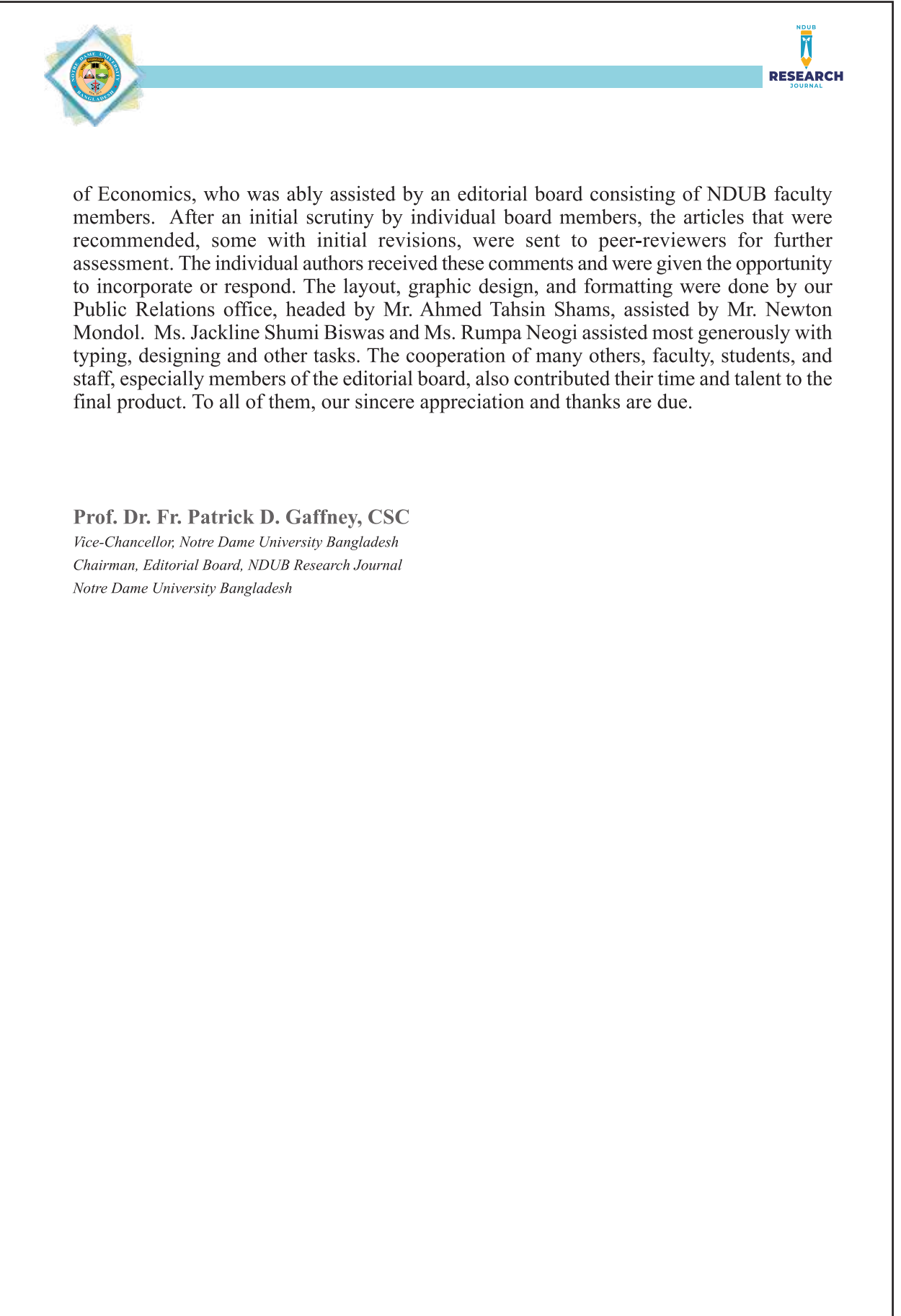




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Editorial Note	
This first issue of the <i>Notre Dame Research Journal</i> signals a moment of modest achievement and a threshold of audacious promise. It is a tiny sapling planted with care in an immense and ageless forest. We trust that in the years to come, it will grow to productive maturity as part of Notre Dame University Bangladesh's inspired mission of dedication to learning, character, and service. Our efforts to expand the frontiers of knowledge by asking new questions and by exploring different and possibly better answers to old questions seeks to introduce a fresh voice to be heard both within our own horizon of discourse as well as far beyond the boundaries of this campus and this nation.	
The articles collected in this peer-reviewed journal are meant to provide a forum for scholars, old and young, to share their work with others. The journal, we hope, will appeal to professional colleagues as well as to a wider public seeking information, analysis, critique, or reflection on pertinent issues. At present the NDRJ editorial policy regarding topics for articles, embraces the range of disciplines that are represented on our university faculty. These include five departments, Business Administration, Law, Economics, English, and Computer Science Engineering. While the Journal welcomes submissions from all sources, some preference is given to authors teaching in these departments at NDUB. In this way, we seek to encourage our teachers to publish their thinking and to share their investigations by providing them with an outlet where readers may see examples of our scholarly endeavors.	
As anyone familiar with the realm of academic publishing well knows, Bangladesh is not a major player in this field. On the contrary, its standing as a contributor to the famed "commonwealth of letters" or the distinguished "international society of science" is marginal at best. A recent survey done by Prof. Haseeb Md. Irfanullah, which focuses attention on one of the world's largest journal publishers, SCOPUS/Elsevier, based in The Netherlands, points out some sobering statistics. Out of the 70 million research articles in their data base, only 0.07% of that total, less than 50,000, come from Bangladesh. Of the 22,000 academic journals this publisher manages, only 16 journals are from Bangladesh. Pakistan, by contrast, has six times that number and India has over forty times as many.	
Another widely used tool for assessing the quality of international scholarly work claims to measures the reputation of academic journals by counting how frequently a given publication is cited by other authors. Known as the "Journal Impact Factor," a listing that annually ranks some twelve thousand peer-reviewed journals according to this criterion, contains only four titles coming from Bangladesh. These few specimens are specialized scientific publications such as the <i>Bangladesh Journal of Plant Taxonomy</i> , which is the latest periodical from Bangladesh to join this elite company, when it was added in 2010.	
Such raw statistics which display the comparatively negligible influence of academic publications from Bangladesh, are also reflected in the perceived competitive standing of its institutions of higher learning. By all estimates, the nation's two most prestigious, significant, and richly endowed universities are Dhaka University and the Bangladesh University of Engineering and Technology (BUET). But in the most recent QS World University Rankings, both of these institutions are relegated to the catch-all bracket of	



