

Human rights and detention of the mentally ill



ARTICLE 1 of the Universal Declaration of Human Rights (UDHR) provides that "all people are free and equal in rights and dignity". The UN

budget is spent on mental health, one of the lowest allocations in the world. According to the World Health Organization's (WHO) Country Profile 2014, in Bangladesh the number of mental health workers per 100,000 people is 0.5. This is more akin to sub-Saharan Africa than a modern growing economy.

A paper published by WHO in 2015 entitled "Bangladesh Health System Review" states that myths and superstitions about the cause of mental illness are prevalent, and neglect and abuse are common phenomena. While it is clear that the current mental health system in Bangladesh is not fit for the purpose it should serve, the arbitrary detention mechanism of mentally ill patients is an issue that is often ignored.

Bangladesh has just one mental health hospital with 625 beds. The National Institute of Mental Health runs a 150 bed hospital in Dhaka. There are about 5000 beds in various inpatient units and residential facilities. A 2005 study shows that most in-patients suffer from psychosis and are diagnosed with schizophrenia or mood disorder.

A joint study by WHO and the Ministry of Health published in 2007, reveals that 100 percent of those admitted to the mental hospital and 80 percent to psychiatric units are detained (against their will). The study also shows that the average patient spends 137 days detained.

Violating the liberty of a person simply because they have a mental disorder is against the International Bill of Human Rights and CRPD. Such a practice also breaches the fundamental rights under the Constitution.

In compliance with international human rights, the mental health laws of many countries allow for mentally ill patients, who are unwilling to have treatment, to be detained if there is clear evidence that because of the nature or degree of their mental disorder, such detention is necessary



ILLUSTRATION: MICHEL STREICH

for their own health and safety or the protection of others. However, this is the only circumstance where the law allows an innocent person, not accused of any crime, to be deprived of their liberty. Hence the state is under an obligation to be extra vigilant, have proper checks and balances in place, and ensure that such deprivation of liberty is proportionate and no longer than is absolutely necessary.

Ratifying countries are also duty bound to ensure that, where necessary a civil court or tribunal rather than a criminal court, is used in dealing with such patients. Even in relation to mentally ill offenders, the involvement of the criminal justice system is to be kept to a minimum and the focus should be on treatment rather than punishment.

In the US and most European countries a thorough assessment is

conducted by three approved psychiatric practitioners to determine the statutory criteria for detention of a patient unwilling to receive treatment. The patient has a right of appeal to an independent tribunal. Even when the patient does not appeal, the hospital must periodically refer the case to the tribunal to review the lawfulness of the detention. The patient's right are read out to him and he can ask for the appointment of an advocate to safeguard his interests.

The Lunacy Act, 1912, is, to all intents and purposes a criminal rather than civil legislation. The Act talks about allegations of lunacy as if they are allegations of criminal offences. Though the Act has been amended no less than 34 times since 1912, it has not lost its spirit.

The Act allows a police officer to arrest a person just "wandering at large", if the officer believes that he is a "lunatic" (mentally ill). As the definition of lunatic includes, what the Act refers to as, "an idiot" (a person with a learning disability or possibly autism), it is possible for a police officer to detain someone simply because the officer believes the person has a learning disability (wandering at large is not an offence known to law).

It gets worse. Instead of handing such a vulnerable person to their guardian or the nearest mental health unit, the officer is required to take the person to a criminal court. There the magistrate on the vague criterion of thinking that "there are grounds for proceeding further", may order the person's detention for up to 30 days to be examined by a medical officer.

The Act does not require the medical officer to have any knowledge of psychiatry. On the basis of a medical certificate from such an officer the magistrate can order that the person be indefinitely detained in an "asylum" (mental hospital). The person has no right of appeal against his detention. His only hope of

discharge is if the government appoints "visitors" to the hospital, one of whom is a medical officer, or an order in writing to end his detention.

Similarly when a relative of a patient makes a "petition" for his detention on "allegation of lunacy", the magistrate has the last say. He has the power to conduct a hearing to determine the issue, which is not dissimilar to a criminal trial – the only difference is that the person in the dock is not accused of any crime but is vulnerable and helpless.

It appears that the current government is aware of the need for reform of the country's mental health law. At present there are two draft mental health laws floating around. One appears on the Law Commission's website and the other on the Health Ministry's website. As the draft of the Health Ministry appears to be more recent, it is more likely the government is working on this one.

The draft is generally in conformity with the International Bill of Rights including CRPD, and the Constitution. However there are three glaringly obvious omissions: treatment in the community is left out, rights of patients are not clarified, and the need for the establishment of a mental health tribunal is overlooked. One hopes that these omissions would be rectified. But even with these omissions the draft goes a long way in modernising Bangladesh's mental health system.

The government would be well advised to place the draft before the parliament with a sense of immediacy. It must also review its budget allocation on mental health. Meanwhile as things stand, if a country is judged by how it treats its mentally unwell citizens, then as Bangladeshis, we must all hang our heads in shame.

The writer, a British Bangladeshi, is a mental health tribunal judge in England.

An issue of less importance

The link between cruelty to animals and human brutality

NARMIN TARTILA BANU

An angry member of a forum of cat fans once posted a photo of a tortured cat. The post shocked and disgusted the community. Thousands of comments followed lamenting the sorry nature of humanity and cursed the perpetrators to hell. Cruelty of such dimensions demands the attention and quick action of relevant authorities. One would hope that the culprits should at least spend a night in jail. But nothing of the sort happened. The angry discussion remained within the peripheries of the cat forum and eventually simmered down.

