

Gear up efforts to address post-cyclone challenges

Health check-ups of evacuees crucial to contain Covid-19 spread

As cyclone Amphan made its landfall in West Bengal yesterday afternoon, being weakened from a "super cyclone" to an "extremely severe cyclonic storm," it ripped through the coastal districts of the Indian state, unleashing heavy rains and windstorm, blowing away thatched houses, uprooting trees, electric poles and swamping towns and villages on its way, according to reports in the media. Although the cyclone mostly hit West Bengal, its impacts on our coastal regions—mostly in Satkhira, Jessor, Khulna, Nijhum Dwip, Hati, Bagherhat, Jhalakathi, Pirojpur, Borguna, Patuakhali, Bhola and Barishal—were no less devastating since large parts of the low-lying areas of these regions have been inundated by the high storm surge as the cyclone passed through our land last night. As of writing this editorial, the number of injuries or casualties could not be verified.

Post-Amphan, the immediate challenges for the government would be to ensure safe drinking water for the people, since all the freshwater sources, including tube-wells, in the affected areas have been inundated by salt water; immediately repair the parts of the coastal embankment that have been severely damaged by the tidal surge; and dig canals through the coastal embankment to remove salt water that has flooded the fish farms and cultivable land, etc. Salinity intrusion would particularly pose a threat because cultivating vegetables or crops in the land would be difficult with increased salinity level. Moreover, the affected people should be given necessary financial and food assistance by the government.

Another big challenge for the government would be to conduct health check-ups of those who had been evacuated to the cyclone centres. Needless to say, it would be very difficult because around 24 lakh people were evacuated before the cyclone made its landfall. As we have seen in media reports, social distancing and other safety measures were largely ignored by the people at the crammed cyclone shelters. Now, these people should be screened for Covid-19 symptoms and those with symptoms should be isolated immediately. The volunteer teams readied by the district administrations should help in this regard.

It should be mentioned here that the government has done a commendable job in evacuating people at the right time. All the district administrations concerned have listened to the government's directive in this regard. We now hope that the government with all its agencies concerned will immediately address the post-cyclone challenges that the people of our coastal regions will face in the coming days.

Aviation industry on the brink of collapse

Air travel as we know it could disappear without support

ACCORDING to an estimate by the International Air Transport Association (IATA), the coronavirus pandemic could wipe off USD 190 million or Tk 1,615 crore off the revenues of Bangladeshi airline operators in 2020. IATA data suggests that airlines, airport operators, airport on-site enterprises (restaurants and retail), aircraft manufacturers, and air navigation service providers employ 17,000 people in Bangladesh, and a total of around 129,000 jobs are supported by air transport and tourists arriving by air—all of which are now at risk.

The Bangladeshi aviation industry has managed to connect the country in a way that seemed impossible even a few decades ago, providing an essential means of transportation and communication that has boosted economic activity in the region. However, due to the pandemic, almost all of these flights have been grounded, and plans for future expansion have been put on hold while airlines struggle to cope with huge financial losses. Airlines have warned that without government support, air travel is unlikely to return to normal in the foreseeable future.

Biman Bangladesh has already secured a loan worth Tk 10,000 million to help offset its negative cash flow, and we urge the government to consider doing the same for the private commercial airlines operating in the country. The Civil Aviation Authority of Bangladesh (CAAB) has also asked the Ministry of Civil Aviation and Tourism for an immediate waiver of aeronautical and non-aeronautical charges to stop the industry from collapsing. We urgently ask the government to consider even partially waiving these charges, even at the risk of reduced revenue for the CAAB. The long-term impacts of reduced revenue can be dealt with in a planned way, such as by postponing the expansion of Hazrat Shahjalal International Airport, whereas the collapse of the aviation industry is a concern that needs to be dealt with immediately. The local airlines' demands for reducing fuel prices and operating costs, reconsidering the decision to impose VAT on aeronautical services and implementing a transparent regulatory and policy regime, should also be carefully considered.

LETTERS TO THE EDITOR

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Virtual courts a reality now!

