



Ban on sale of tobacco to youth

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IN 2003 the World Health Organization (WHO) adopted the Framework Convention on Tobacco Control (FCTC). In the preamble of the Convention, deep concern is expressed regarding "the escalation in smoking and other forms of tobacco consumption by children and adolescents worldwide, particularly smoking at increasingly early ages". The Convention aims to control tobacco by providing demand and supply reduction provisions including ban on sales to and by minors as a supply reduction measure.

Bangladesh signed the FCTC on 16 June 2003 and ratified it on 10 May 2004. As a signatory to the FCTC, Bangladesh is obliged to implement the provisions of the Convention and develop its own national regulatory regime to control smoking and production, use, sale, purchase and advertisements of tobacco products.

In response to this international call, Bangladesh has developed anti-

tobacco legal regime. In 2005 the Smoking and Using of Tobacco Products (Control) Act has been passed in the National Parliament. In the Act of 2005 there was no provision to ban sales of tobacco products to and by youth. Previously these provisions were regulated by the Juvenile Smoking Act, 1919. That was intended to prohibit the sale of tobacco products to young person apparently under the age of sixteen.

In 2013 the Smoking and Using of Tobacco Products (Control) Act was

amended which repealed 'the Juvenile Smoking Act' and inserted section 6A to prohibit the sale of tobacco products to a person apparently under the age of eighteen years. Violation of this provision is punishable with fine up to Tk. 5000/- and the repetition of same offence will be punishable with double fine consecutively.

All the offences under this Act including ban on sales of tobacco products to minors are cognizable, that means a police-officer may arrest any person committing any offence under this Act without a warrant. Then, the offender is subject to regular criminal prosecution in the Court of Magistrate (of any class). But no Court shall take cognizance of any offence without a written report of an authorised officer. Since the Act is included in the schedule of the Mobile Court Act of 2009, the Mobile Court now can take cognizance of any offence under this Act on spot and can convict the offender at once on the basis of confession. This is more effective and expeditious forum for

Report (2009), the age at smoking initiation; who began smoking between the ages of 15-16 years, 24.4% were rural residents and 26.7% urban residents. Among urban smokers, 21.0% initiate smoking between the ages 17-19, compared to 17.7% of rural smokers. This study shows that children (up to 18 years) in urban areas are more prone to this danger of smoking habit.

Now-a-days juvenile smoking is more prevalent and ever increasing in urban areas. In Bangladesh we find broadly two types of children of this age group, one is children engaged in education ranging from primary to undergraduate (up to 1st year) level and the another is children engaged in formal (factory, industry and other services) and informal (domestic work, construction work, road transport, pulling rickshaw/van, day labourer and street urchins etc.) employment.

For both type of children tobacco products are affordable and easily accessible. Although the Act prohibits sale to and by minors who have not attained 18 years of age, the Act has not provided any exemplary or deterrent punitive measure/s for the minors for buying tobacco products. Flagrant violation of this provision is appeared all over the country. Practically it is almost impossible for the vendors to refuse the offer of buying tobacco products by the youth. The problem is more severe when the seller him/herself is minor. Till now, there is no recorded instance of imposing fine to any vendor for violation of this provision.

As regards the laws of Bangladesh, inadequacy of law is not the main problem rather non-compliance of existing law is the main problem. Lack of strict monitoring and compliance mechanism will cause further violation of this legal provision. For effective implementation of this provision a compliance mechanism is required to be developed after identifying the causes and consequences of violation of this provision on the country's estimated 70 million children.

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remedy against violation of this provision. The National Tobacco Control Cell (NTCC) under the Ministry of Health and Family Welfare is responsible for the proper implementation and monitoring the tobacco control laws, including the provision of ban on sale of tobacco products to and by minors, but its capacity to supervise and monitor the compliance of this provision is very limited.

