

# The Daily Star

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Dhaka, Friday, September 29, 2000

## Mafia-style 'Execution' at Court Premises

WE would like to raise four issues in the wake of the mafia-style execution that took place at the court premises on Wednesday as something of a last nail in the coffin of official complicity about law and order. The first thing to note is that criminalised gangs are carrying out public execution of rival group or faction leaders or any other targeted foe with a dramatic stupefying effect on the rest of the society. In their choice of the killing site they are entering the heartland of where law is upheld -- within the precincts of the judiciary. They are giving three hoots to the police, displaying a measure of their power to their peers and declaring their unassailable position in the society. The message being driven home by them is that anything can happen in a context where the police have weakened to a point of debility; the rate of conviction handed down to known criminals is utterly negligible; and political patronisation of criminals give them not merely impunity but also invincibility.

The second point at issue concerns protection of people at the court premises. Court compound is where criminals, accused, plaintiffs, defendants, lawyers, judges and ordinary people converge on. And how do we protect them; for here we are confronted with a situation in which the criminal did not go away taking a snipe shot at the human target. As a matter of fact, an armed band of 15 men riding a large vehicle rushed on to the court premises and emptied out several rounds of bullets on 'underworld don' named Humayun Kabir, alias Murgi Milon, at the precise moment that he was getting on his car, his body riddled with 30 gunshots in the end. What could be a better sample of pre-meditated dare-devilry! The home ministry must devise a plan of action to let the courts function free of such untoward happenings.

The third question that arises is: how do we make the police function better? Obviously, the dastardly mayhem was the result of the policemen's intelligence gathering failure. Rival groups have been stalking the footsteps of each other on vengeful killing missions, the police should have known it. That Milon's rivals would try to cash in on his rare exposure at the court precincts was predictable. When the goons rushed in the police were virtually presented with a fait accompli, but unmistakably of their own creation, too.

The intelligence gathering or pre-emption failure of the police coupled with a deep-seated handicap they face in terms of sagging morale, bred by a combination of factors, not least of which is the political use of the police force by the ruling party, should trigger a rethink on how best to raise the level of their efficiency. They need the right kind of training, motivation and equipment blended with accountability, transparency and answerability to be able to act impeccably professionally; within the framework of an updated police code, the present one dating back to the hoary 1864.

Our last question to the government would be this: how could a person with police records as described in the various authentic versions about him hold such a high position in a front organisation of the ruling party? And we know it for a fact also that this is not a solitary case; for, there are others who remain top-brass in party wings, what with their figuring as criminals in the police dossiers. We are fuelling pervasive disorder in our society by providing immunity to persons who have made a business of criminality.

KAFCO (Karnaphuli Fertiliser Company) is like a thriller, a unique one at that. Unlike conventional thrillers the beginning in KAFCO (when the Shareholders' Agreement was signed) was also the end. The way the main protagonist (Bangladesh) would wound up in this story was foretold early on, not with hints but in great details. The answer to the inevitable question in this genre, *whodunnit*, was also provided in advance right at the beginning, leaving for a sleuth of even garden variety a very dull and unchallenging task of finding the truth.

It is another unique characteristic of KAFCO that in spite of the initial dark foreboding it has not ceased weaving the yarn of mystery and suspense. The latest instalment in the unfolding of this thriller-like story came with newspaper reports last week about revision of the gas price agreement between the government of Bangladesh and KAFCO. But in character with similar reports in the past, the latest news also has left the public wondering how much of it is officially correct or whether the revision of gas price is only at the stage of a proposal. The ambiguity over the authenticity of the news is understandable. Literally and figuratively, gas is a highly inflammable material in Bangladesh, capable of sending the public adrenaline racing at the very mention of it. But official reticence about it also helps fuel speculation and rumour. The snippets of information provided from time to time only serves to heighten the air of mystery, suspense and suspicion that have come to surround KAFCO. Only a full and authentic disclosure can bridge the information gap and put an end to all speculative rumours. Of course, to a large extent this will only confirm what is already known through the grapevine. But hearing from the horse's mouth has its own merit. Until that happens, attempts to piece together the various bits of information that are in circulation are called for in the public interest. This is so because in signing the KAFCO Shareholders' Agreement in 1990 the national interest of Bangladesh was sacrificed knowingly and deliberately by a handful of Bangladeshis and the public has a right to know how and why this sordid betrayal took place.

