

LAW opinion



CONSUMER corner



Operation Clean Heart Bangladesh's war against terrorism?

HUMAN RIGHTS FEATURES

IN 2002, Bangladesh saw a sharp deterioration in law and order, with police claiming that around 10 people were being killed everyday by crime syndicates or gangs with links to politicians. The Bangladesh Government soon came under increasing pressure from the business community and international donors to crack down on crime.

So, did the government draw up a plan of action to overhaul the underpaid, overworked and mostly corrupt police force? No, it called out the army instead.

In the early hours of 17 October 2002, the army fanned out across the country, rounding up alleged criminals and confining them in various army cantonments. Some 500 persons were picked up on the first day, among them, leaders and activists of political parties.

The army was joined by personnel of the Bangladesh navy, the paramilitary Bangladesh Rifles and the police. More than 11,000 persons were arrested in the course of the crackdown, of which only about 2,400 were listed as alleged criminals.

Furthermore, approximately 44 people reportedly died during the drive - perversely named 'Operation Clean Heart' either in custody or immediately afterwards. The government has confirmed only 12 deaths and says all the victims died in hospital of heart attacks after being handed over to police. However, relatives of the victims claimed that the deaths were caused by torture in custody. The families of many victims reported inordinate delays in the handing over of the bodies by the authorities. The bodies also reportedly bore marks of torture.

Yaqub Ali Patwari, an official of the ruling Bangladesh National Party (BNP), died allegedly during interrogation. His relatives alleged excessive use of force by the army. When they approached the police to file a case against the army, they were turned away.

Twenty-eight-year old Afzal Hossain of Savar died in army custody on 21 October 2002. The autopsy was conducted the next day after which policemen escorted the body to his village home. The body was buried in police presence and an 'unnatural death' case, stating that he died of heart attack, was filed with the Savar Police Station. His body reportedly bore injury marks. A court had earlier set Afzal free on bail in a murder case.

Abdur Rashid alias Kala Faruq, a 'listed' criminal, was picked up from Dhaka's Zia International Airport minutes before he was to fly to Sweden under a fake identity. The next day, he died in police custody.

Operation Clean Heart was, according to some, marked by disregard for human rights and the due process of law. The government refused to reveal information about the list of suspects reportedly provided to the security forces about the government agency that had supposedly prepared the list, the criteria used to select the names on the list, and whether the suspects were classified on the basis of the gravity of offences. It also offered no explanation for the reasons for ordering the army out of its barracks and into the streets to deal with what is essentially a task for a civilian police force. No

gazette notification was made available to the media, and questions were not entertained during press briefings.

As a letter-writer in the Dhaka-based Daily Star newspaper pointed out: "Even criminals have to be given a chance to prove their innocence before they are allowed to succumb to spontaneous heart attacks under 'Operating Clean Heart'. This forms the basis of a civilised society... Must we not demand to know under what law the public is now subject to such arbitrary and authoritarian use of force?"

The Government however appeared in no mood to stop and explain. The first announcement in relation to Operation Clean Heart came some 16 hours after the operation began. Law and Justice Minister Moudud Ahmed said the army had been called in under section 129 and 130 of the Bangladesh Criminal Procedure Code (CrPC) to "help" the civil authorities combat rising crime. The army, he said, "has not been given the power of magistracy, and they are not arresting anyone." It was simply "helping" the police

present or the Police Commissioner in a Metropolitan area may cause it to be dispersed by military force."

Section 130 reads: "When a Magistrate, or the Police Commissioner, determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in the Bangladesh Army to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate or the Police Commissioner may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law."

Section 131 however states that an army officer can act alone only "when no Magistrate can be communicated with." If it becomes "practicable" for an army officer "to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action." The government thus had no legal authority to order the army to pick up persons from their homes and confine them.

According to press reports, however, the army worked alone for the first two days. On the third day, police constables were seen accompanying army personnel, possibly "to justify the renaming of the military operation as a joint drive of the army, paramilitary Bangladesh Rifles and the police."

