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Gag on social media an erosion of our constitutional rights

Obstructing freedom of speech is an affront to democracy

THE statement from the home ministry forbidding people from spreading “false, fabricated, confusing, and inciting statements” on social media about government, military, police officials and members of other law enforcement agencies is yet another worrying development in the erosion of freedom of speech in Bangladesh. The statement condemns “false and baseless news about the security forces, which is threatening to ruin the peace in the country, and spreading fear, concern and confusion among the general public.” It adds: “the government has observed the activities of such people with patience, and has come to the conclusion that it is necessary to take legal action against such people to maintain stability, domestic security and public well-being.”

One might be forgiven for thinking that perhaps what is truly spreading fear, concern and confusion among the general public is the continued silencing of dissenting voices, even as violence against women, widespread corruption and enforced disappearances continue—all of which have been the subjects of heated debates on social media platforms over the past few weeks. Even when you can get past the sheer absurdity of trying to police public online platforms, something that tech giants like Facebook and Twitter are failing to do, the questions that come up are numerous. In this “post-truth”, modern world, what counts as “false, fabricated, confusing and inciting statements”? Based on what legal guidelines or written codes can the government decide what kind of statements are ruining the peace or harming public well-being? What sort of “legal action” will be taken in these scenarios—does this simply give way to greater use of the draconian Digital Security Act? Will this give more scope to cover up abuses of power and hide inconvenient truths?

This is not the first time we have seen the government respond to criticism and widespread debate and discussion on a certain issue, especially on social media, by simply shutting it down. In the wake of the coronavirus crisis in Bangladesh, when the public health sector was facing severe scrutiny and the health ministry was widely criticised for mishandling the pandemic, the health minister ordered all health officials to stop talking to the media, and the public administration ministry asked all secretaries to ensure that no public servant can talk to or write in the media without prior approval. This month, the Department of Secondary and Higher Education issued a circular forbidding students and teachers from writing, sharing or even “liking” anything that “ruins the image of the government or the state”, or “disrespects any important person, institution or profession” on social media. Now, it is the general public who have been told to watch what they say or write.

The Constitution of Bangladesh guarantees the right of every citizen to freedom of speech and expression. Regulating what ordinary citizens can post, share or even “like” on social media is not the symptom of a democratic nation but rather an Orwellian society. We urge the authorities to immediately rescind this unconstitutional statement, which is an attack on our fundamental right to free speech.

Construction workers’ safety still neglected

Why do they have to work without protective gear?

A photo published in this paper yesterday of a construction worker standing precariously on the edge of the roof of an under-construction building, in the capital’s Manda area, speaks volumes about the building owners and construction companies’ apathy towards the safety of workers. The man in the picture is seen unloading concrete mixture from the bucket of a mini-crane without wearing any protective gear, and no other protective measures are visible to make sure he does not fall off the roof. It means that an accident can take place anytime. Only a few days ago, three construction workers died falling from a 10-storey under-construction building in Dhaka’s Dhanmondi area.

Time and again, we have brought the issue of construction workers’ safety to the attention of the authorities concerned, but unfortunately, the situation has not improved. While deaths and injuries of workers are common occurrences in the city and elsewhere, no substantial measures are visible anywhere in ensuring their occupational safety and compensating them for workplace injuries. According to Occupational Safety, Health, and Environment (OSHE), a total of 1,196 construction workers lost their lives in workplaces between 2005 and 2016, and 147 of them died in 2016 alone. In 2017, the number of deaths increased to 179.

The construction workers were also the ones worst hit by the Covid-19 pandemic, as they hardly got any government or other assistance to feed themselves and their families in the past few months. Clearly, the sector is a neglected one when it comes to ensuring the workers’ rights and well-being. The Labour Act, unfortunately, covers only the formal sector and the construction sector, still being an informal one, does not get the necessary attention of the policymakers.

