

# Justice delayed, justice denied

**FROM PAGE 1**  
lethal chemical diethylene glycol.

The tests on the drugs were above suspicion; using newly installed gas chromatography equipment, they were conducted by the government's own drug testing laboratory under direct supervision of an expert consultant from the World Health Organisation (WHO). The results of subsequent independent testing -- undertaken in laboratories in the US and obtained by The Daily Star -- confirmed the results.

Yet the High Court was persuaded in 1994 to order a temporary halt to criminal proceedings against the owners, directors, and managers of four of those companies on the basis of a circular published by DDA containing highly misleading information suggesting that Bangladesh had no adequate test facilities.

Moreover, in relation to the cases involving Polychem Laboratories and BCI Bangladesh, at no time in the last 15 years has DDA taken any action to correct the High Court's mistaken impression about the tests, and argue for the stay orders to be vacated. Remarkably, as a result, criminal proceedings against the defendants from those two companies have been stopped for 15 full years.

The cases involving two other companies have fared no better. While the High Court stay of proceedings relating to Adflame Pharmaceutical was vacated two years ago -- 13 years after it had been initially imposed -- the Dhaka Drug Court promptly lost all the papers, and the public prosecutor remained unaware that the proceedings could actually continue.

It was only after The Daily Star informed the public prosecutor earlier this month of the new legal situation, and a massive four day hunt finally resulted in the discovery of those files, that the judge of the drug court scheduled today for reopening the proceedings.

The case against the owners of Rex Pharmaceutical is the only one of the four cases that resulted in a trial while City Chemical and Pharmaceutical was never even prosecuted.

In November 2003, the judge acquitted the two defendants of Rex Pharmaceutical, questioning the integrity of the chemical tests. The court ruling however shows that the court was not informed of how the tests had been undertaken and the role of WHO in ensuring their accuracy. Moreover, the court was also not told that the law in fact did not permit it to question the accuracy of the tests. But DDA never appealed against the acquittal.

The decision in 1992 by DDA not to prosecute City Chemical and Pharmaceutical, although its syrup also tested positive for diethylene glycol, raises further questions about the government agency. At that time a director of the company was Khondker Mahtabuddin Ahmed who was the father-in-law of Barrister Abdus Salam Talukdar. Talukdar was the then secretary general of the erstwhile ruling party BNP and also its minister for local government and rural development. There appears no other explanation for Khondker Mahtabuddin Ahmed escaping prosecution, than this political connection.

## HUNDREDS OF DEATHS

This remarkable story of corporate killing and impunity started in the early 1980's when significant numbers of young children were being admitted with serious kidney problems to Dhaka's PG Hospital, now known as Bangabandhu Sheikh Mujib Medical University Hospital. The cause of the renal failures was not known, and most of the children died. When, in 1986, Dhaka's Shishu Hospital opened up a new nephrology ward, it also became inundated with children suffering from similar unexplainable renal failures.

The problem was even faced by Bangabhaban Medical Clinic, which provided health care to the president's and prime minister's staff and their family members, where about 20 children died. One of those who died from a kidney failure was a year and a half old Tanvir Ahmed whose father worked as an office assistant in the president's house.

"I cried, and begged the doctors to save the life of my child. I could not save him. I lost such a wonderful boy," Tanvir's mother, Peyara Begum, told The Daily Star. Another who died the same

way was seven-year old son of Rakkhal Chandra Barua, a chauffeur in the prime minister's transportation pool. "The doctors told me that he died from a kidney failure. I could not understand why he died so fast. I buried my child with my own hands, when it should have been the other way around," he said.

A Scottish specialist, sent by WHO in 1988 to try and find out the cause, left Bangladesh after two months none the wiser. It is estimated that a total of 2,700 children died in unexplained circumstances from kidney failures between 1980 and 1992.

It was Dr Hanif -- now a professor in Dhaka Shishu Hospital -- who finally worked out in the early 1990's that the cause must be adulterated paracetamol syrups, where the harmless diluent propylene glycol had been replaced with the toxic diethylene glycol, a much cheaper chemical but deadly if swallowed.

