

A joke of a legal reform

Passage of Cyber Security Act a threat to democracy and people's rights

Five years ago, mere months before the 2018 general election, the parliament had passed the Digital Security Bill. Then, on September 13, 2023, again just months before another election, the parliament passed the Cyber Security Bill – its successor. Clearly, there's something about the approach of a general election that makes the government want to hone its legal tools to deal with the more vocal of voters. But let's face it, what's at stake here is much more than the result of a once-in-a-five-year event. We are talking about a sustained state policy of suppressing free thought and expression that has been affecting the very fabric of our society.

According to media reports, the Cyber Security Bill has been passed despite stiff opposition from opposition lawmakers. There has been little change in the draft approved last month by the Cabinet, despite promises that concerns raised by journalists and rights activists would be heeded. This makes it "a spitting image" of the very law it meant to replace – i.e. the DSA. What is the point of replacing it, then? Ever since the government announced its decision to amend the DSA, we hoped that any change would be in substance, not just in semantics. We also protested when the draft that later came out retained almost all controversial sections of the DSA, with all other changes related only to sentencing and bail. The bill passed on Wednesday reflected none of our concerns.

Granted, the provision of Official Secrets Act has been removed from it. But the provision of arrest without warrant remains. Essentially, what all this means is that the CSA – or DSA 2.0 – is every bit as dangerous as its earlier iteration. The pretense of amendment may have ticked a box for the government, facing criticism from home and abroad, but it will not help restore its image lost over the four years and a half of DSA's existence. If the government really cares about its image, it must realise that no other black law or repressive action has done as much damage to its credibility internationally as the abuse of this one law did, and by continuing it under a different name it is only further harming its reputation.

We urge the government to reconsider the passage of the bill and bring appropriate reforms or repeal it entirely, if possible. The right to speak, share and publish freely is a vital part of democracy, and a fundamental human right guaranteed by the constitution. The authorities must respect and protect that right.

Why keep on awarding errant defaulters?

Janata Bank must answer for its poor handling of AnonTex's loans

Financial discipline is the backbone of any banking sector; ours, however, seems to be permanently paralysed by financial irregularities. An investigation by this daily has revealed alarming details of how errant borrowers get away with defaulting loans, over and over again, with the authorities bending over backwards to facilitate their requests for extension of payments, ignoring due processes. The report highlights how apparel exporter AnonTex Group, which has an annual turnover of \$150 million, was able to take loans amounting to Tk 3,527.9 crore between 2010 and 2015.

As of 2022, AnonTex's liabilities to Janata stood at a whopping Tk 7,726 crore, which is 334 percent of the bank's paid-up capital. As per Bangladesh Bank's rules, the state-run banks are not allowed to lend more than 25 percent of their paid-up capital to a single party. How is it that Janata Bank could violate BB's rules so egregiously, and equally importantly, what did the central bank, as a regulator, do to reign Janata in? More shocking still is the fact that the state-run bank (whose total bad loans stand at Tk 15,000 crore) is yet to show the loans taken by AnonTex as defaulted loans, with the garment manufacturer given until the end of the year to pay back the sum.

At a time when Janata Bank is suffering from severe liquidity crisis, and the government is recapitalising the state banks from public coffers, the privilege afforded to errant borrowers like AnonTex is unacceptable. According to an investigation by the Bangladesh Bank in 2018, a majority of the loans was obtained through forgery and irregularities. Yet, the authorities, instead of punishing those involved in scams, have rewarded them over and over again, even waiving interest on the loans, laying bare the extent of impunity enjoyed by some powerful quarters and the severe lack of accountability in the banking sector.

Janata Bank (particularly its board and management committee at the time) as well as the Bangladesh Bank, as the regulator, must answer for their role in this affair. The Financial Institutions Division, under the Finance Ministry, cannot deny its responsibility either as it is tasked with appointing board members for the state bank to take care of savers' money and ensure healthy and sound operation of the bank. The anarchy in the banking sector – which is causing its foundation to rot – must be addressed by the authorities concerned. The question, as always, remains: do they have the will to do so?

New Message

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Our new CJ Obaidul Hassan

His call to fight graft is urgent, crucial and enthusing



THE THIRD VIEW

Mahfuz Anam
is the editor and publisher
of The Daily Star.