Since late March, the regular activities of courts across the country remained suspended due to the ongoing pandemic. However, earlier this month, the president issued an ordinance allowing the courts to run their activities by using information technology, which I think is a very timely and praiseworthy initiative. This marks a new chapter in the history of our legal system. The Supreme Court of Bangladesh has already issued Practice Directives for the Appellate Division, the High Court Division and the subordinate courts for conducting judicial proceedings through video conferencing. Therefore, many people who were accused in criminal cases are now being able to secure bail despite the nationwide lockdown. I think this initiative will help us progress towards a sustainable e-judiciary in the days to come.

Nowshin Jahan, Dhaka



'JUSTICE'
IN PRACTICE

TAQIBIR HUDA

On May 9, 2020, the president of Bangladesh sanctioned the operation of virtual courts by the judiciary by passing the *Adalot Kortrik Tothyo Projukti Byabohar Odhyadeshe*

2020 (roughly translated as the "Use of Information and Communications Technology in Court Ordinance 2020"). Typically, laws are passed by parliament and are called "acts" but Article 93(1) of our constitution allows the president to promulgate ordinances when parliament is not in session and "circumstances exist which render immediate action necessary", and it would have the "like force of law as an Act of Parliament".

The preamble to the ordinance states that the objective of the law is to empower the courts to make use of information technology to enable virtual attendance of parties to a case during trial and to allow the court to hold inquiries or hearings of applications and appeals and take evidence or deliver orders or judgments. "Virtual attendance" is defined as the presence or participation of a person in any judicial proceeding of a court through audio-video or any similar electronic medium. The ordinance is applicable to all courts of Bangladesh.

In finally opening the doors to virtual courts, Bangladesh has joined a list of countries across the world where the justice system has similarly responded to the coronavirus-induced lockdown with increased digitalisation. However, to think that the need for virtual courts only arose in the aftermath of lockdown would be to deny reality. It has been a long time coming. Coronavirus and the national lockdown aside, the formal justice system in our country is by and large painfully inaccessible to those who need it the most. Instead, courts are treated as a last resort by those whose rights have been violated, when all alternative means have failed. A survey by the Ministry of Law found that two of the biggest challenges justice-seekers face are the corruption of police when initiating cases and the long distance of district courts from their homes and the ensuing costs associated with travelling back and forth

for seemingly endless court sessions (The Access to Justice in Bangladesh Situation Analysis, 2015).

Indeed, from my own research I have found that the physical distance to courts operates as a crippling factor for litigants even when conveyance is provided for court-related travel by legal aid providers, such as BLAST, who reimburse travel costs to all clients as a matter of policy. This is because transport cost is not the only factor making distance troublesome for litigants. Often times they are day labourers or otherwise employed in a job in which they must forego a day's wages every time they have to attend hearings in court. Additionally, female litigants from conservative families often require male relatives to accompany them to the main cities where the district courts tend to be located, and such relatives may not always be readily available as they too may need to forego their daily earnings. The same is true for aged litigants who may not be able to travel on their own. As a result, many clients simply lose interest in pursuing cases when they see endless court dates being scheduled with no signs of the case being settled in the near future.

Therefore, the virtual court system, in allowing people to attend hearings online and for judges to issue decisions therein, has immense potential in eliminating the distance factor and corruption issues. However, the extent to which the virtual court system can mitigate two of the biggest challenges hindering access to justice largely depends on how it is fleshed out in practice. The ordinance itself is quite vague and brief with only five generic sections. To this end, section 5 of the ordinance empowers both branches

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of the Supreme Court (Appellate Division and High Court Division) to issue Practice Rules (Special or Ordinary) in relation to the virtual court system. The day after the ordinance was passed, both branches of the Supreme Court duly issued 15-point "Practice Directions for Virtual Courts" on the Supreme Court website. Although issued separately, the Practice Directions of branches are largely identical in nature. The first of these directions states



that "Any lawyer wishing to file an application/petition is to file such application/petition via email address of the Bench Officer of the concerned Court along with an application requesting virtual hearing giving reason for urgency within 1 (one) page." The tenth direction states that upon receipt of the case application or petition by email by the Bench Officer, "the Judge shall, upon considering the urgency of the matter, fix a date and time of hearing and accordingly inform the Bench Officer concerned." From this, it becomes clear that individuals themselves are unable to file cases directly, rather it must be done through a lawyer. Additionally, not every

case filed will necessarily be heard, rather the key determinant will be "urgency". It is not yet clear what the Supreme Court judges would consider urgent. On the other hand, the Supreme Court also issued Practice Directions for Subordinate Courts and Tribunals, which specifically state that they are to only hear matters relating to bail petitions. The decision to treat bail hearings as a matter of priority is justifiable given that an astonishing 81.3 percent of our total prison population comprises pre-trial detainees, i.e. those who have not yet been found guilty of committing any offence (World Prison Brief, 2019).

