

Pathetic glut of bomb explosion cases

Unpardonable indifference to national security

DURING the last four years not just some places in the country but the entire nation felt it has been rocked by bomb blasts. Such a jarring effect on the national psyche has been the inevitable outcome of all the ten bomb explosion 'mysteries' to-date going unsolved.

Failure to get to the bottom of the first incident not only emboldened saboteurs to stage the second one but also offered a negative reference-point to the investigators as they proceeded to handle the next case, even perhaps a readymade excuse for a debacle in prospect. So as the vicious cycle of bomb blasts and investigation failures continues, the subversive elements feel they are invincible and the authorities creak under the mounting pressure of their own predicaments. In the process, national security faces a new challenge of volatility and that too at a time when diabolical forces are at work in the international arena.

That there is an element of half-heartedness in the approach and a lip service is being done to the search for facts become evident from a diet of speculation we are feeding on. All that we have heard in definitive terms is a statement of the obvious -- the bombs were powerful and that they contained similar properties, so on and so forth. Although theories of inter-woven linkages and patterns behind the bombing episode abound, none of the hypotheses has been proved and substantiated with facts. Judging by the volume of speculation it would appear that we are in the thick of an academic exercise to write out a seminar paper on bomb-blast culture. And imagine who is laughing? Of course, the perpetrators.

The truth is we know where the bottlenecks lie, but there is neither the will nor a strategy to remove them. The first major obstacle in the way of an effective inquisition is the prejudice and political name-calling with which it began. So, the investigations were focused on finding scapegoats rather than apprehending the culprits. The government of the day would make sure that the ruling party loyalists were not named in the blast cases. During the last four years of the spate in explosions, the BNP and AL tried to entangle each other trading incriminating charges of all kinds. The BNP-led coalition even set up a judicial commission to probe bomb explosions occurring during the AL rule with the result that its report put the blame squarely on the latter party. The political slant of the so-called finding was obvious. After each bomb blast during the AL rule the incident was quickly dubbed as the handiwork of the then opposition BNP. This trading of holier than thou attitude between the AL and the BNP let the culprits slip through the fingers much the same way that the ruling party's tutored investigation turned myopic.

Then there has been a whole range of other factors hindering the progress of investigation -- transfer of cases from one agency to the other and that of officials in charge of investigation from one post to another; delays in obtaining reports from experts; and above all, multiplicity of agencies dealing without any coordination between them whatsoever. On another level, and crucially at that, the alibis and traces of evidence were not preserved; and the procrastination took a toll of whatever little had been collected earlier on.

In other words, an investigation that called for specialised handling has been forced on to a routine, normal route. This is enough reason why we should seek international forensic assistance from the reputed quarters as a matter of pressing necessity. Let's face it, we are neither equipped nor professionally advanced to be able to crack open the tangle of networking and linkages that go with acts of subversion and terrorism these days. It is not a partisan issue at all; it's a national security concern which both the ruling coalition and the opposition must make a common cause of and address it accordingly for the good of the country and the people.

On indemnity

MUHAMMAD HABIBUR RAHMAN

In the English text of our Constitution the Bangla term 'daimukti' has been translated as 'indemnity'. The Bangla term *daimukti* appears to be a new coinage. That word is not there either in Haricharan Bondopadhyay's *Bangyo Shabdacosh* or in Bangla Academy's English-Bengali dictionary. The Bangla term *dai* has been given twenty-nine meanings in the *Bangyo Shabdakosh*. It may be translated in English as a crime or tort, or responsibility for a criminal or tortuous act. The term 'indemnity' is usually understood as a security, compensation, recompense etc. Thanks to the "Joint Drive Indemnity Bill 2003" it has recently gained much currency.

Article 46 of the Constitution provides: Notwithstanding anything in the foregoing provisions of this part, Parliament may by law make provision for indemnifying any person in the service of the Republic or any other person in respect of any act done by him in connection with the national liberation struggle or the maintenance of restoration of order in any area in Bangladesh or validate any sentence passed, punishment inflicted, forfeiture ordered, or other act done in any such area.

On 17 October 2002 over 40,000 army personnel were deployed throughout the country under the "Operation Clean Heart" to curb criminal activity and re-establish law and order. About twelve thousand persons, alleged to be miscreants or members of terrorist groups, were arrested. About thirty thousand firearms and considerable amount of explosives were recovered. The Eid-ul-Fitr festival was free from the tyrannies of extortions. The traders could do their business peacefully. This improvement in law and order situation was, however, very short-lived. During the recent elections for the offices of the Union Parishads lawlessness involving endless fracas and occasional deaths reappeared with vengeance.

