

Those lawless lawmen

MUHAMMAD NURUL HUDA

THE recent crimes and excesses committed by law enforcement agencies in Dhaka and elsewhere have become a matter of grave concern for the citizens as well as the controlling authority. Particularly worrisome is the spate of the so-called deaths in the 'crossfire'. The media, amongst others, has been admirably forthright in pointing to the illegality of many actions and the ominous precedence being set forth in the process. That the summary actions of our law enforcement personnel do not augur well for an orderly and law-abiding polity were clearly spelt out by concerned lawyers, academics, enforcement personnel, human rights bodies and thinking citizens. Their premonitions have been proved to be credible as we hear the heart-rending wailing of a father whose apparently innocent son has been done to death or the psychic strain of a bewildered sister whose brother is in a mental shock following decapitating injury. Whatever be the justification for the offending lawman's acts, such conspicuously brutal physical action cannot be legally tenable under any conceivable circumstances.

Image and impact

One has to, unfortunately, admit that in public estimate, the law-enforcers appear as an agency more to implement and enforce the objectives of the government in power and to help the affluent sections of the society. Their independence and impartiality is suspect. Such an unfortunate state of affairs is the direct result of the lawman's acting contrary to the public interests and expectations. Many enforcers believe that people should acknowledge their authority

with abject submission and remain ever ready to oblige them in every possible way. In respect of powers vested with the policemen in the penal code, it needs to be said that they may use force under some limiting circumstances but that should be kept down to the minimum necessary level.

Some lawmen forget that nothing is more cowardly and unconscionable than a person in police custody being beaten or shot to death and nothing inflicts deeper wound on our constitutional culture than a public servant running berserk regardless of human rights. The policy of killing suspected dacoits and terrorists in the so-called 'crossfire' is inherently messy, involving as it must an inordinate amount of lying about matters of life and death. This is downright insulting for a professional body of public servants dedicated to the upholding of law.

While the above is the bitter reality, misguided policemen and other enforcers fell that they have a divine right to crush the self-respect of individuals they come in contact with. They do not realise that their overt actions indulged in brazen disregard for the principles of the rule of law and civilised conduct adversely affect police discipline and make a mockery of the signboards "Police is the friend of people" displayed at the gates of police stations. People derisively say that the inscription on these signboards should, in the fitness of things, be: "All hope abandon, ye who enter here."

Unfortunately, the frequency of instances of police excesses make it ominous indeed. The police atrocities are standing testimony to the fact that the police, who are supposed to be protectors of the citizens, have themselves been indulging in not only dubious and deplorable but also criminal activities. Since the image of

The acts of a few black sheep must not be allowed to smear the virtues of toiling policemen. The bad hats must be dealt with an iron hand at the very first instance of criminality. The unholy alliance between criminal policemen and corrupt politicians must be broken and the performance of both should be under constant scrutiny. The recruitment process of subordinate police functionaries have to be sanitised to prevent the entry of undesirable elements and drastic disciplinary actions relating to delinquent police officers must not be interfered with.

the police reflected by the mirror of public opinion conforms to what the police and police culture are, both the police image and police culture are tarnished despite the very good work done by many. By resorting to practicing lawless law enforcement, which obviously is a contradiction in terms, the police inevitably further tarnish their already much tarnished image. Paradoxically, lawless police officers are in demand in the affected area. They produce short-term spectacular results that prove illusory.

Salutary judicial intervention

The concern of our apex court to keep the police on the democratic path is gratifying. A people whose consciousness of the rights is poor, a land where legal services at the initial stages are rare and investigative personnel often resort to third degree methods -- these and a host of other realistic factors must come into the consideration of the court while interpreting and effectuating the fundamental rights of the suspect accused. On the subject of alleged offence of bodily injury to a person while in police custody, if there is evidence that the injury was caused during the period when the person was in police custody the court may presume that the injury was caused by the police officer having custody of that person during that period, unless the police officer proves to the contrary. There is logic in this

assumption because the experience of concerned persons have shown that the atrocities within the precincts of the police station are often left without direct evidence to prove who the offenders are. Such stance on the part of the court are expected to put an effective brake on the criminal proclivities of delinquent police officers.