institutions listed between 800-1000, since this authority does not assign a specific position beyond the first 500 slots.	
This same discomforting judgment is confirmed elsewhere. For instance, the Times Higher Education Rankings for 2020, places Dhaka University in its lowest residual category, beyond 1000 others in the world. Among universities in Asia, it falls into the unspecified remainder beyond the top 400 that are ranked. A partial explanation for these unsettling numbers may be found in the history of student unrest and political interruption that have troubled both campuses. But other problems such as overcrowding, inadequate labs and libraries, and uneven quality assurance standards cannot be overlooked, even though many faculty members are excellent scholars and are known to be brilliant teachers. Such intruding external factors not only discourage their collaboration but unavoidably add distractions that make it difficult to maintain the serious concentration needed to produce consistent scholarly work.	
Needless to say, certain knowledgeable observers might dismiss these findings as prejudiced and lodge an argument for a higher standing. But hundreds of other universities with offended pride at their low ranking in such a survey, are likewise eager to promote the cause of their humbled institutions. In fact, of course, these dismal scores are deceiving as a reflection of the intellectual quality of the country generally, in the sense that they do not take into account the extraordinary abilities of Bangladeshi scholars who are working abroad. Nor do these rankings reveal that most faculty authors of these two and perhaps other prominent universities understandably prefer to send their best scholarly efforts abroad to respected journals at distant centers of learning. There they hope to be noticed by learned colleagues who probably pay little attention to the writer's national origin. Likewise, one can make a convincing case for seeing the discounting of Bangladesh's scholarly publications as a consequence of priorities that can be explained by social conditions, structural inequities, and historical context. English language training, for instance, suffered some setbacks after 1971, although the tide has been slowly turning. The advantages of acquiring competence in this lingua franca of international affairs has been widely recognized, especially among the youth. Nevertheless, a certain inertia also comes into play which derives from the need to provide basic skills for civil servants, accountants, business professionals, lawyers, technicians, educators, and others within the local context of this rapidly developing society.	
Thus, specialized research and pioneering theoretical exposition of the sort favored for publication in prestigious academic journals occurs less frequently here where the emphasis is on the fundamentals and their practical applications. Polished expertise can be imported from distant ivory towers rather than generated locally at the expense of limited resources. A top-rated research university on the model of Harvard, Oxford, the Swiss Federal Institute of Technology, Stanford, Tsinghua University, or the National University of Singapore, would certainly add luster to Dhaka's cultural landscape. But its elite performance would likely go underappreciated or perhaps largely unnoticed before much of the wider public. However, many signs suggest that this situation is changing. A visit to the Dhaka Literary Festival or the annual Ekushy Book Fair, for example, clearly illustrates a substantial and growing interest in cultural expression both on the popular and the professional level. Indeed, the inauguration this new journal can be seen as further evidence of this widening	



circle of cosmopolitan enlightenment in the country.	
The <i>NDRJ</i> seeks to meet a need that arises from our particular circumstances. While aspiring to great heights and encouraging others to dream boldly, a realistic appraisal of NDUB's character as it has evolved since its founding, acknowledges the formidable gap between present accomplishment and future potential. To that degree, its faculty and students, in large measure, reflect a keen aspiration and an earnest mindful curiosity that is typical of this nation's eager and energetic youth. The <i>NDRJ</i> is meant to serve as an expression of the searching and the striving that go together to explore fruitful combinations of theory and practice.	
Preparing for the future is a central feature of all education, and by launching this journal, we are laying the part of the foundation for a scholarly endeavor that looks ahead with enthusiasm and confidence toward an undisclosed tomorrow. We begin now with the means that are available. Later, we trust, more will be possible. For beyond appearances, we are reaching for the stars. To those who would question the clarity of this vision, let them recall the lines from Robert Browning's poem "Andrea del Sarto,"	
Ah, but a man's reach should exceed his grasp, Or what's a heaven for?	
Our university, still invisible to any international ranking scheme, currently operates in a temporary building that was constructed quickly at its start, in 2014. At our request, the architects selected materials that were specifically designed to be recycled when this provisional structure would be dismantled to be replaced by a larger permanent edifice. The list of our available course offerings may seem short and the numbers of our students and teachers may seem small when compared with other reputable local private universities. But this reduced scale is due entirely to the constraints of space which we soon hope to remedy. Otherwise, we do not hesitate even now to join in learned conversation with scholars elsewhere. In this regard, we blithely ignore the differences between our meagre facilities and those at large and lofty academic centers. With respect to this journal, we assert that insight, intelligence, initiative, and imagination cannot be properly measured by the site of publication any more than a book can be judged by its cover.	
Within and eventually beyond its present limitations, NDUB defines itself as a vibrant community of learning rooted in the great tradition of Catholic higher education. As such, a fearless quest for truth, a confident commitment to peace through the pursuit of justice, an open-minded search for knowledge to promote societal harmony, the dignity of each person, and patient engagement to advance the common good, with a special concern for the poor and marginal; these are the ideals that underlie all our efforts. This first issue of our research journal, represents one small but portentous step forward on this journey. More and better things will follow, we trust, as our university grows in capacity, in achievement, and in virtue, working to find its own distinctive voice as a participant in the learned discourse of an anxious world in need of hope and in search of wisdom.	
Let me end by acknowledging the labors of those who have produced this journal over the past many months. First credit goes to the editor, Dr. Azizur Rahman, chair of the Department	







