

Make our roads safer

Overall management of roads, transport and traffic is essential

ROAD Transport and Bridges Minister Obaidul Quader recently said that road management is not responsible for road accidents as a result of vehicles overtaking one another; rather drivers, passengers and transport management are to blame. We would like to point out two things. First, the minister's comments leave out the role of traffic management which is crucial for road safety. And second, road accidents are a result of overall management which includes road, transport and traffic management.

In fact, the photos published on the front page of this paper on Thursday, including that of a car parked on the pavement, depict the prevailing mindset of drivers and motorcyclists who do not think twice before flouting traffic rules despite a High Court order on the government to bring an end to such practices. This is a result of the lack of proper traffic management.

The death of Rajib Hossain who succumbed to his injuries in the accident caused by two speeding buses, and another such horrific accident in which a bus helper lost his right arm have thrown road safety in the country, or a lack thereof, back into the limelight. There are numerous reasons for such poor road safety such as the near-absence of implementation of the law and letting violators of traffic rules go scot-free. And the enormous influence wielded by bus owners is particularly worrying because it seems almost impossible to bring unruly buses under control. When BRTA announced last year that no public transport would operate under "special services," transport owners took buses off the streets creating a major crisis.

Along with enforcement of the law and coordination among all entities, such as BRTA and DMP, responsible for overall management, it is essential that some groups with special interests are not allowed to hold the implementers of the law hostage. Road safety is not a privilege; it is a right of every citizen.

PM's call to the world very timely

Myanmar must take responsibility

PRIME Minister Sheikh Hasina's call to the international community to put more pressure on Myanmar to take back Rohingya refugees is very timely, because, it seems, only international pressure can make Myanmar act according to the deal. Myanmar's assertion that it has repatriated the first Rohingya family of five from Bangladesh just goes to show how insincere it is in honouring the repatriation agreement that was signed between Bangladesh and Myanmar last November. Rights activists and international relations experts have aptly called the move by Myanmar "a public relations stunt."

Meanwhile, the latest condition of the Rohingya people who are still living in Myanmar makes us all the more doubtful about Myanmar's sincerity in repatriating the Rohingya minorities. As the UN Assistant Secretary-General for Humanitarian Affairs has said, after visiting Myanmar recently, that they continue to face "hardship and marginalisation due to movement restrictions that severely compromise their rights to health, livelihoods, protection, education and other essential services."

As Canada and Britain have called for a meaningful investigation into the reported atrocities by the Myanmar army, we hope that other countries of the world would also voice similar concerns. The Myanmar army must be tried in the international criminal court for the crimes they have committed against their own people.

Moreover, since Myanmar has signed the bilateral agreement with Bangladesh amid global pressure, we believe that it is the international community that must continue to exert such pressure to make them take back the Rohingya refugees who are the rightful citizens of the Rakhine state. The UN should play a decisive role in the whole process. Myanmar must take the repatriation agreement seriously.

LETTERS TO THE EDITOR

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All harassment of protesters should stop

After the prime minister announced the scrapping of the quota system in the public service recruitment process, protesters called off their movement but were still harassed by the ruling party's student wing and law enforcers. Student leaders of different hall units and institutions are also reportedly threatening those who protested, which is totally unacceptable.

I believe that this will only exacerbate an already complex situation and again lead to further divisions. The movement was spontaneous and the demand of the students was quite reasonable.

Therefore, it will be unwise for pro-ruling party organisations to harass the protesters. Since the prime minister herself resolved the issue, they should respect her decision and stop trying to make things worse.

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DEFAMATION IN PROPOSED DIGITAL SECURITY LAW

Why are we worried?



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THE Editors' Council yesterday at a meeting with the law minister and post telecommunication and ICT minister expressed deep concern over some provisions in the digital security bill placed in parliament last week. Freedom of expression and independent journalism, they feared, will largely be affected if those provisions remain in the proposed legislation.

In response, Law Minister Anisul Huq said "the concerns of the Editors' Council are logical for the major part." Based on their concerns, it was decided that he will ask the parliamentary standing committee on the Post, Telecommunication and ICT ministry now scrutinising the bill to invite the Editors' Council to any of its meetings after April 22 so that the editors can place their concerns in writing before the committee. The law minister's assurance seems heartening.

But what are the concerns centring the fate of freedom of expression and independent journalism in the wake of the proposed digital security law?

For one thing, the proposed digital security law suffers from the vice of procedural irrationality. If enacted by parliament, the legislation will in effect introduce a policy of double standards and discrimination between alleged offenders committing the offence of defamation through digital devices and those committing it through traditional media.

