

The 'crossfire' debate

what they have described as "crossfire". Many of these hardened criminals reportedly were wanted in criminal cases and could not be brought within the ambit of law.

one can do and they readily acknowledge that given the situation, there would be some collateral damage. They arguably compare the situation to that of a legitimate war of self-defence in which deaths among civilians cannot be totally avoided. The doctrine of the greatest good for the greatest number of people is invoked as a defence of RAB's actions.

The second group perceives that under no circumstances, a democratic government can deploy a special law-enforcing agency (RAB) to kill its citizens under suspicious circumstances what they call "crossfire". They argue that criminals are, after all, the citizens of the country and they have the fundamental right to life and this right can only be taken away under law. That implies that the criminal gangs should be

General Pinochet cannot avoid his accountability for such deaths in the country as "the buck stops at the table of Pinochet". (It should be noted, however, that the Chilean situation took place under an extra-constitutional government).

As regards the deaths of alleged criminals in crossfire, many have raised another dimension of the situation. They argue the following:

First, crossfire deaths have

recover illegal firearms by RAB. A question arises as to how the accomplices are aware of the exact time when the suspects are led by RAB to a certain place of illegal arms?

Fourth, it seems that all reported deaths are caused on alleged criminals. The near absence of casualty of personnel of law-enforcing agencies raises suspicion on circumstances in which crossfire deaths have occurred.

Finally, there is a doubt that inability of the alleged dead criminals to be brought to justice may indicate that many of them might disclose some disagreeable information in the court and their deaths would avoid such disclosures in the open.

Conclusion

The above paragraphs indicate that RAB's actions of crossfire deaths have elicited two opposing views in the community. It is reported that certain human rights groups have challenged the legality of RAB's operation in the court of law and until the court's verdict is given, the debate is likely to continue.

Many believe that the government has taken a calculated political risk to deploy RAB to restore law and order. In democracy, the people are the ultimate judge to say whether the government has adopted the right course of action or not in restoring law and order, causing deaths of alleged criminals in RAB action. The general election will be held in 2006 and the result of the election will indicate the final verdict for or against the government.

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HARUN UR RASHID

Still playing around with HC directives!

How long will it continue?

THE tale of the government's procrastination centring around implementation of the specific directions that the High Court had given to it, as far back as in December, 1999, to bring about separation of the judiciary from the executive, reads like an open book. The constitutionally mandated and yet conspicuously absent judicial independence even after the lapse of more than half a decade since the 12-point HC directives were issued, has hit yet another snag, thereby giving a new twist to what has already been a mission of procrastination on the part of the government.

Insofar as the implementation status goes, the standard plethora of time extensions sought and virtually extracted by the government from the court to ostensibly complete the process of separation of powers has been replaced by a phase of complications. This leaves one wondering how longer still the government might take to extricate the executive from the judiciary.

The issue now is the structural separation of the magistracy from the executive without which there cannot be any independence of the judiciary. A full bench of the Supreme Court has expressed its dismay over the draft rules which had been sent to the President for approval earlier on. These were prepared by the nine bureaucrats who had come under a contempt rule for having distorted the directives of the Supreme Court on the separation of judiciary. The 'hide-and-seek policy' of the government on the question of implementing the specific directive on judicial service is evidenced by the fact that the BCS (admn) cadre officials are still performing judicial functions as magistrates, clearly as an adjunct to the executive authority.

The government side is trying to defend the indefensible. They are claiming to have achieved a partial implementation of the court's directives. If for a truncated implementation, they have spent more than five years, then the inescapable question is: how long might they take for a fuller compliance with the HC directions? Overall, it is essential to realise that the independence of judiciary is indivisible admitting of no partial fulfillment. The administration's dithering on the whole issue has reached a farcical proportion. How long before we see an end to it?

THE law and order situation in the country has increasingly deteriorated over the years to such an extent that people think twice before going out, lest they would be mugged or if resisted, would be fatally injured or killed.

Many say that one of the measures to test the status of the law and order situation is to judge the fact whether a woman is able to walk in the evening from one end of the city to the other, without fear or harassment or rude comments.

