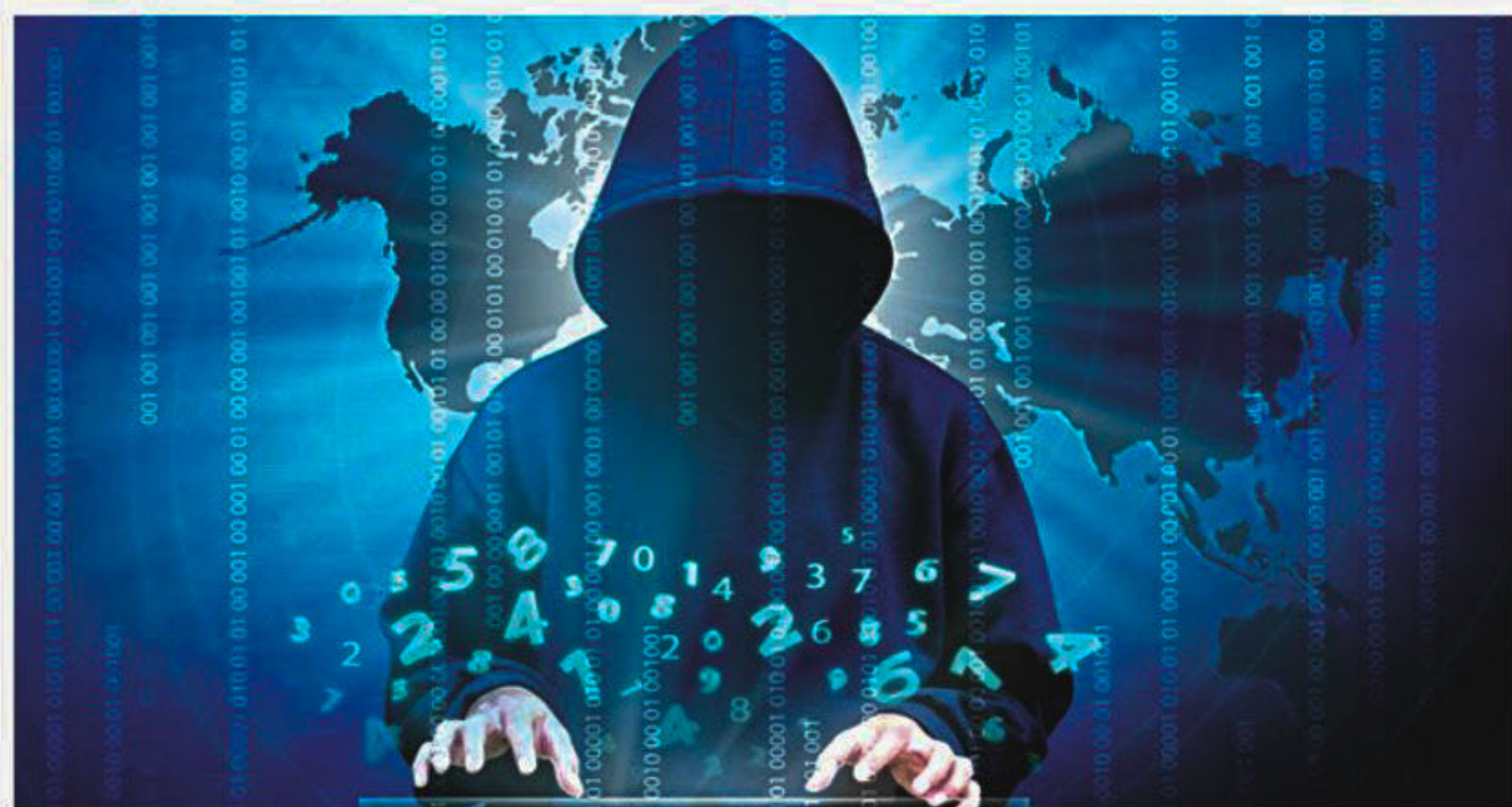




# URGE TO RATIFY THE CONVENTION ON CYBERCRIME



**MOSTOFA HASAN**

A 2013 report by the Center for Strategic and International Studies (CSIS) and McAfee surveyed various implications of cybercrimes on global economy, business and employments. According to this CSIS report, the first report of its kind, cybercrime costs worldwide business an estimated \$265bn a year. This cost represents 0.4% to 1.4% of global GDP. It also shows that 508,000 jobs in the USA alone and other 150,000 jobs in the EU are potentially lost each year from cybercrimes and cyber espionage.