The beginning of the end in the KAFCO thriller became the end of

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the beginning for Bangladesh when certain clauses were included in the Shareholders' Agreement that were patently against her national interests. These clauses relate to: (a) gas supply, gas price and mode of payment for gas; and (b) sovereign guarantee given against export credit. Bangladesh also has suffered along with other shareholders in respect of other arrangements made which have already severely undermined the profitability of the project while conferring benefit on only one or two shareholders. Thereby hangs another tale of corporate intrigue and greed.

It should be pointed out that like most other big projects the idea and proposal for setting up a fertiliser company did not at first originate with Bangladeshis but with foreigners who had either raw materials, machinery to supply or had lucrative construction contract in mind. The eyes of most of the foreign shareholders were sharply focussed like hawks on gas in Bangladesh. A very cheap price for gas was the main element in their strategy and as they salivated this was swallowed hook, line and sinker by their Bangladeshi accomplices. Thus it came to be agreed in 1990 that KAFCO would pay a floor price of 75 US cents per thousand metric feet (mcf) for 20 years. The regional price for gas (Singapore base price) at the time was more than one US dollar per mcf. Moreover, the opportunity cost of gas (e.g. in power generation) was far higher than the floor price agreed to i.e. 75 US cents. The provision for increase of gas price was linked to urea price on the basis of such a complicated formula that the chance of getting a fair price for gas sold to KAFCO would be remote. Moreover, the long period of 20 years when the floor price would be applicable further undermined the interest of Bangladesh as the supplier of gas.

If the pricing of gas was against the national interest, the mode of payment was even more so reinforcing the inferior status assigned to Bangladeshi interest. It was provided in the Gas Supply Agreement that Bakhurabad Gas Supply Limited (BGSLL) would supply the required volume of gas direct to KAFCO; but according to the Gas Payment Agreement (SGPA), Bangladesh Chemical Industries Corporation (BCIC) - the Bangladeshi Government shareholder - would make payment to BGSLL and BCIC would be paid later by KAFCO. Though absurd looking at first sight it was a very shrewd provision because through this KAFCO, the consumer of gas, transferred the liability of payment for gas consumed to BCIC which as one of the shareholder had no reason to

shoulder this responsibility. Why this pernicious clause was included in the Agreements is revealed by a third clause which stipulates that the lenders of various loans would have priority claims on the revenue earned and if KAFCO's revenue were insufficient to make loan repayment to lenders payment for gas would be deferred. Such deferral would go on for six years during which time KAFCO will only pay an amount equal to excise duty included in the price and as long as such excise duty was paid BGSLL will be liable to supply gas uninterrupted. That this was not an idle speculation on the part of the foreign investors (shareholders and lenders) is borne out by the fact that to-date KAFCO's unpaid gas bills amount to hundreds of crores. One cannot but conclude that the totality of the gas agreement was meant to work against the interest of Bangladesh and the experience so far has proved it

Bangladesh Government was required to give sovereign guarantee against the total amount of export credit which meant that in case KAFCO defaulted in repaying export credit the Government of Bangladesh would be liable for the same. This was both an unusual and sinister move to ensnare the Government of Bangladesh into a trap because as a private sector project the Government was not supposed to be guarantor and even if it was so required, the Government of Bangladesh being only 43 per cent (approx.) shareholder should not have been required to give 100 per cent sovereign guarantee for the entire export credit. Since Japanese firms and agencies were shareholders in KAFCO the Government of these two countries should have shared the responsibility of giving guarantee proportionate to the shares of their shareholders. By making

it estimated to be \$80m. The fact that the first breakdown took place no sooner than the completion of the project followed by series of others point to the shoddy nature of work done by the contractor. Here lies another example of malpractice and conspiratorial connivance by the shareholders and lenders. Though Chiyoda, a Japanese firm is a shareholder under the umbrella of KAFCO JAPAN Company, it was given the contract for construction without calling tender. Within one year of the start of the project the contractor-cum-shareholder managed to revise the cost from \$415m to \$500m. Subsequently, it was raised to \$598m. While lack of tender resulted in a competitive pricing of the contract the liberal upward revisions have made the project overcapitalised. Because of 36 breakdowns the plant has already undergone three turnarounds involving \$10m and this may not be the end of it. With capital investment of this magnitude no fertiliser factory can be viable and profitable.

Moreover, the breakdowns after completion of the plant in 1995 and during the period 1995-97 coincided with a time when the international price of urea was above \$200. Though at present the plant is operating at full capacity the urea price came down to \$80 in 1997-98 and is now around \$120. So KAFCO suffered huge financial loss during the first two years because of breakdowns which did not allow it to avail of the high fertiliser price. The failure of KAFCO to pay gas price to BGSLL and to repay its loan stem directly from the bad construction of the plant. This record is unparalleled in the history of fertiliser factory both here and in other countries. It could happen because of the connivance among the shareholders to give contract without tender and allow the contractor to bring substandard plants and machineries without pre- or post-shipment inspection.

