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An epidemic like rape can't be just wished away

Sustained legal, administrative action needed to turn the tide

AS far as official action goes, there have been some rapid developments since the disclosure of the brutal assault of a Noakhali woman who was stripped, gang-raped and beaten while the perpetrators recorded the torture and later released the video on social media to further dehumanise her. The High Court took suo moto notice of the incident on Monday, issuing a number of rulings that involve investigation into possible police negligence, taking prompt action against the perpetrators, and protecting the victim and her family. Police have already arrested six people, including four accused and a union member, in this connection. Two cases were also filed—one under the Pornography Control Act and the other under the Women and Children Repression (Prevention) Act—although the charges brought constitute "attempt to rape" and carries a much lighter sentence than a rape case, which experts say this definitely was. We hope this will be fixed, and all perpetrators and those accused of negligence will be brought to justice soon.

That said, we cannot but be wary of what impact such actions, rulings and trials—even convictions in a best-case scenario—will have on the epidemic of atrocities facing women and children. Will these deter would-be rapists? Will police and local authorities be more mindful of their responsibilities? Will all victims of sexual harassment get justice? The court in its ruling also asked the Bangladesh Telecommunication Regulatory Commission (BTRC) to remove the video footage of the Noakhali incident from social media to prevent further trauma for the victim. A sensible decision. But it was partly the outrage caused by the video that led to the burst of judicial and police activity. Could anything less than the public humiliation of a rape survivor have caused a similar reaction?

There are many theories as to why rape continues to be committed and how it can be stopped. One, which the general secretary of the ruling party has also put forward after the Noakhali incident, involves building "social resistance" against rape. While it's unclear what he meant by that, it seems to indicate the resolution of such crimes through people-centred initiatives. There is no denying the importance of such initiatives as well as of raising awareness to address regressive social norms and sexist prejudices that lead to such crimes. But such suggestions, sincere as they are, implicitly ignore their political dimension. So many rapists have been reported to be involved with the power structure pivoting around the ruling party, and the impunity they enjoy as a result cannot be dismantled simply through social resistance. This is also the reason why so many of them fall through the legal cracks, leading to frustratingly low conviction rates.

The fact is, the administration, local governments and our criminal justice system have been failing victims of rape for a long time. Sporadic actions and prosecutions after sensational cases like the present one may lead to triumphs, but these fall woefully short of addressing the bigger issue of why rape continues to happen. While individual initiatives and awareness are vital, the authorities must build a reliable safety bubble around women and girls so that no criminal, however well-connected, can commit such heinous crimes and get away with it. Victims must be protected and emboldened to pursue legal course, starting from the initial reporting of a crime, through to investigation and finally, trial in a court of law. Without sustained action by the administration and justice system, the culture of rape cannot be eradicated.

Medical waste management amid the pandemic

Covid-19 related waste should be disposed of separately

A recent study by Brac has found that around 93.4 percent of the medical and healthcare waste generated every day during this pandemic is left unmanaged due to the absence of a proper medical waste management system. According to the study, of the 530.45 tonnes of Covid-19 related waste generated per day from households and healthcare establishments, only 6.6 percent is managed formally. The remaining 93.4 percent is not under the current hospital waste management procedure. So, the 282.45 tonnes of healthcare waste, generated every day from protective items used by general people to shield themselves against Covid-19, are mixed with household waste before disposal. This waste is causing severe environmental pollution as well as health problems to the public. PRISM Bangladesh Foundation, a well-known third-party medical waste manager in Bangladesh, only partly manages the waste generated from hospitals and healthcare facilities in Dhaka and four other districts; the rest of the country is not under their coverage.

The issue of medical waste management has never received the importance it deserves, either from the government or the hospitals and clinics concerned. Public awareness regarding this is also negligible, while the relevant law remains largely unimplemented. Naturally, the situation has worsened during this pandemic as people are dumping masks, gloves and all kinds of disposable protective items indiscriminately on the ground and mixing them with kitchen wastes; even hospitals have been found to be dumping discarded PPEs on their premises.