Though mostly the developed countries are the sufferers, the developing countries are also at great risks of cyber-attacks. Bangladesh is no different. Cyber security is one of the major challenges in Bangladesh at present as it is in the way of its digitalization. Till now there is no report or study to show how much damage or risks the economy of Bangladesh currently suffers due to cybercrimes. We already have seen the violent ramifications of cybercrimes in some recent terrorist attacks using updated information technology in our country. Also cyber violence against women becomes very common at present. The social impacts of these cyber violences are far reaching. Therefore, it is imperative now to think seriously the measures and mechanisms that Bangladesh can adopt to combat cybercrimes and to face the challenges of the rapid growth of information technology and internet.

Bangladesh has already enacted certain laws to deal with crimes

relating to computer and information technology. To combat cybercrimes properly, it needs to have up-to-date laws and legal mechanisms to investigate and prosecute cyber criminals. The Information and Communication Technology Act, 2006, as amended in 2009 and 2013, the Bangladesh Telecommunication Act, 2001, the Pornography Control Act, 2012 are major substantive laws. The Government is also going to enact another law, namely 'the Digital Security Act' in the present year. The country has a 'National Cyber Security Strategy 2014' and 'National ICT Policy 2009'. To adjudicate cybercrimes, there is 'Cyber Tribunal' and 'Cyber Appellate Tribunal' set up in Dhaka. 'Bangladesh Computer Emergency Response Team' (bdCERT), 'Cybercrime Investigation Cell', 'IT Crime Forensic Lab' are set up by the Bangladesh police to fight cyber crimes.

These laws, mechanisms and institutions mainly deal with domestic crimes, and they lack in legal and instrumental capacity to deal with international cybercrimes affecting Bangladesh. It is very common in cyberspace that a person sitting outside Bangladesh can bring serious damages inside using internet and computers. So, coordination and cooperation with concerned authorities of other states is a must to identify, investigate and prosecute cybercriminals who are foreign nationals. It could not be done in the absence of necessary international legal and technical assistance. So, Bangladesh must be connected with regional and global legal efforts, i.e., treaties,

conventions, interstate groups or task forces etc. according to the best national interest.

At the international level, the Convention on the Cybercrime, 2003 is the first and still the only convention, which seeks to address internet, and computer related crimes by securing international cooperation among member states and harmonising national laws on cybercrimes and improving investigative techniques. It was signed in Budapest, on 23 November 2001 and came into force on 1 July 2004. The Convention has an Additional Protocol which came into force on 1 March 2006. Though the Convention is an endeavor of the European Union and most of the ratifying countries are European, many non-European countries have ratified the same, including the USA, Canada, Japan, Australia, South Africa, even Sri Lanka etc. India is yet to ratify the Convention. Bangladesh should ratify this Convention as well because the country can engage itself with the developing state of cyber laws in international level.

Ratifying this Convention will help the country to improve and harmonise the national legislations relating to cybercrimes with the international standard and will facilitate Bangladesh and its authorities to have easy access to international authorities to deal with cybercrimes effectively and confidently.

The Convention also addresses procedures for extradition of the accused. By ratifying the convention, Bangladesh can enforce extradition from any of the ratifying countries without bilateral extradition treaty.

The Convention also seeks to increase international cooperation by prescribing procedures for requesting assistance - format, content requirements and authorities from and to which the request may be sent, in relation to seizure, production, confiscation or preservation of electronic records as evidence, process for interception of electronic communications, standard for confidentiality and data protection. These matters are very crucial to combat cybercrimes. Therefore, it is imperative that Bangladesh seriously considers ratifying the Convention in order to combat cybercrimes effectively.

**THE WRITER IS A LECTURER OF LAW, JAGANNATH UNIVERSITY.**

**Bangladesh has already enacted certain laws to deal with crimes relating to computer and information technology. To combat cybercrimes properly, it needs to have up-to-date laws and legal mechanisms to investigate and prosecute cyber criminals.**



## Bringing discipline in road transport sector

**OLI MD. ABDULLAH CHOWDHURY**

THERE was a timely piece on bus fare published in The Daily Star on 12 March 2017 titled, "Bus fare not fair". The piece rightly illustrated sufferings of the passengers who have to rely on buses for regular commuting. As it appeared in the report, owners of the buses not only charge extra, but violate rule by employing children and young people as conductors.