MAHFUZ ANAM

In his first media engagement, our just-appointed chief justice expressed his determination to fight corruption: "Corruption is like cancer. There is corruption to some extent in every sector. It cannot be said there is no corruption or irregularities even in the court premises."

We congratulate the chief justice (whose term starts from September 26, the day on which he will take his oath) for his forthright identification of one of the main issues of concern for Bangladesh's future. He has correctly characterised corruption as "cancer" and talked about how it has spread to various sectors of the society. We applaud his unambiguous declaration that "there is zero scope for compromise with any corruption and misdeeds." His hint that the court premises are not free of this "cancer" indicates his courage to be frank and admit to the weaknesses in his own backyard.

Nothing threatens Bangladesh's remarkable growth and its sustainability more than corruption. There is corruption at the lower echelons of the society and at the higher levels too. However, there is a crucial and all-encompassing difference. Lower echelons' misdeeds cause harm to a limited extent and are, of course, harmful and must be eradicated. But it is the higher level corruption that threatens our future. It subverts the purpose of the law, distorts processes, debilitates institutions, destroys the morals of functionaries and, taken together, jeopardises our very future. Our current economic gain, for which significant credit is owed to our prime minister, stands threatened by corruption from the higher levels.

Those corrupt at the higher levels start by subverting the purpose of the law. While the law's magnificent ethos is to serve justice, those in high positions use it to serve privilege. While the common people revere the judiciary, the rich find loopholes in the law and hire the best of minds as staff to serve their vested purpose.



Chief Justice Obaidul Hassan.

Legal assistance then follows. Thus, the biggest crimes are committed camouflaged under the veneer of legalese.

Income tax is a good area to study, which will reveal some stunning realities. Then comes the culture of defaulting at banks. It has been allowed to grow under the very eyes of all the legal monitoring bodies. Even when they did point out flagrant violations of banking laws, practically nothing was done. In fact, procedures were relaxed to accommodate the rich and the powerful to further default. When very little came out of that, the conditions were relaxed even more. The story went on and the aghast depositors – the real owners of the banks – were made helpless onlookers. Who will speak for them but the independent media and the guardian of all laws, the judiciary?

Money laundering is another area where the rich and the powerful tread. According to Washington, DC-based think tank Global Financial Integrity (GFI), Bangladesh lost, on average, approximately \$8.27 billion every year from 2009 to 2018 due to

trade misinvoicing. To this, if we add the amount for the last five years, the conservative estimate will be an additional \$43.5 billion, making for a giant total loss of \$126 billion since 2009. This, in a struggling country like ours. It is like an individual working his guts out for a decent living and someone else sucking his blood out. Can that person ever retain

Honourable Chief Justice, the determination that you have expressed in fighting corruption – the expression of which has greatly enthused the people of the country and us, the media – will require the full force of the judiciary, especially of the higher judiciary and of your esteemed office. Once people know, internalise, and gain faith that the chief justice, along with the whole judiciary, is determined to eradicate corruption, Bangladesh will definitely win.

You have so correctly categorised corruption as "cancer," and like cancer it is spreading. It is sad but true that very little can be done in our beloved country without indulging in corruption. It is now systemic. And it is against this systemic phenomenon that your fight against the "cancer" has to be directed.

And it is here that we, from the media, would like to extend our full support. As you said, "I learnt from the newspapers that the high court order has been falsified by forging signatures of two judges of a high court bench." This is but a small example of the assistance we can extend to the judiciary. The whole media, if supported, can provide fully authenticated reports that will help your fight – which is our fight and the nation's fight – against corruption. We will be the first to admit that there is corruption within the media too, but that should not deter us. For there are enough truths in media reports that can truly make our fight against corruption effective.

An independent judiciary is crucial and indispensable for democracy. This is the most vital institution that can ensure justice, rule of law, and the rights of all citizens. But the judiciary needs an independent media to truly serve its mission. It is the latter that assists the former by drawing its attention to all the instances of corruption, abuse of power, cronyism, nepotism, violation of fundamental rights, etc. But the media also needs the judiciary. The media's "watchdog" role is primarily focused on the executive, who has all the powers to "punish" the media for playing its role. This is why the independent media needs the judiciary to stand by it – as long as the media reports are authentic – and give it the protection that the Constitution guarantees it.