With DDA failing to organise tests of paracetamol syrups, Dr Hanif was himself forced to send a sample of the syrup used in both Shishu hospital and Bangabhaban clinic -- Adflame's 'Flammolol' -- for testing in the US. With the results showing that the sample had tested positive for diethylene glycol, Hanif wanted to publicise the situation immediately but was advised by his hospital authorities that more evidence was required. He therefore sent further samples to the US.

The results took a long time coming, and feeling the matter was of urgent public importance, in November 1992 Dr Hanif told a press conference of the results, and provided other evidence that suggested other paracetamol syrups were also contaminated.

**GOVERNMENT TESTING**  
With the issue on the front page of newspapers, DDA was forced to take immediate and forceful action. It sent 135 samples of syrups to the government run Bangladesh Drug Laboratory (BDL) to be tested under the supervision of a WHO consultant, SK Roy.

As BDL itself did not have a gas chromatograph, Roy contacted Essential Drug Company Limited (EDCL) where the equipment had just been installed. "Roy came over to visit the laboratory and to check if the laboratory equipment was appropriate," recalled Anisul Islam, EDCL's then managing director, adding, "During the tests, Mr Maleque, the head of BDL, and Dr Zakaria, his assistant at BDL, were present along with WHO's Roy."

Shafiqur Rahman, the deputy manager of EDCL at the time, also remembers what happened. "These three men themselves conducted the test. They just used the equipment in our laboratory. It was totally under their supervision." The results of the tests were known a few weeks later on December 3, 1992, with five brands being tested positive for containing 10 to 20 percent diethylene glycol.

However, just two days later, the erstwhile director of DDA Mukhlesur Rahman (now deceased) did something inexplicable -- with serious consequences for the subsequent prosecution. He published a circular which stated, "As there is no appropriate arrangement in the government laboratory for detecting Diethylene Glycol in Paracetamol Syrup, samples of some of these brands have been sent abroad in November 1992 with the help of the WHO."

This statement was highly misleading as it suggested that BDL could not undertake proper tests in Bangladesh. In fact, Mukhlesur Rahman knew perfectly well that accurate tests had just been completed by BDL under WHO supervision using the right equipment.

Abul Khair Chowdhury, an assistant director of DDA who in 1992 was a drug superintendent responsible for the investigation and prosecution of the three Dhaka cases, admitted to The Daily Star that he could find no reason why the circular stated that the tests could not be done effectively in Bangladesh. "I don't know why the notification was issued. The notice should not have contained this clause," he said.

## CRIMINAL CASES FILED

Under public pressure on December 19, 1992, on the basis of the government laboratory tests, Abul Khair filed criminal complaints with the Dhaka Drug Court against directors and managers of three of the companies -- Adflame, Polychem, and BCI Bangladesh -- alleging that they had manufactured 'adulterated' and 'substandard'

drugs. The offence allows the court to sentence a convicted person to 'rigorous imprisonment for a term which may extend to ten years'. A similar complaint was made by an erstwhile drug superintendent Tomas AK Biswas with the Mymensingh Drug Court against Rex Pharmaceutical owners.

Following the courts' summons most defendants surrendered and obtained bail, although some did abscond. The drug courts then issued charge sheets involving a total of 17 defendants.

The non-absconding defendants in each of the four cases then filed petitions with the High Court seeking stay of the criminal proceedings. The director of DDA had himself provided the companies with the perfect loophole. The defendants argued that since DDA had itself admitted in its December 1992 circular that Bangladesh did not have appropriate facilities to test diethylene glycol, the test results undertaken by BDL could not be used as a basis for prosecution.

Without being informed of the nature of the testing, this argument must have appeared to the High Court judges highly plausible -- and it is hardly surprising that in each case, the judges issued a rule upon the government to come and explain why the cases should not be set aside. The order stated that 'pending disposal of the rule, all criminal proceedings should be stayed'.

