



HUMAN RIGHTS analysis

Domestic Violence: where is the end?



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VIOLENCE against women is a growing problem in all societies and recognised as one of the major infringements of human rights. Violence is a major factor in the marginalisation of women in economic, political, and social life, and presents a significant health risk for women. It takes many forms, and occurs in all settings: at work, in the home, in the streets and the community at large.

Domestic violence in particular is the epitome of unequal power relationships between women and men. Violence against women, particularly domestic violence, is a significant and widespread problem that can be found in a wide variety of settings. The review of a selected number of well-designed, population-based surveys indicate that between 20% to over 50% of women report having been abused physically by an intimate male partner at least once in their lives (WHO, 1997).

Domestic violence happens in Bangladesh may be in different ways wife-beating, and batterings almost always accompanied by psychological abuse and in one-quarter to one-half of cases by forced sex as well. The majority of women who are abused by their partners are abused many times. In fact, an atmosphere of terror often permeates abusive relationships. But whatever the form of violence it affects all spheres of women's lives: their autonomy, their productivity, their capacity to care for themselves and their children, and their quality of life. The fact of its consequences is far reaching. It impacts on all aspects of women's lives, their health and that of their children, and also on broader society. In addition, there are many ways in which violence perpetuates itself. Violence is sustained by inequality and in turn perpetuates inequality. For example, domestic violence is associated with poverty, but it also perpetuates poverty by, for example, reducing women's

opportunities for work outside the home, their mobility and access to information and children's schooling. In addition to the direct impact of violence on the woman and her life, several studies indicate that domestic violence against women also impacts on their children, whether they only witness the domestic violence or are themselves abused. These consequences include behavioural problems, which are often associated with child management problems, school problems, and lack of positive peer relations (Jaffe et al, 1990).

More specifically to say violence is not only a health issue; it is an infringement of women's human rights, for example, the right to bodily integrity. It also impinges on their ability to exercise other human rights, such as the right to the highest attainable standards of health, and their sexual and reproductive rights. Violence is reinforced and condoned by the many forms of discrimination which women experience in society. Many countries still need to ratify human rights conventions such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which provides the framework for revisiting laws that will begin to support the redress of existing inequalities between women and men, and problems like violence against women.

Inadequate legal structures in our country effectively condone violence against women. But it is also true that in countries where adequate laws are in place, violence against women is often considered socially acceptable, and these laws are rarely enforced. It is important to reduce violence against women include efforts to address the immediacy of a violent situation through the provision of services to victims, such as shelters and counselling, and long-term strategies to address the root causes of the problem.

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HUMAN RIGHTS monitor

THAILAND

What is the public prosecutor doing now?

MANY key questions remain to be answered after the mass killing in the south of Thailand on October 25. Above them all, what is the public prosecutor doing about this case?

Under section 148 of the Criminal Procedure Code of Thailand, when there is a death in custody, the rights of the victim are upheld by way of a post mortem autopsy and investigation into the cause of death. Under section 150, three agencies must be involved: the forensic doctor, investigating officer, and public prosecutor. With the autopsy completed and report submitted, it is then the job of the public prosecutor to approach the court in order that it carry out an inquest, with a view to entering into criminal proceedings if necessary. This process should under no circumstances be delayed, such as by reason of a politically appointed inquiry also being under way. It is the role of the public prosecutor to investigate and prosecute all crimes, including those committed by government officers, without regard to other factors.

After October 25, what has happened? Four doctors from the Forensic Science Institute conducted partial examinations of the 78 victims removed from army trucks, and took samples for further testing. They played a critical part in exposing the scale of the tragedy at a time that the military might have preferred to conceal it. However, full autopsies were not conducted, nor were officials from the police or public prosecutor reported to be present. Questions may then arise as to the consequences of their investigation, and its significance for the role of the public prosecutor.

