

RIGHTS INVESTIGATION

Necessity of data protection laws

It is no surprise that we are witnessing a constant rise in hacking incidents of databases of governmental organisations in Bangladesh, making the whole situation of sharing personal data online even more distressing.



SYED SAZZAD DIPON

WHILE exploring the data protection and privacy law framework of Bangladesh, one will immediately spot a glaring gap which is not only frustrating but also raises economic and national security concerns in relation to the processing of its citizens' personal data. With the total number of internet users in

Bangladesh reaching a 54-million at the end of September 2015 - a figure that is predicted to increase by millions every year - it is time we took personal data protection seriously. Take this straightforward example: imagine a scenario where an individual (data subject) filled in an online application form with all her personal details. Intriguing as it may sound; this

simple online act could have a number of major implications. Firstly, the internet service provider (party no. 1) of the data subject can divulge a host of information and capture any information sent through its services. Secondly, the website (party no. 2) where the application form is hosted will have access to the data as well as the organisation (party no. 3) that she has completed the form for. Thirdly, to complicate matters further, the data centre (party no. 4) on which her data is hosted may be based out of the country altogether. In such situations, without having proper protection in the form of national legislation in the country where the data subject is based, personal data becomes prone to exploitation by any of the parties in the chain of processing and controlling it. Indeed, it has been recognized that, many big data companies have initiated and implemented spying and espionage programs to ensure they maintain a country competitive advantage. Contrast this with the European Union which has an effective data protection and privacy legal framework, allowing its courts to recently rule that one of the big data companies, Facebook Inc., violated its citizens' privacy for aiding the mass and indiscriminate surveillance carried out by the US intelligence services. Needless to mention, without any protection in place, Bangladesh may not be even aware of how seriously its citizens could be affected by such invasions. It is no surprise that we are witnessing a constant rise in hacking incidents

of databases of governmental organisations in Bangladesh, making the whole situation of sharing personal data online even more distressing. In 2013, for instance, some unknown hackers breached Bangladesh Air Force's website and extracted the full database. While Bangladesh is well protected by virtue of the Information and Communication Technology (ICT) Act of 2006 to bring proceedings against perpetrators of such intrusion and unauthorized access, what it fails to take into account is that these perpetrators carry out their operations anonymously and thus, in most cases, it is difficult to identify them. In other words, a preventive framework at the pre-breach level is simply non-existent. The mere presence of legislation on post-breach offences will not in fact provide adequate protection given the anonymity of the offender and the mass surveillance practices of big companies. The only legislation that provides for the protection, albeit limited, of privacy in general terms is the article 43 of the Constitution of the People's Republic of Bangladesh - right to "the privacy of [one's] correspondence and other means of communication". In addition, there are two guidelines passed by the Bangladesh Bank covering ICT security and outsourcing arrangements, providing a layer of protection in the financial sector. It is worth noting that the neighbouring country India, has already enacted specific data protection rules and a consolidated privacy bill is

already in the pipeline. Given India's high profile in the IT industry worldwide, rules regarding data protection have led to an increase in investment by multinational data companies. Meanwhile, the lack of data protection and privacy laws has effectively been a restriction to this market for Bangladesh, although we have all the potential to become another influential South Asian player in the digital economy. Bangladesh needs to act promptly not only to protect its citizens' personal data from flowing into the hands of criminals and spying agencies both in and out of the country but also to be able to participate in the data business estimated to be worth a trillion Euros by the year 2020. Any law addressing data protection should clearly state the grounds for processing personal data, ensure data subjects' rights to access, delete and object to such data, develop a culture regarding the retention period of data, and establish a data protection authority. Bangladesh already has an Information Commission formed under the Right to Information Act of 2009, which can be vested with data protection responsibilities. In any event, institutions dealing with personal data should be required to register with the Commission and give prior notification if there is a possibility that such data will be processed outside of Bangladesh. THE WRITER IS A BARRISTER-AT-LAW AND AN LL.M. GRADUATE IN COMPUTER AND COMMUNICATIONS LAW FROM QUEEN MARY UNIVERSITY OF LONDON.