We have to remember that in Bangladesh where stricter penal laws are enacted to curb the terrorist menace and where the enforcement of the laws are principally done by the police not trained to a necessary or desired level, there is always a likelihood of the abuse of powers by police in negation of the individual rights. We need to make a realistic approach to reconcile individual rights, liberties and privileges and individual duties, obligations and responsibilities towards the collective interest.

The policemen must be made to justify the arrest apart from his power to do so. It has to be impressed upon him that the existence of power to arrest is one thing and justification for it is quite another. While disciplining the deviant policemen has to be done from within the department, the selective activism of the apex court will hopefully have a healthy deterrent effect on the potential law-breaking enforcement personnel.

Ground reality and remedy
Bangladesh police suffers from a



Protesting police misdemeanour.

colonial past and a legacy of coercion. In colonial times, the police was an agent of imperial brutality and earned an image of being anti-people. However, in our democratic polity, police is the first servant of the people; it is not to be used as it used to be, that is to perpetuate particular party's rule. To effectively prevent misuse of police force, the infiltration of political elements into the organisation rendering the outfit incapable of providing impartial and efficient service must stop. This is of paramount importance because large number of incidences of torture in various forms and harassment of political opponents reportedly take place at the behest of the government in power.

Legal aid, sincere in nature, must come along almost the time a member of the weaker section of the society is arrested. Such a step will reduce the possibility of wrongful confinement, false incrimination in offences and the pangs of torture and the possible physical deformity, if not death in police custody. In this connection reference may be drawn to the observation of the Indian Supreme Court in 1986 when it said that the failure of a criminal court to provide legal aid to a person who cannot engage a lawyer to defend himself at a criminal trial will entitle him to acquittal.

Another preventive measure would be aggressive investigative journalism to expose the gross misuse of power by police. This will, hopefully, substantially deter the way-ward lawmen.

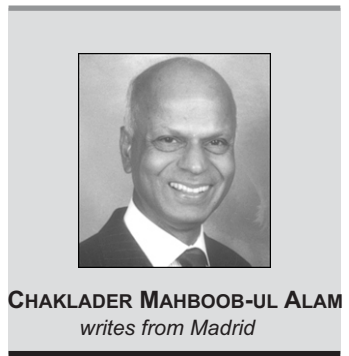
One may not know that the life style of the overwhelming majority of our policemen is no different from the ordinary Bangladeshis. Let any prudent man enter the Rajarbag Police Lines and see for himself what the policemen eat, where do they live and what is their take home pay. Let him also find out the average working

hours of a policeman. It is strongly likely that he will mostly find ungrudging sons of the peasants of Bangladesh ever ready to the call of duty. Like ordinary Bangladeshis they have reconciled to their fate and quietly wait for a better tomorrow. Like their countrymen they display infinite patience. The acts of a few black sheep must not be allowed to smear the virtues of toiling policemen. The bad hats must be dealt with an iron hand at the very first instance of criminality. The unholy alliance between criminal policemen and corrupt politicians must be broken and the performance of both should be under constant scrutiny. The recruitment process of subordinate police functionaries have to be sanitised to prevent the entry of undesirable elements and drastic disciplinary actions relating to delinquent police officers must not be interfered with. These are not tall orders. We need them to bring sanity in our governance scenario.

Finally, let all concerned remember that the police are vested with the authority to use legitimate force against the citizens and this mandate to use force to curb violence raises the key issue that the police themselves should not indulge in unnecessary violence or excessive use of force. The task before the supervisors should be to ensure that the police use force and authority with restraint and only in unavoidable circumstances. While the ultimate accountability of the police is to the people, the police must respect the law of the land. They are not licensed to become law-breakers themselves. Let the most visible symbol of government authority be a helping arm for the public instead of being a coercive arm of the state.

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First step towards Middle East peace?