What we need is a comprehensive medical waste management policy and system so these discarded medical items cannot pollute the environment and pose risks to public health. Medical waste related to Covid-19 should not get mixed with regular waste; these should be disposed of separately. Initiatives must be taken by the government to collect such waste separately.

We also need to raise public awareness regarding the issue and turn this awareness into a habit so that people stop dumping used masks, gloves and PPEs indiscriminately on the ground or mix them with other household waste. For that, we need coordinated efforts from all stakeholders and an increase in our overall waste management capabilities. The ministry of health, environment and local government should work together to this end. We need to find a sustainable solution to this problem through public-private partnership. The threat of the spread of the coronavirus through improper disposal of medical waste is far too real to be ignored.

End privacy breaches now

KAMAL AHMED

IN an era when civil and political rights have been shrinking gradually, we have witnessed a welcome intervention by the Supreme Court. A three member bench of the High Court Division of the Supreme Court has said the practice of collection of call lists/audio discussions from public/private phone companies without any formal requisition and formal seizure, and also without the knowledge of the subscriber, must be stopped. Three justices of the bench, unanimously and without any ambiguity, have said that the citizens' right to privacy in correspondence and other means of communication is guaranteed under Article 43 of the Constitution, which cannot be easily violated at any instance, at the whims of interested quarters.

The judgement was the outcome of a death reference and two appeals—one criminal and the other a jail appeal in the case of the killing of a seven-year old child. In the original criminal case, the prosecution significantly relied on the alleged suspects' call lists and records, which were obtained without proper authorisation. To set aside the lower court's verdict, the higher court justices reasoned that the manner of proving the contents of the electronic record/document and its generation into printed material and certification left such evidence without any legal value. It is unfortunately a sad outcome in the pursuit of justice on the part of the victim's family. However, the failure is of the state and the indiscriminate and unlawful use of power by police investigators to obtain electronic communication logs and records of suspects. The silver lining, however, is in the reasoning of the judgement that reminds us all about the constitutional protection of our privacy. Both national and international rights groups have been, for quite some time, decrying flagrant violations of individual privacy, allegedly by security and law enforcing agencies.

These three judges have mentioned a fact that we seldom can say in public—that "It is our common experience that nowadays private communications between the citizens, including their audios/videos, are often leaked and published in social media for different purposes". It is, however, a very different story for the victims of such privacy breaches. The overwhelming majority of the victims are critics of the government, belonging to the opposition parties or civil society organisations. The most notable high-profile leaks of call records includes one between the Prime Minister Sheikh Hasina and the then leader of the opposition Khaleda Zia, following the death of her younger son Arafat Rahman Koko, and a call between Justice Nizamul Haque, the then chairman of the tribunal on crimes against humanity. We are in the dark on whether private communications of holders of such high offices are still vulnerable, as the government has, so far, remained silent on investigating those breaches.

This judgement has clearly defined the responsibilities of all the parties involved in breaching citizens' privacy, namely the regulator of the telecom sector, the law enforcing agencies and the telecom operators. It also prevents fishing expeditions through wiretapping. These justices have warned that the supplying person/authority of call lists or information would also be liable for aiding the violation of one's fundamental rights as guaranteed under the Constitution.

