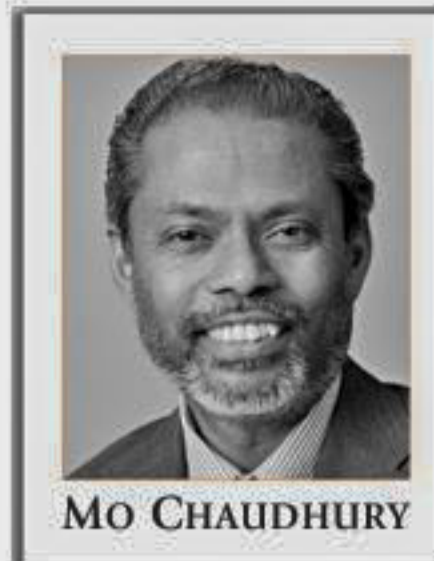


CHILD MARRIAGE RESTRAINT ACT

# Undermining the welfare of children



MO CHAUDHURY

**T**HE newly legislated Child Marriage Restraint Act 2017 (CMRA) of Bangladesh legally permits child marriage (between male below 21 and female below 18) under a "special circumstances" provision (SCP) when it is deemed in the best interests of the marrying children and a court order in this regard is obtained by the parents or guardians. Most rights groups are afraid that the SCP will likely be used inappropriately.

The new law improves upon the 1929 Act in terms of imposition of punitive measures and the administration of enforcement. It is undoubtedly well-intended in strengthening the rights of children, especially females. The question is whether in its current form the law is consistent with other age related codes, is expected to improve the welfare of the targeted beneficiaries and is conducive to the overall national aspirations.

First, Article 28(4) of the 1972 Constitution stipulates that "Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens". The CMRA, however, does not utilise this progressive constitutional provision to reverse the unjust course of historical oppression of women children as their welfare considerations are not incorporated in a more compelling manner.

Second, the Majority Act of 1975 defines a citizen of age 18 or older to be an adult, not requiring a legal guardian. For the male "child adults" (between 18 and 21), the SCP is inconsistent with the acquisition of majority (adulthood); they are legally adults, but their parents/guardians would instead decide their best interests in a child marriage.

Similarly, the voting age for both

males and females is 18, and hence a male "child adult" (18 to 21) is assumed to be mature enough to grasp the gravity of and then perform his civic duties; but the same person is perceived incapable of determining his best marital interests under the SCP. The perplexing assumption here is that boys and girls acquire civic sense at the same rate, but the boys lag the girls by three years in understanding their marital interests.

Bangladesh penal code does not have a "close-in-age" clause that would have permitted sexual activity between child marriage partners close in age, but one or both under 14. The inconsistency of permissible marriage under the SCP and consensual sex under the penal code makes the concept of statutory rape quite vague in the context of a child marriage. As such, not much progress has been made under the CMRA in tackling one of the key vices

child father. Sadly though, the child marriage does not eliminate the socio-cultural taint of the child mother conceiving when still unmarried. Thus the stigma of a misbegotten baby cannot be avoided through the SCP or any such legal means. Further, the SCP does not make the health hazards of the child mother any less pressing; if at all, unintended ill consequences of the SCP may include an increase in child pregnancy and the associated

waters and forest areas. Even with vast lands and remarkably high sustained economic growth (over 7 percent), China maintains the highest marriageable ages (20 and 22) in the world (World minimum marriage age: Chart shows the lowest age you can legally get married around the world, *The Independent*), along with a maximum two-child policy. The common age is 20 in Myanmar, with four times the area of Bangladesh and one third the population; its GDP growth rate has been more than 7 percent since 2012 and its per capita income is also higher (Myanmar: Economic Indicators, *Trading Economics*). It seems that increasing the marriageable age in Bangladesh could have been helpful in boosting the GDP growth rate above 7 percent and expediting its path to the upper middle income status.

Lastly, the legal provision of polygamy, with (Muslims) or without (Hindus) court approval, needs to be revisited. (Indian polygamy law is instead more permissive for Muslims). Polygamy is discriminatory against females and differential rules based on religion violate the constitutional principle of secularism. More importantly, it needs to be legally ensured that the SCP would not permit polygamy in the context of child marriage.

To conclude, the CMRA needs to be integrated with other age related codes. If a key goal of the CMRA is to advance the human rights and welfare of female children, along with the facilitation of higher economic growth and a more habitable country, it needs to be amended. Recommended amendments include a stronger emphasis on and articulation of the best interests of the female child, an increase in the marriageable ages and the age of consent, a minimum age set at the elevated age of consent and exclusion of polygamy in child marriages.