KAFCO may also have suffered financial loss because of the agreement to give 20 years contract to two Japanese trading firms, Marubeni and Transammonia, for export sales of urea and ammonia produced by KAFCO. Why instead of export through international tender directly by KAFCO it was subcontracted out is not difficult to find out. Marubeni is a co-shareholder of KAFCO, Japan which is a shareholder of KAFCO. In KAFCO everything is not transparent but it is not difficult to comprehend matters that take place in the board and outside the board, either.

The Government that assumed office after 1992 tried to bring

about major modifications in the Agreement that was patently so unfavourable to Bangladesh. It is reported that the government even tried to cancel the Agreement. But tremendous pressure was brought to bear on the government by the Government of Japan, which mobilised the other aid giving countries and donors, threatening dire consequences. In the event the then government had to capitulate and managed to scrape through with a few minor modifications, the impact of which on the damages of Bangladesh interest would be nominal. In fact, faced with an international contract, a successor government has little manoeuvrability and the lenders and shareholders of KAFCO took full advantage of it. So like an albatross, KAFCO is dangling from the neck of Bangladesh and is likely to do so as was foreseen on the day the Agreement was signed. It is unlikely to get any return on investment made and at best will end up with the junk of the plant when the others have sucked it dry.

The present government having inherited the project could only concentrate on damage control by ensuring the smooth production of the plant. It has managed to extract \$31m, as compensation from the contractor with which two of the turnarounds have been completed. At the moment it is faced with the problem of repayment of the defaulted export credit and the prospect of revising the gas price formula. Meetings with the lenders have been held in London and Japan for restructuring the loan package with a proposal for rescheduling based on a report by IFC. The Japanese Government, the provider of export credit (\$189m), should realise that it is because of the irresponsible performance and rapacious attitude of the Japanese Construction Company-cum-Shareholder that KAFCO is today in dire financial straits. It should agree to the rescheduling and give up its arm-twisting tactics to get the defaulted amount. KAFCO is already tainted with the pejorative epithet of 'Japan Incorp' because of the overwhelming Japanese interest in the project and domineering influence that it wields both inside and outside the Board. Japan can live down its unsavory image if she along with other share holders and lenders now agree to a reasonable upward revision of the gas price which may right some of the wrongs done to Bangladesh.

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## IN MY VIEW

Hasnat Abdul Hye



to be the case. There has not been a greater rip-off of natural resource of a poor developing country in recent times. The foreign investors (shareholders and lenders) cannot be blamed because they did not come here to run Mother Teresa like charities. It is their business to make profits without any qualms of conscience. The only charge that can be made against them is that they either hoodwinked or smooth-talked their way through the Bangladeshi policy-making machinery with appropriate sweeteners. Since they were not dealing with nitwits but intelligent Bangladeshis even this charge on moral ground will fall through. Why did the Bangladeshis involved in the negotiation, approval and signing of the Shareholders Agreement and other Agreements (e.g. gas) fail to protect the interests of the country? The answer is so obvious that it hardly needs to be made. The sordid story of greed, corruption and betrayal unfolds even more glaringly in the case of sovereign guarantee. In addition to equity participation from its six shareholders, KAFCO used a financial package of loans in the form of export credit from the governments of Japan, Italy and Romania totalling to \$259m, commercial loans of \$100m from City Corp Bank and \$38m from Commonwealth Development Corporation (CDC). Out of these senior loans, comprising export credit and commercial loans,

the Government of Bangladesh the sole guarantor the risks of default was shifted, entirely to Bangladesh, the reckoning for which has materialised now. KAFCO's present default in repayment of export credit covers two instalments and amounts to \$40m. The Government of Japan, invoking the sovereign guarantee given by Bangladesh, has already issued notices and threatened to take punitive action against Bangladesh Government by stopping aid, loan, etc. It and other export creditors can also refer the default to the Paris Club where Bangladesh risks suspension of all aid and loan from other countries and international financial institutions. That this could happen was known to those Bangladeshis who negotiated and approved the Agreement in 1990. It was surely not lack of due diligence for which they failed to avoid falling into this trap. That their tame compliance was because of interests other than national goes without saying.