<div>  <div> Corporate Social Responsibility: A Perspective and Impact on Business of Least Developed Countries, a Focus on Bangladesh </div> </div> <div>  </div>	<div> <h2>Corporate Social Responsibility: It's Perspectives; and Impact on Business of Least Developed Countries, a Focus on Bangladesh</h2> <p>Mohammed Sabirul Karim¹</p> <p>Abstract</p> <p>Making a contribution to sustainable development through good practices of corporate social responsibility is a real challenge for business, particularly in developing countries. Apart from the benevolent social services by some business firms, the new concept of CSR is an emerging one. "CSR is the continuing commitment by business to behave ethically & contribute to economic development while improving the quality of life of the workforce & their families as well as of the local community & society at large." (WBCSD, 2014). This holistic and altruistic approach to business regards organizations as contributing partners to community development and progress in society, rather than viewing them as money-grabbing, power-hungry institutions. All the stakeholders of Businesses like labor unions, consumer groups etc. considering CSR as a long-term investment in public relation. In the context of Bangladesh, it is more relevant to the export-oriented industry. Globalization has made CSR practice an imperative to our business. CSR concentrates on benefits of all stakeholders rather than just the stockholders. Awareness and sense of necessity for practicing CSR is becoming more and more pronounced as the country has to adopt itself to the process of globalization. But the overall status of CSR in less-developed countries is still long way to go to the satisfactory level. Some unpleasant incidents like boycott from the importers have taught the local business community about the immense importance of CSR and obligatory adaptation of this modern and competitive practice. This enforcement is gradually increasing the CSR practice in LDCs. Strategic CSR program integrate core business operations with efforts to reduce the shortcomings faced by socially-excluded populations and have a significantly positive effect on them by improving economic and social capabilities.</p> <p>Key Words: Corporate Social Responsibility (CSR), Socially Responsible Business (SRB), Multinational Enterprise (MNE), Least Developed Country (LDC), Small and Medium Enterprise (SME), Ready Made Garments (RMG)</p> <p>1. Introduction</p> <p>The online encyclopedia, states that "CSR is a concept that organizations, especially (but not only) corporations, have an obligation to consider the interests of customers, employees, shareholders, communities, and ecological considerations in all aspects of their operations." (Wikipedia, 2018) Alongside, the European Commission defined CSR as "a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis". (EC Report, 2008). The argument around CSR is based on examining relationships between business and society. Companies are now expected to perform well in non-financial areas such as human rights, business ethics, environmental policies, corporate contributions, community development, corporate governance, and workplace issues. Some examples of CSR are</p> <p>Mohammed Sabirul Karim Ph.D. Scholar, Department of Marketing, University of Dhaka Email: suphassahajjal@gmail.com</p> </div>
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<div>  <div> Corporate Social Responsibility: A Perspective and Impact on Business of Least Developed Countries, a Focus on Bangladesh </div> </div> <div>  </div>	<div> <h2>Corporate Social Responsibility: It's Perspectives; and Impact on Business of Least Developed Countries, a Focus on Bangladesh</h2> <p>Mohammed Sabirul Karim¹</p> <p>report-building with stakeholders." (Hillman and Keim, 2001) It is relevant in all types of companies from SMEs to MNEs. "A number of companies with good social and environmental records indicate that these activities can result in better performance and can generate more profit and growth." Research (Industry week, 15 January 2001, Green Paper) has shown that socially responsible companies are expected to deliver above-average financial returns.</p> <p>"CSR has some internal dimensions such as: human resource management, health and safety at work, adaptation to change and management of environmental impact and natural resources. The external dimensions include local communities, business, partners, suppliers and consumers, human rights and global environmental concerns." (Lockett, Moon and Visser, 2006) Again, CSR may be as simple as sponsoring social service-oriented entertainment events. In essence, CSR is positive rapport with the society". In Bangladesh context, several multinational companies and local companies practice CSR. While the multinationals are influenced by their own SRB disposition, most of the business concerns do not rate high in practicing CSR unless being pressurized by the foreign buyers in case of export-oriented business.</p> <p>CSR is viewed in the light of the ten principles of the UN's Global Compact that are grouped into four major areas. The consideration and inclusion of the four areas and the corresponding elements into the written policies of selected companies demonstrate their concern and sensitivity to CSR. "The goal of the Global Compact is to generate leadership, individually as well as collectively, among businesses to foster the concept of free markets and to address the concerns of the society at the same time." (Abagail, Donald and Patrick, 2006) The ten principles of the Global Compact are derived from four major international agreements (the Universal Declaration of Human Rights, the Fundamental Principles and Rights at Work of the International Labor Organization, the Rio Declaration on Environment and Development, and the UN Convention Against Corruption) providing general direction and facilitating a culture of respect, in businesses, for the observance of its social responsibility.</p> <p>3.2. Written Policies on CSR</p> <p>1. <i>Human Rights</i></p> <ul style="list-style-type: none"> • Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; • Principle 2: make sure that they are not complicit in human rights abuses. 2. <i>Labor Standards</i> • Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining; • Principle 4: the elimination of all forms of forced and compulsory labor; • Principle 5: the effective abolition of child labor and the prohibition of slavery and • Principle 6: the elimination of discrimination in respect of employment and occupation. 3. <i>Environment</i> • Principle 7: Businesses should support a precautionary approach to environmental challenges; • Principle 8: undertake initiatives to promote greater environmental responsibility; • Principle 9: encourage the development and diffusion of environmentally friendly technologies </div>
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<div>  <div> Corporate Social Responsibility: A Perspective and Impact on Business of Least Developed Countries, a Focus on Bangladesh </div> </div> <div>  </div>	<div> <h2>Corporate Social Responsibility: It's Perspectives; and Impact on Business of Least Developed Countries, a Focus on Bangladesh</h2> <p>Mohammed Sabirul Karim¹</p> <p>Overseas workers are mostly exploited by recruiting agencies; whereas these rural and mostly illiterate people have to sell all their belongings becoming paupers and then lend money at very high interest. Owing to cheating by the recruiters and unlawful behavior by the overseas employers, many of them get compelled to come back as beggars, some after long confinement in overseas jails. Hardly any remedy is available from the law enforcing agencies.</p> <p>Many industrial units run with half-century old machineries producing fatal air, soil and water pollutions. More modern factories also don't care to install 'Effluent Treatment Plants'.</p> <p>Starting from fast moving consumer goods, vegetables, fruits and all other conveyable goods, adulteration, abnormal ripening at times with poisonous elements, keeping fish fresh with applying deadly Formalin and all other malpractice is rampant and carefree. Good Governance and efficient law enforcing agencies can only solve these plights.</p> <p>6.5 Good Governance and CSR in LDCs</p> <p>CSR has been defined in general terms as "the obligation of the firm to use its resources in ways to benefit society, through committed participation as a member of society, taking into account the society at large and improving the welfare of society at large independent of direct gains of the company." (Russo and Fouts, 1997) CSR is related to the problems of the agricultural input sector of Bangladesh, used to explain the need of the businesses to be socially responsible and focus on economic, social, legal, ethical and environmental issues. Farmers are being cheated into buying underweight, low quality inputs sometimes at higher prices, which do not benefit yields. The contaminated inputs also cause damage to soil fertility, which eventually results in decreased yields. While the economic aspect is represented by the resultant effect of a price hike on the farmers, the social impact is due to the decrease in farmers' income. The legal and ethical components are represented by the private sector not coming with the laws and rules and the meeting of obligations placed on them by the state and the society. Finally, the environmental consideration is also important because of the effect of contaminated and unbalanced inputs on the soil and on soil fertility.</p> <p>As discussed above, lack of effective good governance has resulted significantly in lack of business ethics and poor CSR culture. The key idea behind CSR and corporate citizenship is that responsible behavior makes good business sense. "In Bangladesh the private sector seems to focus on earning profits in the short term, ignoring the issue of responsible behavior and the desirability of earning the trust of consumers which are important for the long-run success of their operations." (Wendy, 2009) The incidence of selling adulterated low-quality products at high prices and with underweight and above all, hoarding to reap dishonest profit, all confirm this. In the absence of a socially responsible behavior in the private sector, there is need to enhance capacity-building on the part of the state to intervene and implement sanctions effectively to enforce compliance. "CSR does not develop and is not sustained independently of the context in which business operates. Importantly, context includes the legal infrastructure created by the state and the enforcement effort imposed by the state. In the absence of an effective state intervention in the public interest, private enterprises are less constrained to behave in the public interest and in conformity with CSR." (Piga, 2002) Thus lack of capacity or even will, or both by the state weakens the</p> </div>