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**Bilkis, 15 years old, holds her one-year-old son in her mother's house which she returned to after the husband she was married to at age 13 abandoned her.**

PHOTO: HUMAN RIGHTS WATCH

Third, the age of consent in Bangladesh is 14 for both males and females, and hence children "aged 13 or younger in Bangladesh are not legally able to consent to sexual activity" (Age of Consent in Bangladesh, *AgeOfConsent*). Since the SCP does not stipulate a minimum age for either sex in a child marriage, it is implicitly suggesting no sexual activity between the child marriage partners until both are at least 14. Also,

of underage marriage, namely sexual violence against women.

Fourth, the Prime Minister has very correctly advocated the need for flexibility in dealing with child pregnancies before marriage. Given the socio-cultural and religious values of Bangladesh, the SCP does indeed provide a legal means for the marital rehabilitation of the child mother and the institution of fatherhood recognition and responsibility on the

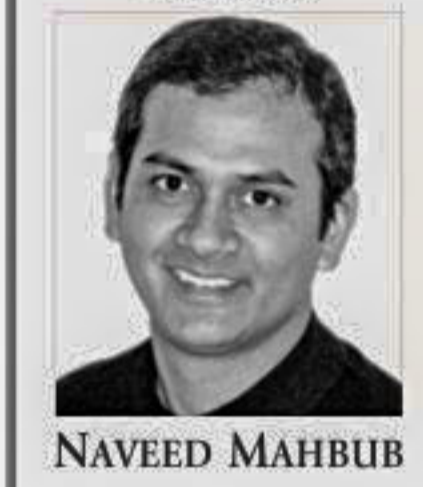
deterioration of the health condition of females.

Fifth, one consequence of the phenomenon of child marriage is the higher growth rate of population. Though the optimal growth rate for Bangladesh is debatable, it is clear that maintaining the marriageable ages at 18 and 21 along with the SCP would not dampen the ever increasing demand for homestead and the associated loss of cultivable land,

*Child marriage does not eliminate the socio-cultural taint of the child mother conceiving when still unmarried. Thus the stigma of a misbegotten baby cannot be avoided through the SCP (Special Circumstances Provision) or any such legal means.*

# The ever obliging hostages

HUMOROUSLY YOURS



NAVEED MAHBUB

**T**HE hiring manager at Takata Inc. in Farmington Hills, Michigan tells me, "We have seen tons of engineers, but none who has been in a Pepsi TV commercial."

The interview goes well and I am glad I did the TV commercial, among 3 others during my eons

while a student at BUET, thanks to countless unscheduled closures. My starting salary at Takata, my first ever job, is US USD 42,000 per year. I'm sad. My 'opportunity cost' is USD 126,000 (USD 42,000 x 3) from the 3 years I lost at BUET, thanks to the classic session jam. Combine that with those of 500 students in our graduating batch, we are looking at a combined opportunity cost of a whopping USD 63 million!

Time is money. Time is also honey, as my matrimonial bliss is pushed back by 3 years. I am so old by the time I get married that 2 of my teeth come off by the time I said 'Kobul'.

Being a person constantly looking back to find things to be regretful about, I realise what went wrong. And I do, right away. We are a whole mega pack of sheep available to be hostages. For every conceivable demand of every conceivable group of every conceivable origin of every conceivable affiliation with every conceivable motive, all triggered by every conceivable source, we, the pack of clueless sheep, are at the disposal of the few.

Demand the annulment of the expulsion of a student, and the 2,000 strong flock of sheep (500 per batch x 4 batches) are at the disposal of one single demand that the majority of those 2,000 don't care about, are unaware of, or are plain old



opposed to. But, hey, these are the silent majority — always available to serve as the obedient hostage of a few.

Human beings, constituting 99 percent of the 8 billion on this planet, are all law abiding, always obliging hostages. We have the physical body with its mere needs for food, shelter, education and love that is readily available in all sizes, ages, colours, religions, nationalities, ethnicities and orientations to be utilised, without any opposition or protest, to meet any demand. Want to

meet medical demands and our health is here. Want to meet warped religious demands and our necks are here. Want to demand a throne and the soon-to-be Mediterranean crossing (and Trump rejecting) refugees are here. Want to slap the black marketers and the commoners in need for 500 rupee notes are here. Want a bicycle and a radio and the brand new wife is here. Increase Saudi Arabia's Hajj revenues and the simple Muslims are here. Even an estranged husband wanting to speak with his ex-wife and an Egypt Air plane full of

passengers are there as hostages.

We in Bangladesh are more creative given limited resources. All we need is a street intersection (no issue if dilapidated), a few erect, young men and a few erect, young bamboo sticks. Combine these two with loud screams (we can't whisper anyway, remember, from suffering from voice immodulation) and hey presto! The metal bodies of vehicles are available for Ringo Starr like percussion beats, the windshields are there for the cymbals, the terrified passengers inside (better if there are traumatised kids) with their screams providing the background cheers of a concert, not to mention the fiery eyes of the percussionists leaving a lifelong scar in impressionable minds which have no clue of hiking prices, court orders or subsequent demands. Add to the fun, there is nothing like the ensuing pyrotechnics with the omnipresent gasoline that magically appear from somewhere, the same gasoline that has seen a dearth at filling stations just a day ago. The arsonists are kind — before the climax of the Guy Fawkes fireworks, they take a breather, almost a foreplay to their pyromaniac climax, to let the occupants come out and enjoy the view of the bonfire made from the very transport they were in just 2 minutes ago.