If that was not enough, DDA then did a further thing that muddied the legal waters. Against each defendant Abul Khair filed an additional more serious case under the Special Powers Act (SPA) 1974. The problem with filing an additional case, however, is that the law in Bangladesh does not allow a person convicted or acquitted for one offence, to be subsequently prosecuted for a separate offence involving the same set of circumstances. This meant that as soon as either of the two cases had resulted in an acquittal or conviction, the other case would have to be scrapped.

**BCI BANGLADESH, POLYCHEM LABORATORIES**  
All of the drug court cases were stayed in mid 1994; it was now the job of the Attorney General's Office and DDA to argue that the stays should be vacated.

Since those proceedings were taking place in the context of deaths of thousands of children, one would have expected the Attorney General's Office and DDA to make strenuous attempts to schedule a date for a High Court hearing to prove that tests for diethylene glycol could be done -- and were in fact done -- successfully in Bangladesh.

However, nothing like that happened. Over a fifteen year period no action was taken to get the cases restarted. Till today, the High Court orders, which stayed the criminal proceedings against nine defendants, remain in place, unchallenged.

We asked Abul Khair, the DDA complainant in both those cases, to explain his total lack of activity over a 15 year period. He said, "I did not know that the cases were stayed until you told me about it. I never heard any information like this. No notice ever came to me." He did not accept any responsibility for his lack of action saying during that period of time he kept being transferred to different parts of the country.

## ADFLAME

The case against the six defendants from Adflame Pharmaceutical has always been the strongest. Its syrup had been used at both Shishu hospital and the Bangabhaban clinic where hundreds of children had died. Moreover Flammolol had tested positive for diethylene glycol not only in the government tests but in two separate tests in two different US laboratories organised by Dr Hanif -- one in early 1991 and again in late 1992.

In March 2007, the ruling that had stayed the criminal proceedings came up for final hearing at the High Court. No lawyer for the defendants was present. Justices Sharif Uddin Chaklader, and Sheikh Abdul Awal ruled, "The offence disclosed is a very heinous offence as it relates to the life of infants who were treated at different hospitals. It is a crime against society as such the trial should be held to find out whether the allegations are true or not. We find no substance in this rule." The criminal proceedings could now restart -- 13 years after being

## ACCUSED IN CHARGE SHEET

Polychem Laboratories		Status
Harun-or-Rashid	Managing Director	HC stay
Abdur Rab	Director	
Delwar Hossain	Producer	
Mahbubul Alam	Pharmacist	
ASM Gulam Qader		Absconding
Adflame		Status
Dr, Mrs, Helena Pasha	Director	Case restarts Nov 11
Md. Afzar Pasha	Director	Case restarts Nov 11
Md. Mizanur Rahman	Manager	Case restarts Nov 11
Nrigendra Nath Bala		Absconding
Md Noman		Absconding
Rex Pharma, Mymensingh		Status
Sudhir Chandra Mallick		Acquitted
Nurul Islam		Acquitted

stayed.

On October 5, 2007 the High Court sent the court orders and relevant papers back to the Dhaka Drug Court. They were received by Abdul Haque, a court clerk. He however did not inform anyone in the court, and placed the papers among the pile of 'disposed' files. Neither the judge nor the public prosecutor knew that criminal proceedings could now start again. DDA by then had long forgotten about the cases.

The drug court only came to know about the 2007 High Court order three weeks ago when The Daily Star told the public prosecutor about it. Immediately the judge asked to see the case papers, but for four days the papers could not be found.

"It was a mistake," Abdul Haque told The Daily Star. Another court clerk was less generous. He said, "It cannot be a mistake. There must be something else involved. There is no other way that the papers could otherwise be found among the disposed off files."

The judge has now fixed today for restarting the trial. The current status of the Special Powers Act case against Adflame directors is not known.

**REX PHARMACEUTICAL**  
The case against the two owners of Rex Pharmaceutical in the Mymensingh Drug Court is the only one that resulted in a trial.