Passengers are forced to pay extra fare in the name of so-called, "sitting service". To collect the extra fare, bus owners ignore the specified fare and follow their self-devised system. Due to their political affiliation, owners tend to ignore directives made by Bangladesh Road Transport Authority (BRTA) officials. Branding their services as "sitting-service", "gate-lock", "non-stop", "time-controlled", "speedy service" and "counter service", operators charge high fare and those buses stop almost everywhere if their drivers deem it fit. Conductors are employed to collect fare set by owners.

Recently on 27 March 2017, the cabinet has approved in principle the draft of the Road Transport Act. According to this law, one needs to pass eighth grade to be a driver and fifth grade for being his assistant. A conductor has to have good manners and be at least 18 years old to get the licence. Sections 13, 14 and 15 of the Act deal with licencing provisions. Literacy and numeracy have been referred as qualifying condition to get licence for a conductor in the proposed Act as well.

In reality, however, children are not only employed as conductors but they too drive vehicles on some routes. A report published in one of the Bangla dailies

(Prothom Alo, 12 December 2016) revealed that a significant percentage (35%) of drivers plying human haulers, locally known as Leguna are children between 13 and 18. These children are plying vehicles in 15 routes without valid driving license and some under-age drivers got severely injured in road accidents. In absence of adequate provisions of education and training, children from disadvantaged communities are engaging in hazardous forms of labours in huge numbers.

Though many children drop out of the formal education system and get engaged with different forms of labour, Article 17 of the Constitution guarantees free and compulsory education for all. Although there is a requirement to have literacy skill in order to acquire licence of conductor in the proposed Road Transport Act, opportunities to gain literacy and numeracy skills are limited for those down-trodden children.

The much-talked Road Transport Act, preparation for which went on for six years, will now be submitted to the Parliament as the cabinet has approved it. An outdated piece of legislation called the Motor Vehicles Act of 1939, was in operation until 1983 when the Motor Vehicles Ordinance was promulgated replacing the old Act of 1939. Since 2010 the government has been trying to upgrade the law as the existing legal framework is not able to bring discipline to the road transport sector. With the enactment of new law, we expect that positive changes will come in this sector for public interest.

**THE WRITER IS A HUMAN RIGHTS WORKER.**



## WORLD AUTISM AWARENESS DAY

# Towards independence

THEME of the 2017 World Autism Awareness Day (WAAD) is "Toward Autonomy and Self-Determination". The theme is in line with the spirit of the Convention on the Rights of Persons with Disabilities (CRPD) which recognises the right of persons with disabilities to independence of person and to individual autonomy (article 3).

The 2017 WAAD observance is organised by the United Nations Department of Public Information and Department of Economic and Social Affairs. The WAAD observance, on 31 March 2017, will discuss policies and approaches being implemented with regard to guardianship and the path to self-determination and legal capacity of persons with autism.

Autism is a lifelong neurological condition that manifests during early childhood, irrespective of gender, race or socio-economic status. Autism is mainly characterised by its unique social interactions, non-standard ways of learning, keen interests in specific subjects, inclination to routines, challenges in typical communications and particular ways of processing sensory information. The rate of autism in all regions of the world is high and the lack of understanding has a tremendous impact on the individuals, their families and communities.

The stigmatization and discrimination associated with neurological differences remain substantial obstacles to diagnosis and therapies, an issue that must be addressed by both public policy-makers in developing nations, as well as donor countries.

Throughout its history, the United Nations family has celebrated diversity and promoted the rights and well-being of persons with disabilities, including children with learning differences and developmental disabilities. In 2008, the Convention on the Rights of Persons with Disabilities entered into force, reaffirming the fundamental principle of universal human rights for all. Its purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. It is a solid tool to foster an inclusive and caring society for all and to ensure that all children and adults with autism can lead full and meaningful lives.

The United Nations General Assembly unanimously declared 2 April as World Autism Awareness Day (A/RES/62/139) to highlight the need to help improve the quality of life of those with autism so they can lead full and meaningful lives as an integral part of society.