A commonly held excuse by public prosecutors in many countries in Asia is that where autopsies are botched or police investigations inadequate, they are unable to proceed with the case due to procedural failings or lack of evidence, thereby permitting the perpetrator to escape criminal liability. But this is no excuse. It is the constitutional requirement of a public prosecutor to pursue investigations, obtain the compliance of other necessary agencies, and take the matter into the courts. Failure to do this amounts to failure to do the job altogether. There is no substitute for this role, and under no circumstances should the public prosecutor be obstructed from performing this duty.

So what is the public prosecutor doing in this case? Has an investigation been opened? Have the reports been sought from the forensic doctors? If there is confusion about the procedure relating to the autopsies, have steps been taken to deal with this as quickly and expeditiously as possible? If there are other agencies opposed to the public prosecutor investigating the case in accordance with the law, how can they be overcome? In short, are the necessary questions being asked to bring criminal proceedings against those persons responsible for the deaths in custody of October 25? It is the job of the public prosecutor to address these questions and to take a leading role in the business of obtaining answers without further delay, and all other government agencies are obliged to admit to that role.

There are many other important questions about the incident that remain unanswered, to which the public prosecutor is beholden to respond. These are not questions for which the people of Thailand, least of all the families of the victims, should be kept waiting. Nor are they questions for which the politically appointed commission of inquiry will easily obtain all the answers. They are questions of basic criminal liability, for which the public prosecutor has the responsibility. They include the following.

Who made the decision to transport the arrested persons to a distant army camp? At the time of making such a large number of arrests, some 1300 in total, the question of where all the people would be held must have arisen. Somebody had the obligation to decide the place and means of detention. How was this decision reached? Where any alternatives discussed, or not? For instance, most of the arrested persons could

can even take them by force. To find adequate transportation for 1300 people is not a big deal for the army, and under the circumstances, was one of its basic duties. Why was this not done? The explanation that there were simply not enough vehicles available is as shocking as the incident itself.

Can it be accepted that the military, acting on behalf of the government, simply did not think of this before arresting all those people? It is hard to believe that the chain of command was so ineffective that even the most rudimentary discussion on providing transport was absent from communications.

Who decided to stack the people in the trucks one on top of the other? Was it a decision made by one person on the scene, or by an operations command? Who had the authority to give such an order? Even if the procedure for arrests was not thought out properly before hand, the officers in charge should have taken measures to prevent harm coming to the detainees. Were animals loaded in this way, it would be regarded as cruelty to animals; a farmer would take more care of his pigs, lest he harm them on the way to market. However, it does not seem to have been of any concern to those responsible to treat humans in any manner. Did not the truck drivers point out that the people could not live long being piled up like that? Did the soldiers not consider the natural consequences of their actions? Or, as some eyewitnesses have asserted, did they act as they did with expectation that people would die? Perhaps the explanation lies in the most recent concession by the army that some of the victims may already have been dead before being loaded on to the trucks; hence the need to load living people lying down also, in order to conceal the crime.

There must be rational answers to these questions; ordinarily, these are to be found in routine internal records. Do such records exist, and what can they tell of what happened? Have internal inquiries been conducted? After such an operation, military intelligence and other agencies can be expected to investigate immediately, establish the facts clearly, and make reports to the supreme military command and Prime Minister. However, to date the public has been left in the dark.

These questions all speak to serious failures that must be answered through judicial and criminal inquiries. If answers are not forthcoming, it means that the responsible agencies are not asking these questions. So where is the public prosecutor now? Why is it that the persons responsible for these atrocities have not yet been arrested and charged, and proceedings begun in the courts?

Under article 2 of the International Covenant on Civil and Political

Rights, to which Thailand is a party, the state has an obligation to provide the victims of rights violations access to effective judicial remedies. After a state signs the covenant, it is expected to be able to guarantee the rights of its citizens through investigating and prosecuting agencies. What does this mean in practice? It means being able to document complaints quickly and thoroughly, go to investigate and collect evidence, and hold responsible those who have violated the rights of the victims in accordance with the law. All of these activities speak to the centrality of the role of the public prosecutor.

Indirectly, they also speak to the role of the National Human Rights

Commission (NHRC) of Thailand and other agencies concerned with the implementation of rights in the country. Having spoken out strongly on the October 25 tragedy from the beginning, the NHRC should now direct its attention towards getting criminal proceedings underway.