In June 1998 -- with the drug court case stayed by the High Court -- the two defendants obtained a discharge order from the additional sessions judge in relation to the charge under SPA 1974. The court ruled since the defendants were already being prosecuted under the Drugs Ordinance, they could not be prosecuted under SPA.

However, it appears that the prosecutor did not inform the judge that he could only discharge the case, if the defendants had already been acquitted or convicted for an offence -- and the drugs offence case there was far from making it to trial, let alone an acquittal or conviction. The government failed to appeal against the discharge order.

The drug court case however still remained. In August 2002 -- after eight years of inaction -- the High Court vacated the stay order. Justices Hassan Ameen and Tariq-ul-Hakim ruled, "The question as to whether the case in question had been filed on the basis of chemical examination by analysts from the Central Drug Laboratory is a matter to be decided at the time of final hearing of the case...." It is not known why the High Court dealt with this case so much more quickly than the other three cases that had been stayed.

The case papers were then sent back to the Mymensingh Drug Court and the criminal trial restarted against the two defendants. After hearing the evidence, Judge Shahiduzzaman acquitted the two men. "It is found that the chemical examination of the seized paracetamol syrup was not properly done," the court ruled. The judgment also stated, "The accused person have already faced a trial before a competent court over the self-same occurrence and now they are facing the trial again."

The Daily Star however uncovered serious flaws in the evidence given at the trial. There was no evidence given at the trial about the role of WHO in supervising the quality of the tests; the report produced by WHO Consultant SK Roy, which The Daily Star has seen, was not even shown to the court. The judge suggested that since the test results had not mentioned that the test had been done at EDCL, questions were raised about the result; yet the prosecutor did not inform the judge that it was no requirement for the test result docu-

## School bus

**FROM PAGE 1**  
"The schools which are financially well off can purchase their own buses, if necessary, by taking bank loans, to replace small school vans and minibuses which also cause road jam," the meeting observed.

The meeting directed that the police administration and traffic police would take special care to ensure security of schoolchildren.

About school timings, the education minister said, "The school authorities can readjust their school timings at their convenience during the winter season."

State Minister for LGRD Jahangir Kabir Nanak, the BRTC chairman and officials concerned were present at the meeting.

## Attack on Taposh

**FROM PAGE 1**  
and a prosecutor in the Bangabandhu murder case trial now going on at the Supreme Court.

The press release also said, "The army headquarters sincerely expect that the media will refrain from publishing news regarding the army based on assumptions and without being confirm about the incident."

"Bangladesh Army, the symbol of national sovereignty, is fully aware of and committed to discharge the responsibilities and duties assigned to it," it added.

## Carjacks held

**FROM PAGE 16**  
They then used their skills as mechanics to steal the car parts.

Shafiqul said that members of his gang are assigned various roles in their operations -- some stake out a particular car park before an operation is conducted, whilst others commit the theft.

Accomplice Imran said that 12 thieves bring stolen vehicle parts to his shop in Fatulla and he sells these car parts for Tk 35,000 to 40,000.

He added that Bangla Motor customers are also brought to his shop.

## PM's India visit

**FROM PAGE 16**  
The meeting also discussed the much-expected tariff-free access of Bangladeshi products to the Indian market as a measure to strike a balance in the bilateral trade.

In this regard, the PM asked the ministries to "specifically finalise" the list of products for placing with the Indian authorities seeking the facility of tariff-free market access.

On maritime boundary issues, the premier said, "All the issues can be settled through bilateral discussion with India and Myanmar."

She held the view that connectivity among the South Asian countries in all sectors, including trade and economy, needs to be enhanced further for expediting socioeconomic development of the people in this region.

In this context, Hasina said, "India has a great role to play in expediting the regional development activities."