After several persons died in army custody during the joint anti-crime operation the Law Minister Mr. Moudud Ahmed told a questioner at a news briefing on November 12 last year that there would be "No indemnity for custodial deaths."

After the promulgation of the Joint Drive Indemnity Ordinance the Asian Development Bank in its report said that the Ordinance overshadowed the success of the Operation Clean Heart.

Amnesty International appealed to Bangladesh Parliamentarians to demonstrate their commitment to the future of human rights in Bangladesh by opposing the bill that if passed would provide impunity to army personnel for the death of at least 40 people after their alleged torture in army custody. It was a cry in the wilderness. In view of article 70 of the Constitution there was hardly any chance that any member

in the Parliament belonging to the ruling party would vote against the Bill.

The "Joint Drive Indemnity Bill 2003," as presented to Parliament on 26 January 2001, provided that no civil or criminal procedure could be invoked against "disciplinary forces" or any government official for "arrests, raid, interrogation and (other) steps taken" between 16 October 2002 and 9 January 2003.

On 23 February 2003 the Jatiya Sangsad passed the Bill in an amended form amidst stormy walkout by black-flag waving opposition deputies. However, it allows the Army Act to take its own course in handing down any punishment to the members of the forces who took part in the drive. This is a sharp departure from the previously promulgated the Joint Drive Indemnity Ordinance, 2003 which had exempted the members of the armed forces from trial in accordance with the defence forces law.

Two ruling BNP lawmakers, Rezaul Bari Dina and Shamsul Alam Pramanik, moved four separate amendments to the bill. The law

and that must be ended by conducting full, impartial investigations into all cases of past violations and prosecuting those found responsible.

Let me refer here to the ordeal of the Zimbabweans. Due to international and local pressure a commission of inquiry, was set up for the 1985 killings in Matabeleland, Zimbabweans. Extensive killings, disappearances, detentions and torture were alleged to have been carried out by the Zimbabwean army.

International and local human rights organizations argued that if the commission's report had been made public, the second round of killings in another area of Matabeleland might not have occurred. There was no attempt to explain and investigate what had happened to those who "disappeared" during the 1985 Matabeleland crisis. Families bear not only the emotional scars of the trauma.

Recently the problem of impunity has been in detail considered by a Sub-Commission of the Economic

and Social Council of the European Parliament. The Sub-Commission identified three sets of the overall principles as important to combating impunity: the victims' right to know; the victims' right to justice; and, finally the victims' right to reparations.

The right to know is not simply the right of any individual victim or closely related persons to know what happened, but is also a collective right. Its corollary is a "duty to remember". This has been dealt with by Truth Commissions, as has been the case in South Africa. However, in the view of many, including the European Sub-Commission, the Truth Commissions are not enough. Forgiveness that does not come from the victim himself may bring about more prejudice against suspected perpetrators of crimes and deeper fissures in the community. What is needed is a right to justice.

The right to justice implies that all victims shall have the opportunity to assert their rights and receive a fair and effective remedy, ensuring that the perpetrators stand trial and that the victims obtain reparations. The right to justice entails obligations for the State: to investigate violations, to prosecute the perpetrators and, if guilty is established, to punish them.

To combat the inevitable drift towards impunity, certain restrictions should be applied to the rules of law. In this regard quite a few restrictions have been suggested. There should be no prescription for

offences; no amnesty for offences and no right to asylum for perpetrators. There should be provisions for extradition of offenders and for their trial in absentia. Obedience to orders not to be considered as a defense. Legislation on repentance should not avoid either amnesty or prescription. Military courts should not be used. And the principle of the irrevocability of judges should be upheld.

The right to reparation should cover all injuries suffered by victims. Restitution restores victims to their previous state and gives them back their previous jobs, their property and their dignity. There should be compensation for any physical or mental injury, including lost opportunities. Lastly there should be rehabilitation, providing medical care for the victims, including psychological and psychiatric treatment.

Guarantees of non-recurrence are also important. In order to avoid victims having to endure new violation affecting their dignity. There should be disbandment of parastatal-armed groups; the repeal of all emergency laws, abolition of

the Greek word "amnestia" which means: an act of forgetting. It had evolved from judicial and political practices, which gave power to the head of the state to pardon criminal acts committed by a person or a group of persons. A person granted amnesty is released from any responsibility, whether criminal or civil.

In the past, amnesty was granted as a gesture of a king's magnanimity and a measure of forgiveness. Today, it may constitute one form of settlement of human rights violations committed by government personnel in the past and may be used as a form of compromise to guarantee national stability and unity.

