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HUMAN RIGHTS watch



Consumers at risk: An enquiry into the CRPA 2009

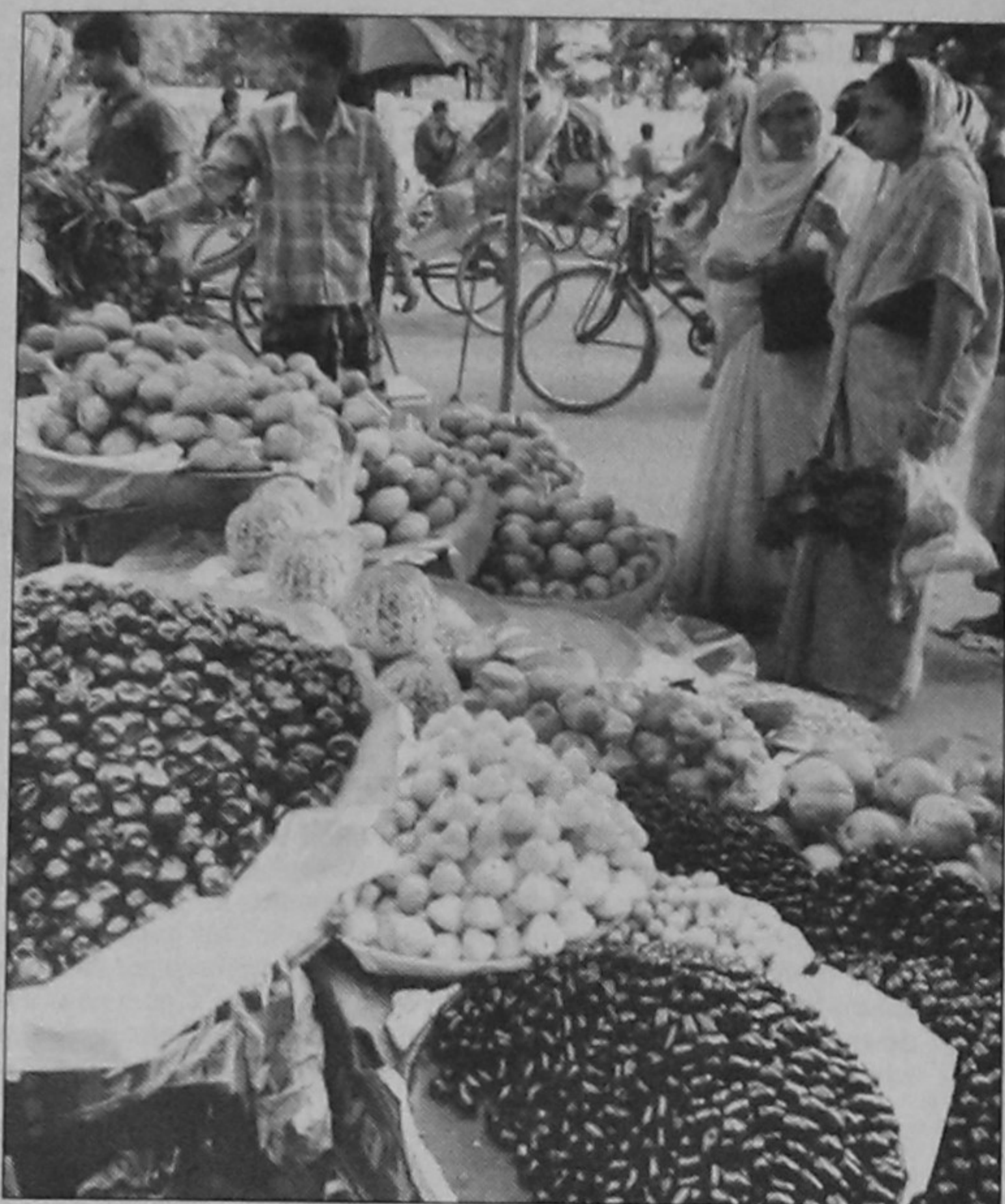
ARPEETA SHAMS MIZAN

THE bells are tolling, the message is being professed since ever-learn from your history. But we seem to be interested in particularly ignoring this fact. In as early as the 14th century, Sultan Alaaddin Khalji revolutionized the subcontinent's economic system to secure the consumers' interests. And now in 2009, let alone progress, it seems we are still struggling in high waters to find the proper current to sail the ship carrying the flag of consumer rights and protection in Bangladesh.