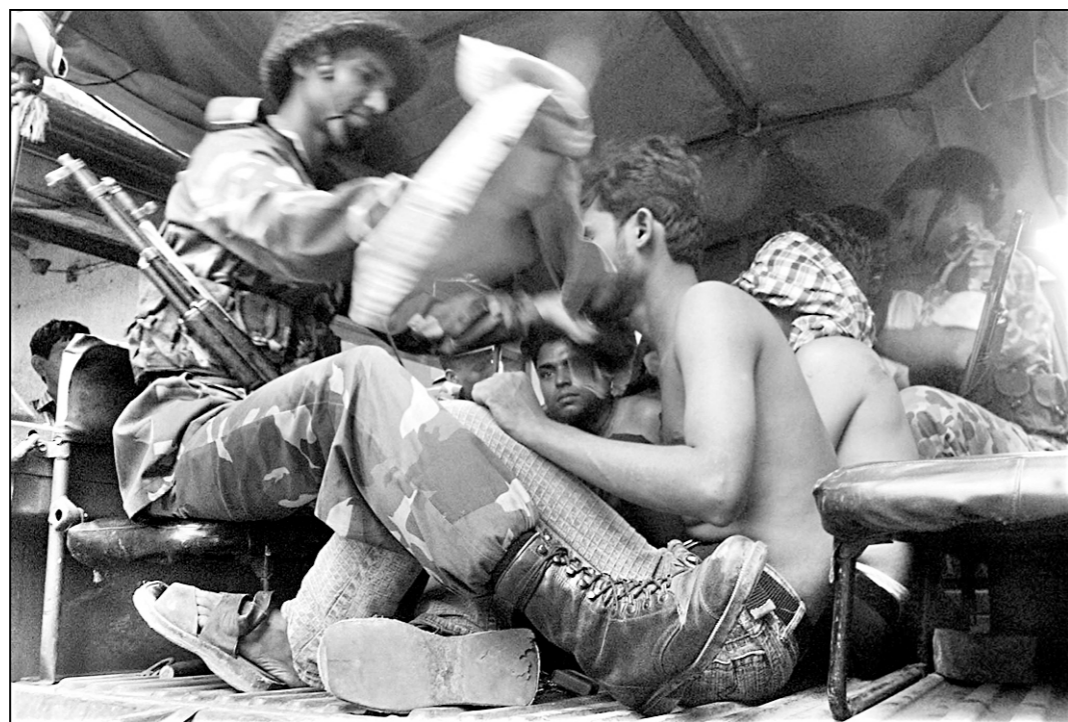
On 20 October 2002, the Prime Minister admitted that "some innocent people might have been held during the joint drive. But they will eventually be freed." However, according to Article 33(1) of the Bangladesh Constitution, no person may be arrested without being informed of the grounds for the arrest. Furthermore such a person shall have the right to consult and be defended by a legal practitioner. Article 33(2) requires every detainee to be produced before a magistrate within 24 hours of his or her arrest. Operation Clean Heart however saw hundreds of people being denied these rights.

Article 31 of the Bangladesh Constitution guarantees every citizen the "inalienable right" to "the protection of law" and allows "no action" by any authority that may be "detrimental to the life, liberty, body, reputation or property of any person." All persons, criminals or otherwise, have the right not to be extrajudicially executed.

On 9 January 2003 the day Operation Clean Heart was wound up the Government of Bangladesh promulgated an ordinance indemnifying the armed forces and the assisting police forces from any actions consequential upon the actions under Operation Clean Heart, including deaths and search and seizure of property. The ordinance precludes any move to seek justice in courts for human rights violations during the countrywide clampdown on crime. It was placed before Parliament on 27 January 2003 and is due to be discussed during the ongoing session.

The Bangladesh Government's recourse to extrajudicial measures to tackle crime runs counter to its claims of being a democracy. Moreover, in the absence of planned institutional reform, such an operation is unlikely to have a lasting effect on the law and order situation. Rising crime itself is partly the result of the failure of institutions such as the police.

Human Rights Features, an initiative of SAHRDC, Delhi, is an independent, objective and analytical attempt to look comprehensively at issues behind the headlines from a human rights perspective.



arrest criminals, he added. Media reports however indicate that army personnel acted in an arbitrary manner, and often took upon themselves the task of handing out punishments without trial.

Prime Minister Khaleda Zia said the army had been deployed "within the framework of the Constitution and the laws of the land." However, a closer look reveals that sections 129 and 130 of the CrPC do not allow the government to deploy the army to pick up suspects from their homes, regardless of whether they are identified criminals or not. Both sections relate to dispersal of unlawful assemblies, and moreover require army personnel to "use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons."