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<div>  <div> Corporate Social Responsibility: A Perspective and Impact on Business of Least Developed Countries, a Focus on Bangladesh </div> </div> <div>  </div>	<div> <h2>Corporate Social Responsibility: It's Perspectives; and Impact on Business of Least Developed Countries, a Focus on Bangladesh</h2> <p>Mohammed Sabirul Karim¹</p> <p>at the cost of the others. Although CSR as a concept may have roots in philanthropic activities, the modern view of CSR is more strategic and complex. In developing countries where basic compliance with and enforcement of national labor and environmental laws are weak, some may mischaracterize CSR with laws and regulations as CSR.</p> <p>The modern concept of CSR is evolving gradually despite several hindrances. Driving forces behind this evolution is pressure from various stakeholders (Importers, Environmentalists) while slow progress is attributed to lack of good governance, absence of strong labor unions, consumer forums and above all lack of understanding by business houses, specifically non-exporting ones, that CSR is not charity but is rather an instrumental PR investment.</p> <p>Finally, some suggest that businesses should assume social responsibilities because they are among the few private entities that have the resources to do so. The corporate world has some of the brightest minds in the world, and it possesses tremendous financial resources. Thus, businesses should utilize some of their human and financial capital in order to "make the world a better place." Let's end with a quote Niall Fitzerald, Former CEO, Unilever: "Corporate social responsibility is a hard-edged business decision. Not because it is a nice thing to do or because people are forcing us to do it... because it is good for our business".</p> <p>References</p> <ol style="list-style-type: none"> Abagail McWilliams, Donald S. Siegel, and Patrick M. Wright 'Corporate Social Responsibility: Strategic Implications', <i>Journal of Management Studies</i>, 43, 1, January 2006, 0022-2380. A Roundtable organized by CSR Center of Bangladesh Enterprise Institute, held on Thursday, 23 February, 2006, titled 'Corporate Social Responsibility Practices and Challenges in Bangladesh' was a part of its 'Dialogue Series on CSR in Action'. Aupperle, K., Carroll, A. and Hatfield, J. (1985). 'An empirical examination of the relationship between corporate social responsibility and profitability'. <i>Academy of Management Journal</i>, 28, 446-63. Baron, D. (2001). 'Private politics, corporate social responsibility and integrated strategy'. <i>Journal of Economics and Management Strategy</i>, 10, 7-45. Bendell J, Shah R. (2002). 'Life Worth 2001 Annual Review of Corporate Responsibility'. <i>Life Worth-Greenleaf-New Academy of Business: Sheffield and Bath</i>, UK. Christian Aid, 'Behind the Mask: The Real Face of CSR', <i>Annual Report</i>, (2015). www.christianaid.org.uk Dr. Rahman A., Governor, Bangladesh Bank, Seminar on 'Public Private Partnership and Corporate Social Responsibility for Social Development' Organized by: CSR Centre, International Organization for Migration, February 01, 2011. European Competitiveness Report 2008 (COM 2008, 774), and accompanying Staff Working Paper SEC 2853. Friedman, M. (1962). 'Capitalism and Freedom, Chicago': <i>University of Chicago Press</i> W63. Green Paper on CSR, <i>Asia Link Program, The European Union</i>. Henderson D. (2001). 'Misguided Virtue: False Notions of Corporate Social Responsibility'. <i>Institute of Economic Affairs-London</i>. Hillman, A. and Keim, G. (2001). 'Shareholder value, stakeholder management, and social issues: what's the bottom line?' <i>Strategic Management Journal</i>, 22, 125-39. Hoppe, H. and Lehmann-Grube, U. (2001). 'Second-mover advantages in dynamic quality competition'. <i>Journal of Economics and Management Strategy</i>, 10, 419-33. J.J. Asongu and Miller W. (2007). 'The History of Corporate Social Responsibility'. 14. </div>
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<div>  <div> NBR Research Journal </div> </div> <div> Volume 1 Issue 1 September 2020 </div> <div> ISSN: 2790-1943 </div> <div>  </div>	<div> <p>safe working conditions for employees, environmental stewardship, and contributions to community groups and charities.</p> <p>Businesses can therefore have a positive impact in developing countries, especially through CSR initiatives focusing on sustainable-development and co-operation with civil society. However, for many MNEs, CSR is an outcome of public pressure arising from their operations in developing countries in relation to human rights, environmental pollution and labor issues. In other words, it has generally been a pragmatic response to consumer and civil society pressures. CSR is a process driven by globalization, deregulation and privatization. Proponents of CSR are keen to demonstrate that business has responsibilities beyond the production of goods, services and profit making, and that socially responsible business can help to solve important social and environmental problems.</p> <p>Conversely, counterarguments on CSR attempt to show that "CSR distorts the market by deflecting business from its primary role of profit generation and this is seen as potentially quite dangerous." (Henderson, 2001) As such, "Business has no social responsibility beyond compliance with the law." (Bendell and Shah 2002)</p> <p>In fact, CSR means different things to different people. However, certain ideas are becoming commonly accepted. One is that CSR is not about philanthropy or charitable work. It refers to something much more fundamental. It is about how companies take responsibility for their actions in the world at large. CSR is mainly about the awareness of and actions in support of environmentally sustainable performance had superior financial performance, which they interpreted to be consistent with the RBV theory. Even when it is not directly tied to a product feature or production process, CSR can be viewed as a form of reputation building or maintenance. (Wernerfelt, 1984)</p> <p>1.1 Statement of the Problem</p> <p>The role of business worldwide and specifically in the developed economies has evolved over the last few decades from classical 'profit maximizing' approach to a 'societal responsible' approach, where businesses are not only responsible to its stockholders but also to all of its stakeholders in a broader inclusive sense. One can identify so many reasons for shifting the role of business from classical concept to a responsible business concept, but the negative impression of stakeholders on the enterprise would get a higher priority among others. In one hand, firms create wealth and job opportunities for the society and on the other, they are polluting and destroying environment and ecology with devastating impact on human health and bio-diversity worldwide. To address the social problems or the problems of the stakeholders, the business community evolved a new approach in their business strategies named CSR and through CSR enterprises are intent to strike a balance between economic and social goals, where resources are used in a rational manner and social needs are being addressed responsibly.</p> <p>1.2 Objective of the Study</p> <p>The main objective is to determine CSR and its perspective, as well as potential in business in LDC. Besides,</p> <ol style="list-style-type: none"> To find out CSR perceptions of business Community in LDCs; To recover the CSR applications and realities in Bangladesh. </div>
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<div>  <div> NBR Research Journal </div> </div> <div> Volume 1 Issue 1 September 2020 </div> <div> ISSN: 2790-1943 </div> <div>  </div>	<div> <h2>Corporate Social Responsibility: It's Perspectives; and Impact on Business of Least Developed Countries, a Focus on Bangladesh</h2> <p>Mohammed Sabirul Karim¹</p> <p>4. Anti-corruption</p> <ul style="list-style-type: none"> • Principle 10: Businesses should work against all forms of corruption, including extortion and bribery. <p>3.3 Scholarly Opinion Against CSR</p> <p>"If you find an executive who wants to take on social responsibility, fire him, fast." - Peter Drucker (American Management Consultant)</p> <p>"There is one and only one social responsibility of business-to use its resources and engage in activities designed to increase its profits" (Friedman, 1962). Corporation's sole responsibility is to increase profits by legal means, donating to charities, is detrimental to firms since it may decrease profitability or increase product prices or both.</p> <p>Investing in CSR activities such as charitable contribution, promoting community development plans, establishing environmental protection procedures put those companies at an economic disadvantage compared to less corporate responsible companies.</p> <p>CSR is simply a way for corporations to hide behind the mask of their obligations and responsibility (Christian Aid, 2015), a window dressing tactic. CSR sounds and looks good; corporations just appear to be socially responsible for the purpose not to damage their image and brand as well as for the reason to keep the critics quiet. CSR is only seen as a "bracket of PR" and a mask that companies hide behind. It has become a "vital tool in promoting and improving the public image of some of the world's largest corporation".</p> <p>The 100 largest companies in the world have turnovers that are greater than the GDP of half of the world's countries. Corporations are powerful entities; in some ways more so, because the government since they are financially stronger and operating internationally. Corporations are today seen as the more officially accepted player in the arena of political rights. They are taking an increasingly active role in today's political arena. Nowadays, the debate about CSR has shifted; it is no longer about "whether to make sustainable commitments to CSR, but rather how".</p> <p>4. Methodology & Data Collection</p> <p>Basically this is a a content analysis of descriptive research format. Secondary data are absorbed from related books, reports, journals, websites etc.</p> <p>5. Limitations of the Study</p> <p>The major constraints of this study are unavailability and inconsistency of appropriate data; another, time & resources.</p> <p>6. Findings</p> <p>6.1 CSR Implications to Business Activities</p> <p>Companies are facing the challenges in adapting effectively to the changing environment in the context of globalization and in particular in the export sector. Although Consumer Rights Movement, enforcement of government regulations and strict law view regarding the economic importance of CSR are not yet so widespread in the corporate world in LDCs. They are increasingly aware that CSR can be of direct economic value. "Companies can contribute to social and environmental objectives, through integrating CSR as a strategic</p> </div>
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Divorce Laws for Christians in Bangladesh: Applications of Civic Codes and Canon Law to Marriage