Finance Minister AMA Muhiht, Commerce Minister Faruk Khan, Water Resources Minister Ramesh Chandra Sen, Shipping Minister Shajahan Khan, Communications Minister Syed Abul Hossain, Advisers to the PM HT Imam, Dr Mashur Rahman and Towfiq-e-Elahi Chowdhury, high officials of the PMO and the secretaries concerned were present at the meeting.

## Food security

**FROM PAGE 16**  
Bangladesh James F Moriarty and USAID Mission Director in Bangladesh Denise Rollins, among others, were present at the time, says a press release of the food ministry.

The G-8 Group pledged \$20 billion to US President Barack Obama in efforts to create a fund for global food security, the delegation said.

The delegation enquired about the strategies and programmes Bangladesh would go ahead with to ensure food security in the country.

Razzaque told the delegation that Bangladesh is focusing more on domestic production, but to challenge the impact of climate change, saline and drought-tolerant crop varieties should be developed for which the US can assist Bangladesh in research and development activities.

## Aug 21 case

**FROM PAGE 16**  
and his involvement with the grenade attacks from the confession of detained Huji founder and Islamic Democratic Party (IDP) chief Maulana Sheikh Abdus Salam who is now on a fresh four-day remand.

A CID source said Majid was arrested on January 6 at the city's Uttara area in connection with an arms case. He might have link with the criminals of grenade attack on Awami League rally.

Suspected Huji man Majid was shown arrested with the permission of the court following a prayer by Additional Senior Assistant Superintendent of Police (ASP) Abdul Kahar Akand of CID, also the investigation officer of the grenade attack case.

The CID investigator also prayed for a 10-day remand for Majid. Second Additional Chief Metropolitan Magistrate Habibur Rahman Siddique fixed the hearing today.

Talking to The Daily Star, Abul Kahar Akand declined to comment on whether Majid was involved in the grenade attack or has link with the people who helped to escape the attackers.

Earlier, a CID source said they had identified Huji men Monir and Idris who helped the perpetrators escape by a white microbus.

Former state minister for home Lutfozzaman Babar is in his third phase remand in the case while Abdus Salam and

## US refuses

**FROM PAGE 16**  
(IB) and Research and Analysis Wing (RAW) officials termed "bureaucratic" and "procedural" hurdles as the main reason for them not being successful in interrogation of Headley, who is now lodged in a Chicago jail.

49-year-old Headley, according to the FBI charge sheet, was being used by the Lashkar-e-Taiba (LeT) to target among others the National Defence College in New Delhi, the Doon school in Dehradun and Woodstock school in Mussoorie.

The Indian team, names of its members have not been revealed to the media so far, arrived in Washington on November 1 and was scheduled to grill Headley the next day.

However, the Indian team is believed to have spent most of their time in Washington and they could not make their planned trip to Chicago where Headley and his co-conspirator Tahawwur Hussain Rana are lodged in a jail to interrogate the duo, both Chicago-residents.

The team left for India through New York on November 7.

Headley's accomplice, Tahawwur Hussain Rana's, a Pakistan-born Canadian citizen arrested on terrorist charges, hearing of bail application has been postponed by a week.

FBI detained Headley and Rana last month on charges of planning terrorist attacks in Denmark and in India, including the prestigious National Defence College in New Delhi.

## PM proposes

**FROM PAGE 1**  
in financial considerations," she told the virtual conference, preparatory to next month's Copenhagen climate summit.

Copenhagen Commitment Circle, a platform of the world leaders formed ahead of the coming climate meet, arranged the videoconference.

UN Secretary General Ban Ki-moon, Danish Prime Minister and Chairman of the Circle Lars Lokke Rasmussen, British Prime Minister Gordon Brown, Australian Prime Minister Kevin Rudd, Mexican President Felipe Calderon, Norway's Prime Minister Jens Stoltenberg and Ethiopian Prime Minister Males Zenawi took part in the video summit.

Hasina said if developed countries could pump trillions of dollars into stimulus packages for reviving the world economy, they could surely be equally generous to save the MVCs and LDCs.