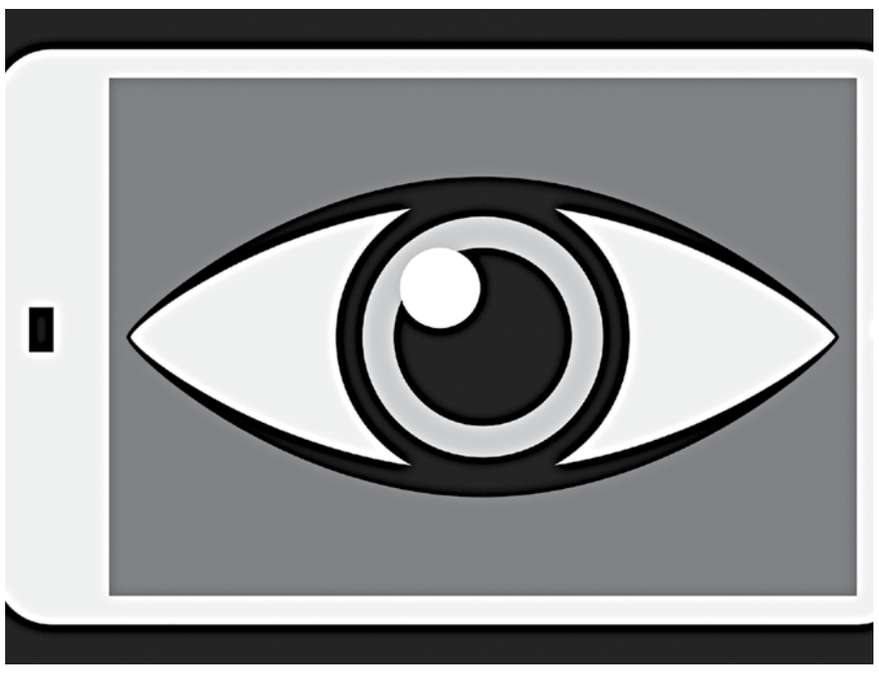

PHOTO: COLLECTED

The judgement says that the Bangladesh Telecommunication Regulatory Commission (BTRC) and the phone companies operating in Bangladesh have a great responsibility towards proper compliance of the constitutional mandate of maintaining privacy in communications. They cannot provide any information relating to communications of their subscribers and the citizens of the country, unless it is permissible by law matched with the Constitution. It further stipulates that when the investigating officers' investigation/inquiry, in particular, require any call lists or information relating to one's communications, they must make a formal request to the concerned authority of the respective company/office stating the reason why it is necessary for that investigation/inquiry, not in a roving and fishing manner. Only in that case will the phone companies have an obligation to supply the call list or information within the knowledge of the subscriber.

The assertion in the judgement that obtaining call lists or details of private communications through other electronic means (over the internet) will have to be under laws that match the constitution possibly opens up avenues to challenge the constitutional validity of a few new legislations that have been dubbed as draconian by rights activists. The judgement points out that except the Anti-terrorism Act 2009, all other laws lack specific provisions as to how materials would be collected and adduced in evidence. The judgement, therefore, stresses on the need of amending the Evidence Act. However, the judgement did not answer the question on whether the Anti-Terrorism Act had matched the constitutional mandate on citizens' privacy. The Anti-Terrorism Act says that any discussion and conversation through Facebook, Skype, Twitter or any other online site by a terrorist person or entity, or a still picture or video involving his offence, if produced by the police or law enforcers to any court for the purpose of investigation, the information so produced shall be admissible in evidence.

It is true that no one can deny the importance of surveillance of suspects in tackling increased threats of terrorism across the globe, and security agencies have been using all sorts of technological tools to keep an eye on suspects. However, in democracies, there are strong oversight mechanisms in place. Police and other agencies need judicial authorisation for snooping into anyone's private life. They need to satisfy the court with reasons for such suspicion. On the other hand, in autocracies, sophisticated technological tools are increasingly being used to harass, intimidate and humiliate opponents of the regime. In corruption-prone countries, officials use this technique to settle personal grudges, employ blackmail and engage in other activities which are criminal in nature.

Although the judgement was pronounced on August 28, 2019, it was published on September 29, 2020. Anyone who has fallen victim to such privacy breaches during the 13 month period of pronouncement and publication of the judgement can now seek legal redress to their sufferings, both psychological and reputational. Many of those leaks remained confined within social media platforms and did not become a story in mainstream media. But among the few picked up by traditional mainstream media, one was a conversation between the former vice president (VP) of the Dhaka University Central Students Union (Ducsu) Nurul Haque and one of his mentors about a potential business deal. Though there was no criminal act or motive established, the alleged call stirred a heated debate on social media. In the not too distant past, another former Ducsu VP, Mahmudur Rahman Manna, had to spend more than a year in prison based on his telephone conversation with another opposition politician, now deceased former Dhaka Mayor, Sadeque Hossain Khoka.