People accused of defaming others through traditional media like newspapers or books or leaflets under section 499 of the Penal Code of 1860 will have safeguards from being prosecuted on charge of the alleged offence. According to section 198 of the Code of Criminal Procedure of 1898 only the persons aggrieved by the alleged defamatory content may sue the offenders. No third party is allowed to file the defamation case.

But people accused of defaming others through digital devices like computers or any other communication device such as a mobile phone or a tablet will not have the same safeguards. Persons aggrieved or anybody on their behalf can file defamation cases. This may again open a floodgate of lawsuits for abuse, as had

happened in case of the draconian section 57 of the ICT Act, 2006 to muzzle dissenting voices and criticism.

Punishment also varies for committing the same alleged offence—defamation. People accused of defaming others through digital devices will face harsher punishment than those who commit the same offence through traditional media. According to section 500 of the Penal Code, "whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both."

But under section 29 of the proposed digital security law, one may face imprisonment which may extend to

diluted one good thing. The proposed digital security law did not bank on the draconian section 57 of the Information Technology Act, 2006 to define defamatory action. Section 57, which still remains in force, is vague and makes everything—be it true or false—published about a person in the website, and if that person feels defamed by the content, to be defamation. This ambiguity has given scope for widespread abuse of this provision, sparking uproar and strong demand for its cancellation to protect people's fundamental right to freedom of expression. The way defamation is defined in section 57 also runs counter to the one stipulated in section 499 of

reputation or such person is said to defame that person. There are ten exceptions in this provision.

By those exceptions efforts were made to protect people's freedom of expression. For example, the first exception says it is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is of course, debatable.

Another exception reads it is not defamation to express in good faith any opinion related to the conduct of a public servant in the discharge of his public functions, or with respect to his character, so far as his character appears in that conduct, and no further.

But banking on section 499 of the Penal Code to define the defamation in the proposed digital security law may not work effectively to protect freedom of expression in the digital age due to absence of the safeguards as discussed above. So, apprehension of abusing the proposed digital security law to gag freedom of expression and independent journalism still remains justified.

The nature of the cases filed under section 57 of the ICT law in previous years has been a glaring example of how the defamation law was used to muzzle dissenting voices and criticism. The misuse of such a cyber law is not just limited to Bangladesh. Section 57 of our ICT Act, not too long ago, had its counterpart in India in the Information Technology Act 2000. Following widespread abuse of this provision against dissenting voices, the Indian Supreme Court scrapped it in 2015 terming it unconstitutional and against freedom of expression. But the same draconian provision still exists in the law book of Bangladesh with a stringent punishment of imprisonment which may extend up to 14 years. And this provision is set to re-emerge in new form in the proposed digital security law.

The British rulers were against freedom of press and free speech. But the above discussion shows the punitive measures introduced by our government in the cyber laws are harsher than the ones made by the colonial rulers in the Penal Code. Nothing can be more unfortunate. Are we moving forwards or backwards?

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ILLUSTRATION: AMIYA HALDER

three years or a fine of Tk 5 lakh or both. And this is just for committing the offence for the first time. If someone commits the same offence a second time or repeatedly, he will face imprisonment which may extend to five years or a fine of Tk 10 lakh or both.

The absence of safeguards in the proposed digital security law and harsher punishment is disturbing, to say the least, at a time when we are experiencing the fastest growth of internet use in people's daily lives and their habit of using digital platforms to express their opinions.

This procedural unreasonableness in the proposed digital security law has

the Penal Code, 1860.

Hot on the heels of widespread criticism and demand for abolishing section 57, the government has promised to remove the ambiguity from the cyber defamation law in the proposed digital security act. The proposed legislation banks on section 499 of the Penal Code to define the defamatory action.

According to section 499 of the Penal Code of 1860, whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the

BJP's response to Kathua and Unnao rape cases

The Modi government must come out strongly against those involved and let law take its course

PALLAB BHATTACHARYA

PUBLIC anger is mounting by the day over two recent horrific cases of rape in India: that of an eight-year-old Muslim girl in the Jammu and Kashmir state and that of a teenager in Uttar Pradesh. Street protests and candle-light rallies were held in several Indian cities and towns with the participation of people from all walks of life and age groups—they came out with placards demanding justice for the victims through bringing the perpetrators of the heinous crimes to book. For many in India, the two incidents and the subsequent protests were a grim throw-back to a similar nation-wide outcry sparked by the rape of a young student on a bus as it was driven around in Delhi in December 2012.

The body of the eight-year-old girl from the nomadic Bakerwal tribe was found in Kathua of Jammu and Kashmir on January 17 this year. A four-month police investigation found that she was kidnapped, starved, drugged, and raped repeatedly. The police say the attack was premeditated and carried out to try and drive the Bakerwal community out of the area.