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Violence against younger people

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BANGLADESH is one of the earliest signatories of the UN Convention on the Rights of the Child (CRC) and the government adopted a draft policy for child domestic help providing basic rights to domestic workers as guaranteed under the labour law. Article 32 of the CRC clearly speaks about the protection of the children from any kind of work that is harmful for their physical and mental health. Another international binding for Bangladesh is the ILO Convention No. 182 on the Worst Forms of Child Labor which has been ratified in 2001.

However, another horrendous story of torturing the adolescent girl shocked many readers as it appeared in the Prothom Alo on February 21, 2016. Although Purnima has only been 12 years old, she had to experience severe punishment. She was even set alight by her employer and then left in a warehouse without any medical treatment. In an editorial in The Daily Star on 22 February 2016; the incident was rightly condemned. Husband corroborated his wife in torturing the poor girl and it was described in the editorial as 'the couple who did this to her worked in collusion to carry on such torture on a child is all the more shocking'. Child poverty is still prevalent in the country and mere hope that children will at least be fed three square meals force parents to send offspring to work in households.

It is true that many similar horrific torture incidents of child domestic workers got published in newspapers. There were many more which did not come out. I wrote about another horrific account of child domestic help in The Daily Star (November 10, 2015) that took place in the house of a judicial magistrate in Satkhira. Despite having reported in newspapers, perpetrators hardly get punished and more number of child domestic workers are becoming victim of neglect and abuse.

Protection of children in general at stake. No sooner had the nation recovered from the tragic murder of



4 children in Habiganj, the news story of 12-year-old Purnima appeared in the leading newspaper. The younger child domestic workers are, the more vulnerable they become to the violence inflicted by their employers. It is equally true for younger children as they are increasingly becoming victim of familial or community conflict. Incident of Habiganj gives us a sad reminder of this trend.

An accused in the Habiganj four-kid murder case was allegedly killed in a "gunfight" with the Rapid Action Battalion (RAB). As the victim happens to be an important witness in this horrific murder case, it might provide an impression that such killing is a way of circumventing the due legal process. There is no alternative to bringing killers of children to book.

To recapitulate, perpetrators must be brought to book to prevent similar incident in the future. At the same time, community-based child protection system must be developed to ensure safety of younger people. Otherwise, sufferings of young people would know no bounds.

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Urge to amend Consumer Rights Protection Act

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IN 1985, United Nations provides a guideline to protect consumer right for its member nations. After the long 23 years of such guideline, finally in 2009 the Government of Bangladesh enacted consumer right protection law. But it is the matter of regret, this law itself is not much consumer oriented.

Although the law defines consumer as buying any food or goods or enjoying any service but throughout the whole Act it only focuses consumption as the only medium to be a con-

This is a good provision but missed some common areas of service such as, banking, financing insurance, housing, entertainment, the purveying of news or other information etc.

The CRPA remains silent regarding the false representation of goods or services, spurious goods and services, warranty or guarantee services. Even the Act does not define 'unfair trade practice'. A full and more specific definition of unfair trade practice is necessary to add in the current Act.

The CRPA provides, to sell or offer to sell any goods or service or medicine at a higher price than the fixed

refused to provide promised gift or service or stop the offer without prior notice.

According to our present CRPA only the consumer can file a written complain to the director general of Directorate of National Consumer Rights Protection. There should have a provision that will allow the registered consumer associations to file the complaint on behalf of any consumer irrespective of his/her membership in that association.

According to our present law after receipt of a complaint, the Director General may, by order, allow the complaint to be proceeded with or rejected. But in case of rejection there should have a provision of giving opportunity of being heard to the complainant. Moreover, there should be specific time limit within which complaint shall ordinarily be decided. Additionally, the time limit for filing complaint is only 30 days in the current law, it should be extended.

The Act should insert the rule of exchange on the basis of evidence brought by the complainant where opposite party omits or fails to take any action to represent his case within the time given by the Director general. At the same time if the complainant fails to appear on the date of hearing before the Director General, the director general may either dismiss the complaint for default or decided it on merit.