If Bangladesh alone suffered and is still suffering because of the unfavourable clauses in the Agreements on gas and sovereign guarantee, all the shareholders including Bangladesh have already sustained huge loss because of stoppage of production following numerous breakdowns of KAFCO plant. For a modern plant of its type the number of breakdown is a record-breaking 36 during 1995-97 and the amount in revenue foregone

the Government that assumed office after 1992 tried to bring

## Friday Mailbox

### Sheikh Hasina and General Musharraf

Sir, In her UN speech, Sheikh Hasina urged the world body to take action against military take over of civil governments wherever such military coup occurred. Indeed, she was very forthright in her assertion and did not mince her words. Her feelings are understandable. After all, she had lost her entire parental family, except a lone sister, to such a military take over in Bangladesh. That Pakistan's General Musharraf was offended by her remarks is another matter. Instead of paying lip service to democracy, she boldly denounced military coup at the expense of democratic government. Unless military governments are made unacceptable at the international level, the men in uniform will feel encouraged to usurp state power whenever they find it convenient. If an Army Chief can depose an elected prime minister only because he has been retired from service, then the fate of a democratic government depends on the sweet will of an Army Chief. Of course, the military will always bring allegation of corruption or abuse of power against the deposed person. But toppling a government by the Army Chief with the help of soldiers under him is the worst example of abuse of power.

However, apart from the UN speech, General Musharraf has recently accused Sheikh Hasina of meddling in Pakistan's internal affairs. How? Since the publication of the Hamoodur Rahman Commission Report, she has called upon the Pakistan government to initiate action against the army officers found guilty by the said commission itself. This cannot be called meddling in their internal affairs. After all those army officers had perpetrated heinous crimes against innocent men, women and children of Bangladesh when it was part of Pakistan. As such, Prime Minister Hasina was very right to demand trial of those culprit army officers.

Pakistan is not even willing to apologise for those crimes, yet expects to maintain friendly relations with Bangladesh! Any Bangladeshi government with a little bit of self respect and dignity will demand apology from Pakistan for the atrocities committed by their people in Bangladesh (then East Pakistan) in 1971. If some people are saying now that we should not dig up the past and vitiate the atmosphere then they are merely acting like Pakistani stooges and deserve nothing but contempt. It will not be out of place to say that even after more than 50 years the Koreans are demanding apology from the Japanese for the atrocities committed by the latter to the Korean people during the Second World War. Our demand has more validity because till 1971 we were of the same country, ruled by the same government.

Therefore, Sheikh Hasina deserves full support for her UN speech and her subsequent observations at a press conference regarding Pakistani atrocities in Bangladesh in 1971 from all patriotic people. Incidentally, BNP is yet to demand trial of those Pakistani Army officers found guilty of crimes by the Hamoodur Rahman Com-

mission formed by the Pakistan government itself!

Abul Mohsin  
Dhaka

### Khagrachari fiasco

Sir, Questions and queries raised on Mr Abul Kalam's senseless misadventure recently at Khagrachari are very legitimate and indicates keen awareness on the happenings around us. Fingers are pointed at the role of trained personnel and also at the circumstances under which the district administration was coaxed to gather others and fall into the cobweb. I shall request all concerned to view this from a different angle.

CHT is presently passing through a post insurgency period where the administrative practices used to revolve around group activities of all government and other agencies coordinated by the civil administration. Naturally a call from the DC received prompt response and Mr Abul Kalam could gather all his hostages in one cage.

In any hostage crisis the first principle applied is to keep cool and refrain from use of force. All possible measures are taken to safeguard life even if it entail that of the culprit. In the haze of uncertainty those 'trained personnel' refrained from use of force which in itself proved disciplined action. Especially when negotiations are under way other options are usually deferred. While I express my appreciation for the way this situation was tackled, I also demand to know why this has occurred on the first place and how best we can prevent it from repetition in future. The lessons learnt from this incident are indeed very important.

Tanzia Chowdhury  
Chittagong

### Appointment of military officers in banks

Sir, I am quite shocked to learn that the Government of Bangladesh has decided to appoint military officials to boards of publicly-owned banks. There does not seem to be any justification whatsoever for this decision. Without any prejudice to the personnel who have been appointed, it is quite doubtful if any of the appointed persons are knowledgeable about the banking industry, finance, accounting, auditing and/or macroeconomic analysis. Without sound knowledge of financial ratios, macroeconomic theory and business principles, board members will not be able to make sound decision to protect public interest. Since these are public banks, supported by the exchequer, the public has a right to ensure that banks have adequate corporate governance structure and that the authorities appoint people on the basis of skills, performance and knowledge rather than connections. If the authorities are at all serious about reducing politically directed credit, then the appointment of military officials to public banks cannot be justified.

