

A chokehold on investigative journalism

Prothom Alo correspondent's harrowing experience

WE are extremely disturbed by the way a senior reporter of a leading daily in the country has been treated in the line of her duty. Rozina Islam, a senior journalist of *Prothom Alo*, was kept confined at the health ministry for more than five hours on Monday before being handed over to the police around 8:30 pm. This happened after she went to the secretariat to perform her duties. During her enforced confinement, she was taken ill but was not provided with medical aid. She has now been sued under the Official Secrets Act. Although a request for taking her to remand for five days has been rejected by the court, her bail petition will not be heard until tomorrow.

We wonder whether any person has the right to confine another against their will without being in breach of the law. We believe that Rozina's confinement in the room was illegal, as was her being kept incommunicado for five hours. If the said journalist had indeed violated the law, why did it take five hours to hand her over to the police? On what authority did government officials take the decision to confine her without involving police officials? Why were her colleagues refused information regarding her whereabouts? We demand to know why she was not afforded medical aid after she had fallen sick, and why she was taken to the police station instead.

We condemn the harassment that the journalist is being subjected to. We have reasons to believe that Rozina Islam is the victim of official wrath. The treatment meted out to her at the secretariat, as well as her being charged under the Official Secrets Act, is not surprising, but nonetheless distressing. The series of reports that she had made in the last few months regarding the health ministry helped reveal the depths of depravity and corruption that the ministry had sunk into. Will such coercive behaviour prevent the truth from being exposed? Haven't those reports benefitted the administration? Have not those reports helped save millions of Taka that might otherwise have been misused? We believe her reports have helped the government to take corrective measures to offset actions by corrupt officials that were sabotaging the efforts of the prime minister to deal with the pandemic and improve health services. But instead of gratitude from the administration for a public service, she had to endure the fury of those exposed by her reports.

While we are relieved that her remand was not granted, it is unacceptable that she will still have to suffer the indignity of police custody while she waits for the bail hearing, simply for executing her responsibility as a journalist and a conscientious citizen of this country. In the meantime, her family will suffer the agony of her absence, not knowing what is in store for her next. Rozina Islam's arrest is equivalent to putting handcuffs on the entire media of Bangladesh. Such treatment of journalists in the line of duty cannot be interpreted as anything other than an attack on free press and our right to freedom of speech, and has no place in a functional democracy.

VCs found guilty of corruption must be held accountable

Why hasn't the education ministry taken action?

THAT no action has been taken against at least four vice-chancellors of public universities, even after allegations of corruption and irregularities against them were found to be true, is disconcerting. Over the last year and a half, the University Grants Commission had recommended taking action against the four VCs after investigating the allegations. However, the education ministry has so far ignored the UGC's recommendation and let the VCs go unpunished.

In separate probe reports submitted to the education ministry, the UGC said it found evidence of corruption in the appointment of teachers, construction of buildings on university campus, mismanagement of allocated funds, and many other irregularities against the VCs. In spite of committing these serious crimes, two of the VCs were allowed to finish out their tenure, while another's is set to end soon—only one VC had to resign early due to heavy public criticism.

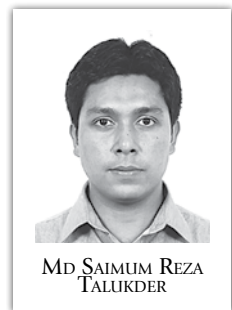
This is the type of inaction that generally leads to the recurrence of irregularities—and this case in particular, has caused irregularities at the highest echelons of education institutions to repeat, said educationists. And according to the UGC's Chairman, "It gives a wrong message and a kind of impunity" which could make other top university administrators "feel that they would also go without punishment even after committing wrongdoings."

That the authorities cannot see this most obvious connection is simply not possible. Then why haven't they taken any action against the guilty VCs? What is taking them so long? What message are they expecting to send to other university officials? And what lessons are the students witnessing this supposed to learn from it? It is because of cases like these that our public education system is fast losing its credibility, and for good reason—the inaction on part of the authorities that is allowing such corruption to repeatedly manifest itself is severely hampering the quality of education being provided at our public universities. And the damage that this is doing is going to be extremely costly.