The field of consumer jurisprudence grabbed attention in the 60's of the last century, firstly in the USA. President John F. Kennedy announced to uphold the interest of the consumers. In 1985 the UNO adopted 8 fundamental rights of the consumers based on the Kennedian Principles promoted by Kennedy.

In Bangladesh, this field remained for a long period disorganized. Though there had been quite a few isolated laws, those were scattered and in these entire procedural hustle bustle, the system failed to discern the consumers' voice from amongst the huge turmoil.

The demand for a self certain consumer protection legislation began in the early 80's last century. The civil society and various consumer rights promoting organizations raised their voice. The new Chapter began on 6th April 2009 with the adoption of the Consumer Rights Protection Act 2009 (herein-



after CRPA) as a comprehensive legislation in the national assembly. Articles 18 and 15 of our constitution have served as the basement upon which the Act has been formulated.

The purpose of the CRPA 2009 is to define standards and to set up procedures to promote and protect

consumer interest. In its preamble the Act stipulates: "...it extends well beyond the mere protection of economic interests of the consumers, to become part of a mere general social policy on consumer affairs." But a close analysis shows that the Act has failed to develop the existing system, containing so many loop-

holes. It is now a big question whether this Act will serve as a protecting shield to the consumers. We shall discern the demerits as we proceed.

It is generally considered that an individual consumer, in comparison to the sellers and manufacturers, is weaker in negotiation with the economic forces. In the market system the sellers and manufacturers stand together organized with the buyer standing alone at the other end. Hence is the need for consumer protection legislation.

The CRPA 2009 focuses on certain aspects. Consumer Law's main focus is to be the quality, price, security and safety of products and services. Products are now marketed in such a number and in such manners that it is more difficult for consumers to judge their quality adequately. The advent of mass consumption has resulted in consumers facing an information gap when they enter transactions with the manufacturers. The information as to price of commodities and services, consumer rights and procedures is to be easily accessible to the consumers (sec 20, CRPA 2009). But the sovereignty of an individual consumer to redress grievances has been curtailed. He may choose to go to court under other laws relevant to consumer rights. Sec 60 of the CRPA 2009 provides that the DG of the consumer protection council is the only person possessing sole right to file a suit. So the jurisprudential aspect of getting redress in the event of encroachment of rights is disappointingly outplayed by the Act.

The Act provides that any complaint concerning defective product resulting in substantial financial or physical damage must be filed within 30 days. If pondered over the fact, we can see there are many long-term effects which can not be identified readily after using the products. 30 days time span is thus too short a scale. Thus the Act has failed to keep up with reasonableness and medical science.

As per sec 61 of the Act, any exception to the Limitation Act 1908 does not apply to the present Act, if 90 days have passed after the filing of a complaint. In a country like ours, the awareness level is low, the system as faulty and lengthy, and most of the commissions are for but name's sake. It is highly probable that due to system loss or undue influences, the complaints forwarded to the DG may become time barred. If the DG fails to attend the complaint within 90 days, what is to be the next procedure, the law says nothing as to that. In case of such failure, no accountability has been attached to the DG.

Sec 71(1) of the Act stipulates no individual can make any complaint about violation of consumer rights to the court of a 1st class magistrate or the CMM. So the people are placed at the mercy of the Council for enforcing the rights given to them, which would ultimately prove to be a nagatory.