The situation must change and the government must bring them under a legal framework to ensure their occupational safety and compensate them for any injuries. For that, the Directorate of Labour, a regulatory agency under the labour ministry, should have a database of construction workers. The associations looking after the welfare of informal workers in the sector must also bring the issue of workplace safety to the fore. At the same time, the construction firms, big or small, must also prioritise their workers’ safety, which is in no way a privilege but a right of the workers.

TRIPS extension: A window of opportunity for Bangladesh



MUSTAFIZUR RAHMAN

interest for the LDCs, in particular for graduating LDCs such as Bangladesh. The meeting will initiate discussion on the extension of waivers granted to the LDCs under Article 66.1 of the TRIPS Agreement.

According to the TRIPS Agreement of 1995, WTO members are to comply with various provisions relating to enforcement of intellectual property rights in connection with international trade. The Agreement had introduced intellectual property law into multilateral trading system and requires members to enforce various disciplines with regard to patents, licence, trademarks, geographical indicators, designs, dispute resolution, etc. In view of the special needs of LDCs, Article 66.1 of the Agreement accorded LDC members a ten-year exemption (till 2005) from most obligations under the Agreement. The waiver allows LDCs exemptions from applying provisions of the TRIPS Agreement except for most favoured nation (MFN) and national treatment obligation. The flexibility took into consideration economic, financial and administrative constraints of the LDCs, and allowed them time to put in place necessary institutional and technical capacities. In response to requests by the LDCs, the general transition period was subsequently extended twice as per decisions of the TRIPS Council—in 2005, for eight years, till July 2013, and following this, in June 2013, for another eight years, till July 1, 2021.

It can be noted that in addition to the general transition period, LDCs were also granted a specific transition period for pharmaceutical products in 2001, in accordance with the WTO’s Doha Ministerial Conference declaration on TRIPS Agreement and Pharmaceutical Products. This was initially granted for 15 years, till January 2016, followed by a second extension for 17 years, till January 1, 2033. The pharmaceutical decision provided legal cover for waiver of patent in producing pharmaceutical products, and for using compulsory licensing exclusively for exports.

Bangladesh is one of the very few LDCs that have been able to take advantage of both the TRIPS Article 66.1 and, more particularly, the pharmaceutical waiver. In view of the above, and in consideration of Bangladesh’s upcoming graduation, the discussion to be held in the TRIPS Council is thus of heightened interest to

our country.

The 2015 decision on TRIPS and Pharmaceuticals specifically mentions that an LDC will no longer be eligible to enjoy the benefits if it ceases to be an LDC prior to expiry of the transition period (“whichever is earlier”). This would mean that Bangladesh will not be able to benefit from the pharmaceutical waiver once it graduates out of the LDC group in 2024, although the waiver

as an immediate motivating factor. The submission argued that pre-existing difficulties of the LDCs have been exacerbated by the various health-related adverse impacts of Covid-19, lockdown, supply-chain disruptions, and demand-side constraints. It mentioned that LDCs need more time to build the technology base and supply-side capacities which will enable them to garner the required strength to comply with the TRIPS

of entry into force of the decision of the General Assembly to exclude a member from the LDC category. This would allow Bangladesh to enjoy the benefit of the waiver till 2036 should the country graduate in 2024.

The other critically important point for Bangladesh relates to the TRIPS waiver for pharmaceuticals. As was noted above, the TRIPS and Pharmaceuticals decision categorically mentions that whilst the transition period has been extended till December 31, 2032, a beneficiary LDC will cease to enjoy the waiver if it is no longer an LDC. This would mean that Bangladesh will no longer be eligible to enjoy the pharmaceutical waiver following its graduation in 2024. Bangladesh obviously has a keen interest to bring this issue to the TRIPS Council; it is understood that it has already made a submission to this effect. Whether other LDCs will demonstrate solidarity with Bangladesh in equal measure—as in the case of extension of the aforesaid Article 66.1 of the TRIPS Agreement—is not clear since the majority of the LDCs don’t have a strong domestic or export-oriented pharmaceutical industry, as is the case with Bangladesh. In view of this, whether the upcoming discussion on TRIPS Article 66.1 transition may be taken advantage of to include the pharmaceutical issue in an all-encompassing TRIPS extension decision is worth thinking about.

