

Crossfire deaths and exercise of power

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MUHAMMAD NURUL HUDA

THE hon'ble home minister's apparently explanatory statement, describing the crossfire incidents as acts of self-defence by law enforcement personnel, brings into sharp focus the use and abuse of force by state organs. The question of proportionality in the use of force by those in authority has always been a vexing issue. Cynics, however, say that in finding out the justification or otherwise of the use of force, the bias has been against people and in favour of the governments.

One may have to appreciate that in an environment of large-scale institutional

malfunctioning, particularly in developing societies, politics acquires an appetite for all spaces, both public and private. In such eventualities, violence becomes political in a sense. Our state response in such a scenario relies largely on the police machinery for both information relating to conflict and violence and analysis and interpretation of violence in terms of their nature, causes and solutions.

In Bangladesh, the political class has often shifted its burden of providing an adequate response to the extremist depredations, particularly in the south-western region, to the police. There has been, as yet, no serious effort to examine if terms like

"law and order," "public order," or "security of state" have been used to deploy state violence with little accountability.

Similarly, it would appear that not much attention has been devoted to ensuring the lawful and legitimate use of prohibitory orders. There is a general specification to the effect that minimum force be used, but such use of force has often led to loss of life and property.

Governments in our environment have to appreciate that power should be exercised in the defence of rights rather than in their suppression. Care has to be taken to see whether lawful exercise of power may lead to civil tumult; one has to take cognisance of the fact that the first duty of the government is the preservation of life and property, and, to secure that, power is conferred by law.

State powers to be exercised should never be disproportionate, but should always be, as far as possible, commensurate with the exigencies of any particular situation. The power to cause physical harm ought to be exercised carefully, and

interference with private rights reduced to a minimum and regulated by full observance of the legally imposed limitations.

The right of private defence cannot be unqualified because that would lead to vendetta, with resultant social disorder. Such right of private defence of the body extending to causing death is justifiable only upon the plea of necessity, and such necessity only arises in the prevention of forcible and atrocious crimes. The harm caused should be preventive and not punitive.

Some cardinal conditions, as listed below, have to be satisfied before the taking of the life of a person is justified on the plea of self-defence:

- The defender must be free from fault in bringing about the encounter;
- There must be presence of impending peril to life or of great bodily harm, either real or so apparent as to create honest belief of an existing necessity;
- There must be no safe or reasonable mode of escape by retreat; and
- There must have been a necessity for taking life.

The person claiming the right of private defence extending to the causing of death must be under a bona fide apprehension or fear that death or grievous hurt would otherwise be the consequence of the assault on him if he did not defend himself.

The deaths in crossfire, along with the

prevailing circumstances, need to be scrutinised in the light of the stipulations above to examine if such deaths actually resulted from acts of self-defence by security personnel.

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Meeting the challenges after Copenhagen

Energy and climate are two daunting problems that are likely to bedevil all developmental programs in future. Expanding energy access is essential for tackling global poverty. It needs to happen at the lowest cost and in the cleanest and most sustainable way possible to help developing countries like Bangladesh establish a low carbon route to development.

MD. ASADULLAH KHAN

THE Copenhagen accord left key questions unanswered because it contained no specific targets for reducing greenhouse gas (GHG) emissions by 2050. The pact called on developed nations to provide \$30 billion to help developing nations deal with the effects of climate change from 2010 to 2012. The text further says, by 2020 rich nations should "set a goal of \$100 billion a year" for poor nations, especially the most vulnerable ones. With no specific binding treaty, the deal pledges to keep atmospheric concentrations of carbon dioxide low enough to keep average global temperatures less than two degrees Celsius above pre-industrial levels -- a threshold beyond which many scientists say dangerous consequences could result.

Reports gleaned from United Nations Environmental Protection Agency (UNEP) sources revealed that carbon dioxide emissions from fossil fuels rose from 1.48 billion metric tons in 1980 to 1.83 billion metric tons in 2000. The U.S now produces more GHG, about 5.8 Giga ton (1 Giga ton is equivalent to one billion tons), with China producing 4.8 Gt, Europe 3.5 Gt, Russia 1.5 Gt, Japan 1.2 Gt, and India 1.1 Gt, as per a study made public in 2005.

Burning of forests to create cropland and habitat for growing populations and unregulated timber harvesting have

destroyed forests in all parts of the world, leaving no potential carbon sink in the developed region of the world. Ominous signs are everywhere. Initially spread over an area of 6,000 sq.km in the Bangladesh part, the Sundarbans, a beautiful mangrove forest, is now reduced to about 3,600 sq. km. The magnificent forest, home to many wild species, and other forests and tree covers in the country, which act as a carbon sink, are fast disappearing because of human greed.

While we are plundering our forest cover, a magnificent shield against climatic upheavals, India's forest and tree cover has grown to 24% of its geographical area as revealed by Jairam Ramesh, India's environment minister. It was pointed out in Copenhagen that expansion of the country's forest cover neutralises 11% of GHG emissions.