(... to be continued)

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LAW vision

Cyber crime and prevention measures: Bangladesh perspective

MD. YOUSUF REZA and RASHED AZIM

WE are living in a cyber world. It comprises the most hi-tech benefits and difficulties of our day-to-day lives. Cyber reality incorporates many of our real life activities including but not limited to online banking, online commerce and retail, virtual learning, domestic and foreign trading through digital technologies, internet networks, critical industrial infrastructures, telecommunications, air traffic control, global positioning systems (GPS), global distribution systems (GDS) and hi-tech medical equipment. Using of cyber space Bangladesh can facilitate its resources to expand business worldwide and actively participate in multi-billion dollar software trading and other

valuable information, hacking or cracking, cyber-stalking, distribution of pirated software, terrorism, interference with sophisticated high level national security measures, immoral activities, defamation and harassment which affect individuals at large. The cyber evils are mainly caused through hacking, email bombing, data diddling, salami attacks, denial of service attack/distributed denial of service (DDoS), logic bombs and trojan attacks etc.

Bangladesh perspective

Recently in Bangladesh, 4 students of a private technology institute hacked the RAB website. On 23 June 2009 RAB arrested JMB IT chief Rajib who used the Internet as an engine of resources to make explosives to use in terrorism activities as he confessed, "I download

economic, agriculture, health, telecommunications, common utilities, education and public safety sectors into hi-tech digital technologies. Though we are in an initial stage of this D-tech; once we successfully apply it we will certainly face the mentioned critical situations that are being suffered globally.

Cyber laws and relevant measures

To control the misuse of the technologies in order to protect nations/states and bring the criminals within the jurisdiction, an effective cyber law can play a vital role in ensuring that national and global criminals are fairly and successfully tried and judged for their crimes.

The government of Bangladesh has shown a very positive approach by formulating some policies and Acts as safeguards for cyber victims. Namely, the National ICT Policy, Cyber Law, Information Technology (Electronic Transactions) Act (ITETA), 2000. ITETA seems to be a close replica of the Indian ITA-2000, which failed to include issues like Cyber Squatting, Spam and Cyber Terrorism. The more recently enacted Information and Communication Technology Act (ICTA) 2006 has made provisions to facilitate electronic commerce and encourage growth and development of information technology and brought the cyber criminal within the ambit of criminal jurisdiction. Some commentators stress the importance of making the law more stringent to prevent widespread cyber crime including protection of privacy rights. In the process of the enactment of cyber law government may take advice from cyber security task force comprised of computer scientists, information security professionals and lawyers. Bangladesh, being a member country of INTERPOL may seek help to secure the punishment of net criminals regardless of territory using INTERPOL's global secure police communications system.

The policy makers may formulate a baseline security procedure and policy outlining the detail aspects of security system. A special analysis site in conformity with global secure police communication system may also be developed which would provide real-time monitoring of cyber activities. 'Cyber incident response unit' and 'a cyber crime investigation cell' may be built within law enforcement mechanism to fight cyber crime successfully by adopting the enhancing 'capacity', good police work, skilled investigators by sharing the 'too few' professionals skilled in cyber-security and by training new officers to become experts in the field and providing adequate logistic sup-

port or equipment.

Moreover, to keep the national security uninterrupted and avoid hacking, web servers running public sites must be separately protected from internal corporate network and web site owners should watch traffic and check any inconsistency on the site by installing host-based intrusion detection devices on servers.

Other recommendations

Government agencies, NGOs, media and server agencies may come forward to build awareness among the general internet users particularly more vulnerable under-aged "netizen" to save them from the lure of paedophiles and to be used as a source of collection of their parents/family's confidential information. Educational institutions may include curriculum comprise with moral and social ethics and users' code of conduct for the future IT fellows not to use the technology in a morally reprehensible manner. Law enforcement authority must monitor cafes' and users' activities imposing restriction on some websites and users (under 18) requiring bar code/password for use and make the users aware of the possible consequences of using certain sites.