It is high time that the authorities recognised this and took urgent action against the VCs who have already been found guilty of corruption. Kicking the can down the road and justifying their inaction using the excuse that the "process is lengthy" is not good enough. Given the timings of the UGC's probe report submissions, they have had ample time to get the ball rolling—which they should have urgently done given the seriousness of the situation.

The colonial hangover of official secrecy

Should it override journalistic freedom and the right to information?



Md Saïmum Reza Talukder

SOUTH Asian countries share common traditions, heritage, culture and history. Thus it is not surprising that Bangladesh, India and Pakistan also share the colonial legacy of repressive

and authoritarian laws, often called the "colonial hangover". When enacted, the tone, objective and approach of those laws were rules that served to suppress and oppress on behalf of the colonial masters rather than protect the rights, uphold dignity and ensure freedom of the people. Among many laws, the Official Secrets Act, 1923 (OSA) is one of the widely used laws still applicable in Bangladesh, India and Pakistan. The law is popularly known as an anti-espionage law and has under its purview all matters of secrecy and confidentiality with regard to the government or state affairs. The most commonly used sections of OSA are Section 3 and 5. Section 3 criminalises spying and Section 5 criminalises unauthorised disclosure of secret government information including any secret official code, password, sketch, plan, model, article, note and document etc. However, the OSA has been criticised because of the way it has targeted media and press. Investigative journalism, in particular has been its worst victim.

On the other hand, Bangladesh has enacted the Right to Information Act (RTIA) in 2009, which recognises in its preamble that the right to information is an integral part of the freedom of thought and conscience, and of speech, recognised as fundamental rights under Article 39 of the Constitution of Bangladesh. The preamble of RTIA also recognises that right to information ensures transparency and accountability, reduces corruption and establishes good governance.

Although there is no specific Bangladeshi law which protects journalistic freedom, Section 4 and 5 of the Public Interest Information Disclosure (Provide Protection) Act, 2011 (The Whistleblowers Act) provide protection and safeguards to whistleblowers if the information is true and related to public interest. Article 39 (2) (b) of the Constitution guarantees Freedom of Press. Bangladesh is also a signatory to the International Covenant on Civil and Political Rights (ICCPR). Article 19 of ICCPR clearly mentions freedom to seek, receive and impart information, which supports journalistic freedom including freedom to conduct investigative journalism.

So any attempt to impose restrictions on seeking, receiving and imparting information in Bangladesh contradicts Article 39 of the Constitution, Article 19

of the ICCPR, and the spirit of the RTIA and Whistleblowers Act. Should conflicting laws remain applicable at the same time? Has not the OSA become obsolete and should not it be declared unconstitutional under the purview of Article 26 of the Constitution of Bangladesh?

The vicious attack on Rozina Islam, a senior reporter of *Prothom Alo*, while she was trying to gather information and her detention and arrest under OSA, illustrates these contradictions quite clearly and raises several questions.

Firstly, can investigative journalism be conducted legally in Bangladesh as long as the OSA exists? According to Transparency International's Corruption Perceptions Index 2020, Bangladesh is second-worst in curbing corruption among the eight South Asian countries. Under this situation, if a government office does not give necessary information

reasonable and acceptable? If this delay is not proved reasonable in court, then will a case of wrongful confinement under the Penal Code be filed against the concerned government officials?

Thirdly, was there any force used against Rozina Islam while she was detained or arrested? What kind of force was used against her and was that use of force lawful? *Prothom Alo* alleged that Rozina Islam was harassed while she was detained. She told fellow journalists that she was assaulted physically by the employees at the secretary's office. So, if a female journalist was physically assaulted and detained against her will, then can we think of bringing charges under the Penal Code 1860, Women and Children Anti-Repression Act 2000, and Torture and Custodial Death (Prevention) Act 2013 against the government officials? Also, the perspectives of the Convention on the

concerned ministry bar the disclosure just because of NDA or for any other secrecy-related reason?