The UN Secretary-General Mr. António Guterres is his message urged all to "play a part in changing attitudes toward persons with autism and in recognising their rights as citizens, who, like everyone else, are entitled to claim those rights and make



decisions for their lives in accordance with their own will and preferences. Let us also renew our promise, engraved in the 2030 Agenda for Sustainable Development, to leave no one behind and ensure that all people can contribute as active members to peaceful and prosperous societies. When persons with autism will enjoy equal opportunity for self-determination and autonomy, they will be empowered to make an even stronger positive impact on our shared future."

**COMPILED BY LAW DESK (SOURCE: UN.ORG).**

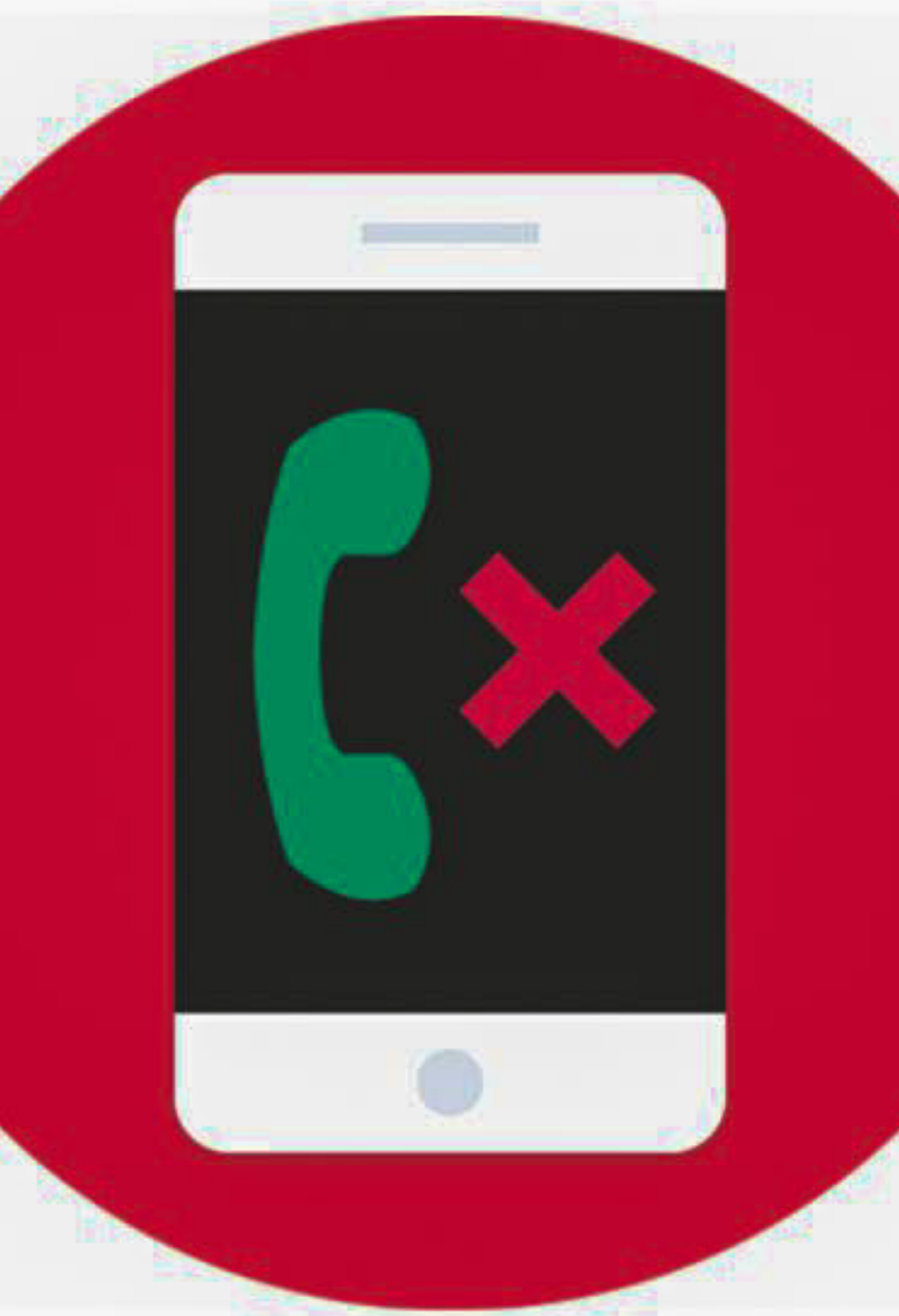


**This week Your Advocate is Barrister Omar Khan Joy, Advocate, Supreme Court of Bangladesh. He is the head of the chambers of a renowned law firm, namely, 'Legal Counsel', which has expertise mainly in commercial law, corporate law, family law, employment and labor law, land law, banking law, constitutional law, criminal law, IPR and in conducting litigations before courts of different hierarchies.**

**Query**  
I am 23 years old, student of a private university and living in student hostels. For the past one month, a man identifying himself as 'Faisal' has been repeatedly calling me on my cell-phone. Every time, he makes different excuses to talk to me and I explained very clearly that I don't wish to speak to him as I don't know him. He keeps calling me, at least 30 to 40 times a day. I stopped receiving the calls and I blocked his number. Later, he started calling me from different numbers and I blocked those numbers as well. I am scared now as he sometimes sends messages addressing me by my name and writes that he knows where I live. I am now concerned about my personal safety on top of being seriously harassed. Is there anything I can do to stop this harassment?  
Thanking you,  
Suma (not real name)

**Response**  
Dear Reader, as I can understand from reading your problem, having phone calls and text messages from an unknown person is a serious issue of harassment. The simplest solution in these circumstances is provided in section 70(2) of the Bangladesh Telecommunication Act 2001, which provides that it shall be lawful for the operator, upon a complaint and authorisation from the person to whom continuous unwanted calls are made, to trace the source of, to intercept, monitor or record the calls or to take steps to prevent the calls. As such, you may report the number(s) to your concerned network operator and authorise them to block these calls from reaching your number anymore. However, I must also explore other options since you have already mentioned that the unknown person makes phone calls from several different numbers and it might, at one point, become impractical to keep approaching the operators to block all such numbers. Causing 'annoyance by telephone calls' is