In this context, the High Court Division judgement is hugely significant. Hopefully, this illegal practice will stop immediately as records obtained without official authorisation and subscriber's consent have lost their evidentiary value. However, due to the lack of accountability of the government and law enforcing agencies, provisions should be made for judicial authorisation instead of official ones in all such surveillance activities.

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We must agree on a global goal for adaptation to climate change

POLITICS OF CLIMATE CHANGE

SALEEMUL HUQ

THE historic Paris Agreement on Climate Change, agreed at the 21st Conference of Parties (COP21) of the United Nations Framework Convention on Climate Change (UNFCCC) in Paris, France in 2015, was a major outcome that all vulnerable developing countries, including Bangladesh, strongly fought for. We achieved an important target for the mitigation agenda with the setting of the long term temperature goal at less than two degrees Centigrade, with a promise to try and keep it below 1.5 degrees if possible. This was one of the most important achievements of the vulnerable developing countries, in getting other countries to agree with this temperature goal.

This has in turn led to further operationalising of this global goal into targets like net zero emissions of greenhouse gases, globally and in each country, by 2050. At the same time, at the upcoming COP26—which will be held in Glasgow, Scotland in November 2021, with the Government of the United Kingdom as the official host—there is a plan to start a "race to zero emissions" in order to encourage all countries, as well as provinces and cities, to aim to achieve by 2030 wherever possible.

On the other hand, on the issue of adaptation to climate change, the Paris Agreement also agreed to have a Global Goal on Adaptation (GGA) as well. However, adaptation is much more complicated than mitigation, since it requires local level actions in every country, which are extremely difficult to aggregate across countries towards a global goal.

However, as we approach COP26, over the coming months it is very important that we come to an agreement on a global goal on adaptation. This should be something that all countries can agree on while also being simple enough for the people of the world to understand easily. How can we achieve this?

We need to first decide what should be our target on adaptation by 2030. The Adaptation Plans (NAPs) with financial support from the developed countries. These aspects of the global adaptation agenda are already agreed upon and are taking place, but the financing part is still lagging behind.

When it comes to providing finance to support both mitigation as well as adaptation actions in the developing countries, the developed countries had promised in the Paris Agreement to provide USD 100 billion per year, starting from 2020 onwards. So far, it is not yet certain how much of that amount will be delivered by the end of the year, but it is already clear that the proportion of finance for supporting mitigation is around 80 percent of the total and only 20 percent is allocated for adaptation.

One of the easiest aspects of the global goal on adaptation should be that at least half of the USD 100 billion per year should be allocated to adaptation and only 50 percent should be for mitigation. Also, priority for allocating the finances on adaptation should be given to the most vulnerable developing countries.

This should be an easy goal to agree on.

With regards to the utilisation of the adaptation finances, it should be for all countries to implement their respective NAPs as they aim to achieve resilience by 2030, with the start of a race to zero vulnerability in every country, province and city from COP26 onwards.

Finally, we must acknowledge that both adaptation and resilience are not easily implemented or measured, but at least the terms can be easily understood by the leaders and the public, and setting clear goals and starting a competition to achieve the goals is in itself is worth agreeing upon at COP26.

In the meantime, the scientists, planners and implementers involved in adaptation and resilience can work on the details of how to implement and measure the progress over time. It is important not to miss the opportunity to kick off the ten year journey at COP26 in 2021 and not keep this issue pending any longer.

PHOTO: REUTERS

> *There could also be a race to zero vulnerability of every country by 2030 as an equivalent to the race to zero emissions.*

The means to achieve such a goal would be to support adaptation planning and actions in every country over the next ten years, with an additional emphasis on financing the most vulnerable developing countries to achieve the National equivalent of the 1.5 degree Centigrade global temperature target for mitigation may work towards helping all countries to become resilient to the adverse impacts of climate change by 2030. There could also be a race to zero vulnerability of every country by 2030 as an equivalent to the race to zero emissions.

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