Now I know why the innocent kid gets slapped so many times for simply playing with his toy right after dad and mom complete their conjugal fight...

Demand anything, anywhere, anytime and we, the sheep, are here. We will always be here.

Yours Truly (and NOT at all Humorously)  
The Ever Obliging Hostages

The writer is an engineer at Ford & Qualcomm USA and CEO of IBM & Nokia Siemens Networks Bangladesh turned comedian (by choice), the host of ATN Bangla's *The Naveed Mahbub Show* and ABC Radio's *Good Morning Bangladesh*, the founder of *Naveed's Comedy Club*.  
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QUOTABLE Quote



AARON SWARTZ

AMERICAN COMPUTER PROGRAMMER, ENTREPRENEUR, WRITER AND POLITICAL ORGANISER

*Growing up, I slowly had this process of realising that all the things around me that people told me were just the natural way things were, the way things always would be, weren't natural at all. They were things that could be changed, and they were things that, more importantly, were wrong and should change.*

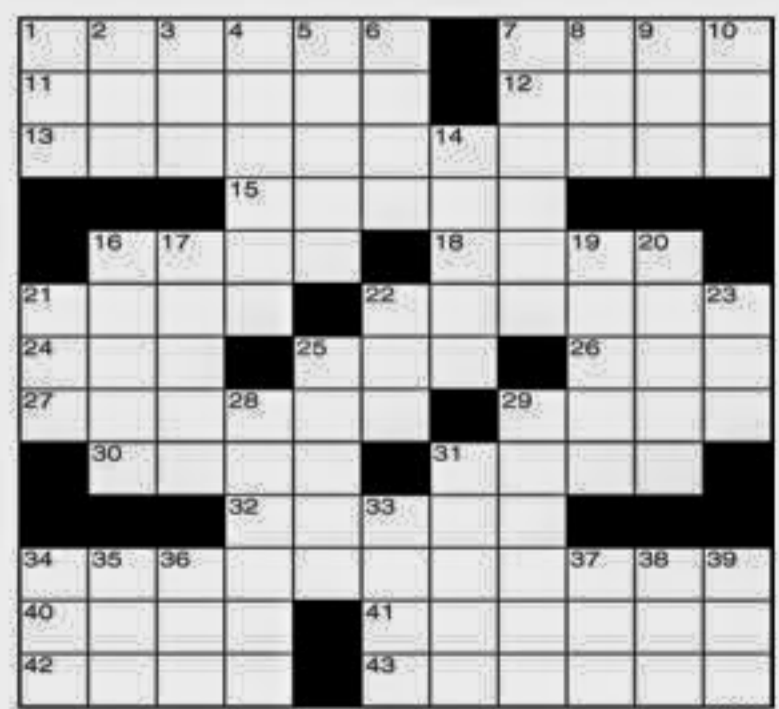
CROSSWORD BY THOMAS JOSEPH

ACROSS

- 1 Slanted type
- 7 Mexican peninsula
- 11 1998 Winter Olympics site
- 12 Milky stone
- 13 Japanese shrubs with white blooms
- 15 Olympics award
- 16 Ship pole
- 18 Hardens
- 21 Portent
- 22 The Dog Star
- 24 Young one
- 25 Twice uno
- 26 Lingerie item
- 27 Shake accessories
- 29 Incline
- 30 Sharpen
- 31 Slate-colored

DOWN

- 1 They hold power
- 2 Sandy color
- 3 Before today
- 4 Sheriff, for one
- 5 Surmise
- 6 Shivering
- 7 Lane user
- 8 Clumsy fellow
- 9 Pickle buy
- 10 Green and Gore
- 14 Caravan stop
- 16 Forge worker
- 17 Director
- 18 Almodovar
- 19 Leg bone
- 20 Bad-tempered
- 21 Approves
- 22 Sinking call
- 23 Plopped down
- 25 Nerdy guy
- 28 Nevertheless
- 29 Mason's tool
- 31 Ageless dwarf
- 33 Do in
- 34 Tentative taste
- 35 Negative link
- 36 Have obligations
- 37 Building wing
- 38 Carnival city
- 39 Shop tool



YESTERDAY'S ANSWER

S U E M E I C I N G  
I N B O X M A R I A  
R O B O T P R I N T  
N O P E S E E  
P E A R L J A M  
A C T I S C O W L S  
C H I V E H O H U M  
T O T E M S N O S E  
R A I N D A T E  
P A T I D E A  
O N E A L I N A W E  
S T A T E G C L E F  
H I R E D H E I S T

BEETLE BAILEY



by Mort Walker



BABY BLUES



by Kirkman & Scott