If an unlawful assembly cannot be dispersed by the use of a civil force, under section 129, "the Magistrate of the highest rank who is

Food safety and consumer rights: Bangladesh Perspective

DR. MD SHAHADAT HOSSAIN KHAN and DR. SHAH MAHFUZUR RAHMAN

The importance of food and proper nutrition for health and development is well recognised. Safe food is one of the important prerequisites for proper nutrition. But questions relating to the safety of food have tended to receive less attentions and not infrequently, which have been over looked. According to WHO Food safety is defined as "All conditions and measures that are necessary during the production, processing, storage, distribution, and preparation of food to ensure that it is safe, sound, wholesome, and fit for human consumption". Food safety refers not only of food itself, but also to the person ingesting it. Foods considered safe for most people when used in a reasonable and customary manner and its quantity.

Access to nutritionally adequate and safe food is a right of each individual. Food consumption habits, indiscriminate use of chemical fertilizers in agriculture, increasing urbanisation and more profit making policy in food trades seem to have contributed to the increased risk of food borne illnesses globally, particularly in the developing countries like Bangladesh. No single sector in this country is responsible for the quality control of food. Bangladesh practices the Food Ordinance, 1959 and Pure Food Rules 1967 using its only affiliated laboratory -- the Public Health Laboratory (PHL) of the Institute of Public Health (IPH). From records, it has been observed that over the last 5 years, the PHL has tested a total of 24,204 different food samples, out of which 49.5 per cent were found adulterated. Another report of IPH on street vended food conducted in 1994 with the assistance of World Health Organization, out of 52 collected and tested samples all the samples were contaminated with microorganisms.

A recent report from the Consumers Association of Bangladesh (CAB) shows that out of the total 51 Jam-Jelly samples of 31 companies and 76 per cent of 66 biscuits samples available in the market having no approval of the Bangladesh Standard Testing Institute -- which is mandatory before marketing the products. Furthermore, majority of them having no expiry dates on labels. The existing laws in the country viz. The Food Ordinance, 1959 and Pure Food Rules, 1967, the Essential Commodity Act, 1978,



Bangladesh Standard and Testing Institute Ordinance, 1984 and Meat Act are back dated and not enough to protect the consumers' right.

Bangladesh since independence has made significant achievements in improving the health of the people, and services to its ever-growing population. In spite of these achievements, malnutrition and infectious diseases are still important public health problems in the country. Malnutrition can not be eliminated, only by increasing or altering food supply as the causes of malnutrition are likely to be complex and interdependent and clearly extend to food quality and safety. Furthermore, promotion of food safety including appropriate agricultural practices, proper food storage, preparation and consumption is one of the key interventions to reduce the incidence or consequences of both communicable illnesses caused by contaminated food and water.

Despite the extent of the food borne illnesses, at present there is no concrete food quality and safety policy in the country. Besides, there is food safety plan within the strategic framework of National Plan of Action on Nutrition (NPAN). Furthermore, there is no single sector in Bangladesh with clear mandate as responsible authority for all activities for the quality control of food or activities in relation to food safety. Responsibilities for food safety shared by a number of government agencies including Ministry of Health and Family Welfare, Ministry of Commerce, Ministry of Industries, Ministry of Agriculture, Ministry of Fisheries, Ministry of Local Government and Rural Development etc.

The Government of Bangladesh is well committed to ensure safe and quality food for its people. To prevent, control and managing the food borne illness in the country, the MOHFW has been implementing food safety programme with the assistance of WHO since 1994. Under this programme the IPH has been conducting training, workshops, seminars for the Senior Health Officials, Sanitary Inspectors, Health workers of MOHFW and MOLGRD, Community leaders, Imams (Religious leaders), school teachers, street food vendors, personnel from hotels and restaurants, iodized salt producers and others. It also organises national seminars on food safety.

It may be concluded here that the food safety is an important public health issue in the country. To protect the people of the country from food borne illnesses for a better health and nutrition and sustainable development, it is thus recommended-

- 4 To develop a national food safety policy.
- 4 To update the rules, regulations, ordinance on food quality control and to enact consumer protection law.
- 4 To expand and strengthen the laboratories involved in food quality control with development of required human resources.
- 4 To promote research works on food quality and safety.
- 4 To strengthen the existing surveillance and monitoring program on food borne illnesses.

This is an edited version of the article presented in the International Workshop on Consumer Rights in Bangladesh.

LAW campaign



This is no time for war

ANGANA CHATTERJI

I write this to echo a million voices resolutely calling for peace. I write this in dismay as the United States prepares for another racist and futile war. Why is this administration so eager to bomb Iraq? Is it the insatiable, unsustainable hunger for oil? Is it its misguided attempt to eradicate terrorism through enhanced state violence? Is North Korea next? Iran? Where does it end? If President Bush scorns the United Nations, ignores international criticism, and acts unilaterally in Iraq, we will bear testimony to the continued desecration of democratic process in the 21st century. In the current global order the United States is failing to act for justice, peace and real economic improvement. Democracy is a hollow phrase in these times, bankrupt of meaning for those without privilege.