There has been a cry from people that some decisive actions need to be undertaken by the government to eliminate criminal gangs or muggers or extortionists, moving about in the city to launch frequent attacks on ordinary people. Some say the government saw that its popularity was going down unless law and order is restored. The government, accordingly, decided to deploy Rapid Action Battalion (RAB) to deal appropriately with the situation.

RAB has pursued a "zero tolerance" method to restore normalcy as was done by police in the New York mega-city under former Mayor Rudy Giuliani. Regrettably, in the course of RAB's actions, there have been deaths of many alleged criminals in circumstances

criminals in crossfire have raised a debate in many sections in the community. Such debate also took place in earlier military operation of "Clean Heart" in 2003 by the government.

It seems that there are two views in the community on this matter. While one group is greatly relieved to see some normalcy is being restored at any cost, the other group is deeply concerned about the controversial circumstances of deaths of alleged criminals in "crossfire".

The first group perceives that the deterioration of law and order situation demands drastic action from the government. Furthermore there should be some publicly visible action on the part of RAB so that other criminal gangs realise that their days of "free for all" are over. If in that process, a few alleged criminals die in crossfire, there is nothing much

has been placed in a dilemma. If they do take action, they are criticised and if they don't, they are equally subject to criticism for inaction. The government thinks that enough is enough and has found it fit and appropriate to deploy RAB to restore law and order in the country.

They further argue that protection of human rights of citizens are not absolute and are subject to social conditions and other related issues in a society or in a country. Human rights beget obligations. It is not a one-way street. The alleged criminal gangs must realise that they are not able to invoke human rights alone. The human rights of their victims should be respected and protected. In this context, it is noted that many government leaders have reportedly defended the actions of RAB to restore normalcy and sought cooperation from people.

brought to justice before the court under the laws. The established procedure and judiciary are in place in the country. Whatever their charges, the alleged criminal gangs should be put on trial before the court of law. They further argue that the deaths in crossfire are tantamount to "extra-judicial killings", contrary to the provisions of the Bangladesh Constitution of 1972.

They contend that there were instances where such type of killing was perpetrated in a few Latin American countries in the 70s under military rule. One of them was Chile under military dictator General Augusto Pinochet who ruled the country from 1973 to 1990. Recent reports indicate that the relatives of the victims have pursued legal course of action to put Pinochet on trial and the case is pending at the highest court of the land. In other words,

occurred in many parts of the country. It implies that there is an existence of unauthorised armed groups in the country who are in a position to challenge the law-enforcing agencies. In other words, one can come to a reasonable view that the authorities would recognise and declare publicly such situation. In fact, no such recognition has been publicly declared.

Second, crossfire deaths are unusual and once they occur, it is reasonable to assume that a review of the procedure would be taken by the authorities concerned so that such incidents may not recur in future. Repeated instances of crossfire deaths negate the impact of any such review of the procedure employed by RAB.

Third, it is reported that some deaths occur during shootout by accomplices of alleged criminals while captured suspects are led to

Governance once more the issue

WB has only stated the obvious

THERE is nothing surprising about the World Bank's response to the Poverty Reduction Strategy Paper (PRSP) for the next three years that was recently released by the government. The visiting WB Managing Director Sheng Man Jhang told newsmen Sunday that the paper lacked a proper focus on improving political and overall governance, and as poor governance was a main obstacle to growth, that the issue needs to be more effectively addressed in the strategy paper.

To us, this prescription is self-evident. It is nothing more than what we in the media and civil society have been saying for a long time, though we are by now resigned to the fact that the government will only take notice when an advice is proffered by an international donor organisation.

More troubling, however, was the response of the finance minister who, seemingly perplexed by the WB position, said that he would seek recommendations of other law-makers after the Eid break as well as talk to WB officials to seek further clarification on the matter.

While it is always a good sign when the government seeks advice from outside, we do not quite understand the minister's confusion. The link between better governance and poverty reduction is not hard to grasp. It seems to us that the meaning of the WB directives should be perfectly clear.

Indeed, it is not only poverty reduction that would be helped by better governance. Better governance is the key to solving many of the problems which bedevil us here and is the key to our economic and social development.

