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Readers react to the Joint drive indemnity ordinance-2003

"PM will be wise to withdraw the ordinance"

I must say that I am touched by Mahfuz Anam's (January 16) naive hope that the army won't take protection under the indemnity ordinance. He is right, it is not necessarily a question of who asked for this to be done, it is still wrong. But I have no doubt that the army will seek its protection. Mr. Anam writes that when the death toll kept rising from 5, 10, 15, the BNP government did nothing. He is absolutely correct. But our army staff did nothing either.

A disciplined professional army would have immediately instituted hearings to get to the root of the matter. Don't forget the army stood behind the government's heart attack excuse.

That our army, from the very beginning of OCH, revelled in their newfound power, speaks volumes about the discipline of our forces. I honestly don't believe that senior officers, cut from the same mould as our CSPs, ordered the torture and harassment of civilians. What may be closer to the truth, as in many third world tin pot armies, the junior officers do as they like.

When, not if, when AL comes back to power, we will have an interesting litmus test of our democracy. Will AL revoke this indemnity and allow prosecution of army officers who were involved in the deaths? I doubt it.

MA, Dhaka

The Joint Drive Indemnity Ordinance is no doubt undesirable no matter from which angle one intends to look at it. It is undemocratic because it has been promulgated bypassing the Parliament. It is unconstitutional as it contradicts the Constitution in just not one place; it does so in a number of instances. And at a

time when the Government is, according to its Ministry of Foreign Affairs, has been able to halt the downward slide in its image and claimed success for projecting the country as a liberal democracy with a Muslim majority, the Ordinance has



Guarding democracy?

taken away the very ground on which the Government was standing in making this claim.

Those of us who have supported the Government for the wise and courageous handling of the law and order situation by

calling the army are flabbergasted by this Ordinance. We were not only happy at the healthy effect that the army action has had on the criminal elements; indeed we were hoping that the army would have been kept outside their barracks for a while longer so that the criminal elements, many of whom have gone into hiding, would be uprooted for good.

If the Prime Minister has promulgated the Ordinance due to pressure of the Armed Forces, then it is sad indeed. Bangladesh has a large armed forces that all knows will never be called to fight an external war. Unless the Armed Forces are brought into actions such as Operation Clean Heart or in dealing with natural disasters such as floods, cyclones, then why should taxpayers support maintaining such a huge force?

The correct way to deal with the custodial deaths would have been to appoint a Judicial Commission to inquire into the deaths; determine individual and collective responsibility and then let the law of the land take its own course. It seems to many of us that the PM has acted on wrong advice that will undo all the credit that she has earned with OCH. We urge her to scrap this Ordinance and save herself and the country from the widespread of criticism that as you have in your commentary on January 16 would land Bangladesh a place in Guinness Book of Records as a country that has a law protecting arbitrary killing and torture.

Shahjahan Ahmed
Dhanmandi, Dhaka

If those 43 people in custody died of heart failure, as claimed by the army and the government, then why does the authorities need to enact an indemnity ordinance for the joint force?

Abidur Rahman
Gulshan, Dhaka

Serving people's interest?

The BNP-Jamaat led government passed an ordinance that put the joint forces above law. The Joint Drive Indemnity Ordinance 2003 said, "It is necessary and pertinent in the interest of the people to indemnify all the persons, including the members of the armed forces and the law enforcers." (January 10).

43 persons have so far died in custody during the drive. No one accused, no investigation took place, no report published. According to our Constitution: "All citizens are equal before law and entitled to equal protection of law" (article 27). Amnesty International and other human rights organisations, citizens and different political parties urged the government over and over again to investigate all the "heart-attacked" deaths in custody, human rights violations etc. But the government did not bother about it. And now they are trying to protect those personnel

who are directly or indirectly associated to 43 death whose relatives are still mourning.

So how does the Indemnity Ordinance serve people's interest?
Rabi Rafique
Kishoreganj

Joint Drive Indemnity Ordinance 2003

This is the perfect gift for the voters who brought the BNP-Jamaat ally to power with two third majority. It would have been even better if they pass an ordinance giving indemnity to all activities of the ruling party including arrests and torture of any opposition party member and intellectuals, police raid in female hall, killing of innocent students by the ruling party student wing etc.

After all they are in power as people has given "Santrash er birudheyray". And if any body raises the doubt about last election results he must be an Awami Leaguer.

Khaled
Banani, Dhaka

Indemnity for Clean Heart

It would be less than the truth if I claim to be surprised at the indemnity awarded to the personnel in charge of Operation Clean Heart (OCH). It was more than anti-

pated. The readers would recall my opposition to this military incursion into civilian life from the very beginning. Now that the actions of this drive have left more than 40 corpses in custody, I have little more to say. My condolences to the families of the victims of OCH.