Fr. Lawrence Noreesh Das, CSC*

Abstract

Christians in Bangladesh are a small group. There are Roman Catholic and Protestant Christians among whom Roman Catholics are the majority in Bangladesh. They have their own personal laws according to denomination which include marriage, divorce etc. The parliament and courts recognize the personal laws of Christians of Bangladesh. But it varies for their application according to denominations. Divorce is dissolution of a matrimonial bond of a spouse from his/her spouse for specific reasons mentioned in the Divorce Act 1869 applicable for them who profess Christianity in Bangladesh with exceptions for different denominations. The Special Marriage Act 1872 ss. 3, 4 and 5 and Civil Procedure 1908 Act V, the First Schedule, Order 7 Rule 11(d) acknowledge and recognize Personal Laws and marriage rites of different religions. Article 1141 of the Code of Canon Law provides that except for death there is no human power on earth which can dissolve the matrimonial bond of a Roman Catholic marriage which was properly solemnized by a clergy. Thus, the Divorce Act will not be applicable for the Roman Catholics of Bangladesh for the Code of Canon Law is applicable globally for the Roman Catholic Christians.

Introduction

Christianity first reached the Indian sub-continent in the first century A.D. with the arrival of Saint Thomas, one of the twelve Apostles. He came to South India, to Madras, presently known as Chennai.¹ But it was mainly evangelized much later by the Portuguese missionaries, including Franciscans, Dominicans, Augustinians² and Jesuits³. Christians comprise a very small group in Bangladesh relative to the total population. Apart from the Protestants of equivalent number, there are almost 400,000 Roman Catholic Christians in eight dioceses, respectively Dhaka- 78,814, Chittagong- 30,269, Dinajpur- 59,852, Khulna- 33,705, Mymensingh- 81,467, Rajshahi- 64,952, Sylhet- 19,087 and Barisal- 16,023. The total Catholic population is 384,169. Christianity was introduced in the sub-continent by the Portuguese missionaries in the late sixteenth century to the early seventeenth century. The Christians have their own personal laws which include regulations governing marriage and divorce. Different Christian denominations have their own marriage rites and divorce is not equally applicable for all the Christian denominations. The application of personal laws varies from denomination to denomination and sometimes for particular ethnicity. Churches in some cases respect ethnic marriage rites as well. Among other Christian denominations, Roman Catholic Christians in particular do not allow divorce from the matrimonial bond.