RIGHTS WATCH

Law sees application: Protection of consumer rights

ADIB SHAMSUDDIN

ABOUT three months ago, Mr. Huq and his three friends had gone on an excursion to Faridpur district. During a meal at the popular local 'Khandokar Restora', they discovered that almost every item on the menu was being charged higher than that was listed; the culinary delicacy 'boyal mach' was being served for 250 taka per piece while the menu stated it to be of

was also taken by surprise, when he learnt that he was to receive twenty-five percent (25%) of the punitive damages, that is 2500 taka. What has been described above is a true incident and indeed a reality now: According to section 76 (4) of the Consumer Rights Protection (CRP) Act of 2009, if such a complaint is proved to be true after investigation, the Director General or any other officer

that can be held against the interests of a consumer, such as sale at a higher price, to sell any adulterated product, to dope any product and subsequently put it up for sale, deceiving prospective consumer by false adverts, not to supply goods properly in exchange of price, to manufacture counterfeits, to sell expired products, to mislead the consumer about the content of the package etc. According to the information provided by the DNCRP, till the date of 5 November 2015, more than 54450 commercial organizations have been brought under supervision under the mechanisms of this act. Under the CRP Act of 2009, 14808 commercial establishments have been fined and an accrued sum of more than 11 crores has been collected thereof. Additionally, the 177 complainants have received 25% of the punitive damages, a total of more than 4 lacs taka. When contacted by Law & Our Rights, The Daily Star, Mr. Huq expressed his gratitude towards the DNCRP for recognition of consumer rights and taking requisite action against perpetrators. He also opined that it must be consumers who should be more aware of their rights and they should necessarily report to authority for measures to be taken against wrongdoers. The consumer, as defined earlier under the CRP Act of 2009, is entitled to file a complaint within thirty days of the incident. The complainant has to mention his/ her full name, name of parents, address/phone number/ email and profession during lodging of the grievance.

Contact Information:
Directorate of National Consumer Rights Protection
Ministry of Commerce
1, Karwan Bazaar(TCB Bhaban- 8th floor),
Dhaka- 1215
Phone/fax : 88-02-8189425, 88-02-8189045
Complaint hotline: 0177753668
Email: dncrp@yahoo.com



150 taka. Upon their return, Mr. Huq decided to contact the Directorate of National Consumer Rights Protection (DNCRP) with the receipt that they had received from the aforementioned eatery and a formal complaint was subsequently lodged to the authority. A few months later, Mr. Huq was greeted by an unexpected phone-call from the DNCRP; the accused establishment had been fined a sum of 10000 taka. Mr. Huq

with such authority may, in his administrative action, impose a fine upon the accused. And once such fine is imposed and realised, 25% of the sum of money is to be paid to the consumer concerned. The CRP Act of 2009 defines 'consumer' as those people or persons who buy or use or obtain or hire a permission to use any kind of products or service by offering a price, a prompt payment or due in installments. Section 2(20) states some of the activities

used by kids. Smoking is also prohibited on the grounds of all schools, as well as daycares, adult education centres and professional training centres. Advertising of tobacco products is also further restricted under the new law, and new sanctions are in place for those who sell tobacco products to minors or for adults who purchase tobacco for minors. The amount for fines has also been increased. The Canadian Cancer Society reacted favourably to the new legislation. "Smoking is the leading cause of preventable death in Quebec and is responsible for a third of cancers," Suzanne Dubois, executive director of the CCS in Quebec, said in a statement. "Anti-tobacco legislation is a primary tool in the fight against cancer. No other prevention measure can save as many lives. With (Bill 44), the Couillard government is striking hard."

THE WRITER IS A STUDENT OF LAW, UNIVERSITY OF LONDON.