If Covid-19 is the key area of concern and the reference point in considering the TRIPS Article 66.1 extension, in the course of the upcoming discussions in the TRIPS Council members ought to also give equal importance to the interests of LDCs with regard to medicines and production of pharmaceutical items. While most LDCs do not have a strong pharmaceutical industry of their own, they have benefitted significantly from the import of low-cost pharmaceutical products from Bangladesh under compulsory licence and otherwise. Indeed, in FY 2020, about 29 percent of Bangladesh’s global export of pharmaceutical products, worth about USD 136.0 million, went to 27 LDCs. Bangladesh should use the upcoming discussion on transition as an opportunity to bring on board the issue of extension of the TRIPS and Pharmaceuticals decision from the vantage point of graduating LDCs.

Bangladesh and other graduating LDCs should ask for an extension of pharmaceuticals waiver till the end of the transition period (till end of 2032)—irrespective of the status of the WTO member as LDCs or graduated LDCs—similar to the one that has been sought in the duly motivated request placed before the TRIPS Council in view of the TRIPS Article 66.1.

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About 29 percent of Bangladesh’s global export of pharmaceutical products, worth about USD 136.0 million, went to 27 LDCs in FY 2020.

PHOTO: REUTERS

has been granted till end of 2032. This will understandably have important repercussions for our pharmaceutical industry as it will then be required to comply with patent and licence requirements as per the TRIPS Agreement.

The 2016 decision of the TRIPS Council stipulates that an LDC can submit a *duly motivated request* for an extension of the transition period (which, as was noted before, ends in 2021). However, this can be done as long as a country is an LDC and not after it had already graduated. Accordingly, now is an appropriate time for the LDCs to take the initiative for yet another extension of the TRIPS waiver. This the LDC group in the WTO has done, and the *duly motivated request* proposal will be discussed in the upcoming TRIPS Council meeting.

It needs to be recalled, and appreciated, that Bangladesh has played a key role in the submission to the TRIPS Council made by Chad on October 1, 2020 on behalf of the LDC group in the WTO. The submission rightly mentions the adverse implications of Covid-19 pandemic on the economies of the LDCs

obligations.

In this connection, it may also be noted that India and South Africa, both (non-LDC) developing country members of the WTO, have also submitted a proposal seeking waiver as regards compliance with TRIPS Agreement—concerning such areas as copyrights, industrial design, patents and protection of undisclosed information—citing the adverse impacts of the pandemic.

Sometimes it is said that, in WTO, countries get not what they deserve but what they negotiate. LDCs will, therefore, need to demonstrate a unified stand in the upcoming discussion in the TRIPS Council, irrespective of their graduating or non-graduating status. Bangladesh and other graduating LDCs should remain proactively engaged since they have high stakes in the outcome of the discussions.

It is important to note that the text of the duly motivated request states that in view of the TRIPS provision (other than Articles 3, 4 and 5 relating to MFN and national treatment), LDCs seek waiver for as long as they remain an LDC, and for a period of twelve years from the date

DEADLINE FOR GLOBAL ACTION

Can countries deliver on their climate change pledges?



SALEEMUL HUQ

(UNFCCC) in December 2015, had two major outcomes. The first was to try to keep global atmospheric temperature to below 2 degrees Centigrade and, if possible, below 1.5 degrees. The second major agreement was from the developed countries to provide a minimum of USD 100 billion a year, starting from 2020 onwards, to support the developing countries to tackle climate change through both mitigation and adaptation.