Reconciliation is reached when perpetrators of violence in the past are given the assurance that they will not be prosecuted for the crimes. It sets as a condition, mutual acceptance between the conflicting parties, the victims of violence and the perpetrators of violence.

The proponents of indemnity have often argued that the process for bringing the offenders to justice

Laws passed by parliament within its constitutional bounds may not be struck by any court, but that does not mean that parliament would pass mean and atrocious laws violating norms of decency and fair play and the principles of justice, equity and good conscience.

minister endorsed all four amendments and the House passed the amended bill through a voice vote. The amendments provided for the Army Act to be put into force and gave the law a retrospective effect from January 9, 2003, the day the ordinance was promulgated.

The law minister said the amendments would protect the members of the armed forces from facing the civil justice system and at the same time, they would remain under the purview of their laws.

Before the House passed the bill at 8:30 p.m., main opposition Awami League (AL) walked out of the parliament denouncing the bill. The AL lawmakers waved black flags inside the House and chanted slogans on the corridors of the Sangsad Bhaban. The Speaker termed the display of black flag inside parliament as unprecedented. He asked the AL MPs to preserve the dignity of the Jatiya Sangsad.

Whatever may be the cause for the amendments, compulsion, persuasion or good sense, the amended version is much better than the Ordinance promulgated earlier.

Involuntary removal of persons, disappearance, extra judicial executions and deaths in custody are, getting greater attention in the world. The government's failure to effectively prosecute member of the security forces responsible for human rights violations contributes to a climate of immunity in the coun-

try and that must be ended by conducting full, impartial investigations into all cases of past violations and prosecuting those found responsible.

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emergency courts and recognition of the inviolability and non-derivability of habeas corpus; and removal from office of senior officials implicated in serious violations.

I have summed up the recommendations of the Economic and Social Council of the European Parliament. The *raison d'être* behind these principles may appear to be simple. The right to know logically entails the identification of those who have committed crimes, which leads to a right to justice, and also to the right to reparation and non-recurrence. They also have a right to redress restitution, compensation and rehabilitation -- for all in ways in which they were harmed, and a guarantee that this will not happen again.

These principles may appear clear and simple, but they are honoured more in their breaches, even amongst some European countries. Recommendation of the U.N. Commission of Human Rights in this regard is not also followed.

A wrongdoer may by making repentances and penances seek absolution from his creator. In a civil wrong he may by compensating the wrongdoer settle the matter. In a compoundable criminal case the accused may compound the matter with the consent of the complainant. But in a non-compoundable case the state must prosecute against the offenders. After trial the head of the state give pardon. To obviate legal proceeding he can grant amnesty.

The term "amnesty" drives from

is a long and expensive one. Again, due to many others pressing problems the much-needed human resources to the run the courts of law and order are not available. Further, in certain circumstances prosecution is likely to destabilize the administration.

Insufficient human and financial resources can hardly be used as a fair excuse to forego prosecutions against perpetrators of high crimes. On the contrary, precisely for these reasons the justice delivery system should be improved and strengthened for a severe warning be given to the offenders that violations of human rights will not be tolerated. An indemnity for offenders is a bad example. It discourages the law-abiding people, but encourages the evil minded potential offenders.

An indemnity law may be given human face. Let me give an example. In the British India Indemnity Act No. XXVII of 1919 was passed to indemnify officers of Government and other persons in respect of certain acts done under martial law, which was declared and enforced in some districts in the Punjab. Provisions were made for allowing reasonable compensation for property taken or used by any officer of Government, whether civil or military. It was to be assessed "upon failure of agreement by a person holding judicial office not inferior to that of a District Judge to be appointed by the Government in this behalf." Referring that provision of law Chief Justice Fazle Munim

commented in his Legal Aspects of Martial Law. "It must be admitted that such provision for payment of compensation in respect of loss attributable to acts of the military or civil officers was remarkable. It might not have entirely satisfied the sense of injustice caused by the application of force, but it goes a long way to prove a foreign government's regard for the citizen's rights."

That was at a time when there was no constitutional government and the question of human rights did not rule the field. Laws passed by parliament within its constitutional bounds may not be struck by any court, but that does not mean that parliament would pass mean and atrocious laws violating norms of decency and fair play and the principles of justice, equity and good conscience.