in fact a crime under the above mentioned law and this is exactly where redress can be sought for the unpleasant mental suffering that you are facing in the current scenario. According to section 70 of the 2001 Act, a person commits an offence if he, without a reasonable excuse, repeatedly makes telephone calls to another person in such a manner that the calls cause annoyance or inconvenience to that other person. Applying this legal provision to your situation, it can very well be said that 'Faisal' (assuming that this is in fact his real name) is



highly likely to have already committed an offence since his forty or so phone calls in a day for one whole month have undoubtedly caused you adequate annoyance and inconvenience.

Having identified the offence, I shall now guide you through the procedure by which you can make a complaint to the relevant authorities for the taking of steps against Mr. Faisal. Section 78 of the Act details the procedure for inquiry, investigation procedure and lodging of complaint for the

offence. Generally, inquiry, investigation and lodging of a case for an offence committed under the 2001 Act are done by an inspector of the Bangladesh Telecommunication Regulatory Commission (BTRC), which is the concerned commission for these matters. However, the law also provides for the scope for inspectors of the law enforcement agencies to be authorised to undertake these inquiries, investigation and the lodging of complaints. As such, at the initial stage, you may either approach to the BTRC or your nearby police station, and inform them about the constant phone calls, providing them with the phone-number(s) of the caller and all other details.

If Mr. Faisal is ultimately traced and found guilty of the offence on completion of the case, the maximum penalty that he may suffer is a fine that may amount to a maximum of one lakh taka. If Mr. Faisal fails to pay a fine that is imposed by the courts, he may also face imprisonment up to six months.

You might be looking for the fastest alternative to make the calls stop for good as soon as possible and it might not be desirable for you to pursue a complaint to the authorities that would entail enquiries, investigation and then ultimately lodging a case. I advise you to approach to your network operator at the earliest instance and try to block calls and texts from as many of the numbers as possible. I would also advise you to at least keep the local police station or the BTRC informed of the matter and take their suggestion since such constant calls may be very intimidating and also unsafe depending upon how much information the caller has about you.

I hope that the above advice shall provide you with some guidance and help you reach a safe solution to the problem.

**FOR DETAILED QUERY CONTACT: OMAR@LEGALCOUNSELBD.COM.**