Honourable Chief Justice, we need each other to fight corruption and serve the nation.

Why we need information commissions

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SHAMSUL BARI and RUHI NAZ

Last month, two new commissioners were appointed to the Information Commission of Bangladesh, filling positions that had been sitting empty for some time. A fully-functional commission is indispensable for balanced, impartial, and objective decision-making, particularly for adjudicating claims between disgruntled information seekers and recalcitrant public officials. We welcome the new commissioners and wish them well in advancing the Right to Information (RTI) Act, arguably the country's most important citizen-friendly instrument to promote transparent and accountable governance. Examples from our neighbouring countries can lead the way for our commissioners.

We begin in Pakistan, where one Rana Abrar Khalid submitted an information request to the Cabinet Division in November 2020, under the country's Right of Access to Information Act. Abrar wanted to know about gifts received from foreign dignitaries by former prime minister of Pakistan, Imran Khan. Not receiving a response within the stipulated period, he filed an appeal to the Pakistan Information Commission (PIC).

The requested information included the number of gifts Khan had received from foreign heads of states, governments or dignitaries between August 2018 and October 2020; descriptions or specifications of all the gifts; and gifts retained for himself and the amount deposited in the national exchequer in return, including account number(s) to which the money was transferred. Other citizens subsequently made similar RTI requests, seeking details about all gifts received by public representatives and officials since independence.

The Cabinet Division denied all the requests, claiming that gifts exchanged between heads of states and the government add a personal touch to inter-state relations, and their disclosure could create sensationalised media stories, damaging Pakistan's interests and jeopardising inter-state relations.

Giving decisions on appeals, the PIC stated that while giving a "personal touch" to inter-state relations through gifts is a normal practice, the relations

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between any two states are primarily dictated by common interests. The latter has a greater impact on inter-state relations than gifts. Media hype and unwarranted stories come from withholding information and the consequent trust-deficit between citizens and public institutions. Ordering disclosure of the information, the PIC further opined that "public interest in terms of promoting transparency and accountability through the disclosure of requested information far outweighs any likely harm, if at all, to inter-state relations. In fact, such a disclosure is likely to strengthen inter-state relations."

The Pakistan government petitioned against the PIC order to the

High Courts of Islamabad and Lahore. While the final verdict remained pending, the Islamabad court declared that PIC's decision was not being barred. The PIC went ahead, imposing a fine on the secretary of the Cabinet Division for not implementing its order. When the secretary applied to have the fine forgiven, the court granted the request on condition that the PIC's order be implemented.

Additionally, the PIC order led to the framing of a new federal policy on gifts received from foreign dignitaries. The earlier practice of allowing government functionaries to retain any gift by paying 50 percent of the assessed price was abolished, and any gift exceeding \$300 now becomes Toshakhana property immediately. Subsequently, an Islamabad court

Health Service, filed an application in February 2019 at the health ministry, requesting information on ingredients contained in imported milk powder. Not receiving the information, he filed an appeal to the commission in September 2021, upon which the latter directed the ministry to provide the requested information. As this too yielded no result, the commission filed the case.

At the hearing, the commission's counsel argued that the two accused should be convicted for violating specific sections of the country's RTI act. Convinced, the CMC summoned the two information officers to appear in court on March 21, 2023. They were facing a fine up to 50,000 Sri Lankan rupees or imprisonment up to two years or both. They escaped the punishment by providing the information.

The commission continues to encourage citizens to undertake similar, if not more, determined efforts to make government authorities more open and accountable. It ordered the release of a probe report on former state minister of prison management Lohan Ratwatte's controversial visits to Anuradhapura and Welikada prisons at night. Allegedly, he along with a group of friends would enter under the influence of alcohol and try to abuse inmates. The Centre for Society and Religion requested the information from the rehabilitation and prison reforms ministry, but the latter refused release, claiming the probe to be a classified document. Upon enquiry, the commission learnt that the probe commission's report was not a classified document, and hence, ordered its release.

The experiences of Sri Lanka and Pakistan are lessons for everyone concerned with promoting the right to information. They demonstrate the extensive reach of the law and the role information commissions can play to help citizens get there. In Bangladesh, however, we must first encourage people to use the law more in such cases.