Along with other laws, the British Colonials enacted the Succession Act 1925, the Christian Marriage Act 1872 and the Divorce Act 1869. From the titles of the Acts, it is evident that these laws are centuries' old. According to the Divorce Act 1869, "**divorce**" for those who

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¹ Das, Lawrence Noreesh Fr., CSC, *Srimangalor Iti kotha* (the History of Srimangal Parish), p. 12

² D'Costa, Jerome, *Bangladeshi Catholic Mondoli* (History of the Catholic Church in Bangladesh), p. 1

³ *The Catholic Directory of Bangladesh* 2017, p. 143

profess Christianity in Bangladesh is dissolution of matrimonial bond of a spouse from his/her spouse according to the **Divorce Act 1869**. This Act extends to the whole of Bangladesh and the courts (District Courts and the Supreme Court) of Bangladesh are authorized to make decrees of dissolution and nullification of a Christian marriage. The courts are also authorized to make decrees for judicial separation and re-marriage of a Christian spouse domiciled or residing in Bangladesh after the 26th day of March, 1971.⁴ The Act does not mention anywhere any exceptions regarding its application according to different Christian denominations.

Protestant Christians file petitions in court for divorce, dissolution and nullification of marriage according to the provisions of the Divorce Act 1869. For Roman Catholic Christians, it is totally contrary to the provisions of the Code of Canon Law. The aim and objective of this research is to see if there is any wrong concept of the Divorce Act 1869 for its application and also to see if there is any exception or it is equally applicable for the Roman Catholics as well.

Research Method, Methodology, and Delimitation Scope of The Study

In order to fulfill the aims and objectives, the researcher used the qualitative approach of research method and as a methodology he used contextual analysis of relevant legislative pieces of relevant Acts namely the Christian Marriage Act 1872, the Divorce Act 1869 and the Code of Civil Procedure 1908 Act V. The Code of Canon Law 1983 is also used as a Personal Law applicable for the Roman Catholic Christians in Bangladesh.

Significance of the Study

There are wrong concepts among Christians, lawyers and students of law regarding who can file petitions for decrees of divorce, judicial separation and re-marriage and who cannot. This research study will bring clarity for its application. This research study will greatly be beneficial to the Christians, lawyers, researchers and students of law of this sub-continent (India-Pakistan-Bangladesh); since this sub-continent was a colony of the British and most of the laws were enacted during their regime and the Code of Canon Law has its universal application for the Roman Catholic Christians.

Definition of Key Terms⁵

Church- A narrow meaning of Church is where Christians go for worship but the wider meaning of Church is, formal full recognized institutional communion of Christians with the Religious Head of the hierarchy.⁶

Divorce- Dissolution of a Christian spouse from a Christian marriage bond.⁷

Covenant- A solemn agreement between a Christian man and a Christian woman during a

⁴ Miah, Siddiqur Rahman, Muslim, Hindu, Christian Bibaho O Talak Somporkito Ain (Law on marriage and divorce of Muslim, Hindu and Christian), pp. 379-399.

⁵ The Canon Law Society of Great Britain and Ireland, The Code of Canon Law, Canons 1059, pp. 189. The meanings of these terms are taken from the documents of the Vatican Council II and the Code of Canon Law which are the highest authoritative sources for the Roman Catholic Church which are used in field of law.

⁶ Costa, Fr. Jyoti F. & Rebeiro, Fr. Bulbul A., The Catholic Directory 2017, p. 1. See also Flannery, Austin, O.P., Vatican Council II (Decree on the Church's Missionary Activity), pp. 813-856. Here the ordinary dictionary meaning is not used. But it is used in the sense of the deeper meaning of the Vatican Council II.

⁷ Miah, Siddiqur Rahman, Muslim, Hindu, Christian Bibaho O Talak Somporkito Ain (Laws on Muslim, Hindu, Christian Marriage and Divorce), The Divorce Act 1869, S. 10, p. 382. It is applicable for the specified Protestant Christian Denominations according to the provisions of The Christian Marriage Act 1872, SS. 2, 4 & 5, found in the same book at page 411.

wedding to live together in harmony with the precepts of the Gospel and the Church which cannot be broken once it is properly done.⁸

Sacrament- Sacraments are visible signs and efficacious channels of grace of God. A Roman Catholic marriage is one of the seven sacraments.⁹

Whole life Partnership- In a Roman Catholic Marriage, matrimony, is a covenant by which a man and a woman establish between themselves and promise to live together as partners for the whole life.¹⁰

The Code of Canon Law- The Code of Canon Law is the Code of Personal Laws universally applicable for the Roman Catholic Christians. Here in this research, it is primarily analyzed for references for marriage rite, adoption, guardianship and inheritance.¹¹

Matrimonial Bond- Matrimonial bond is a covenant between a man and a woman who are married to each other in a Church; for a Roman Catholic Christian, it is a permanent bond.¹²

Matrimonial Consent- A matrimonial consent is a consent given for validation of a Christian marriage during the wedding by a person who has attained the age of majority.¹³

Indissolubility- When a Roman Catholic Christian marriage is properly solemnized with the valid consent of the contracting parties cannot be dissolved afterwards.¹⁴

Analysis of Relevant Legislative Pieces of Relevant Acts and The Code of Canon Law

The Christian Marriage Act 1872 section 3 suggests that there are different Churches and different Christian Denominations in particular it mentions "Church of England" or "Anglican", "Church of Scotland" and "Church of Rome". In section 4 it states, "Every marriage between persons, one or both of whom is or are a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void."¹⁵ Therefore, a Roman Catholic marriage to be a valid marriage has to be solemnized following the provisions of the Roman Catholic marriage rite; specifically section 5(1) states, "By any person who has received Episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which he is a Minister."¹⁶

In this context, now appropriately the provisions of a Roman Catholic marriage rite are discussed which are found in the Code of Canon Law 1983. According to the marriage rite of the Roman Catholics, a marriage is a covenant, a **whole life partnership** and a **sacrament which is found in article 1055** of the Code of Canon Law. The essential properties of marriage are **unity** and **indissolubility**. There is a firmness by reason of the sacrament found in article 1056.¹⁷ There is a reflection of everything mentioned above in the Roman Catholic Wedding Ceremony Vows, "I, _____, take you, _____, to be my wife/husband.