Informing the world leaders about MVCs like Bangladesh, Bhutan, Nepal and the Maldives, the prime minister said for us Copenhagen meet means justice, reconciliation and fresh, united start for common safety.

"We do not want adaptation, mitigation, technology-transfer supports to be in one basket," she said to support her new proposition for separate funds.

Dhaka City Corporation ward-53 councillor Ariful Islam in second phase.

The High Court yesterday directed the authorities concerned to bring Ariful Islam to Dhaka central jail within 24 hours and interrogate him at the jailgate.

On Monday, Ariful Islam was taken on a five-day remand in the case.

The High Court bench of Justice AFM Abdur Rahman and Justice Md Emdadul Haque Azad passed the order upon a petition filed by Arif.

Arif in the petition alleged that he had been tortured in remand though he was seriously ill.

He prayed to the court to direct the authorities to cancel his remand and interrogate him at the jailgate.

Deputy Attorney General Kazi M Ejazul Haque yesterday told The Daily Star that the government has filed a petition with the Supreme Court to stay the High Court order and the hearing would be held today.

Barrister Rafiqul Islam Mian appeared for the petitioner.

Earlier, CID also detained BNP deputy minister Abdus Salam Pintu, elder brother of another accused Lasker Taiba (LeT) leader Moulana Tajuddin, in connection with the grenade attack case.

## Suicide blast

**FROM PAGE 16**  
crossed this area one minute before the blast," he added.

"Certainly, it was a suicide car explosion," Khan said.

It was the third suicide bombing in three days in the north-west, which lies on the edge of the tribal badlands infested with al-Qaeda and Taliban-linked militants where Pakistan is pressing a major offensive into a fourth week.

On Monday, a suicide bomber killed three people in Peshawar after stepping out of a rickshaw and detonating his explosives at a police checkpoint on the outer ring road of the metropolis.

Nuclear-armed Pakistan, which has suffered a wave of Islamist bombings since July 2007, has been rocked by a spike in bloodshed killing more than 350 people since early October and forcing troops onto the offensive in the tribal area.

## Victim nations

**FROM PAGE 16**  
resources at its disposal. The fund for adaptation and technology must come in form of grants, not loans," she said while addressing the Climate Vulnerable Forum in the Maldives.

She said this financing must come in addition with already committed Overseas Development Assistance (ODA). She called upon the developed countries to immediately fulfil their commitment of ODA to victim countries.

The foreign minister said some 20 million people in Bangladesh would have to be relocated due to the adverse effects of climate change by 2050. Moreover, one-metre rise in the sea level would inundate 30 percent of the country making 40 million people homeless and unemployed.

"River erosion, land slide, soil degradation, deforestation, and salinity intrusion in the coastal areas are the other forms of impact we are suffering," said Dipu Moni.

She regretted, "We have been running from meetings to meetings, seminars to symposiums for many years now. The series of meetings has so far eluded us of a just and equitable solution."

She said the Copenhagen outcome must include provisions for assured, adequate, predictable and easily accessible funding mechanism for adaptation and transfer of green technology to the Least Developed Countries, low-lying coastal and island states and other climatically vulnerable countries at an affordable cost.

The Maldives organised the two-day conference of the hugely vulnerable countries ahead of the crucial Copenhagen talks in December. Leaders of 17 countries have been taking part in it to adopt the Malé Declaration, which will be placed in Copenhagen.

She said the climate vulnerable countries were not the polluters, but sufferers of global warming. Bangladesh spent over \$10 billion to build structures such as coastal polders and embankments to fight natural calamities.

The foreign minister said Bangladesh needed more funds to carry out dredging of major rivers and reclaiming of land to fight the consequences in future. "Such activities will entail huge costs and, therefore, I call upon the international community to underwrite these expenses."

Representatives from Bangladesh, Barbados, Costa Rica, East Timor, Ethiopia, Ghana, Grenada, Guyana, Kenya, Kiribati, Lesotho, the Maldives, Nepal, the Philippines, Rwanda, Vanuatu and Vietnam attended the Malé conference.