



Right to privacy in Bangladesh in the internet era: A chipped tooth

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Privacy is an edgy topic suffering from historical neglect, but is rapidly becoming all-important with the proliferation of the internet, increased social media consumption and escalating surveillance efforts.

It is an inalienable, non-negotiable and sacrosanct right of every individual. Notwithstanding over the last few decades, both the conception and perception of privacy has diluted considerably, due in no small part to technological advancements and internet connectedness.

According to reports published by Statista and DataReportal, around 4.66 billion people (or about 60 per cent of the global population) are now online.

In Bangladesh, according to statistics published by the Bangladesh Telecommunication Regulatory Commission, in November 2021, around 116.53 million mobile phone subscribers and 10.07 million broadband users had active internet connections, taking the total number of active internet subscribers to an astounding 126.60 million.

On a comparative scale, the numbers have increased by approximately 18.44 per cent compared to the figures from March 2020.

However, the actual number of consumers of digital services and content is likely to be far less as these statistics are based on the number of individuals who accessed the internet at least once in the preceding 90 days, which may not necessarily reflect the actual number of active consumers.

At the very least these figures represent the approximate, and increasing, size of the overall consumer market, and provide insight into the amount of data belonging to Bangladeshi citizens that could be generated, collected and processed by local and offshore service providers.

From a constitutional standpoint, the right to privacy of correspondence and other means of communication is recognised as a fundamental right in Bangladesh, which in the digital era extends to both online and offline platforms.

But in 50 years since the constitution was adopted, no substantive privacy legislation has been enacted in the country. As a result, privacy infringements remain to be a common phenomenon.

A strong case could therefore be made

that Bangladesh should, sooner than later, introduce a robust framework to protect its nearly 170 million citizens from internal and external privacy threats, compromise and corruption.

But what of the situation on the ground?

Every time we use the internet, we leave behind virtual footprints which corporations and governments can collect to use and process by exercising their extensive mandates.

One might say this level of control exemplifies the Promethean fire: it can be

lives thrust into the media limelight; and consumers consumed big time, on both online and offline platforms.

Admittedly, one of the most complicated and controversial intersections of privacy and free speech considerations occur on the doorsteps of public figures. A rising popularity of one's public persona automatically unfurls the curtain to their private life, to the extent that the individual's life is treated as a commodity of sort, to be viewed, sold and consumed with impunity.

While it is implicit that privacy

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summarily dismissing the case on procedural grounds, reprimanded the government authorities for its apparent failure to take appropriate actions to remove such scurrilous content.

In all fairness, such phenomena are not unique to Bangladesh.

But a clear jurisprudence around celebrity rights has evolved in many jurisdictions on the basis that they should have the right to exercise control over commercial exploitation of their own lives. This includes their images and identity, to the exclusion of others, which allows recourse for privacy infringements under intellectual property, defamation and privacy laws.

For example, in December last year, Meghan Markle, the Duchess of Sussex, won a lawsuit and received a symbolic £1 in damages and public apology from the Mail on Sunday for privacy violations.

Across the border in India, Sourav Ganguly secured a financial settlement nearly a decade ago from a leading conglomerate for the unauthorised use of his name in an advertisement.

Another emerging concern around individual privacy comes from fabricated content or deepfakes.

Advancements in animation technology, machine learning techniques and augmented virtual reality now allow the manipulation of pictures, video and audio using artificial intelligence to make it appear that a person said or did something that he never said or did.

These online tools can swap or synthesise faces, body movements, expressions and speech to such a level of flawlessness that it is now becoming overwhelmingly difficult for victims to assert privacy violations, especially in the absence of authentication solutions.

And increasingly, this tool is being used for sinister purposes.

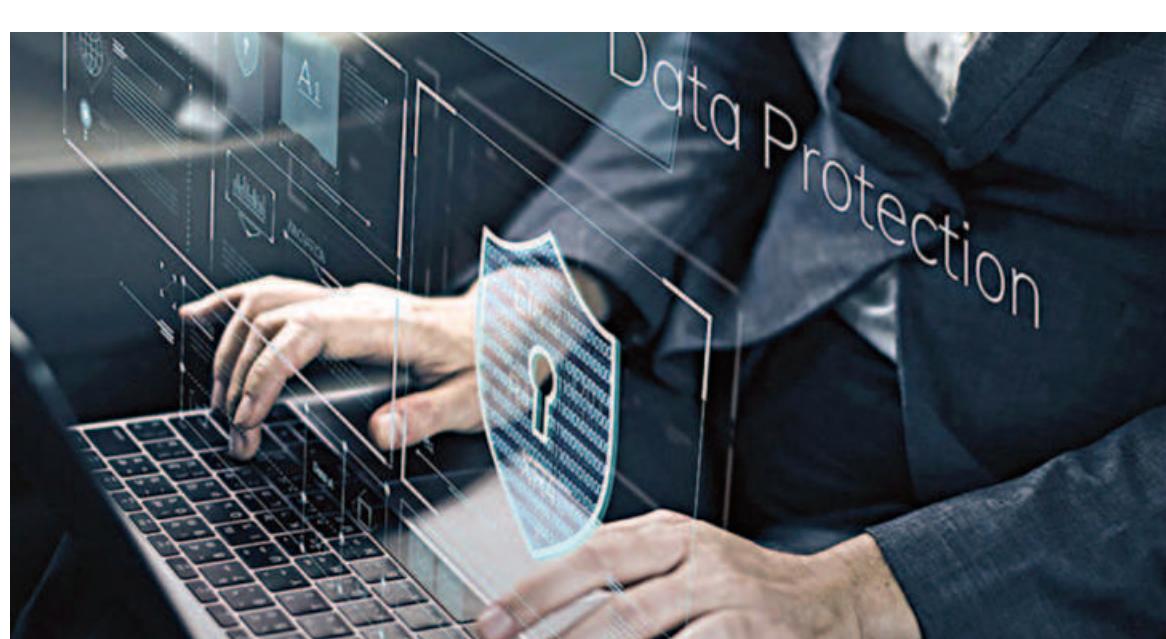


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used for good or evil.

Bangladesh, albeit a little late in the game, is slowly but surely moving towards a data driven society, where big data could be used to diagnose problems, design solutions and deliver outcomes.

However, admittedly, there is very limited hard data on privacy compliance in Bangladesh, making it difficult to delineate the landscape with cut and dry figures. Nonetheless, there is sufficient evidence to shed light on the country's prevalent privacy culture.

For instance, earlier last year, the media beguiled its viewers and readers with sensational content for months.

Over and over again, several media outlets brazenly portrayed female personalities like Shamsunnahar Smriti, alias Pori Moni, and Sabrina Arif Chowdhury in an unflattering light. At the time, the two often had their personal

is traded-off for recognition for celebrities, such scandal-mongering and irresponsible behaviour violates not only the basic tenets of journalistic ethics, but also the legitimate expectation of a citizen in respect to his privacy.

Interestingly enough, the problem and its solution are both embedded in Bangladesh's constitutional framework.

While the media has the fundamental right to publish and inform the public about matters that are newsworthy, the content must not defame any person, encroach upon decency or morality, incite an offence, or otherwise amount to contempt of court.

From recent events, it is ostensibly clear that dispositions exercised by some enterprising journalists fall foul of the constitutional limitations. As a result, public interest litigation was filed in August 2021, where the court, whilst