However, what about the victims of severe human rights violations whose evidence is especially time-sensitive, such as victims of rape and domestic violence (which has reportedly shot up in the lockdown)? Is it vital that they too are able to seek recourse through the virtual court system.

Notably, in the past, there have been modest attempts to digitalise our judiciary in the context of violence against women by both parliament and the Supreme Court, but without much in the way of results. Section 20(6) of the Nari O Shishu Nirjatan Daman Ain 2000 (Amended 2003) commendably introduced in-camera trials for rape survivors. However, this is seldom, if ever, implemented, as it is not mandatory. Additionally, in *Naripokkho and others vs. Bangladesh* (2018), the High Court Division led by Justice Farah Mahbub (who also happens to be leading the committee established by the chief justice to reform High Court rules to facilitate virtual courts) issued a directive in 2018 requiring the government to launch a designated website "enabling the informant to register his/her complaint online". Sadly, this website is yet to see the light of day.

The introduction of virtual courts undoubtedly marks the onset of a historic era for our judiciary. Whether it can live up to its potential, and maximise access to justice for those who need it the most, very much depends on our recognising it as not only a temporary solution for the present but also the permanent solution for the future.

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UN needs a paradigm shift to lead us out of the crisis

MOHAMMED PARVEZ IMDAD

THE first Secretary-General of the United Nations, Trygve Lie, remarked in 1948, "The United Nations may need to adjust to new realities and respond to unforeseen circumstances that the world is not aware of today—and thus it has to demonstrate its relevance to withstand the test of time." The time is opportune to assess the UN's response to critical issues and challenges raised by Covid-19 and how effectively it can support the international community in these critical times. It's also important to explore whether the UN is headed for a paradigm shift in view of restructured perspectives.

Covid-19, as it stands, shows no signs of letting up. There is a basis for continued concern as a severe crisis looms over critical areas related to economic and social development. It mostly pertains to declining GDP growth levels, food security, unemployment and the external sector. Progress achieved so far in realising the Sustainable Development Goals (SDGs) is likely to diminish, should the crisis continue unabated. The whole gamut of globalisation and overall functioning of market mechanism may encounter severe challenges and gradually weaken in the short to medium term. There are concerns regarding high budget deficits, massive shrinking of trade and reduced competitiveness globally.

This may erode development sustainability and propel uncertainties in global geo-politics, stability, peace and security.

The United Nations came up with some policy responses, mainly in the past few weeks, as the virus spread to an alarming extent. The UN secretary-general requested G-20 leaders to support stimulus packages undertaken by countries, inject massive resources for economic recovery, and remove trade restrictions on medical equipment and inputs to fight the virus. In the online summit-level meeting of Non-Aligned Movement (NAM) Contact Group in Response to Covid-19 on May 4, the secretary-general emphasised the need for concerted efforts to end the pandemic, and address its socio-economic impacts and recovery to "build back better". Despite its alertness and policy interventions, the UN obviously needs to plan further in the weeks ahead to effectively tackle the gruelling impacts of Covid-19.

To meet the expectations of the international community, the UN can

concentrate on two key aspects: (a) monitoring and strengthening World Health Organization (WHO) programmes in fighting this pandemic; and (b) enabling countries to overcome the severe economic and social challenges due to Covid-19. The overall effectiveness of the UN role at these times will further be reflected through efficient mobilisation of support to and collaboration with countries in mitigating current risks and facilitating recovery.

This is the most critical challenge faced by the UN since it was born in 1945. Obviously, the UN was not around during similar crises, for example, the cholera crisis (1800-1802) and Spanish Flu (1918-1920). Never before has the UN faced such a threat to global peace, security and development. The Universal Declaration of Human Rights and the UN Charter (Articles 1(3) and 25) emphasise the importance of food security and health. Understandably, the UN may have strategic barriers and operational limitations even in implementing its priorities. However, to better achieve its Charter objectives, the UN needs to effectively monitor member countries' programmes, especially on food security, massive loss of jobs and sharp decline in global trade. The UN needs to support member countries' efforts towards fast-tracking scientific and medical initiatives to fight the virus, as well as to reduce the critical dilemma most countries are faced with in the trade-off between implementing and easing lockdowns. The UN needs to chart appropriate strategies in advance for recovery in post-Covid-19 scenarios that would enable countries to achieve expected GDP growth levels with inclusivity, as well as build up significant economic resilience to cushion future external shocks.