However, as long as the government is in the mood to listen, we would like to take the opportunity to point out the following: first, as long as no working arrangement with the opposition is reached, there will be little improvement in any sector. Second, when it comes to poverty reduction, the government must consult all relevant stakeholders in connection with both the formulation and implementation of policy. Finally, the country's limited capacity for aid utilisation remains a serious obstacle to poverty reduction. And if this does not qualify as a problem of governance, we would like to know what does.

The Asian tsunamis and the tragedy of the closed mind

MAHFUZUR RAHMAN

SOON after the tsunamis struck South and South-East Asia in December 2004, a Bengali newspaper published - from New York - prominently carried a report on how Bangladesh escaped the disaster. The report, by Bangladeshi geologists, concluded that the shallow continental shelf of the Bangladesh mainland acted as a kind of buffer. A few days later, an angry reader left this message on the editor's answering machine: "How could you, a Muslim, publish such a report? It was Almighty Allah who saved Bangladesh."

The proposition that God saved Bangladesh from the destruction of the tsunamis is of course a matter of faith, to which one is entitled. There exist similar other, even more strident, propositions. It has been said that the violent waves that killed hundreds of thousands were the punishment of God for the corruption and impiety of man. In particular, nudity, prostitution, gambling, and other forms of ungodly conduct seen in the holiday resorts of the region are said to have provoked divine wrath. That view became a familiar refrain in private conversations, in newspapers, and in mosques throughout the Muslim world.

In bringing up the subject, I am acutely aware of its enduring heritage. In Bangladesh, ever prone to natural disasters, one can easily go back to pre-tsunami

times for illustration. A few years ago, following a particularly severe monsoon flooding, the Prime Minister of the country spoke of her conviction that God often tested the patience of the people with the aid of such disaster.

But back to the tsunamis. They wrought immense destruction. Hundreds of thousands of structures of all kinds were destroyed -

mosques still glint in the sun. Buildings and shops have all gone but they (the mosques) have remained miraculously untouched." (Translation mine.) The news report was based on stories from a number of villages in the Aceh province of the country.

Of the many-sided human response to the tsunami, the one that will certainly endure in many minds is a surge of humanity that

view was unclear. The initial aid offer from oil-rich Arab countries was paltry, even as the country hit hardest by the disaster happened to be the largest Muslim country in the world. Voices were raised in the still small liberal quarters of some of these countries, calling for much greater assistance. They were eventually heard, and aid to the region was substantially raised, albeit to levels that could

simple fact that the houses of worship are built much stronger than many other structures. The difference in the structural strength of an average mosque and that of an average dwelling house in poor countries, particularly in the rural areas, is stark. There is thus a perfectly rational explanation of what is thought to be a supernatural event. Neither is it factually true that no mosque

that saved Bangladesh, and that it was divine retribution that descended on South and South-East Asia in the shape of the tsunamis, also leaves a great deal of questions unanswered, not least among them was why Bangladesh was spared this time while it is regularly devastated by natural disaster, and why the largest Muslim country in the world suffered the most devastation in the tsunamis, or for that matter why could not divine wrath -- if that indeed what it was -- precisely target the impious and the corrupt along the shores of the ocean. Such questions do not in any way belittle the divine. They only diminish the individual who claims to know the divine mind.

Perhaps the hardest to understand is the hesitation in giving aid to non-Muslims I mentioned earlier. Put aside the important consideration that we live in an interdependent world. Muslims in distress do accept aid from non-Muslims. Most of aid, both humanitarian and developmental, that Muslim-majority countries receive is in fact given by countries which are not Muslim. The post-tsunami scene was no exception. Why, then, should there have been the slightest doubt over the propriety of Muslims giving aid to human beings who happen to be non-Muslims? This too is a sad illustration of the closed mind.

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Saudi Hajj decision rifts American Muslims

MOHAMMAD A. AUWAL

ACCORDING to Arab News (Jeddah, January 15, 2005), Sheikh Abdul Rahman Al-Sudais, the imam of the Grand Mosque in Makkah has urged Muslims to unite to alleviate suffering of Muslims worldwide. I appreciate this call as it speaks to the hearts and minds of Muslims everywhere. Unfortunately, however, his country's incredible decisions are doing just the opposite -- dividing Muslims even on the matters of worship in which there is universal agreement.