The time has come to scrap the Official Secrets Act immediately and review the RTIA so that a mere NDA does not prevent exposure of the truth that is of public interest, such as that which relates to the right to health. Also, the restrictions on providing information goes against the spirit of Goal 16 of the Sustainable Development Goals (SDGs), which considers the right to information as an essential part of sustainable development, as it empowers people with knowledge to demand services from public authorities and promote accountability on development issues. As Bangladesh is committed to achieving the SDGs, the OSA also goes against the "Connecting Government to Citizens: Implementing Right to Information Act 2009 in Bangladesh: Strategic Plan 2015-2021", which still can be found on the government's Cabinet Division's website.

Finally, any criminal charge must be proven beyond reasonable doubt. The government will have to answer the following questions regarding Rozina Islam in court without any reasonable doubt: How were the government officials sure that Rozina Islam took pictures of confidential official documents through her mobile phone set, and is there any CCTV footage? Who had the possession of Rozina Islam's mobile phone during her alleged five hours of detention at the secretariat? Can we be sure that after confiscating Rozina Islam's mobile phone, no one took pictures of confidential official documents with that mobile phone in order to frame her? How will the digital forensics of the mobile phone be done? How can we be sure that no one, except Rozina Islam, kept confidential official documents inside her bag?

There is always a dichotomy between the "Black Letters of the Law" and the "Spirit of the Law". The Declaration of the Independence of Bangladesh is based on equality, human dignity and social justice. So, any law enacted in this land must uphold these three founding principles. Therefore, should not the OSA be declared unconstitutional under Article 26 of the Constitution as it restricts our right to information? Shouldn't the Spirit of the Law be upheld by saying that freedom to seek, receive and impart information on public interest should not be barred in the name of state security? Should not the colonial hangover of official secrecy be washed away by the free flow of information? Should not journalistic freedom be ensured, which empowers people to maintain a culture of transparency, accountability and democratic norms?

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Rozina Islam was produced before a Dhaka court on May 18, 2021.

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to a journalist within due time, what alternative approach can the journalist take which is "OSA-proof"? Or, often an investigative report starts with information leaked by an insider, but possessing such information is criminalised by the OSA. Then, can an investigative journalist get safeguards under Section 4 and 5 of the Whistleblowers Act? If the Whistleblowers Act prevails over the OSA, then why has Rozina Islam been arrested? Do we have any case decision yet to clarify this confusion?

Secondly, Rozina Islam was handed over to Shabbagh police station after she was confined for around five hours at the health secretary's office in the secretariat on Monday. Why this delay of five hours before handing her over to the police? What happened during those five hours when Rozina Islam was kept inside the secretariat? How far was the police station from the secretariat? Is this delay

Elimination of All Forms of Discrimination Against Women, UN Convention against Torture, and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials should be invoked here as per the essence of Article 25 of the Constitution. *Prothom Alo* also reported that Rozina Islam got sick during the detention and instead of sending her to the hospital, she was sent to the police station. As the right to health is an integral part of the Right to Life, this was also a breach of Article 31 and 32 of our Constitution if Rozina Islam was denied her right to health during detention and arrest.

Fourth, what kind of information was Rozina Islam trying to obtain? Was that information true and related to public interest? Is such information barred from disclosure by the Non-Disclosure Agreement (NDA) with foreign countries? If that information is true and concerned the people's right to health, should the

Now is the time to focus on loss and damage from climate change



Saleemul Huq

THE year 2020 will be remembered as not just the year of the pandemic, but also for the experienced human-induced climate change impacts, making loss and damage from those impacts a reality.

What this means is that every climate-related hazard such as heatwaves, droughts, floods and cyclones are no longer entirely natural events, but have become more severe because the global temperature increase has already gone above one degree Centigrade over the last century. A good example of this is the super cyclone Amphan that hit Bangladesh almost a year ago, which became a super cyclone while it was in the Bay of Bengal where the sea surface temperature was several degrees higher than normal due to human-induced climate change.

Fortunately, Bangladesh has one of the best cyclone warning and evacuation systems in the world and we successfully evacuated over two million people to cyclone shelters. In previous decades, super cyclones had cost hundreds of thousands of lives. This time, only a few dozen people died, but thousands are still homeless as they had lost their homes or their land has become salinised by sea water intrusion. Hence, while Bangladesh has been good at saving lives, it has still suffered loss and damage to livelihoods and infrastructure.