A "netizen" should always rethink whether his activities render him vulnerable and keep in mind the following things:

- To prevent ID theft one should avoid disclosing personal information (DoB, bank details) on any web site to strangers.
- Avoid sending any photograph online and providing email address to unknown person or chat friends as there may be misuse of it.
- Unexpected financial gain offered by any person without any consideration should be avoided unless the person is close relative, one may be asked to provide some intrinsic information (address, DoB, bank details), transaction/service charges.
- Always uses latest and up date anti-virus software to guard against virus attacks and keep back up volumes so that one may not suffer data loss in case of virus attack.
- Parents should keep an eye on children accessing internet to protect them any abusive or immoral illusion and imminent danger.

Finally, it may be submitted that the collective effort of government and the people is only a possible way to see the peoples' dream of a Digital Bangladesh in existence and could protect individual and national security of the state from the aggression of cyber criminals.

Md. Yousuf Reza and Rashed Azim are studying Law in the University of London.

Turkmenistan: Travel ban on students studying abroad

TURKMEN authorities should immediately revoke a new travel ban imposed on students bound for foreign private universities, Human Rights Watch said today. Turkmenistan should also end new, burdensome requirements for studying abroad that violate the rights to freedom of movement and to education, Human Rights Watch said.

"These arbitrary travel restrictions are disturbing new proof of how repressive Turkmenistan's government is," said Maria Lisitsyna, Turkmenistan researcher at Human Rights Watch. "Being able to travel abroad is a pretty basic human right."

Since late July 2009, Turkmen authorities have prevented hundreds of students from boarding planes and crossing land borders to depart for study abroad. The students were enrolled or planning to enroll at universities in Kyrgyzstan, Russia, Kazakhstan, Turkey, and the United States, among other countries. Authorities told the students that they did not have appropriate documents to leave the country.

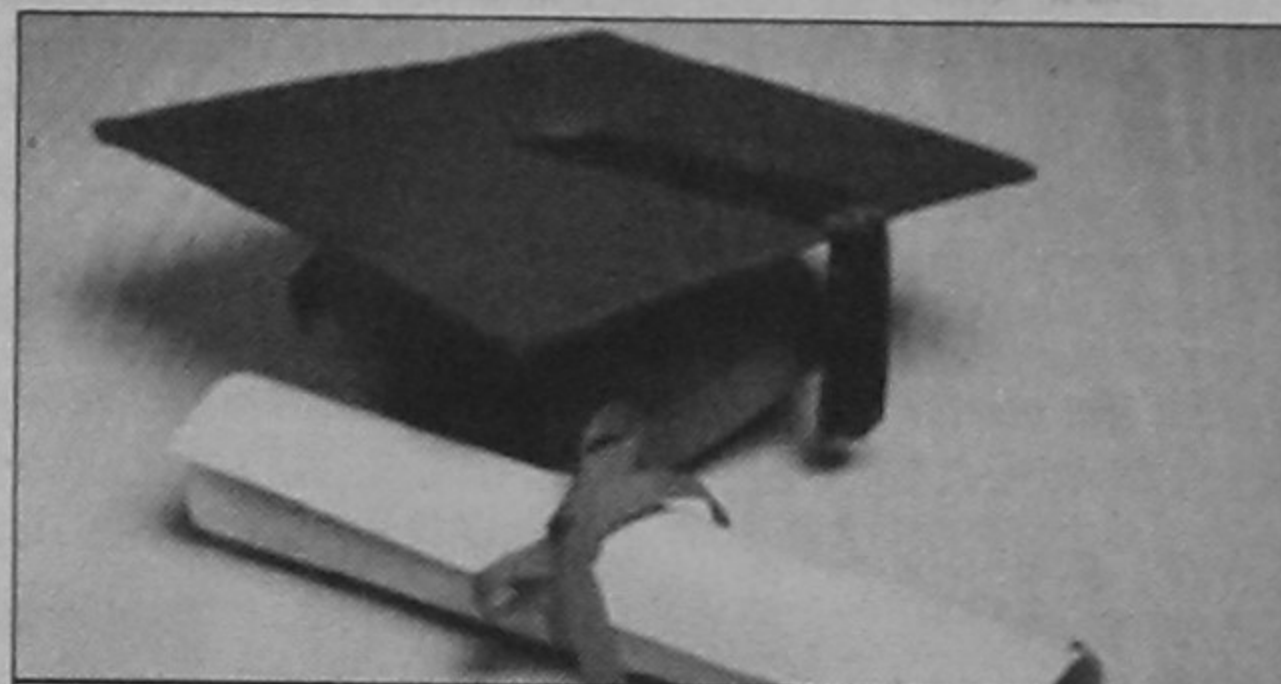
The travel regulations have not been made public. According to information from several students, the Turkmen government began to impose the restrictions in late July, and by early August was referring to new regulations on foreign travel that it said had been "announced" on August 1.