CHAKLADER MAHBOOB-UL ALAM writes from Madrid

In May 2001, in a couple of interviews to the Hebrew-language newspaper Haaretz and the French daily Le Figaro, he said, one: "Jerusalem is the heart and soul of the Jewish people" and "no Israeli has the right to share Israel." Two, no Israeli settlement will be evacuated. They are "important for Zionist reasons. It is not an accident that the colonies are where they are. It is necessary to hold the security zones on the West Bank and the east, the routes between them." And, three, The Palestinian state will not be allowed to have an army. The frontiers will remain under the control of Israeli armed forces. (Mr. Sharon could have added that airspace, coasts, roads, communication, water, and electricity will also remain under the effective control of Israel.

If everything goes well (in the Middle East nothing is certain), in August, Israel after more than 35 years of illegal occupation, will finally start pulling its soldiers and settlers out of Gaza. In the process, Ariel Sharon will evacuate 8,000 settlers, dismantle 21 settlements (including four in the West Bank), and withdraw his army from Gaza. No wonder, the settlers and their allies are baffled and angry.

Their hero Sharon, who masterminded Israel's settlement policy from the beginning, now wants to evacuate some of them -- how is that possible? Has he finally yielded to the Palestinian pressure or has he gone out of his mind in his old age? No, nothing of that sort. Sharon has repeated many times in the past that the Intifada has nothing to do with this planned withdrawal, that this is a unilateral disengagement.

Be that as it may, it is fair to ask: Is this the start of a new era in the troubled history of the Middle East? Is the long-cherished peace just around the corner?

These are difficult questions to answer, but Sharon's inner thoughts may give us some clues.

In fact, demographic reasons have persuaded Sharon to withdraw from Gaza. Israel today has a population of a little over six million people of which 1.2 million are of Arab origin. In the occupied territories there are at least 3.5 million Palestinians. Therefore taking Israel proper and the occupied territories together, there are approximately 5 million Jews and 5 million Arabs.

Maaleh, Edumim, and Gush Etzion, where more than 230,000 settlers live, will remain eternally under Israeli sovereignty as contiguous Israeli territory. Here the words "contiguous territories" are of vital importance. This policy virtually rules out the possibility of having a viable Palestinian state on contiguous land. Again, it merely confirms Sharon's prior statement, "it is not an accident that the colonies are where they are."

In other words, settlements' locations were planned by Sharon "to destroy the territorial contiguity that defines viability." Sharon again insisted that he does not want to negotiate with the Palestinians on these issues. In other words, as in Gaza, this is going to be a unilateral decision. As far as the West Bank is concerned, he will also impose his will on the Palestinians, whether they like it or not. Thus we see that Sharon still believes in the old Likud ideology of never allowing the emergence of a viable Palestinian state on the occupied territories and of maintaining Israel's stranglehold over the fragmented Palestinian enclaves.

At this point, one may of course, ask: If Sharon has not changed his political vision, why is he giving up Gaza?

Again, in an interview given to the Haaretz in February 2004, Mr. Sharon explained that he had decided to evacuate Gaza for

practical reasons. In Gaza, 8,000 Israelis live in heavily guarded settlements, occupying one fifth of the land and controlling an equally disproportionate amount of water among close to 1.4 million impoverished Palestinian refugees, who live on the rest of the parched land behind high fences. A large contingent of soldiers and armoured vehicles are required to protect the settlers.

Although these soldiers will be withdrawn, it will merely be a

cosmetic exercise because, according to the Israeli Defence Ministry, Gaza will continue under Israeli military control by sea and air. (Both the seaport and the airport in Gaza have already been destroyed by Israel.)

It seems most of the Gaza settlers are going to be resettled in the West Bank, where building activity has intensified because of the forthcoming withdrawal from Gaza. After the withdrawal, Sharon's intention is to concentrate all his

resources on the West Bank settlements, with the final objective of annexing them as part of Greater Israel. To make it impregnable, he is building the 650 km long wall separating the Palestinians from the Israelis. The wall, built on Palestinian land, delves deep into Palestinian territories and snakes through the West Bank to include many Israeli settlements.