Rabindranath Tagore once said, "What is said in English 'the short cut' was in vogue in the history of the primitive times. 'Bring him! Bring his head!' -- in this process boredom of untying the knots was saved, the knots were cut by one stroke. The pride of Europe is that it discovered that in this process knots are cut, but the goods suffer a serious loss. Civilization has got a responsibility and at all times it must maintain it. There is an unavoidable severity in meting out punishment and that is why the civilized society can only accept a punishment when it is filtered through a judicial process and is bereft of anger, envy or bias. If that were not done the difference between the *lathi* -- the stick -- of the *lathial* -- the stickman -- and the scepter of the administrator would be done away with. Tagore said elsewhere, "Even if the scepter is given to the *lathial* -- the stickman -- he would reveal at his *lathialship* the stickmanship, because it is not his nature to rule."

For maintenance law and order we need disciplined force, but the force must be disciplined and must work under the laws and Constitution of the country in an exemplary manner so that they never need an indemnity law to cover their wrongdoings. An indemnifying legislation is, to say the least, a bad law, particularly when courts are trying to evolve new remedies for the victims of violation of human rights.

We must not forget Pinochet. In a case for violation for anti-torture International conventions before the International Court of Criminal Justice an indemnity law may not, on an approximate persuasion be found to be a little more than a figleaf.

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NOTICE
The regular column "IN MY VIEW/Hasnat Abdul Hye" will be published tomorrow.

All about language



MUHAMMAD BADRUL AHSAN

LANGUAGE is the voice of the soul that resonates through the vocal cords when someone speaks, and it is the image of the soul embodied in letters when someone writes. Thomas Carlyle called language the body of thought. Samuel Johnson, an English poet, claimed that language was only the instrument of science, and words were but the signs of ideas. Ralph Waldo Emerson said, "Language is fossil poetry." French social anthropologist Claude Levi-Strauss defined language as a form of human reason, which has its reasons that are unknown to man.

Antonio de Nebrija published his Spanish grammar in 1492 because "language is the instrument of empire." Benjamin Franklin worried that the German influence, if unchecked, would supersede Anglo supremacy, not only in language, but also in terms of culture and political values in the United States. Franklin was doubtful whether German immigrants would be capable of understanding the precepts of republican government laid down by the Founding Fathers.

Thomas Jefferson expressed similar fears in 1803 about the

abilities of French-speakers in the Louisiana Territories to govern themselves. Franklin and Jefferson, among other colonial leaders, worried that immigrants from non-democratic countries, and especially from non-Protestant religious backgrounds, would bring monarchist views to the New World and might not easily embrace the tenets and responsibilities of constitutional democracy. It was further believed that the use of non-English languages would perpetuate foreign ideas and threaten civil society.

US Congress. The proposed amendment was never reported out of committee, but over the next decade, 18 states passed initiatives naming English as their official language.

A call for the crucible also echoed in India under the British rule. "A Punjabi and a Madras must not sit together mute at a gathering, but try to communicate their ideas and emotions, and this should be done in our own language, Hindi, rather than in an alien language like English", wrote Shaheed Bhagat Singh

in an essay competition in 1923. He had won a prize of 50 rupees for his essay, which would be published in *Hindi Sandesh* ten years later.

The great Indian martyr was resentful about the plight of language in his home state Punjab where Urdu was the language of the Muslims, Punjabi with the Gurumukhi script was the language of the Punjabis, while the Arya Swamajis and other Hindus used Hindi as their language. Bhagat Singh wished they all spoke Hindi, because it alone captured the true essence of an Indian.

Bhagat's basic premise was that the consciousness of the soul of a society or country got reflected in its literature. He argued that perhaps Garibaldi could not have succeeded

in mobilizing the army with such ease if Mazzini had not invested his thirty years in his mission of cultural and literary renaissance. Similarly, the Russian Revolution wouldn't have been possible had Tolstoy, Karl Marx and Maxim Gorky not invested years of their lives in the creation of a new literature. The French Revolution would have been impossible without the literature of Rousseau and Voltaire.

The revival of Irish language was attempted with the same enthusiasm along with the renaissance in

Will there be a place for Spanish in the new comity of languages? Aznar's party *Partido Popular* held a conference in Logroño, with a special session in the monastery. It is said that Spanish owes a lot to its saints, because it was preaching friars, trained in oratory, who brought Spanish to the New World. People lacking that training brought English to the New World.

But resistance to use of language as a tool of subjugation was perhaps first enunciated around the middle of the twentieth century. In 1952,

Charles V of Spain said that he spoke Spanish to God, Italian to women, French to men, and German to his horses. People speak different languages throughout the world, but all of them would like to speak to their gods, women, men and horses. That is how language formulates the essence of existence by offering the soundtrack of life. It's life's phonetic form, word by word explication of pulse and heartbeat of living men and women. When alphabets build words, words build sentences and sentences build paragraphs, language is embellished with chunks of breath rising from the human hearts.