I am referring the recent Saudi decision about that Day of Arafat (the main day of the Hajj) as well as the day of Eid ul Adha (Festival of Sacrifice) and the rift and pain it has caused among Muslims especially in North America.

Earlier, the Saudi Hajj authority and the Moon Sighting Committee

of the Islamic Society of North America (ISNA), an umbrella organization for North American Muslim organisations, declared that January 12, 2005, would be the beginning of the Zul Hijjah (12' month of the Hijri calendar), and accordingly, Eid ul Adha would be celebrated on January 21, 2005 (Friday).

On January 14, however, the Saudi authority stunned us by announcing that the Day of Arafat would be January 19 and the Eid ul Adha on January 20. The Saudi authority reportedly advanced the Eid celebration by one day based on moon sighting claims by two persons on January 10. But astronomical data make their claims clearly unbelievable.

As reported in www.Moonsighting.com, on January 10 it was impossible for anyone to see the new moon anywhere on earth except possibly in Chile and Polynesian islands. The

This is not the first time the Saudi authorities have unilaterally declared the date of the Yaumul Arafah (the Day of Arafat) and the day of Eid based on astronomically incredible sighting of the moon. In fact the Saudis are almost always one day ahead in declaring the Ramadan, Eid ul Fitr, or Eid ul Adha.

new moon was born at 12:03 Universal Time on that day and was barely 3 hours old in Saudi Arabia where it set 3 minutes before the sunset.

Put simply, if a trace of the new moon is sighted in Saudi Arabia, we in the North and the West coasts of the U.S. should be able to have a better view of that moon because we are ahead of the Saudis in its growth trajectory. Nobody has reported sighting the moon on January 10, 2005 anywhere on earth. So, ISNA has found the Saudi moon sighting report unbelievable and stuck to its earlier decision to celebrate the Eid on January 21.

But many American mosques are ignoring the ISNA decisions and blindly following the Saudi decision ironically in the name of global Muslim unity.

I have noticed since the early 1990s how decisions on Ramadan and the Hajj dates taken in Makkah divide and create conflict among Muslims in the U.S. In one year (possibly 1992), we celebrated the Eid ul Fitr over three days during which we experienced an unnecessary cold war within the community. After that, for several recent years, ISNA followed the Saudi decision in the interest of unity among Muslims. But finally, the

ISNA woke up to the folly of that decision.

The folly is that those who claim to have sighted the moon well ahead of its astronomical visibility (established by credible astronomers) are either lying or making a mistake. This is what an eminent Egyptian-American Muslim astronomer pointed out at a Southern California MAYA (Muslim Arab Youth Association) conference in the late 1990s (I don't recall the exact year), after demonstrating the scientific determinism with which astronomers can predict the movement cycle of the moon.

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Those who accept the Saudi decision without critical sensemaking argue that the Eid has to be celebrated worldwide on the day after the Day of Arafat. But chronologically, Muslims in the time of Prophet (SA) began to celebrate Eid ul Adha in Medina before they could actually perform the hajj, which means that there is

no conditional link between the two.

In addition, throughout the fourteen hundred years, until the late 20th century, Muslims in the rest of the world, even those who lived just a couple of hundred miles away in Medina, did not hear from the Makkans about the exact day of Arafat or the Eid. They celebrated the Eid, as the Prophet (SA) instructed, based on their own local sighting of the moon. This tradition of the Eid celebration is still valid in the many Muslim countries. Muslims in Bangladesh, for example, are celebrating this Eid on January 22, 2005 (Saturday), two days following the Saudi celebration.

Today technology has brought us physically closer together. We watch the performance of the rites of the Hajj as they take place in Makkah on television and feel inspired to synchronise our celebration with the Makkans'. But this

is historically untrue and logically or theologically questionable.

The Saudi authorities who make the key decisions and those who illogically follow them have to keep in mind that their actions are drifting the already fractured Muslim community further apart.

There is a way out of this mess we are in, and that is called *shura* or consultation in Islam. The Saudi authorities have to wake up and listen to the voices of reason -- international Muslim scholars and scientists -- before repeating these mistakes and thus further creating disunity among Muslims. We, the Muslims in North America too have to wake up and see how our sincere but rash actions are fracturing us further as a community.

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OPINION