Palestinian villages and farmlands falling between the wall and the Green Line (pre-1967 borders) will, in effect, be annexed. The wall will also extend Israel's control over critical water resources. Therefore, hundreds of thousands of Palestinians living in these towns and villages will either be forced to move to the other side of the wall or live in virtual prison-camps with high fences and Israeli checkpoints. Slowly but inevitably under an active but subtle policy of ethnic cleansing, the remaining Palestinians will be driven out of their homes and land. No one really believes that Israel is spending billions of dollars on a "temporary security fence" (this is how it is described in Israeli official discourses) and that it will be destroyed once permanent borders are accepted by the Palestinians.

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Israeli settlers and soldiers scuffle around a trash bin after settlers tried to block the car of the Army chief Rabbi, General Israel Weiss in the Gush Katif settlement of Neve Dekalim, 25 July 2005.

Arab origin. In the occupied territories there are at least 3.5 million Palestinians. Therefore taking Israel proper and the occupied territories together, there are approximately 5 million Jews and 5 million Arabs. Given the high fertility of Palestinian mothers, according to most estimates, in a few years the Arab population will surpass the Jewish population in a significant manner.

So, if Israel annexes the whole of the West Bank and Gaza, sooner or later, it will be forced to give citizenship to the Palestinians, if it wants to continue as a democratic state. As a result, in a few years' time it will cease to be a Jewish state. How can you disenfranchise the majority of the population and still claim to be a democratic state? So what Sharon wants is to create facts on the ground which no one would dare to change. The idea is to grab as much land as possible for Israel now and contain the Palestinian population in these enclaves (Bantustans) without taking any legal responsibility for them because, in theory, they will become "independent." If Sharon is allowed to implement this plan, Israel in reality will become an apartheid state.

So, we return to the basic question: Will this withdrawal from Gaza usher in a new era of peace and prosperity for the Middle East? No, not really. Actually, Sharon's policy of creating facts on the ground and his declared intention not to negotiate with the Palestinians will, no doubt, be construed by the Palestinians as a declaration of war. No Palestinian leader can afford to accept Israeli unilateralism on these issues. Even many Jewish leaders understand the Palestinian position.

No one could have described the

situation more succinctly than Henry Siegman, the former executive head of the American Jewish Congress. In a recently published article in the International Herald Tribune he wrote: "Palestinians will not settle for less than a state that is fully within the pre-1967 borders. Having already yielded to Israel half the territory acknowledged by the United Nations in the partition resolution of 1947 as their legitimate patrimony, Palestinians will not consent to additional Israeli annexations of the remaining 22 percent of Palestine, except in swaps for comparable territory on Israel's side of the border."

What about Israel's great friend and ally the United States, the self-proclaimed champion of freedom, democracy, and human rights? What will be its reaction to Sharon's plan? Will it endorse "a Jewish apartheid regime that permanently disenfranchises and dominates by force of arms an Arab majority" or allow Israel to ethnically cleanse much of the West Bank through repressive economic and "security" measures?

According to Prof. Noam Chomsky of MIT, "unremitting US military, economic and diplomatic support of Israel" has made it possible for Israel to pursue its colonial policy in the Middle East. Therefore, according to Prof. Chomsky, "any real chance for a political settlement -- and for decent lives for the people of the region -- depends on the United States." Until the US takes the necessary steps to change its policy (as opposed to rhetoric) in this direction, I am afraid, there will be no peace in the region.

No one could have described the

Following the faithful

SYED MAQSD JAMIL

IT is a difficult time for the Muslims. Beyond the frontiers, even the agnostic or non-practicing ones among them are in a state of unease. First the Twin Tower bombing, then the Madrid train carnage and now on top of it the recent inhuman London bombing and the most recent bomb scare has increased western glare on the religion the Muslims practice. I haven't named though the Bali bombing or the Thursday's Sharm el Shaikh carnage.