Tanweer Akram  
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## Dismembering the Member of a Family

The killers had picked up those two young men, and the police had failed to rescue them. But the neighbours watched the entire ordeal and kept silent. If we ever get to invoke the two dismembered men through necromancy or some other means, we would learn that the biggest burden on their souls was the insensitivity of the world in which they had to diminish limb by limb and nobody tried to save them.

harder to imagine what suffused the minds of those who tortured them to death. At the height of the controversy over cruelty to animals in the 18th century, the English jurist Jeremy Bentham asked this question: 'The question is not, Can they reason? nor, Can they talk? but, Can they suffer?' René Descartes, the

In Pakistan, the court ordered dismemberment of a child molester, who killed one hundred children and then dissolved their bodies in acid to hide his crime. In his verdict the judge stated that the criminal should be hanged to death, his body chopped into one hundred pieces, one piece for each child he had killed, and then

natural world. Where other scientists and philosophers had noted the brutality of species against species, of the lion devouring the lamb, he saw competition between individuals of a single species. He recognised that the individual with, for example, the sharper beak, the longer horn, or the brighter feather might have a

better chance to survive and reproduce than other individuals. If such advantageous traits were passed on to new generations, they would eventually be predominant in future populations, as the traits of individuals that were less competitive would gradually disappear.

Later generations of biologists came to understand variations within a species as variations in the genes of its individual members, and they explained evolution as the action of natural selection upon genes responsible for advantageous traits. Does it mean to tell us that the natural selection has embarked on genes, which prods us to tear each other apart?

If that explains what is honing the violent propensities amongst us, it also explains why we must be increasingly condoning these propensities. The amiable sub-inspector of police, who met with the abductors over a cold drink on the day of abduction, had concluded his visit with a request to release the two hostages. That brings us the third variation

within our own species: the genetically flawed minds who fail to distinguish between victims and victimisers.

Shakespeare writes in *Henry VIII*, 'It's a cruelty to load a falling man.' As we look back on what happened on September 15 inside the Rifle Club, the question is who had been most cruel amongst the police, the neighbours and the killers. In other words, who had most loaded the 'falling man?' The killers had picked up those two young men, and the police had failed to rescue them. But the neighbours watched the entire ordeal and kept silent. If we ever get to invoke the two dismembered men through necromancy or some other means, we would learn that the biggest burden on their souls was the insensitivity of the world in which they had to diminish limb by limb and nobody tried to save them.

Monowara Begum, the mother of one of the two victims, wailed at the cruelty with which her son was dismembered. As she described to reporters the slow and painful process of her son's killing, she prayed to Allah for justice. Bertrand Russell argued in his *Sceptical Essays*, 'The infliction of cruelty with a good conscience is a delight to moralists. That is why they invented Hell.' Sumon, the leader of the abductors and the son of an alleged friend of the Prime Minister of the country, presided over the judgement to kill his captives sitting in the 'throne' kept in his office. In his own moral order, this high priest of cruelty created his own hell where the guilty must die in more than one piece. The question is whether he had inflicted that cruelty in good conscience? Then again, who are we to ask that question? When we sat and watched him doing it, did we do that in good conscience?

## CROSSTALK

Mohammad Badrul Ahsan



What did the abductors think of their victims? Did they victims shriek in pain or try to give 'a realistic illusion of agony'? Did it excite them with special joy to be able to cut up two of their own kind, with the efficacy of butchers in a slaughterhouse? Marcel Proust determined that homosexuality, snobism, vanity, and cruelty were the major symbols of original sin. Did it ever occur to the killers that while killing is sinful, chopping someone to death could be more sinful? Or, did they think that it was equally sinful no matter how they chose to kill their victims? Did they slice up their hostages, while they were still breathing? Or, did they separate the limbs of their victims after they had died completely?

every piece dissolved in acid to represent his crime. Often the atrocity can only be compensated with atrocity, the rule of thumb being an eye for an eye.

Was the atrocity perpetrated inside the Rifle Club at Murgitola in Sutrapur commensurate with anything the victims had done earlier? We do not know. What we know is that they were taken hostage and then a ransom of Taka 50,000 was attached to each of them. But what converted that hostage situation into mayhem in the rage of savagery, which required cutting of the hostages into pieces? It is important to ask that question because the secret to this madness is embedded in its answer. Somewhere in the neural order of the social psyche, a demon must be playing its hand.

Darwin tried to explain that demon as he extended his perception beyond the savagery of the