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Fraudulent practices in e-commerce cannot be tolerated

Policy to protect customers, vendors must be introduced

WE agree with the opinion of experts—at a virtual discussion on "Building a Sustainable Ecosystem for E-commerce", organised by the Dhaka Chamber of Commerce and Industry (DCCI)—that there needs to be a sound and organised policy in place for the e-commerce sector of the country to follow. This is especially necessary now given the recent revelation of fraudulent business practices by companies such as Evaly.

According to documents collected by Bangladesh Bank during a probe report into the company, until March of this year, Evaly owed its customers and supplying vendors roughly Tk 213.9 crore and Tk 189.9 crore, respectively. However, its assets at the time amounted to only Tk 65 crore. Meanwhile, customers would wait months and months to receive their products, if they did at all. Many had to make do with refunds received "in the form of a credit on Evaly's unlicensed digital wallet" and not as cash, according to one report by this newspaper. The money it took from unassuming customers, meanwhile, was used to fund incredulous discounts on its vendors' products, frequent advertisements in all forms of media, sponsoring cricketing events and movie releases, and paying brand ambassadors and influencers to do their bidding to the public.

Such practices are not only harmful to the affected customers and vendors, but also hurt the credibility of other businesses on the country's e-commerce and f-commerce (Facebook commerce) platforms. It is especially dangerous as it may stop new businesses from entering the market and make it difficult for smaller businesses to gain and keep customers.

We believe that in forming a policy which will keep e-commerce businesses in check while also protecting both vendors and customers, the input from all stakeholders needs to be considered. This includes—besides the aforementioned crucial players—digital platforms, payment gateways, policymakers, and business experts. Given that the online business industry of Bangladesh is still in its growing stage, there must be room for mistakes and policymaking needs to be dynamic in order to accommodate technological changes. However, what cannot be condoned and must be met with action are business practices that exploit customers and sellers while giving them nothing in return, least of all what they are owed for their money and products. Companies such as Evaly cannot be given any leeway (such as cash injections) unless it is to repay the customers and sellers, under proper arrangements of course. If anything, their punishment needs to be made an example of so that none in the e-commerce sector try to replicate their practices in the future.

The economic spasms of debt rescheduling

BB's recommendation should be implemented judiciously

THE warning from Bangladesh Bank (BB)—that unrealised rescheduled loans might create a challenging situation for the profitability and solvency of banks in the future—is quite ominous. In its Financial Stability Report (FSR) for 2020, the central bank has cautioned that rescheduled loans, if not recovered, might adversely impact the banks and eventually, one fears, destabilise the whole banking sector.

Rescheduling of loans in Bangladesh has been, and continues to be, a hot topic of discussion. And that is because in recent times, it was not fiscal or monetary policy or any other compelling economic situation that forced the central bank to go for debt rescheduling. Rather, in most cases, it was another manifestation of crony capitalism, whereby habitual defaulters, close to the politically powerful in the country, were salvaged from dire situations, one of which was being declared a loan defaulter. It has been also seen that many loan defaulters who were also aspirants to public offices, scamper for loan rescheduling just before elections to avoid being disqualified from participating in the election. And they were also duly obliged.

Rescheduling of perennial and habitual loan defaulters had come under criticism not just by the financial watchdogs. Even the apex court of the country, for example, had questioned BB's legality of allowing defaulters to reschedule their loan with a repayment period of up to 10 years. The situation this year is different and it was essential to reschedule loans of medium and small businesses as well as provide succour to those farmers who are weighed down by loans with little scope to recover due to the pandemic.

Rescheduling loans indiscriminately is counterproductive. If failure to repay bank debts does not carry penalties, then the practice is replicated by other loanees too, and the consequence is exactly what the BB has apprehended might eventuate—cast the banks in an irredeemable situation.

The condition is dire, but we dare say that the culture of loan default has been somewhat encouraged by certain policies of BB, and a significant portion of loans have become non-performing loans as a result. Nevertheless, we hope that by exercising rigorous monitoring and implementing stringent measures for loan recovery, the banks would make a difference between the habitual defaulters and those compelled under the strain of the pandemic to have defaulted on their payment.

Penalising victims of child marriage isn't the right way to go

TASLIMA YASMIN

TWO 15-year-old minors were recently sentenced to one month's imprisonment by a mobile court in Netrokona for getting married before they were legally old enough to do so. The children were, however, later released from police custody, and the High Court Division had also issued a verbal order for their release. The sentence was given under the recent Child Marriage Restraint Act of 2017 (CMRA), which had faced much criticism at the time of its enactment for including a special clause which was meant to exempt the parties to a child marriage from criminal sanctions on judicial permission. No doubt that the said order by the mobile court was in conflict with the Children Act 2013, which provides detailed provisions for dealing with children who come in conflict with or in contact with the law—upholding the best interest of the child.