The common view, considering the indiscriminate nature of the acts, borders on outpouring of revulsion. This is understandable since contempt against killing of the innocent has little time for discourse with a rational reflection. It is not therefore uncommon to come across views that regard the suicide bombers rising up from poverty in embracing death as living bombs for the reward of divine pleasure in the heaven. The view is simplistic and sweeping expressing contempt for the perpetrators. As a matter of fact ill tutoring could breed bad and fallible faith in any religion.

The findings of London bombings speak of the suicide bombers receiving training in Madrassas or institutions of Islamic education. As things are, the Madrassas are regarded as the nursery of Muslim terrorists. Sadly, the findings are not altogether without substance. It is scary that the number of Madrassas producing militants is growing as a backlash against persecution of Muslims.

There is however nothing wrong in the word 'Madrassa', which is Arabic for school. In this region, the Madrassa Education Board was constituted by the British Raj to impart education to the Muslims compatible with their religious teachings. It had a theocratic preponderance that left the Muslims behind in modern education. Madrassa education continues to offer predominantly theocratic education producing Islamic scholars, teachers and ill-taught zealots as well.

The Muslim scholars and teachers are apparently better equipped to speak on Islam, although the basic tenets of Islam do not speak of a separate breed of clergy. It would be natural for Muslim students to study in a Madrassa had these been schools offering education of the time for proper enlightenment. There has been progress in this direction with the present day Madrassa curriculum of Bangladesh having subjects of modern and applied education.

This cannot however pass off for a general picture of the country if one believes what one sees. It applies to an extent for the metropolitan centres and the major district towns. For the rest of the country the Madrassas are in a woeful state dependent on doles and charity. They cultivate charity as 'Qarze Hasana' (offerings to Almighty).

The rural poor and the impoverished find it a suitable alternative to local schools in terms of the strictness of the teachers, free tuition, boarding, food (in *Ibtidai* or in the path of Allah Madrassa) and the

piety involved with it. Because of the limiting circumstances of Madrassas in rural areas the 'Talibe Ilm' or the students seeking knowledge end up with limited and ritualistic knowledge. And their teachers more precisely the 'Huzoor's' (the respected) are no less handicapped in the matter. It is observed that the ill taught or the under-taught languish in a shallowness that lacks in substance and remains a ritualistic and simplistic version of Islam.

In spite of all these limitations the

that has put the moderate Muslim image of Bangladesh to question. It amounts to asking the executive to assume theocratic responsibilities. This is fraught with the danger of an unnecessary sectarian turmoil affecting the social harmony of a homogenous country like Bangladesh.

Executive indecision or incapacity on this issue will only invite more such issues raring to force showdowns. It is still a fact that rural populace of many districts on the

They bring temporary relief and a permanent peril. A hero of this kind is a law unto himself. Tolerance of such Robin Hood is an invitation to the usurpation of law by individuals without any legal authority emboldening them to hold courts and dispense judgement at their sweet will. Mushrooming growth of such Robin Hoods will only irredeemably discredit civil governance imperilling its effectiveness. Democratic polity of Bangladesh is not compatible with the connivance or patronage of such

spite of the federal character of Pakistan, North West Frontier Province (NWFP) and Baluchistan continue to be dominated by tribal ties. It is the Sardars (Chieftain) that remain at the top of the system and Madrassa education is more deferential of the continuity of the system. Madrassas therefore have a powerful presence in these provinces. There is however a strong network of Madrassas in parts of Punjab and in densely populated and poverty ridden areas of Karachi.

A combative western world is settling into a state that sees the Muslims as a people apart. The Muslim world on the other hand is caught in a constricting situation. That of curbing its people from acts of terrorism and at the same time being compromised by the inaccessibility of an effective participation in contributing to the resolution of the issues simmering among its people. The issues are national rights for the Palestinians and the vacation of Iraq and Afghanistan of American and allied forces. It is a matter of shared undertaking to be carried out with fairness, trust and mutual goodwill.

rural Madrassas as subsidiaries of the local mosques play a useful role in upholding the egalitarian aspect of Islam and in keeping it a practicing religion in those areas. On a broader level the rural Huzoor's also strive to build a band of followers. The fortunate of them becomes the high priest. If not they serve as foot soldiers of the high priest. The modus operandi is clanish in nature. From among them those with eyes on countryside influence dabble in politics.