The decision of the government has made a mockery out of our judicial system. Why is it inconceivable that innocent people may have died in custody? Why denial of justice? Did those people not pay taxes? Did they not vote? Are they not citizens? Then why deny them life and liberty and later deny their families justice for wrongful death?

Constitutional justice have died. Are we to mourn or celebrate it!
Yahya
USA

Army kept above law

Will this Ordinance help improve the gov't's image? Doesn't this prove the following:

1. The Govt. previously didn't issue any legal basis for the army operation!
2. That army action led to death and torture in custody, otherwise such protection wouldn't be required!
3. That gov't. lied about the legal validity of army actions and deaths in custody!
4. That our gov't. failed to uphold its image on human rights issues!
5. That our gov't. was involved in many questionable activities and now they need a cover up from the judicial system!
6. Didn't our gov't. for its own political interest and decision put the blames on army's shoulder?

This law has thrown a most disciplined force of our nation into controversy. The gov't. avoided parliament and took shelter of the ordinance. How about if a new gov't. comes one day and changes the law as BNP-Jamaat did about many ordinances of the past government?
Dr. Zaman
USA

"What is going on?"

I have to complement Mr KK (January 14) for his lucid observations. Indemnity of the ad-hoc law enforcers provides a legal precedent for a totalitarian state. Are we heading that way?

How can the rest of the country be so blasé about these arrests without warrant? I admit that SPA 54(c) has allowed the police to do so since 1974 but any sane Justice of the Supreme Court would agree that it is unconstitutional. Do the words rule of law, presumption of innocence and rights of people under custody mean nothing to people?

Are they willing to live under the boots of the so-called law-enforcers for a peace that can be taken away at will?

Are the words "freedom in Bangladesh" to be considered as an oxymoron?
YP
USA

A note to the govt

Khaleda Zia government's actions in regards to the indemnity ordinance is unacceptable. Nobody is above the law! Not even the army. The Joint Drive Indemnity Ordinance 2003 should be repealed without further delay and all affected citizens (next of kin of the dead under custody) should be duly compensated.

It is desirable that the military in general issue an apology and initiate immediate investigations in all 43 cases of death under custody.
BL
On e-mail

Indemnity Bill and HR violation

I was surprised to read the news that the Indemnity Bill has been approved and announced as a Presidential Ordinance bypassing the Parliament. It is the second Indemnity passed by BNP.

The present government is suffering from image crisis at home and abroad. The ruling party deployed the army all over the country without any discussion in the parliament or within the cabinet and started arresting people without charge/warrant which resulted in 43 deaths in custody. They explained that these deaths were caused due to hear attack, which is absolutely unacceptable. None of these deaths were interrogated and now with the promulgation of the new Ordinance it would never be.

Mohammad A. Siddique

New York, USA

Indemnity 2006

If we fail to stop The Joint Drive Indemnity Ordinance 2003, we might be forced to eat the 4-Party Alliance Indemnity Ordinance 2006, which will say no complain can be lodged against any ministers, MPs or anyone involved in ruling the country during the last 5 years.

In addition, no one can seek justice against the person or persons who came up with the indemnity idea which was against our constitution, against humanity, against Quranic teaching.
Rousseau
NY, USA

Undemocratic Ordinance

Through the promulgation of Indemnity Ordinance we are endorsing another kind of crime against humanity. The Government by "thrusting and imposing" such anti-people Ordinance is simply hastening its demise. This Ordinance only adds to the long list of its undemocratic and repressive measures.

It is simply baffling as to how an important Ordinance of the kind

indemnity awarded to the Clean Heart personnel (mainly military) is just the beginning.

Now that we have established that torture, murder and arrest on the basis of suspicion alone are legal, what messages are we sending to the population? The government has essentially forfeited its right to prosecute anyone for murder. Now that it has denied culpability and liability for the 43 deaths in custody, it has no legal right to prosecute. You cannot have one

is not acceptable at all. Every citizen of this country has the right to seek justice to the court of law. No one can deny that right.

Some people might get carried away with the thoughts that all those who died during OCH are terrorists. Has this been proved in the court of law? NO.

Every action must be based on law. You can't stop one illegal thing through another illegal means. If anybody does - it won't eventually give any better result to the society. Ordinance like Operation Clean Heart can only give temporary respite to the citizens but no way it can guarantee permanent law and order solution. You can't run the country by army. It's the government's basic and prime responsibility to ensure law and order with civil administration.
Sonia Mirza
Banani, Dhaka

What is the difference?

The Indemnity Ordinance is not so much legal protection to the army and its activities as much as it is an admission that what the army did is not defensible in courts. There have been the infamous indemnity to the killers of Sk. Mujib and his family and now the army is given the same dubious honour after being accused of torture and murder arising out of that.

Neither the army nor BN seems to realise that the military has been diminished through this process of legal protection against accusations of murder.