The punishment for the act against the consumer rights, which is maximum three years of imprisonment or as fine of fifty thousand to two lacs taka, is not sufficient and nothing left here to the consumer except 25 percent of fine as compensation.

Like in India the director general in Bangladesh should have the power to grant punitive damages and some other specific performances as required. In the law we should have the provision of issuing corrective advertisement to neutralize the effect of misleading advertisement at the cost of opposite party.

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sumer. The Consumer Rights Protection Act, 2009 (CRPA) defines 'service' as transport, telecommunication, water supply, drainage, fuel, gas, electricity, construction, residential hotels, restaurant and health service, which is made available to users in exchange of price but does not include the rendering of service free of cost.

price that would be the act against the consumer right. However, there should have some provisions regarding bargaining price and authority to increase the price after offer to sell.

Furthermore, consumers need to know about the possible remedies after the closure of any promotional offer that the trader might have



Terrorism as organised crime

LEMONA CHANDA

GIVEN the rising crisis of transnational organised crime globally, the concept of terrorism becomes very topical. The Parisian and other incidents remind us of the global outcry in relation to the fear of terror and the capacity of criminals who can through very small means commit very dangerous and shocking crimes. Bangladesh too has not been spared from this crisis. We grew up reading about non-violence and Satyagraha. My fear and angst is our children will read about violence, terrorism and indifference.

Scholars have debated about the definition of organised crime for decades. Block and Chambliss defined organised crime as a "set of activities" which are albeit criminal in nature ranging from networking, collaboration to making profit and sustaining groups. However, this is not a definition of organised crime that encompasses every element of it. The term 'transnational' creates issue when it comes to organised crime because it indicates its association with cross-border activities excluding the State. This constitutes the theoretical foundation of the definitions.

Historically, there has been a focus on drugs, fraud and counterfeiting, human trafficking that transcended its interest from the local level to global context with an estimated worth of approximately one trillion dollars out of which half is consisted of narcotics, for instance, the notion of 'PaxMafiosa'. The interest of this article is on the newest addition, 'terrorism'. In light of the 1971 war, one can state that 'one state's terrorist is another's freedom fighter'. So where does one draw the line in relation to national/lingual and/or religious identity and their emotional outburst in relation to it?

The climate of transnational organised crimes has become so threatening that it is able to impact national security resources undermining the morale and discipline. As a result, they can be termed the agents for instability and insecurity such as the

Balkan arms race, so, is known to be creating 'states-within-states'. It is also instrumental in fuelling political insurgencies. With this growth, the line between protest and revolution and crime and terrorism is increasingly becoming blurred, dividing the 'us' and 'them'.

We are constantly reminded to choose one. The lens we use to see the so-called terrorists today have been different in the way we saw Naxals, Muktibahinis and Shantibahinis. Furthermore, if we give up to the torment of making a choice and accept an either 'us' or 'them', then how do we stand up against 'state-induced' terrorism?

The United Nations' response to transnational organised crime has been the United Nations Convention against Transnational Organised Crime or the Palermo Convention along with its protocols. In practice, it has been left at a corner in the international regime to be a child's toy. A



more interesting example is the legislative anti-terrorism regime of Bangladesh which has the potential to undermine freedom of expression.

There is quite understandable hesitation from the states to ratify treaties which brings the acts of the states into question. So, can it be

deduced from this that states want the flexibility to carry on activities that fall within the remit of the theoretical definition of organised crime and only call it a 'crime' when the targeted group is inconvenient for it? Should a group refuse to be killed in genocide to avoid being called terrorists?

The 9/11 terrorist attack raised more questions in the context of international terrorism than ever. If analysed, it can be invariably understood that the entire incident involved quite a sophisticated level of planning, cooperation, financing and sacrifice. The rise of transnational organised crime and international networked terrorist groups such as Al Qaeda has given rise to much panic among states due to its increased insecurity towards states being threatened by non-state actors. The truth is none of the international regimes or the states have ever seen the dynamic landscape of 'oil-driven' politics with a human eye.