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people died for the first time in recorded history to defend their language in East Pakistan, a tragedy which led to the creation of Bangladesh in 1971 and recognition of 21st February as the International Mother Language Day. In 1961 eleven people were killed in a police fire in the Barak Valley of Assam, because they refused to accept Assamese as the only language.

In 1965 on the eve of the Republic Day of India, the villagers of Kizhappazhuvur in Tamil Nadu's Tiruchirappalli district looked on in shock as Chinnasamy, a poor farmer, set fire to his petrol saturated body for the cause of the Tamil language. The next night, another Dravidian Munnetra Kazhagam volunteer, T. M. Sivalingam of Kodambakkam in Chennai, immolated himself, pro-

eventually, he may be removed, but not because he is a threat to the world or the USA. A regime change may be done by an active involvement of the Iraqi opposition groups and the Iraqi people. But then one must also consider a broader picture of the Arab and Muslim world. From the Atlantic shores of Morocco to the sandy beaches of Persian Gulf and beyond, the people are ruled by kings and colonels, emirs and imams, sheikhs and sultans, lifetime presidents and long-robbed generals. Should they all need a regime change?

Mohammad Badrul Ahsan is a banker.

OPINION

Perspective: Iraq issue

PROF MOMINUL HOQUE
writes from Elizabeth, PA, USA.

ANN McFeatters, the National Bureau Chief of *Pittsburgh Post-Gazette*, western Pennsylvania's leading news paper, asked a rhetorical question recently in her column: Will a war against Iraq be a just war? The answers to her question could be polar opposite depending on who is reacting to the question: For instance, a true pacifist will answer, no war is a just war; a true believer may

proclaim, no war is a just war except a Holy war, a Crusade or a Jihad. History is replete with blood-curdling accounts of slaughter of tribes and races, all in the name of racial superiority. Victors of wars always found justifiable causes to wage war against their victims!

President George Bush wants to go to war against Iraq with or without the UN Security Council sanction. He and his cabinet members have submitted three reasons why he thinks a war is necessary and inevitable. Iraq's Saddam Hussein with his arsenal of WMD is

a real threat to the security of (a) Iraq's neighbours, (b) the world, and (c) the USA. So far we have not found any "smoking gun". But we are assured by the Secretary of State Colin Powell, it is there, and we will find it sooner or later! But then, why are we in a hurry to invade and bomb Iraq? Because the threat is REAL and imminent, - Bush insists!

Let us look at his reasons and see how real the threats are.

Who are Iraq's neighbours? Clockwise, it is encircled by Kuwait, Saudi Arabia, Jordan,

Syria, Turkey and Iran. So far none of these neighbours openly declared that Iraq is a threat to their security. None of Iraq's neighbours wants war. Their recent meeting in Ankara is a testimony to their strong desire to avoid war.

Baghdad, however, could be a potential threat to her distant neighbour Israel. But if and when Iraq becomes a real threat to Israel, Israel's resourceful Mossad will know it in time; and I am sure, Israel's efficient military machine is quite capable of taking care of it with or without actual battlefield engagement! Israel demonstrated

that capability by bombing Iraq's nuclear facility at Osirak in 1981.

Is Iraq a threat to the world? Which world George Bush is referring to? Name a country in Africa, Asia, Europe or South America who openly declared Iraq a real or a potential threat to them. Except Tony Blair of the UK, no head of state openly came out in favour of waging a war against Iraq because Iraq poses a threat to his country. Even Tony Blair's own people, as most Europeans recently demonstrated, are overwhelmingly against war as a first

choice. The widely held sentiment among Africans, Asians and Europeans is that war with Iraq is wrong.

Is Iraq a threat to the security of the USA? Honestly speaking, it is a preposterous idea. A tiny country, slightly larger than half of George Bush's home state Texas, with a primitive industrial base, one-commodity economy (oil), mostly peasant population, an army with more pomp than valour, ten thousand miles away can only be an irritant, not a mortal threat to the World's only superpower, the USA! Colin Powell's presentation at the

UN Security Council on Iraq's WMD 'a real threat to the world' is not compelling enough to go to a war. Powell's attempt to link bin-Laden's al-Qaida fanatics to Saddam's socialist Bathists is also quite unconvincing.

Saddam is a deceitful, brutal dictator -- no question about it. He may even be in "material breach" of the UN mandate he was required to carry out. But he could be contained and his arsenal neutralised by UN sanctions and inspections.

There is no disputing that,