In the end, we have paid a heavy price for restoring some degree of law and order but the process is so violent that it has legitimized violence.

During political rule, parties allow *mastaans* to do anything while during military operations the army is allowed to do anything. What is the difference?
Nasimullah Khaled
Shantinagar, Dhaka

History repeats itself!

There have been indemnities before but it has always been clouded in shame. The word indemnity means protecting through the constitutional cover a person or some people from rightful investigation and due process of law.

The army has now become a BNP version of the *Rakkhi Bahini* which enjoyed the same indemnity and freedom from legal action. History repeats itself, sadly.
Mohsin Morshed
Kalabagan, Dhaka

Our army, their army

It took only three months for the army to be alienated from the people. From the image of a public protective force it has become a force of unlimited power to kill and be above law. Like the US army which was given indemnity for their acts in Afghanistan, this army has become an instrument of repression.

One can do anything with brute force and the US is a good example but see the immense anti-US feeling raging across the world! It has ignited more opposition to the US than ever before. Slowly, the feeling of people will change once the *mastaans* again return to the scene and then the army will be blamed along with the party in power.

This seems to be a conspiracy against the army hatched by a small group within BNP. What amazes is how the army fell for it.

Mofuzzuddin Bepari
New Eskaton Rd, Dhaka

Enjoy indemnity!

Somebody please explain this to me! After this law is passed the army can't be asked if and why it was responsible for the death of children and no court cases will be allowed. But this is against the law. Ooops, this is the law. So the AL *shantrashis* and the BNP criminal cadres are now joined by the army.

I think we should stop saying bad things about the Israeli army. This is what they do to Palestinians and they enjoy indemnity.
Naseer Mamoon
Khulna

In the name of law and order

What is the difference between the Pak army and the *Rakkhi Bahini*, between the *Rakkhi Bahini* and the BNP army? In the end, it's us the civilians who become the victims. If you remember, many Pakistanis were happy at the restoration of law and order in the rebellious East Pakistan in 1971 and now you have the people cheering the deaths caused by the restoration of law and order operations. It's the same mindset which tolerates death and murder in the name of the law and order.

This approach towards managing the system lies in the deliberate destruction of the capacities of the police so that the message is clear that the army is back again to decide which road politics can and will be allowed to take.

By putting the army on the street, giving them a special status, allowing them to kill people at will and then protecting them from investigation, not to speak of prosecution, BNP has created a scenario where rule of law and order has ceased to exist.

This is not polemics but preparation for a collaborative rule between a political party and a section of the military which decides to use force against civilians without any matter of accountability. In other societies there would be murder charges but all we have here is congratulations.

This is what happened in Latin America and while many got away, many didn't. And the world is not the same anymore.
Hossain Khalidi
Banani, Dhaka

Army as peacekeepers!

Does the army really expect to be hired as peacekeepers for long given the international campaign that has already started?
Momen Masud
Dhaka

Peacekeeping is good-bye for us. As it is, Amnesty International has condemned the murders and now there is a growing criticism of the indemnity ordinance. It will soon become an army from a country where human rights violation is encouraged by the state. How can the UN trust an army to uphold peace in a foreign land when the army can't operate legally and within the boundaries of the constitution in its own land?

There are other competitors for the peacekeeping jobs and I don't think we have much chance to get hired unless the guilty are made to behave like law-abiding citizens.
Farhana Jamal
Dhanmandi, Dhaka

Heart attack or...?

The Joint Drive and image of Bangladesh

The country and its politicians that have killed two Presidents and dozens of national leaders and the killers have been allowed scot free through the provisions of Indemnity Bill; the country and its politicians that tend to consciously confuse between anti-government and anti-state political opinions, and that nationally recognised journalists, writers and academicians (like, Shahriar Kabir, Saleem Samad, Muntasir Mamun and others) known to be pro-liberation in outlook to the people and wrote for Bangladesh's history, culture and heritage all through their careers were imprisoned in the pretext of being involved in anti-state activities; and that these deeds (or misdeeds?) cannot be challenged in the court and/or the judicial verdicts are ignored and the country where politicians in power take the opportunity to drain off resources through spurious deals and bank loans should not worry about the IMAGE OF BANGLADESH-- now or ever!

A cursory survey of letters published in *The Daily Star* Letters Page during the last two months indicate that about 60 per cent of them expressing negative opinion about the Operation Clean Heart/ Joint Drive and to people died from 'heart attack' came from people living abroad - outside Bangladesh. This is an indication that people inside the country were in a state of panic and under a veil of fear, the arrests of intellectuals only deepened that fear. This is not a good sign for the development of democratic outlook in our country nor will it likely to create a conducive atmosphere for good governance in Bangladesh. The government should, instead of witch hunting, pay heed to not only what people say inside the country but also the reactions to international political and humanitarian bodies. A party in power is not perpetual, mind that.