The main vehicle for each country to report on its own plans and pledges to contribute towards these global goals was by submitting a Nationally Determined Contribution (NDC), in which actions to reduce emissions of greenhouse gases in each country would be pledged.

It was also agreed by all the countries that these issues would be addressed and revised every five years. Thus, all countries have until the end of 2020 to submit their respective updated NDC from the initial one submitted in 2015, and it is vital that all countries do so within the deadline. It is even more important that they raise their level of pledges to reduce emissions of greenhouse gases well over what they pledged in 2015 if the global goal is to be kept below 2 degrees, or even below 1.5 degrees.

If all countries fail to raise their respective ambitions by December 31, 2020, then the next point to do so will not be before 2025, which will be far too late.

Hence last week, Prime Minister Sheikh Hasina in her capacity as the head of the Climate Vulnerable Forum (CVF) launched a major global initiative called #MidnightClimateSurvival to get every country to submit their respective NDC by midnight on December 31. She did this at a high-level virtual event along with the Secretary-General of the United Nations Antonio Gutierrez as well as the Head of the UNFCCC Patricia Espinosa and the former UN Secretary-General Ban Ki-moon, who now chairs the Global Centre on Adaptation (GCA),

would rejoin the Paris Agreement after the country’s election in November.

The declaration of this call for every country to meet their obligations by midnight on December 31 was also matched by the pledge by all CVF countries that they would submit their own NDCs before this deadline despite the fact that their own emissions of greenhouse gases are miniscule compared to the major emitting countries. Nevertheless, they have taken the moral high ground to do what is right and are challenging all other

From what information can be found, it is clear that the total amount of funding made available so far is still far short of the USD 100 billion target, while over 80 percent of that has gone to support mitigation activities and less than 20 percent to adaptation in the most vulnerable developing countries.

the managing partner for the CVF.

The call for global action was also joined by the head of government of the Marshall Islands, who was the immediate past head of the CVF, as well as that of Ethiopia, who was the chair prior to that. The CVF is led by a Troika of the current chair and two previous chairs. The heads of government were also joined by ministers from many other CVF countries as well as the former president of the Maldives, Mohamed Nasheed, who was the founder of the CVF and is now its thematic Ambassador for Ambition.

Also present was the former vice president of the United States, Al Gore, who said he was hopeful that his country

countries to follow their example.

It is, however, uncertain how many countries will submit their NDCs on time, and even more uncertain how ambitious they will be, but there are a number of positive signs from China and the European Union who have both recently announced significant ambitious pledges to become Net Zero emitters within the next few decades. If all other countries follow their example, then it is possible to reach the goal on time.

The other pledge about delivering the USD 100 billion is also supposed to be achieved by midnight on December 31, although we are not still sure how much will actually be delivered. Hence,

the developed countries who made that promise in 2015 need to provide information on how much each of them has committed, how much was for mitigation and how much for adaptation—and also, which developing countries were provided with support and through which channels. While the Green Climate Fund (GCF) was supposed to have been the main vehicle for delivering these funds, they are also using the Multilateral Development Banks (MDBs) like the World Bank and Asian Development Bank as well as bilateral development assistance agencies. Hence, it is extremely difficult to track how much climate finance is being made available and through which channels.

From what information can be found, it is clear that the total amount of funding made available so far is still far short of the USD 100 billion target, while over 80 percent of that has gone to support mitigation activities and less than 20 percent to adaptation in the most vulnerable developing countries. Even worse, the proportion of that measly amount of funding for adaptation was less than 2 percent of the global funds for supporting developing countries to tackle climate change.

Hence, the CVF countries are also demanding that the developed countries fulfil their pledges to provide at least USD 100 billion by December 31 and ensure that at least half of it goes to the most vulnerable communities in the most vulnerable developing countries to adapt and become more resilient to the adverse impacts of climate change.

December 31, 2020 is thus a day of reckoning when we will see if the leaders of each and every country in the world can rise to their once-in-a-generation responsibility or not.

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