GLOBAL LAW UPDATES

Quebec sets a precedent on anti-smoking laws

ANTI-SMOKING groups hailed Quebec's new tobacco-control law Friday as a world precedent. "We're thrilled," said Flory Doucas, co-director of the Quebec Coalition for Tobacco Control. "The minister (for Rehabilitation, Youth Protection and Public Health, Lucie) Charlebois delivered," Doucas said. Bill 44, first introduced in May, places limits on electronic cigarettes and smoking in public places, including outdoor café terraces. It received unanimous support in the National Assembly.

slim packs resembling a lipstick or iPod. The smaller packs allowed manufacturers to shrink the size of health warnings which must cover 75 per cent of the front and back of cigarette packs under federal law, Doucas said. "Packaging was becoming smaller and smaller," she said. The law also means that smok-



Under the law, smoking on the outdoor terraces of Montreal bars and restaurants will be prohibited - despite bar owners protesting this will cut down on business. Doucas said the bill sets a world precedent in setting a minimum size for cigarette packages, thus preventing manufacturers from producing small,

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LAW LETTER

Combating acid violence



An acid attack is a wrath hit which is a form of vicious assault. It is an act of acid throwing or a similarly corrosive substance onto the body of another with the intention of mutilate, maim, torture, or kill. Although acid attacks are reported in many parts of the world but, it is more widespread in Bangladesh than most of the countries. Since 1999 till September 2015, Bangladesh has faced almost 3283 acid incidents with around 3640 survivors. Although the acid violence rate has been decreasing 15 to 20% after enacted the Acid Control Act and Acid Crime Control Act in 2002. However, the acid victims are not receiving appropriate justice for several reasons. In addition, the conviction rate of acid crime is very low in Bangladesh. The states should not only enact some legislation and policies regarding any particular offence like acid violence but also need to make certain effective execution of those policies. In order to implement such laws effectively, governments should: (1) conduct appropriate investigations of acid attacks; (2) protect victims from threats that could undermine those investigations, (3) prosecute and punish perpetrators of acid attacks; and (4) ensuring restorative justice of those victims. In Bangladesh, our criminal justice systems not only fail to sufficiently prosecute and penalise the perpetrators of acid victims but also face distinctive challenges in delivering justice. We have limited resources in combating acid violence. Inadequate number of under trained law enforcement officers isn't enough to deal this type of sensitive matter properly and also hard to bring the perpetrators into justice. Furthermore, many victims cannot access the court to seek justice and this is because of their poverty and lack of knowledge of the legal system. Section 15(1) Acid Control Act stated that "any acid victim or someone on his behalf can apply to the District Committee for legal aid". This provision clearly shows that it is an option for legal aid for any acid

victim but is there any strict rules are set out regarding appointment of any lawyer? It seems like the provision is a dead provision and that no proper uses. Although we have acid control regulations but the police do not sufficiently enforce the law requiring users to obtain licenses. Hence, many users use acid without obtaining licenses. This is a rife failure to comply with the license obligation is attributed to the lack of knowledge about the law. In addition, extra works of police officers create hindrance to check all the acid users' licences. Furthermore, acid is very cheaper and available to buy in Bangladesh. For example, a bottle of sulphuric acid sells in Dhaka, Bangladesh for as little as Tk. 15 (\$0.15 USD). Therefore, people can buy acid very easily and without any hassle. Acid is extremely corrosive chemical and it has a disastrous effect on human flesh. Acid assault is dangerous and it could melt the skin permanently. It is a heinous crime that causes psychological and physical breakdown including identity crisis. Therefore, state has to act with due and diligence to protect the suspects and victims from violence. From buying acid to conviction of the perpetrators, the whole acid violence pattern has to be dealt by the government very carefully and sincerely. Although the core part of the acid violence is to prosecute and punish the perpetrator but it is also essential to ensure restorative justice of the acid victims. Survivors often face social isolation and that could damage their sense of worth and social-economic status. Although we know that some NGOs are working well to reintegrate the survivors but it seems like the resources are not enough to ensure a certain levels of necessities. MD MUSTAKIMUR RAHMAN
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Correction of email address
In the previous issue, an announcement for short legal write-up competition was published where the email address for submitting write-up was mistyped. We would like to have the attention of our readers and request them to send their write-ups for participating in the Competition to the official email address of Law & Our Rights page at: dslawdesk@yahoo.co.uk