Concerned senators, civil society groups and others in Thailand should likewise concentrate their efforts on both supporting and pressuring the office of the public prosecutor to this end.

Deaths in custody and extrajudicial killings of any

HUMAN RIGHTS advocacy

Damaging Effects of War on Environment

BARRISTER HARUN UR RASHID

"ACCURSED be he that first invented war", so wrote the 16th century English dramatist and contemporary to Shakespeare, Christopher Marlow (1564-93). War has caused multitude of catastrophic consequences on environment—land, air and water of the Earth.

The International Day for Preventing the Exploitation of the Environment in War/Armed conflict is being observed on 6 November in many countries with some appropriate local event to bring awareness among people of the devastation caused to environment in war. The destruction of ecosystem of the mother Earth as a result of war is not usually highlighted in media. People in war zone suffer silently and helplessly for years together.

Those of us who have lived through the years since the dropping of the first nuclear bomb in Japan in 1945 thought that the end of the Cold War in 1990 spelled a return to sanity in not waging war against another country. Wars are, by their nature, violent, deadly and destructive. During the 20th century alone, there have occurred some 16 major wars and more than 10 times as many minor wars in developing countries.

As weaponry and warfare have become more sophisticated, their long-term effects on environment have become more insidious and deadly. While it has been easier to count the loss of human lives, it is very difficult to gauge less obvious effects on environment. War, as a means of settling political conflicts, has destabilized the delicate natural balance of the earth's ecosystem, causing widespread devastation on environment.

The issue has been given fresh sharpness and urgency in view of the wars and armed conflict continuing not only in Iraq and Afghanistan but also in many parts in Africa. It is reported in media that even Queen Elizabeth of Britain has become worried observing the alarming impact of Britain's changing weather pattern in recent years and has expressed her concerns to the British Prime Minister.

Environment and military establishment

Let us first begin with some basic statistics as to how military establishments degrade environment. It is reported that the world's military consumes as much petrol as Japan, the world's largest economy— and produce an estimated 10% per cent of global air pollution. The world's military forces are responsible for the emission of more than two thirds of ozone-depleting CFCs (chlorofluorocarbons) and Halon.

Nuclear weapons are an environmental catastrophe. There are 400 metric tons of weapons-grade plutonium in the world today. Most of them are with the military of the US and Russia. The ever present threat of nuclear war aside, plutonium has a radioactive half-life of 24,000 thousand years. Naval accidents of at least 50 nuclear warheads and 11 nuclear reactors litter the ocean floor, much to the peril of living sea resources.



PHOTO: AFP

Environment and War

There is a saying that whichever side wins, there is one loser in every war the Earth. Wars are ecologically destructive for a number of reasons: (a) war exerts a substantial destructive impact on civil population, (b) war has a destructive impact on land and other natural resources, living and non-living, and (c) there has been an increasing tendency in recent wars to use sophisticated weapons that result in ever greater disruption on environment.

To illustrate the point, let me cite a few examples. In 1999, the US military bombed a petrochemical complex, 15 kilometres northeast of Belgrade (Serbia), releasing toxins as chlorine in the air. The pollutants that were released from the plant are believed to have a negative impact on the nutrition chain. Land, rivers, lakes and underground waters have been polluted due to the spillage of petrochemical, oil spills and other chemicals. Experts say that it will take many years before the full impact of the destruction in Serbia is known. Furthermore NATO's bombing of Yugoslav industrial sites has contaminated the river Danube, posing a health hazard for decades.

In 1991 during the First Gulf War, US bombing of oil facilities caused spills of 6 to 8 million barrels of crude oil, killing about 30,000 marine birds. Damage to other marine environments was extensive. Saddam Hussein's deliberate oil well fires in Kuwait spewed toxic soot and poisoned water supplies both in Kuwait and Iraq. Smoke plumes remained around 10,000 feet in atmosphere from those oil well fires where they could remain for years and could disperse with the wind around the globe. William Reilly, who was then the administrator of the Environmental Protection Agency in the US, reportedly said: "If hell had a national park, it would be those burning oil fires."