Many of them destabilise governance by fomenting rage on issues that amount to the incursion of theocracy in executive and legislative function. The Ahmadiyya issue is one such act of brinkmanship

western side of the rivers Padma and Jamuna continue to live under the threat of the Sarbaharas' (the dispossessed), the pseudo-communists and bands of robbers. The helplessness of these people in the absence of the effectiveness of the law enforcing agencies creates a ground for a messianic Robin Hood.

A 'Bangla Bhai' (Brother of Bengal) appears as a redeemer, a saviour offering deliverance from the marauders. Apparently it looks like an innocuous folk tale, but in reality it means the abdication of civil authority in attending and ensuring the inviolability of life and property. Such folksy heroes however virtuous they may be have the making of a direct threat to civil governance.

London bombings have placed the 'militant' Madrassas of Pakistan on the dock because of the evidence of the suicide bombers receiving long religious training there. President Musharraf's crackdown on the suspected Madrassas and equally intense chiding of British government's inaction on dealing with its home grown militant Islamic organisations have opened up an important aspect about the long reach of the terrorists. The Saudi ambassador to UK Prince Turki Al Faisal has been more specific in pointing out the growth of Islamic militant network in England.

The Madrassas in Pakistan suit their tribal and feudal foundations. In

These Madrassas are well funded and have learned Islamic clerics imparting religious education to local students as well as to angry expatriate youths and converts to Islam. The distinguishing views of the expatriate and neo-Moslem students including the disenfranchised boys of middle class families are fuming indignation against the injustice of the western powers and contempt for the decadence of the western way of life. Obviously the Madrassas have large devout following. The most effective of the suicide bombers come from the educated middle class families having knowledge of the western injustices. The Madrassas also often foment sectarian violence.

In the overwhelmingly tribal character of Afghanistan racked by internecine conflicts the recruits pursue tribal agenda and are driven by frenzied backlash against the American intruders. On the other hand Iraqi suicide bombers are driven by desperate disaffection of an ethnic resolve to drive out the Americans and combustible anger against the local administration of the major ethnic groups taking part in the constitutional process. They are taking more civilian lives as a collateral damage of the hit missions against the well fortified American and allied troops.

Iran, because of its overwhelming ethnic homogeneity, its apparently insular character in the region and the need of a closely guarded stand against American threat, does not indulge in the indiscretion of letting loose suicide bombers. The recruits from the Arab world are enraged with the perceived slavish passivity of their rulers against American injustices in Palestine and in Iraq. They are among the most determined to take the war to America and its allies by badly mauling them in their own territories. Egypt has a large educated middle class alienated by its government's impassive tolerance of Israeli atrocities and apparently weak-kneed alliance with America. They are resourceful recruits in terms of education, technical knowledge and having access to western world and its institutions. Similar nature of summation applies to the Saudis except that it is the well to do Saudis with no place in the governance of the country that have produced

Osama and his followers.

The Islamic militants are a band of the faithful gaining in organisational strength and network, their experience and effectiveness proving to be lethal, resolve steeled by every mission, rank growing with ever increasing new recruits and above all endowed with a reach spreading like a global unit. And they have a cause growing stronger with America and its western allies showing no credible sign of addressing it with justice and goodwill. American and allied presence in Iraq and Afghanistan has not rooted out terrorism.

The Islamic terrorists continue to be a reality in spite of the unrelenting pugnacity of America and its allies. Rather a combative western world is settling into a state that sees the Muslims as a people apart. The Muslim world on the other hand is caught in a constricting situation. That of curbing its people from acts of terrorism and at the same time being compromised by the inaccessibility of an effective participation in contributing to the resolution of the issues simmering among its people. The issues are national rights for the Palestinians and the vacation of Iraq and Afghanistan of American and allied forces. It is a matter of shared undertaking to be carried out with fairness, trust and mutual goodwill. The initiative has to come from the leader of the world -- America. Otherwise the world is fated to condemn and lament the loss of innocent lives in unending succession.

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