The United States is a magnificent land, of courage, freedom, resilience, and enormous genius. It is as well an imperial democracy; a state built on genocide and slavery, sustained through inequity and dominance. It is a society divided by history, race, class, religion, gender, and isolationism. Freedom here is made up of increasingly private dreams that remain distant for so many. Freedom is a condition to which they aspire, with their bodies, imaginations, hopes. This nation relies on their labour, often forgetting its promises to them.

The present government in the United States makes peace and justice increasingly vulnerable. It has elected to assail civil rights and affirmative action and remain inattentive to the suffering of Native nations within its borders. The United States, 4.6 percent of the world's population, houses 25 percent of the world's prisoners. 37.6 percent of those incarcerated are African-American males, even as African-Americans are just 13 percent of the population. More than 300,000 women are raped each year. This government has supported the campaign for a right-wing judiciary, and the privatisation of healthcare and social security. It has exhibited contempt for environmental sustainability and safeguards, remained silent on affordable housing, and shown support for anti-abortion. This government has blurred the lines between 'safety' and 'freedom'. The ethnic profiling of Muslims, registration programs, searches and detentions without charge or due process threaten the civil liberties of all. Such disfigurement of human rights. This administration has participated in the collapse of the economy, offered tax breaks to the rich and inadequately addressed corporate crimes. In the last two months the economy has lost 189,000 jobs. There is a dramatic increase in homelessness. 41.2 million remain without healthcare. The country's foreign debt totals \$2.5 trillion. The world's most affluent nation is the largest defaulter to the United Nations owing more than a billion dollars. Is war this administration's strategy to divert public attention from domestic ills?



circulate freely. Yet, the dominant 'truths' that American actions are beyond reproach, driven only by good intentions, are frayed. The people are fatigued. Discontent reigns. The health of the union is falling apart. In response, the administration advocates irresponsible corporate and military globalisation that persists through class wars, fomenting the very

conditions that breed despicable acts of terrorism.

"Shock and Awe"? 800 cruise missiles in two days to asphyxiate Baghdad? The United States is bankrolling international support. Turkey, a critical ally whose citizens are vigorously opposed to the war, was offered a \$16 billion loan through the International Monetary Fund and a \$4 billion grant. The United States is preparing to attack Iraq not because there is substantial evidence of Iraq's immediate danger to the 'free world', or because UN inspections inscribe it. Neither can this war be a pretext for avenging the horror of September 11. No convincing evidence links Iraq to al Qaeda. The reason offered is that Iraq poses a long-term threat. Yes, Saddam Hussein is contemptible. Yes, that regime must turn. But does the United States reserve the right to bomb Iraq? Will the United States sanction all states that attack each other based on potential threat? What about other 'evil' regimes whose power the United States is committed to enhancing? What about states whose foreign or military policies the United States does not support? Such arrogance of empire.

If there is a war, what of the aftermath? As the military withdraws while innocent bodies are shovelled into mass graves, the living will face new wars of poverty, disease and rage. Is the United States able to honour its promises for a better tomorrow to those whose lands it invades? Let us ask this of the women in Afghanistan today. What about self-determination for the dispossessed in Iraq? Will the United States uphold the demands of the Kurdish people for a separate state in northern Iraq? Turkey would not approve. Let us remember how the

Kurdish people were abandoned to the slaughterhouse when the first Bush administration retracted its support for the Kurds after encouraging their revolt in Baghdad.

What will President Bush's war get America more hatred? Is violation the only intervention that nations can dream? Destruction and brutalisation the only pathways to 'justice'? The Progressive Caucus, co-chaired by Democrats Barbara Lee and Dennis Kucinich, deserves America's support in its efforts to halt the government's plans to play war without the consent of its people. Can the United States uphold democracy elsewhere if it is incapable of practising it within its borders?

Hundreds of thousands march in protest across the United States. Even the corporate media is increasingly critical of Bush's plan. There is no support for terrorism and little support for state terror. Broad based coalitions for peace are emerging in strength. 'Code Pink' is leading a women's delegation to Iraq. Even those frightened of the wrath of their government refuse to let fear stifle protest. There is a movement, growing, reverberating, louder and louder. Dissent, palpable and enduring. This is no time for complicity. This is no time for war.

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