The promulgation of Indemnity Bill will only pave the way for more such bills in future, meanwhile, many more people ranging from ordinary people, criminals to national leaders will succumb to willful killings for political or otherwise reasons. Our judicial system will remain enshrined within the magnificent structure beside the National Eid-gah for *Zanajas*.
ME, Dhaka

The nation started this immediately after it came to existence. We first pardoned the Pakistani war criminals and let them go. They went back home, got their jobs back and got promoted.

We then forgave the collaborators, who tried to exterminate the nation before it could come to existence. They went back to social lives to enjoy the loots and fortune made during the period of Liberation when the whole nation was suffering.

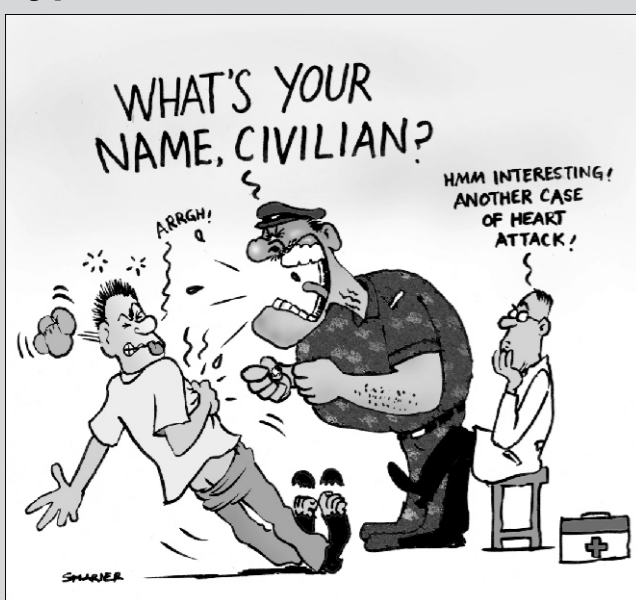
Then we freed thousands of local war criminals from jails. They came out and were patronised by military regimes. We allowed them to reorganise and avenge the defeat in 1971. Then we rewarded the war criminals our ministries. Now they fly-high our national flag in their cars while numerous freedom fighters never had that privilege.

We forgave the killers of our founding fathers, the killers of 10-year-old boy. Then we rewarded them with high-ranked diplo-



Justice blindfolded!

Typical tactics



My reaction to this Indemnity Ordinance is pure outrage, but nothing surprising! It is all very typical and predictable of our politicians. As soon as a party goes to power, some disease infects them and suddenly they begin to see the world upside-down! If you are a thug you get rewarded, but if you are an academic, you get arrested and placed behind bars. When you think you need army to maintain peace (e.g. during the U.P election), you are denied! Just when you want cheap household items, the prices go up. All the important issues are of no concern, while all the willy-nilly stuff is given full priority.

While in power, the ruling parties think the whole country belongs to them alone and they are above the law. They will do everything possible (and impossible) to stay in power. Khaleda Zia is doing exactly that. This Indemnity Ordinance is just the beginning and we are going to see a lot more outrageous records being broken by the 4-party-alliance. The opposition party however, is not going to sit around, they will react with equally outrageous tactics; hartals, violence. And in the process, down goes the country, suffering of mass population (usually the poor, the least powerful).

It's all very sad and so damn typical!
Azad Miah, Oldham, UK

could be proposed, bypassing Jatiya Sangsad. To top it all, the Law Minister goes on with his conciliatory statement that the Ordinance can be debated on the floor of the Jatiya Sangsad. This is just like adding insult to the injury.
Shamsher Chowdhury
Dhaka

This is a big mistake. Though I commend the army and the civilian authorities for a job well done during "Operation Clean Heart", we must remember that no one is above the law. Any criminal misconduct, abuse etc should be investigated if necessary by military tribunal for army personnel and civilian court for others.

The victims' who died in custody and their families deserve justice and we, the citizens of Bangladesh expect this from the Government.
Kazi Anwar
USA

Is there a better way to set a precedent for what is to come? The

rule for one group and another for others. Anybody committing a murder can take heart in the fact that they cannot be prosecuted in a criminal court.

If the above is not viable, then we have a constitutional crisis in our hands. If indeed we are to favour one group over another in terms of legal rights then we violate the basic premise of the constitution: equal right of every citizen under the law. This very indemnity violates the premise of the constitution. If we allow this to take place then the constitution is de facto null and void.

If the constitution ceases to exist, then the government can legally stay in power forever. No obligation to hold elections. The opposition can be jailed and killed in custody. This is would act as the first step toward a totalitarian state.
Paramanic
USA

How can a person in a civilised society be indemnified for allegation of murder and torture against him? It