The students and other sources said Ministry of Education officials told the students that under the new requirements they must present several documents to seek permission to travel abroad. These include an invitation from the university, a copy of its license, verification of its state-affiliation status, a copy of the contract between the student and the university (if the student is already enrolled), and a passport.

Ferghana.ru, a news website covering Central Asia, reported that when students began being blocked from leaving the country in late July, hundreds went to the National Institute of Education and the Migration Service to try to obtain the required stamps.

After weeks of uncertainty, the Turkmen government started to grant permission to leave the country, but only to those studying in state-run foreign universities, which reportedly had "state accreditation" and therefore met certain standards. While students attending state universities in countries of the Commonwealth of Independent States have been able to travel freely, other students said that they were told by officials that their university was not on an "approved list."

According to the Turkmen Initiative for Human Rights (TIHR), a nongovernmental organization based in Vienna, the



deputy minister of education told the parents of students of one private university in Central Asia on August 20 that Turkmenistan "does not need these professions" and that "from now on their children are prohibited from leaving the territory of Turkmenistan for any purpose."

The Vienna-based group and other sources reported that officials threatened to have students' parents jailed or fired from their jobs if the students attended non-approved universities.

Turkmenistan is party to both the International Covenant on Civil and Political Rights, which guarantees freedom of movement and an individual's right to "leave any country, including his own," and the International Covenant on Economic, Social, and Cultural Rights, which guarantees everyone the right to education, including access to higher education.