In 2020, the High Court Division had also observed that the Mobile Court Act, 2009 has not empowered executive magistrates to conduct trial of children and that the Children's Court under the Children Act 2013 being the subsequent special law, will have the jurisdiction. However, despite such clear directions, the 2017 Act on child marriage, which is a law subsequent to the Children Act, had added a new provision [s.7(2)] that imposes penalty on minors for contracting child marriage. It prescribes for the detention of minors, which may extend to one month, and a fine, which may extend to Tk 50,000. As per section 17 of the CMRA, the mobile courts can impose a penalty for the offences committed under the Act. However, the schedule to the Mobile Court Act specifies only certain particular provisions of the CMRA to be within its jurisdiction, which includes section 7 that prescribes penalty for minors involved in marriage. Thus the law clearly authorises the mobile courts to impose penalty for committing child marriage even against the minors. However, mobile courts are meant to immediately take cognisance of certain offences on the spot, awarding limited penal sanctions. Whereas, in this particular case, the sanction was reportedly given much later in the office of the concerned executive magistrate, which itself makes the sentencing questionable. The CMRA thus creates a conflicting position with regard to the Children Act and does not adequately address its application in cases where children are sentenced under the CMRA.

Keeping that aside, the very provision of penalising the children for committing child marriage does not make much sense when the law itself refers to the minor involved in a child marriage, as a "victim" or "aggrieved person" in several places. It is unconceivable as to how a law, which is meant to address the plight of the victim of child marriage, is contemplating penalty for that very victim. Such penal provision, which presumably was inserted as a measure to deter underage persons from getting married by eloping, was not present in the earlier British colonial time law of 1929, which was rather criticised for being archaic and ineffective at preventing child marriage.

Thus the law creates contradictions by imposing criminal sanctions upon the victims whose interests it wishes to protect. Considering that this law is aimed at securing the best interest of a child, a penal provision for minor victims of child marriages is against the spirit of the law. The CMRA, as such, should exclude the minor party form being penalised for contracting child marriage. Instead, in appropriate cases, the law may provide provisions for engaging the minor in the local child marriage prevention-related initiatives and also ensure psychosocial counselling. Again, it is these cases that the special clause in the CMRA could offer some positive relief to when the marriage is conducted between parties who are closer to the marriageable age and in consideration of the court, are matured enough to enter into a marriage relationship. However, that very element of obtaining consent of the concerned minor is missing from the special provision under the CMRA and it is only the parents whose consent is to be considered by the court to allow a child marriage without criminal sanction.

This leads to another blatant inconsistency that remained in the 2017 CMRA regarding the minimum marriageable age, which is 21 for males, and 18 for females. Such inequality in the age of marriage contradicts the international human rights law mandates. It further creates some significant legal anomalies in the enforcement of the CMRA. For example, if an adult woman of 18 years marries a man of 20 years, under section 7(2), it will still be considered as "child marriage", as a man below 21 years is considered "underage" for the purpose of CMRA. In such a case, the woman would be subjected to penal sanctions applicable for an adult contracting party under the CMRA. In a socio-cultural context like ours, where women are already disadvantaged and have very little voice over their marriage decisions, it is inconceivable that the wife bears a greater criminal liability than the adult husband. Again, although under our majority law, whereas an 18-year-old man can enter into any contract, he may be penalised for entering into a contract of marriage until he turns 21. This again is irreconcilable with any sound legal interpretations.

There are also a number of other loopholes and ambiguities in the 2017 Act—including lack of option for the minor for annulment of the marriage, lack of support and assistance for victims, ambiguities surrounding applicable courts and procedures, etc.—that need to be addressed if we aim to use the law as an effective tool to eliminate child marriage. It is thus important to use this opportunity to take a deeper look at the law in its entirety and find out ways to fill in the crucial gaps.

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The moral vacuum at the heart of modernity

ANDREW SHENG

MAN and nature are running out of time. That's the core message of the UN Intergovernmental Panel on Climate Change (IPCC) report released this week. UN Secretary-General António Guterres called the report a "code red for humanity". "The evidence is irrefutable: greenhouse gas emissions from fossil fuel burning and deforestation are choking our planet and putting billions of people at immediate risk."

What can we, individually and collectively, do about it?