⁸ The Canon Law Society of Great Britain and Ireland, The Code of Canon Law, Canons 1055, 1056 & 1141 pp. 189 & 201.

⁹ Id. Canon 1055 & 1056, p. 189

¹⁰ Id. Canon 1055, p. 189

¹¹ Id. (INTRODUCTION), pp. vii-ix. The Code of Canon Law is a book of personal laws for the Catholic Christians.

¹² Id. Canons 1055 & 1141, p. 201.

¹³ Id. Canons 1056 & 1141, pp. 189 & 201

¹⁴ Miah, Siddiqur Rahman, Muslim, Hindu, Christian Bibaho O Talak Somporkito Ain (Law on marriage and divorce of Muslim, Hindu and Christian), p. 412.

¹⁵ Id. p. 412.

¹⁶ The Code of Canon Law, p.189.

I promise to be true to you in good times and in bad, in sickness and in health. I will love you and honor you all the days of my life."¹⁸

It is very evident in article 1141 which states, "A marriage which is ratified and consummated cannot be dissolved by any human power or by any cause other than death"¹⁹ meaning if a marriage is validly solemnized according to the Roman Catholic marriage rite, there will be no human power to dissolve it rather than death of either spouse.

The research suggests from the above analysis of the relevant pieces of the Christian Marriage Act 1872 and the Code of Canon Law that there is no divorce among the Roman Catholic Christians. It is consolidated by the legislative piece from the Civil Procedure 1908 Act V, The First Schedule, Order 7 Rule 11(d) which states, "[W]here the suit appears from the statement in the plaint to be barred by any law ...)"²⁰

This is how the applicability of the Divorce Act 1869 and the Code of Canon Law is reconciled and the sovereignty of the Parliament is upheld. The Divorce Act 1869 and the Code of Canon Law are applicable simultaneously without hurting any religious sentiment or without creating any dissatisfaction of any religious group. All these are based on personal laws and therefore they are analyzed based on applicability of personal laws for their solutions.

Therefore, the applicability of a particular law may be barred by another law. Here in this context for the Roman Catholic Christians, the Divorce Act 1869 is barred by the Christian Marriage Act 1872 in particular by sections 3, 4 and 5(1).²¹ The Code of Canon Law is not an Act but a Code of Personal Law for the Roman Catholic Christians which is recognized by courts as Personal Laws in Bangladesh. The courts of Bangladesh recognize the Personal Laws of all religions for validity of a marriage, inheritance, guardianship and adoption as a matter of fact, all the family laws.

¹⁸ **Roman Catholic Wedding Ceremony Vows**, available at <https://www.theknot.com/content/roman-catholic-wedding-vows>, accessed on 7 July 2018 and see at Bhakti Pushpa, p. 261

¹⁹ The Canon Law Society of Great Britain and Ireland in association with The Canon Law Society of Australia and New Zealand and The Canadian Canon Law Society, *The Code of Canon Law*, p. 201

²⁰ Rahman, Gazi Shamsur, *Devani Karjyabidhi* (Civil Procedure Code), p. 461. See also Civil Procedure 1908 Act V, ORDER VII RULE 11, available at http://bdlaws.minlaw.gov.bd/pdf/86___THE%20FIRST%20SCHEDULE-ULE%20Schedule.pdf, accessed on 8 September 2017.

²¹ The Christian Marriage Act 1872 section 3: "In this Act unless there is something repugnant in the subject or context, "Church of England" and "Anglican" mean and apply to the Church of England as by law established;

"Church of Scotland" means the Church of Scotland as by law established;

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the [P]pope of Rome as its spiritual head;

"Church" includes any chapel or other building generally used for public Christian worship; ..."

Section 4: Marriages to be solemnized according to Act: Every marriage between persons, one or both of whom is [or are] a Christian of Christians, shall be so [l] solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

Section 5: Persons by whom marriages may be solemnized: Marriages may be solemnized in Bangladesh;

(1) By any persons who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs [of] to the Church of which he is a Minister;

(2) By any clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and custom of the Church of Scotland;

(3) By any Minister of Religion Licensed under this Act to so [l] solemnized marriages;

(4) By, or in the presence of, a Marriage Registrar appointed under this Act;

(5) By any person licensed under this Act to grant certificates of marriage between native Christians.""

Miah, Siddiqur Rahman, Muslim, Hindu, Christian Bibaho O Talak Somporkito Ain (Laws on Muslim, Hindu, Christian Marriage and Divorce), pp. 411-412

Cases in Courts of Bangladesh and Recognition of the Code of Canon Law

All the following cases are decided cases in the courts of Bangladesh. The third case is the most important case in this research since this was decided in the High Court of Bangladesh which is binding on all the lower courts of Bangladesh.²² The High Court recognized Canon 1141 of the Code of Canon Law and made it a headline in its judgment as follows: "Penal Code, 1860 Section 494 read with Code of Canon Law Canon No. 1141."²³ The second and the third cases were decided under Canon 1141²⁴ especially in the third case it provides in paragraph 20, 'As per Canon No. 1141 of the Code of Canon Law, a marriage which is rectified (ratified) and consummated cannot be dissolved by any human power or by any cause other than death. In the book namely the New Marriage Law by George V. Lobo in Chapter 9 it has been explained with the following words; "In spite of vigorous debate on this matter, the Magisterium has been strongly reaffirming the indissolubility of Christian marriage. Vatican II has declared; as a mutual gift of two persons, this intimate union, as well as the good of the children, imposes total fidelity on the spouses and argues for an unbreakable oneness between them. Pope John Paul II, in his Apostolic Exhortation, *Familiaris Consortio*, reaffirms this stand; God wills and he communicates the indissolubility of marriage as a fruit, a sign and a requirement of the absolutely faithful love that God has for man and that the Lord Jesus has for His Church. (...) "The Code clarifies that only a ratified or sacramental union between two baptized people after consummation is absolutely indissoluble, that is, no human power, whether the will of the parties, or the authority of the State or of the Pope himself can dissolved (dissolve) such a union. Any other union could be dissolved by the supreme authority of the Church." ' * ²⁵