Similar loss and damage from human-induced climate change is being repeated around the world, with wildfires in California and Australia, floods in Asia, typhoons in the Pacific, and hurricanes in the Caribbean. In the United Nations

Framework Convention on Climate Change (UNFCCC) process, this was anticipated by setting up the Warsaw International Mechanism (WIM) on Loss and Damage at the 19th Conference of Parties (COP19) held in 2013 in Warsaw, Poland.

Since then, there has been some progress in addressing the issue of loss and damage in terms of learning about the different impacts like sea level rise versus fast moving events like floods and cyclones. There is also the issue of economic versus non-economic loss and damage (such as loss of graves and architectural heritage sites). At COP25 held in Madrid, Spain in 2019, there was a decision to set up the Santiago Network on Loss and Damage, which is a positive development and needs to be built upon at COP26 in November in Glasgow, Scotland.

However, one of the aspects of the issue that has remained highly politically sensitive is financing, as the developed countries do not wish to acknowledge the notion of liability and compensation that may be associated with loss and damage from climate change. In fact, in the 2015 Paris Agreement on Climate Change, the US government insisted on including a paragraph making it explicit that even though they had reluctantly agreed to include Article 8 on Loss and Damage, they wanted to clarify that this could not be used for liability and compensation. One of the reasons why the developed countries refused to allow this topic to be included was their fear of being held to account for the loss and damage they have caused.

Now that President Biden has rejoined the Paris Agreement and has appointed John Kerry as his Climate Envoy, and the US is pitching itself as a global leader in tackling climate change, the issue of loss and damage cannot be ignored. In fact, the vulnerable developing countries have

already made it clear that if COP26 fails to address finance for loss and damage, they will consider COP26 to be a failure, despite any other agreements that are reached. It can be argued that a "whole of society" approach to tackling this issue is needed before we even get to COP26 in November.

The first point to make is for developed countries to think of providing funding in solidarity with the victims of human-induced climate change around the world. The scientific community is now in an excellent position to calculate the attribution of the impacts to the fact that global temperature has risen over one degree Centigrade above pre-industrial levels due to the emissions of greenhouse gases over that time. In this way, we can shift the paradigm from liability and compensation to solidarity. Major philanthropic foundations, such as the Bill and Melinda Gates Foundation and the newly established Earth Foundation set up by Jeff Bezos, should also look at ways in which they could provide funds to victims, especially in the poorest developing countries.

With regards to how such funds could be raised and managed, I would suggest that International Non-governmental Organisations (INGOs) such as Oxfam, CARE, World Vision, Christian Aid and others, who are already working with some of the poorest communities, can also help them with the loss and damage that they are now suffering from. I would argue that individual donors in developed countries who contribute to these INGOs would be most willing to contribute to such a fund on the basis of a moral argument for polluters to help the victims of their pollution.

There must also be a focus on the humanitarian sector, whose normal role is to deal with climate-related natural disasters. The good news is that these organisations have already started

looking at this issue, with pre-finance for potential climate victims by the Red Cross and Red Crescent. These kinds of examples can be expanded and refined to enable climate change victims to reduce loss and damage for themselves.

Finally, the role of young people, who have already built a major global network based on the paradigm of solidarity, is crucial. For example, the Fridays for Future movement led by Greta Thunberg has linked school children of developed countries pushing for mitigation actions at home with school children in developing countries who are being impacted by climate change. This kind of global solidarity can be used for crowd funding for a global loss and damage fund.

It needs to be asserted that dealing with the scientifically attributable negative impacts of climate change is now a high priority for the entire world. While there is an important role for the UNFCCC in COP26, particularly in developing the working modalities of the Santiago Network on Loss and Damage, it also has to be taken seriously by key developed countries' governments. In this respect, the upcoming meeting of the leaders of the G7 countries would be an excellent occasion to declare a willingness to provide funds for loss and damage (as distinct from funding adaptation). At the same time, both developing and developed countries need to set up networks of solidarity to provide financial assistance to the victims of climate change.

Let 2021 be the year when the issue of loss and damage from human-induced climate change is recognised with utmost urgency and importance, and that governments and civil societies around the world rise to the occasion for the victims of climate change.

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