voluntary Trust Fund for Victims of Trafficking in Persons Fund to assist thousands of people. At the same time, I urge greater contributions to help the many million other victims of this crime move forward with their lives.

Every country must join together to overcome this transnational threat by supporting and protecting victims while pursuing and prosecuting the criminals. On the World Day against Trafficking in Persons, let us resolve to act as one in the name of justice and dignity for all, he urged.



Have a heart for victims of human trafficking



country of origin, transit or destination for victims. UNODC, as guardian of the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocols thereto, assists States in their efforts to implement the Protocol to Prevent, Suppress and Punish Trafficking in

tude with the false promise of a well-paid job. Migrants crossing deadly seas and burning deserts to escape conflict, poverty and persecution are also at risk of being trafficked. Individuals can find themselves alone in a foreign land where they have been stripped of their

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Education is our right and not a commodity

Like other ordinary days, I was reading the newspapers and my eyes stucked into news that government has proposed to levy 10 percent VAT on private universities, private medical and engineering colleges.

When we were taught about human rights, we came to know about need based approach, charity based approach and rights based approach to secure rights. All these three approaches are considered as the mechanisms for a modern nation state to run its daily affairs.

Now, the question is which approach should the state follow while ensuring human rights to its citizens? Need based approach is a temporary solution that are followed during emergency time usually. Charity based approach is a kind of top down approach which often undermines the people as a source of all the power in a democratic state. But the Rights based approach always says that the State or the government shall respect and abide by the internationally settled norms and principles of human rights in each and every decision of the State. In this sense, the State cannot adopt any rules or regulations that hamper or curtail enjoyment of any right. People are empowered to demand for

Following our Constitution and UN Charter (Bangladesh is signatory to it), it is clearly evident that Bangladesh is not only bound to respect the "Rights Based Approach", but also is bound to promote



and implement internationally settled principles and norms of human rights in every sphere of the State affairs. That is why; right to education under the Article 26 of the Universal Declaration of Human Rights and Article 13 of the International Covenant of Economic, Social and Cultural Rights (ICESCR) should be followed by Bangladesh government as well.

Unfortunately, according to our Constitution, "Right to Education" is neither considered as a fundamental human rights and nor it has any judicial enforceability, which means we cannot approach to a regular court if my right to education is curtailed or if any decision taken which is detrimental to the enjoyment of it. According to the article 15 of our Constitution, it is merely known as "basic necessities" and State will take effective measures to promote educational needs of the society under the Article 17. But, according to Article 8(1) of the Constitution, these principles in Article 15 and 17 shall be applied by the State in the making of laws and shall be a guide to the interpretation of the Constitution and of the other laws of Bangladesh. Moreover, if we take the essence of Masdar Hossain case which was decided in 1999, the State cannot bypass the obligations to follow the fundamental principles of state policies that are enshrined in Part II of the Constitution.

Education should be considered is a "human right", not is a commodity. Moreover, according to the Section 41, 42 and 44 of the Private University Act, 2010, private universities cannot collect and spend any fund except promoting education, thus are non-profit entities. But, Value Added Tax (VAT) is considered a form of consumption tax. Now, questions arises like, are the private universities are consuming a commodity? Is Education a commodity, or is it a right? If education is a human right, then can we levy 10 percent VAT on that? Does that decision comply with above mentioned national and international laws, norms and principles? The answer is simply no. Our government neither can impose VAT on "right to education" considering private university education as a commodity, nor is it allowed to derogate from the principles laid in our Constitution, UN Charter, UDHR, ICESCR etc. Any attempt like that shall be protested and stopped by the citizens. As government is failing constantly to provide free education to us, despite losing billions of dollars in wrong policies, corruptions, fancy projects; it should not interrupt any private initiative to promote this very basic rights of the mankind.

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