Although the environmental costs of the current war in Iraq will not be known for sometime to come, depleted uranium from US weapons has contaminated the soil and plants in Iraq that may cause cancers and deformities associated with uranium exposure.

In Afghanistan, the US-led war has resulted uranium exposure, causing many illnesses, such as, joint pains, flu-like diseases, bleeding mucous membranes among many Kabul residents. One quarter of the Kabul newborns examined in 2002 had health problems consistent with uranium exposure.

Nearly 30 years after the end of War in Indo-China (Cambodia, Laos and Vietnam), many of the ecosystems in these countries have not recovered, according to the Environment Conference on Indo-China in Stockholm in September, 2002. Ten (10%) per cent of southern Vietnam forests including one third of the coastal mangroves (comparable to Bangladesh's Sunderban forest area), which play a vital role in the coastal ecosystem and fish habitats were destroyed by the 72 million litres of herbicide the US military dropped during the Vietnam war.

Asia Brown Cloud

The Nairobi-based UN Environmental Programme Agency-sponsored study, released in early August 2002, revealed that 3-km thick cloud of pollution containing a toxic cocktail of ash, acids, aerosols and other toxic particles, commonly known as "Asian Brown Cloud", was found to be stretching across the whole of northern Indian Ocean and much of South Asia, South East Asia and China. This toxic cloud is claimed to be principally result of the wars in South East Asia (Vietnam War) and Gulf Wars. The presence of the cloud is believed to be a great threat to environment because climate pattern may drastically change resulting more floods and droughts in many parts of Asia in the years ahead.

Planting of landmines and degradation of environment

Landmines are one of the most repugnant weapons during war. As reported by the Geneva-based International Committee of Red Cross (ICRC), these hidden weapons on the ground do not miss their target and their victims, mostly children playing in the open space, are grievously afflicted or permanently crippled or disabled.

Environmental damage due to implanting of landmines is severe and the damage include (a) the rise of sand and dust, if it is a desert country, (b) the rise of soil pollution and change of its chemical particles and (c) destruction of reefs and corals at the coastal belt, negatively affecting marine life. All the damages enumerated here are detected in Kuwait even after almost 14 years of the First Gulf War.

Conclusion

The world is home to more than 6 billion people. The vast and growing human population must share the Earth's ever more limited natural resources not only among its members but also with the other living things that inhabit the Earth. With the Earth's natural resources already insufficient to provide an adequate standard of living for all across the world, it become especially important to reduce all unnecessary depletions of the global environment.

One obvious action to do this is to provide robustly the awareness of the short-term and long-term consequences of contamination of land, air and water due to wars. It is this anti-environmental aspect of warfare, largely overlooked in the past, needs to be addressed by all states through the institutional framework of the UN. In this connection, 6th November is a significant day for reminding that saving the environment from wars will be this century's biggest challenge. Our descendants may find themselves paying dearly for the follies of leaders launching wars to settle an inter-state dispute.

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PHOTO: AFP

have had their details recorded from identity cards and been released, with just the suspected ringleaders being held for questioning. That most of the people fortunate to survive were subsequently released without any further consequences speaks to the fact that this could have been done in the first instance. Was this option entertained? Was any other alternative discussed?

The shortage of vehicles is also a key element in the case. The officers in charge should have considered how they were going to transport the large number of detainees before they arrested them.

But even if they had not done so, the military can hire private vehicles at short notice, and under martial law

kind are grievous violations of human rights. They go to the heart of the responsibility of the state and its agents to its people. Deaths in custody of such a large number of people as occurred in Thailand this October 25 are not only morally outrageous, they also challenge the very institutions existing to protect and uphold the rights of all persons of the country under both local and international law. It is therefore the primary responsibility of the public prosecutor to ensure that all deaths in custody and extrajudicial killings are fully examined, the perpetrators identified, and held to account for their actions. So what is the public prosecutor doing now?

Source: Asian Human Rights Commission.