Last year in Unnao in Uttar Pradesh state, a teenage girl was allegedly raped by Kuldeep Singh Sengar, a legislator belonging to the ruling Bhartiya Janata Party (BJP). The case came to light when the victim tried to immolate herself earlier this month. Her trauma was compounded by the fact that when she filed a police case her father was allegedly beaten up by Sengar's brother, then taken away by the police for questioning for alleged possession of an unlicensed weapon. The father died in police custody.

In both cases, it is Prime Minister Narendra Modi's BJP which is facing the brunt of the outrage. The incident in Kathua led to the resignation of two senior BJP ministers—Lal Singh and Chander Parkash Ganga—in Jammu and Kashmir, where the saffron party is a junior partner in a coalition government led by the People's Democratic Party headed by Chief Minister Mehbooba Mufti. The two ministers were seen taking part in a rally organised by a Hindu outfit Hindu Ekta Manch protesting police action against the accused in the rape of the eight-year-old girl.

BJP's critics allege that the party has tried to shield the suspects from prosecution in both Kathua and Unnao. The police in Uttar Pradesh, where BJP is in power, was seen dragging their feet to arrest the party's legislator for several days. The image of the BJP government took a hard knock. It needed a severe indictment of the state government's handling of the case by the Allahabad High Court to effect the arrest of the legislator. The High Court said "the disturbing feature of the [Unnao] case is that the law and order machinery and the [state] government officials were directly in league [with] and under the influence of Kuldeep Singh Sengar." There could not have been a more severe reprimand of the Uttar Pradesh government. Media reports had it that the Uttar Pradesh government has decided to withdraw a rape and attempted murder case against another leader of BJP. Modi spoke on the incidents in Kathua and Unnao after his political rivals questioned his "silence" on the issue. He assured the people that "no culprit will be spared" and complete

justice will be done for "our daughters."

The Kathua rape case also brought to fore the communal fault line in Jammu and Kashmir as all eight of the men accused in the case are Hindu and a local radical Hindu group came out in their support. What both the Kathua and Unnao cases showed was how there were attempts to obstruct the due process of law, a basic and essential ingredient of a civilised democracy, by pressure from the powers that be in the two states. The delay in arresting Sengar and showing the doors to Lal Singh and Chander Parkash Ganga did not help the image of BJP. This was entirely unavoidable had the party's central leadership shown alacrity in responding to the two incidents and ensured that the law was allowed to take its course without interference.

It is vital for Prime Minister Modi to handle the two cases with care as BJP weighs the political costs in the run

against them relating to crimes against women. There is no dearth of examples where political parties chose candidates for elections despite there being criminal cases against them.

The two incidents once again revived the demand from some quarters, including the federal minister for Women and Child Development Maneka Gandhi, to reform the law and provide for the death penalty for raping minors. A similar demand was made after the December 2012 incident in Delhi. In fact, there were suggestions at that time that the Indian Penal Code be amended to make a juvenile face trial and undergo punishment because one of the convicts happened to be a juvenile.

While changes in law can always be debated, let it not take the focus away from the more pressing issues of the much-needed reforms in the police force and the decriminalisation of politics. Stringent laws are already in



People hold placards as they participate in a protest against the rape of an eight-year-old girl in Kathua near Jammu, and a teenager in Unnao, Uttar Pradesh state, in Mumbai, India, April 15, 2018.

up to a series of upcoming state elections in the remaining months of this year, including in Karnataka in May, and a fresh parliamentary election next year. The credibility of Modi's assurance that justice will be done to the Kathua and Unnao rape victims hinges on follow-up actions against those who block the process of law. After all, it was Modi who had launched a social welfare scheme for girls called "Beti Bachao Beti Padhao" (Save your daughters, educate your daughters).

The Kathua and Unnao incidents underlined the need to address urgently two oft-repeated issues—freeing the police force from political influence, and weeding out politicians with dubious integrity and track records. According to 2017 study by the civil rights group Association for Democratic Rights, three parliamentarians and 48 legislators in states had cases

place for those guilty of crime against women. What is needed is to ensure those laws are enforced. If the course of investigation is obstructed, no number of legislation, however tough they are, can help.

The Kathua and Unnao incidents raise much larger questions: is India becoming increasingly unsafe for girls and women? What is wrong with the society? According to the 2016 report (the last available report) of the National Crime Record Bureau, 3.38 lakh cases of crimes against women were recorded in 2016 alone; of them 11.5 percent cases relate to rape. And the conviction rate? Only one out of four rape cases lead to conviction. The issue at stake is not merely of gender justice but of upholding the rule of law and a democratic set-up.

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