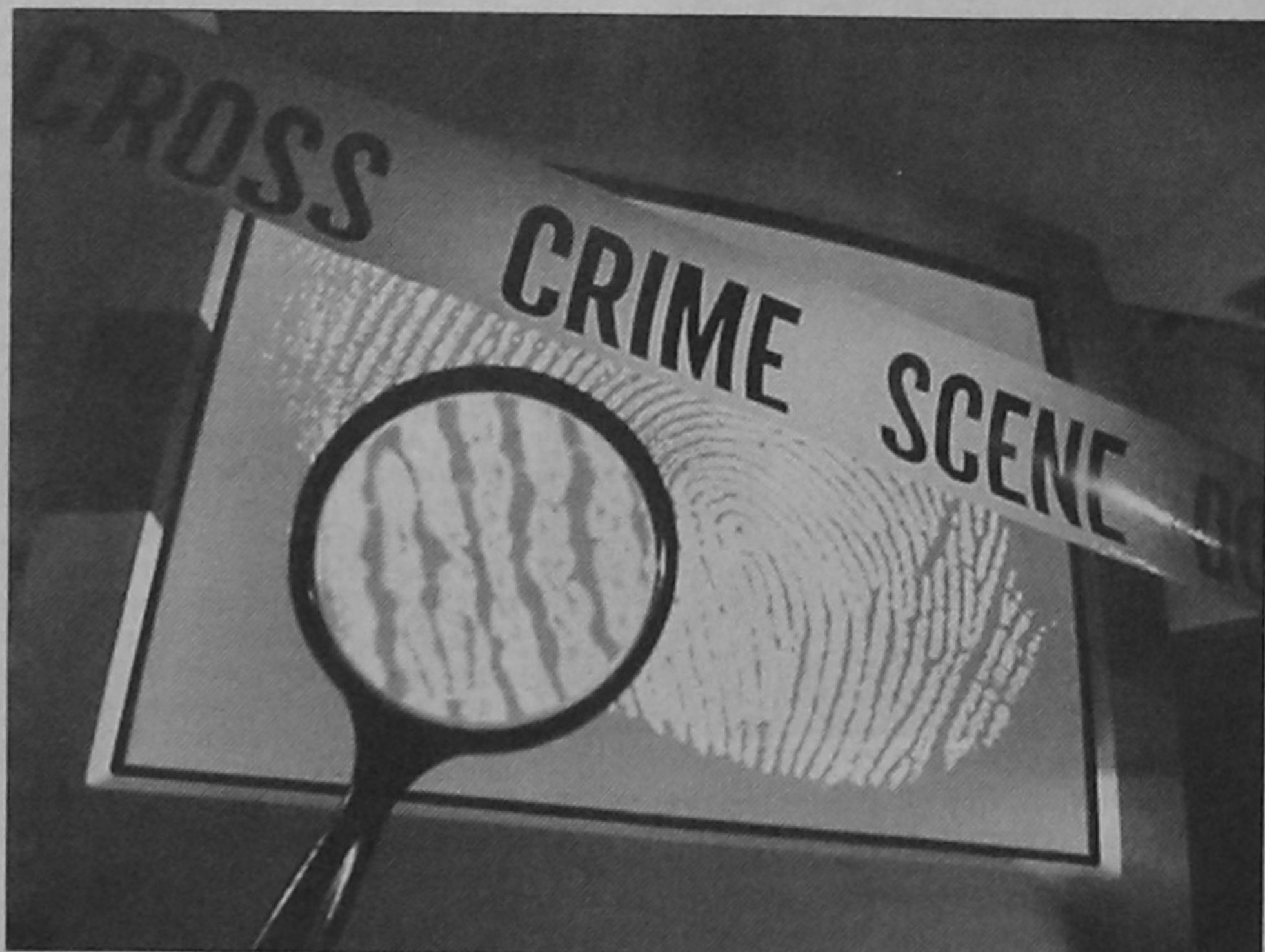
"These new travel restrictions and the apparent ban on private higher education abroad are new additions to the extensive list of egregious repressive practices of the Turkmen government," said Lisitsyna. "The foreign travel ban on students should ring alarm bells for Turkmenistan's international partners about this government's disregard for its international obligations."

Turkmenistan remains one of the most repressive and authoritarian countries in the world. Gurbanguly Berdimukhamedov came to power in December 2006 after the death of the self-declared president-for-life, Saparmurat Niyazov. In the first year of his presidency, Berdimukhamedov took some measures to dismantle some of the most excessive, ruinous social policies of his predecessor, but these did not result in any genuine reforms affecting human rights. Hundreds of people, perhaps more, languish in Turkmen prisons following unfair trials on what appeared to be politically motivated charges. Draconian restrictions on freedom of expression, association, assembly, movement, and religion remain in place.

Because of the country's vast gas reserves, the United States and the European Union have actively engaged the Turkmen government. In July, the European Union formally approved a trade agreement with Turkmenistan that had been stalled by the European Parliament over human rights concerns since 2006. The European Parliament in April green-lighted the agreement as "a potential lever to strengthen the reform process in Turkmenistan."

"Too often, Turkmenistan's partners give the government undeserved credit for announcing reforms without following up to see if they are actually carried out," said Lisitsyna. "They can start the kind of closer scrutiny they should be exercising by pressing Turkmenistan to reverse this harmful travel ban."

Source: Human Rights Education Associates.



prospective sectors. Global economic strength depends on strong communication infrastructure, which has already been adopted by our neighbouring countries like India and China.

Cyber evils

Alongside many advantages there are major risks also involved with this technology. Some of the most common and most dangerous of these are: electronic fraud especially in the financial sector, identity theft, illicit use of

information on explosives from Internet, translated them into Bengali and send them to Mizan through Bashir" (The Daily Star). This is certainly a serious concern for our national security.

Being a part of global economy Bangladesh has to adopt up-to-date digital infrastructure to continue its information relationship with rest of the world that already have adopted the necessary technologies and have been facing unique challenges every day. Developed countries have already transformed their financial.