Many animals, including humans, cannot survive at high temperatures. Seattle, a temperate climate city, hit 104 degree Fahrenheit in June, only 4 degrees below the maximum 108 degrees where humans can't survive. Like the pandemic, the twin effects of climate change and biodiversity loss are hurting the bottom half of society who are most vulnerable to natural and/or man-made disasters. Indeed, indigenous and native people who live closest to nature, comprising 5-6 percent of the world's population scattered in remote areas, are likely to face loss of culture, lives and habitat because all their water, food and livelihoods will be devastated by climate change.

In essence, we are in an existential situation whereby nature is being destroyed by excess human consumption, which creates pollution and carbon emission, but all this is made possible by monetary creation by bankers and businesses who seem to care more about their profits than the human condition. Thus, decisions over climate change, human activities, financialisation and globalisation are essentially *moral* questions over the power to lead us out of the wilderness of nuclear destruction through war or planetary burning.

In his monumental *History of Western Philosophy* (1946), British philosopher Bertrand Russell argued that those in power understand that they have twin powers over nature and political power to rule other human beings. Traditionally, the limits to such power have been God and truth. But today, religions are also in turmoil on what is their role in finding pathways out of the current mess. Furthermore, fake news obscures what is truth.

The current mess is not unlike the Lost People wandering in the desert waiting for a Moses to find the 21st century version of the Ten Commandments. Unfortunately, the 17 UN Sustainable Development Goals (SDGs) are aspirations and not commandments. As economists say, climate change is a market failure, but there is no modern day Moses, nor operating manuals to translate SDGs to environmental, social and governance (ESG) projects and programmes for businesses, governments and social institutions.

In this twin injustices against man and nature, people sense that there is both a moral vacuum in globalised modernity, as well as lack of a shared, practical pathway out of planetary destruction. If secular science or politics cannot help us, Is religion the solution?

Satere-Mawe men collect medicinal herbs to treat people showing Covid symptoms, in a rural area west of Manaus, Brazil. PHOTO: **AFP**

Ironically, religion has played a far larger role in the current quandary than meets the eye.

Two Papal Bulls empowered the Portuguese and Spanish conquests of new lands in the second half of the 15th century. Papal bulls are public decrees, letters, patents or charters issued by a Catholic pope. The Papal Bull Romanus Pontifex issued by Pope Nicholas V in 1455 gave Portuguese King Alfonso the right to "invade, search out, capture, vanquish and subdue all Saracens and pagans whatsoever, and other enemies of Christ whatsoever placed, and the kingdoms, dukedoms, principalities, dominions, possessions and all movable and immovable goods whatsoever held and possessed by them and to reduce their persons to perpetual slavery…to convert them to his profit…[such assets becoming] justly and lawfully acquired."

The Papal Bull Inter Caetera, issued after Christopher Columbus returned from America in 1493, not only reinforced the Spanish right to property and slavery seized or colonised from non-Christian kingdoms or pagan natives, but also established the Doctrine of Discovery. This doctrine formed the basis of national and later international laws that gave license to explorers to claim vacant land (terra nullius) on discovery. Vacant land meant land not populated by Christians, and thus the Christian discoverers and occupiers could have legal title to them, regardless of the rights of the indigenous people.

In short, historically, it was the Church that gave the moral blessing for colonisation, slavery and genocide during the "age of globalisation". The tragedy is that the Doctrine of Discovery is now embodied in US laws. In the historic case of Johnson vs McIntosh (1823), Supreme Court Justice John Marshall ruled, "According to every theory of property, the Indians had no individual rights to land; nor had they any collectively, or in their national capacity; for the lands occupied by each tribe were not used by them in such a manner as to prevent their being appropriated by a people of cultivators. All the proprietary rights of civilised nations on this continent are founded on this principle. The right delivered from discovery and conquest, can rest on no other basis; and all existing titles depend on the fundamental title of the crown by discovery."

If humanity still treats nature as a free asset to be mastered, and other human beings to be dominated and disenfranchised because of the Doctrine of Discovery, how can we move forward morally to create human inclusivity and planetary justice?

Under secular science, the elites that control the media, military, economy, political or social institutions have forgotten that they are not masters of man and nature, but stewards to protect human well-being and nature for future generations. In this polarised age, we forget that the shamans of the indigenous people carry ancient wisdoms about how to live with nature and each other through traditional values, medicine and shared rituals. The shamans are not seers but healers and carriers of tribal memories and values.

When modern scientists and technocrats have no solutions to present problems except more speed, scale and scope in the rush to modernity, isn't it time to listen to traditional wisdoms from those who have living memories of how to live with nature and each other?

Without moral bearings, no wonder we have no maps out of the current mess.

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