In a country where human rights are limited to a selective sect, and readers are fast becoming immune to newspaper reports on cruelty towards children in the name of entertainment, the plight of animals and the proponents of their rights continue to remain in a frightful state. Instances of animals being set on fire, beaten up, and starved are overwhelming all over the world. For a nation with an agenda overflowing with big issues such as combating extremism, managing geopolitical scuffle, and overhauling the face of the RMG sector, concerns for the welfare of stray puppies would hardly stand a chance of making it to the bottom rung of the priority ladder of leaders. Truly, in the midst of acid violence, terrorism, and the elusive Teesta deal to name a few, who would

pay attention to the scraggy puppy with the broken back leg being chased by a group of rowdy street children?

Yet a careful look at the macabre side of society would promptly reveal a glut of phenomena that are quite interconnected. For instance, incidents of animal cruelty indicate something of a much grimmer nature.

Researchers have theorised that every individual seeks affection and approval from the ones they love. However, if the loved ones do not provide the desired reaction, the said individuals would get frustrated and vent anger on weaker creatures who cannot retaliate. This way, the individuals attain a level of satisfaction for having restored their confidence.

Research indicates that children facing abuse at home or exposed to parental alcoholism and dispute are more likely to engage in animal cruelty. So the wicked action is itself an outlet to let off steam for lack of a better phrase. Scorning at a couple of adolescents chasing down a limp puppy just for the kicks is easy. But behind that merciless action probably hides a life of torment.

Moreover, studies present a link between cruelty towards animals in childhood and adult aggression toward humans. Academic papers conjecture about the possibilities of childhood animal cruelty being an early warning sign of serial murder and other forms of violence towards humans including



molestation and rape. Cruelty to animals indicates conduct disorder, a condition characterised by a lack of empathy and concern for the wellbeing

of others. Early diagnosis of such issues could reverse a child's trajectory of growing up to be a violent individual carrying out abominable crimes.

As can be seen, random incidents of animal cruelty that we nonchalantly witness are mere symptoms sitting atop a cauldron of roiling and boiling social issues. A look at the crime rate in Bangladesh, as per the Bangladesh Police website, tells us that in 2016 alone there have been 3,548 incidents of murder and 17,756 incidents of child and women repression. And there is every possibility that investigating the history of the perpetrators for each one of these crimes would reveal an equally staggering number of cases of animal cruelty.

Of course, animal cruelty alone cannot be the sole indicator to gauge how a person engaging in this perverse act is treated at home or whether they would grow up to be a murderer. Yet, it is a powerful cue. Early intervention could not only rescue members from a repressive family but also prevent children from becoming sociopathic criminals in later life. Thus, if not for the right of the cute little kittens being tortured out there, at least for restoring some fair order to society, incidents of this nature need to be dealt with. And a move in the positive direction has come in the form of the establishment of the Animal Welfare Act earlier this year. The promise of this act can be ensured only with active and sustained support from the commoners.

The writer is a Senior Lecturer in Marketing at the School of Business and Economics, North South University.

QUOTABLE Quote

MAHATMA GANDHI
LEADER OF THE INDIAN INDEPENDENCE MOVEMENT IN BRITISH-RULED INDIA

The weak can never forgive. Forgiveness is the attribute of the strong.

CROSSWORD BY THOMAS JOSEPH

ACROSS

- 1 Gumshoe
- 7 Cup o' joe
- 11 Soup choice
- 12 Stepped down
- 13 Come to
- 14 El --
- 15 Gets out of bed
- 16 Rustic home
- 17 Thomas Hardy heroine
- 18 Be generous
- 19 Woodland
- 21 Like Camaby Street fashion
- 22 Ajax's fight
- 25 Welsh river
- 26 Otherwise
- 27 Major effect
- 29 Structural support
- 33 Oilcan part
- 34 TV ad
- 35 Move quickly
- 36 Confounded
- 37 Savvy about
- 38 Wake up
- 39 Feel the absence of
- 40 Neatnik's banes
- DOWN**
- 1 Kick off
- 2 Football's Long
- 3 Run up
- 4 Copes
- 5 Salt Lake City team
- 6 Heir, at times
- 7 Where Akitas originated
- 8 Mobile setting
- 9 Guest
- 10 Made amends
- 16 Woes on toes
- 18 Traded
- 20 Toss out
- 22 Kettledrums
- 23 Does the news
- 24 Eccentric folks
- 25 Sagacity
- 28 Road runners
- 30 Fake
- 31 Tickle
- 32 Some apples
- 34 Whittle down
- 36 Block

BEETLE BAILEY BY MORT WALKER

BABY BLUES BY KIRKMAN & SCOTT

YESTERDAY'S ANSWER

Y	A	C	H	T	S	O	C	H	I
E	T	H	E	R	A	S	H	E	N
S	W	A	M	I	I	S	A	A	C
S	I	R	P	E	N	R	D	A	
E	L	L	P	A	T	L	E	S	
S	L	I	D	E	R	A	I	D	E
F	O	P	S	I	T	C	H	E	S
I	R	A	P	E	T	U	N	O	
J	A	R	O	R	O	N	C	O	
I	N	K	E	R	M	A	N	O	N
A	G	E	N	T	A	D	A	R	E
N	E	R	D	S	N	A	M	E	R