The Court in recognition of Code of Canon Law passed the judgment which is evident in paragraph 21 as well it provides, "Since as per Canon No. 1141 ... a second marriage cannot be taken place during the subsistence of the first marriage or life time of the wife. The opposite party No. 2 has committed an offence in taking a second wife."²⁶ The first and the second cases were decided at the district level. The first case was for adoption under Canon 110.²⁷ These evidences of recognition of the Code of Canon Law by Courts in Bangladesh are enumerated briefly in the following cases:

1. **Joshi Bose & Others Vs. Mina Bose & Others, Civil Appeal Case No. 424 of 2011(for adoption), Additional District Judge, 2nd Court, Dhaka.** Joshua, a Christian boy lost both of his parents. Joshi Bose, his own uncle filed this case for adoption of Joshua under Canon 110. In the judgment in paragraph 5 it stated that according to the provision of the Code of Canon Law Canon 110, the Christians have the provision of taking adoption and Section 22 of the Code of Civil Procedure would be applied. In paragraph 6 of the judgment it further stated that the Additional District Judge, 2nd Court, Dhaka passed the judgment in favor of Joshi Bose and granted his prayer for adoption of Joshua.

²² The Appellate Division upheld the decision of the High Court afterwards.

²³ *The Bangladesh Law Times* (A MONTHLY LAW JOURNAL, Vol. XX April 2012), 226

²⁴ Sections in the Code of Canon Law are enumerated as Canons.

²⁵ *The Bangladesh Law Times* (A Monthly Law Journal), Vol. XX, May 2012), 236

²⁶ Id. p. 236

²⁷ A Christian can adopt any person of any age who will be recognized as that person's (his/her) son/daughter with all rights of a biological son/daughter.

2. **Luke Anurup Modhu Vs. Mrs. Mary Godhinu, Case No. 29 of 2011, Boraigram Family Court, Natore.** The fact of this case is that Luke Anurup Modhu and Mary Godhinu got married and have children. This is a ratified and consummated marriage which was properly solemnized according to the Roman Catholic Marriage Rite, therefore, cannot be dissolved by any human power other than death.²⁸ Anurup Modhu filed this case in Boraigram Family Court, Natore for divorce. The Court dismissed the case against Anurup Modhu, (who filed the case for divorce) under the Code of **Civil Procedure 1908 Act V, the First Schedule, Order 7 Rule 11(d)**.
3. **Elizabeth R. Das Vs. The State & Anr, High Court Division (Criminal), 2012 (XX) BLT (HCD) 226.** The fact of the case in brief is that Elizabeth R. Das got married and had a child with her husband. Later, her husband sent her a notarized divorce letter and started to live with another woman. The marriage with Elizabeth R. Das was a ratified and consummated marriage which was properly solemnized according to the Roman Catholic Marriage Rite. **Therefore, it could not be dissolved.**²⁹

As it is discussed above, the Code of Canon Law is a personal law. This Personal Law for Roman Catholic Christians is recognized by the courts in Bangladesh especially for its marriage rite, adoption and inheritance. The Articles 1055, 1056 and 1141 of the Code of Canon Law are predominant and at the heart of the whole research for the essential properties namely unity and indissolubility of a Catholic marriage.³⁰

One of the findings in the research is that there is ignorance and wrong concept about the Divorce Act 1869 among lawyers and especially among Roman Catholic Christians regarding the applicability of the Code of Canon Law and the Divorce Act 1869. Another finding in the research is that sometimes out of ignorance and sometimes intentionally the Christians of different Churches specified in section 3 of the Christian Marriage Act 1872 divorce their spouse by notarized affidavits and in some cases by court decrees. But the research suggests that the Divorce Act 1869 is applicable for different Protestant denominations but not for the Churches specified in section 3 of the Christian Marriage Act 1872.

The research suggests and recommends that the Church authorities of the Churches specified in section 3 of the Christian Marriage Act 1872 should and can take appropriate steps for creating public awareness through sermons especially on Sundays. For extensive awareness among the people, electronic and print media can be utilized including publications of research works, leaflets, posters, CDs/DVDs and books. As Roman Catholic Christians are the vast majority among the Christians in Bangladesh, the Catholic Bishops' Conference of Bangladesh can take initiatives to arrange seminars and workshops with Church leaders for proper education to overcome this problem.

²⁸ *The Code of Canon Law*, Canon 1141, p. 201

²⁹ The judgment of this decided case was published in the BLT. The decision of the Court was in favor of Elizabeth R. Das. Her husband sent her a notarized divorce letter. Her prayer to the Court was that under Canon 1141, there is no provision for divorce among the Roman Catholics.

³⁰ The Canon Law Society of Great Britain and Ireland et al, *The Code of Canon Law*, p. 201.

Conclusion

In conclusion, the research suggests that the Code of Canon Law is universally applicable for Roman Catholic Christians irrespective of nationality, race, color, country and continent³¹ and the Divorce Act 1869 enacted by and during the British Colonials is not applicable for the Roman Catholic Christians in Bangladesh.³² The research also suggests that a Christian of specified Protestant denomination according to provisions of Sections 3, 4 and 5 of the Christian Marriage Act 1872 can file a petition to any District Court or to the High Court Division of the Honorable Supreme Court of Bangladesh for a decree of divorce under section 10, judicial separation under section 23 and re-marriage under section 57 of the Divorce Act 1869. A Roman Catholic Christian cannot do so for the provisions specified in the Christian Marriage Act 1872 for the Church of Rome and cannot file a petition for the aforesaid reasons under the Divorce Act 1869.³³

These century-old laws enacted by the British colonials require revision and amendments with the changes of societies and personal laws of different Christian denominations. Thus the research concludes that the legal provisions of The Divorce Act 1869 do not apply for the Roman Catholic Christians in Bangladesh.

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³¹ Zafar Emmanuel (Advocate High Court), Christian Law of Inheritance & Succession (Opinion of the Christian Theologian on this Book by Rt. Rev. Dr. Alexander John Maliki).

³² Rao Kande Prasad, Law Applicable to Christians in India (vol. 1), p. 521

³³ THE DIVORCE ACT 1969 (Act No. IV of 1969), available at http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=20, accessed on August 30, 2017. See also Miah, Siddiqur Rahman, Muslim, Hindu, *Christian Bibaho O Talak Somporkito Ain* (Laws on Muslim, Hindu, Christian Marriage and Divorce), p. 382