In terms of its political and policy mandate, it is highly relevant to hold urgent virtual consultations of the UN Security Council to deliberate on the current crisis and assess immediate means of combating it with utmost priority. Following this, the UN Security Council may consider a Declaration on Effectively Combating Covid-19, which would highlight concrete actions to combat the crisis as well as urgent actions to enable member countries to tackle economic and social challenges. The United Nations General Assembly session in September this year may consider the following core themes: "Food Security and Prevention of Famine" and "A New Horizon for Perspective Health and Human Welfare." In this context, increased resources

for health and human development and substantive reduction in non-development related expenditure could be issues of priority discourse by world leaders.

As regards economic imperatives, it is high time the UN reviewed the outcomes of its commitments for international development assistance that mainly remains unachieved. There should be a blend of need-based and demand-based approaches in the restructured terms of reference for development assistance given by multilateral and bilateral financial institutions. UN specialised agencies and multilateral development institutions within the UN umbrella should be asked to present a focused Plan of Action for

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"Emergency Assistance" on extremely concessional terms (preferably grants) to developing countries. While respective multilateral institutions have in place their respective country programmes, a comprehensive Programme of Recovery and Development Sustainability based on the 2005 Paris Declaration on Aid Harmonisation principles and Accra 2009 Aid Effectiveness mechanisms should be considered. In this context, the UN-led Emergency Assistance Consortium is proposed to assess requirements and monitor resource allocation and utilisation. The proposed Consortium should also support respective country programmes and ensure Priority Debt Relief. Side by side, the International Monetary Fund (IMF) may be tasked to form a Compensatory & Debt Relief

Revolving Fund to compensate for export and remittance losses. UN specialised agencies such as UNDP, IFPRI and UNIDO need to be advised to gear up technical assistance to promote capacity and skills enhancement in strategic sectors. Of critical importance would be creation of the Global Forum on Food Security and Prevention of Hunger and Famine. The WHO should be advised to promote and strengthen coordination with global, regional and in-country healthcare systems.

A prolonged Covid-19 crisis could adversely impact the benefits of globalisation and weaken Sustainable Development Goals (SDG) and targets, and impede progress achieved so far. If this persists, there may be unwarranted shifts in current geopolitical structures that may trigger political and social instability in different regions of the world. A renewed look at SDGs due to the impact of Covid-19 would also warrant stocktaking of critical impediments that countries are faced with concerning unemployment, safety nets and social protection, environmental and climate change related issues. Current targets, indicators and schedule timelines for SDGs need to be reviewed in light of the severe challenges emerging from the Covid-19 crisis. Further to this, the UN could consider advising global and regional NGOs/CSOs and private-sector driven corporate agencies to create a Special Post Covid-19 NGO & Private Sector Fund to support countries to meet cash needs for the unemployed and vulnerable groups.

Will the UN be able to fulfil its mandate of supporting recovery and growth in the medium to long term? How effective are current UN mechanisms to salvage the unprecedented economic and social perils countries are faced with? Will the UN that we have at the moment, with its current structure, charter and functional modes, be sufficiently capable of meeting the challenges that confront the market mechanism and liberal economic and social settings? The UN may have to undergo a strategic transformation as well as structural and operational adjustments towards a much-envisioned paradigm shift. An inability to respond appropriately might usher in proposals for restructuring the United Nations. Hopefully, the UN is fully aware of its responsibilities in meeting the unprecedented challenges it is facing today.

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EDITORIAL

Virtual courts and the future of justice

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Revolving Fund to compensate for export and remittance losses. UN specialised agencies such as UNDP, IFPRI and UNIDO need to be advised to gear up technical assistance to promote capacity and skills enhancement in strategic sectors. Of critical importance would be creation of the Global Forum on Food Security and Prevention of Hunger and Famine. The WHO should be advised to promote and strengthen coordination with global, regional and in-country healthcare systems.

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