Most worrisome, the atmospheric clock is also ticking. In the last two decades, the Antarctic Peninsula experienced warming of about 4.5 degree Fahrenheit (2.5 degree Celsius). The annual melting season has increased by about 2 to 3 weeks in the last 20 years. This is evidenced by the fact that Arctic sea ice thickness has decreased from 9.8 ft (3.1m) in the 1958-76 period to just 5.6 ft (1.8m) in the 1993-97 period.

Because of such unusual melting, a huge amount of water along, with silt and mud, will flow through the rivers of Bangladesh, but because of heavy sediment deposit in the bed of the rivers they

have lost the capacity to retain this heavy mass of water in the monsoon season, resulting in heavy flooding of the plain land and affecting agriculture, livelihood and living of the people.

While emphasising the need for dredging and stopping encroachment of the rivers, the prime minister rightly said that these rivers helped the populace in the same way as the arteries did in a human body, and that we couldn't allow the rivers go dry and die.

While Bangladesh faces the fury of climatic upheaval with such an alarming regularity, there is hardly any room for complacency on the food front. With the price of rice shooting up in the present peak aman season, there is reason to believe that the government's food production target of 3 crore 42 lakh tons might not have been achieved. Several factors, like more lands going to tobacco cultivation in North Bengal and mill owners hoarding food grains to cash in on crisis situations, are being cited for the price hike of rice.

Experts believe that there is hardly any room for complacency because aman cultivation, to a great extent, suffered from drought, late arrival of monsoon and pest attacks. True, agriculture still faces a crisis as cultivable land for foodgrains continues to decrease by about 0.97% every year whereas population growth soars by 1.5 percent every year. In the last 30 years, agricultural land holdings plummeted from 90 lakh hectare to 60 lakh hectare. Furthermore, the reason for the crisis is that there have been no new breakthroughs or investment in seed technology to improve farm yields.

The profitability from this land has not increased either, as land holdings have become smaller and investment is negligible. At the present juncture, we have to make good the crop loss or shortfall by planting high yielding varieties like Hybrid-1 and Hybrid-2, invented by

BRRI, that give crop yield of 7.5 ton per hectare.

With the Copenhagen climate change meet ending with no binding legal treaty in regard to limiting carbon emission, global warming and consequent climatic upheaval would continue to wreak havoc in the form of cyclone, flood and drought and, more pronouncedly, water shortages throughout the country, making life, living and agriculture activities horrendously difficult. Most ominously, the shortage of fresh water could signal a profound crisis for us.

The problem can only be solved through the efficient use of water. Undeniably true, agriculture accounts for two-thirds of the fresh water consumed. The World Summit held in 2002 at Johannesburg endorsed the "more crop per drop" approach that calls for more efficient irrigation techniques, planting of drought and salt-tolerant crop varieties that require less water, and better monitoring of soil and humidity levels. Improving water delivery systems would also help reduce the amount that is lost en route to the people who use it.

Energy and climate are two daunting problems that are likely to bedevil all developmental programs in future. Surely, all development programs start with clicking on the electric switch, but in many parts of the world it has not happened yet. Almost 1.5 billion people, mostly in South Asia and Africa, live without electricity and the power demands of the developing countries are expected to grow by about 10 percent per year.

Expanding energy access is essential for tackling global poverty. It needs to happen at the lowest cost and in the cleanest and most sustainable way possible to help developing countries like Bangladesh establish a low carbon route to development. That means if those demands are met by burning fossil fuels such as coal, oil and gas, as the developed countries are now doing, more and more

Bangladesh also needs an Edgar

Having a Bangladeshi version of Edgar will also render benefits to firms. As researchers Barry and Brown suggested, the cost of capital is a function of "estimation risk," i.e., the better investors are able to assess the prospects for a company, the lower is its expected cost of capital. And a lower cost of capital leads to an increase in the market value of the firm.

A.F.M. MAINUL AHSAN

HOW is an investor, living outside Dhaka, Chittagong, or abroad, supposed to get information about a listed company to make a wise investment decision? You might say that, to get information about a firm, an investor living in Noakhali or abroad may visit the respective firm's website. Unfortunately, most of the listed firms do not even have a website. Very few listed firms, mostly banks, have websites with insufficient information. On the DSE or SEC website, there are hardly any audited annual financial reports of the listed firms. Therefore, to invest in the stock market in Bangladesh, one has to contact the respective firm's register office, or DSE, CSE or SEC, which is costly, and sometimes, even impossible, given Bangladesh's perspective. Then, how do you make your investment decisions? Is it that you invest based on what you hear on the media or from your friends who are also exposed to the same situation like you are? To solve the above-mentioned problem, i.e., lack of relevant information, and also to make the market more efficient and transparent, the SEC must

need to have an online database or archive like Edgar, i.e., Electronic Data-Gathering, Analysis, and Retrieval system.

Edgar, in general, is an electronic archive where, in one place, an investor will get for free all publicly available information about a firm listed with the US stock exchanges. Its primary purpose is to increase the efficiency and fairness of the securities market for the benefit of investors, corporations, and the economy by accelerating the receipt, acceptance, dissemination, and analysis of time-sensitive corporate information filed with the SEC. Since May 6, 1996, all listed firms in the US are required to make their filings on Edgar. Third-party filings with respect to these listed companies, such as tender offers, are also required to file on Edgar. The SEC in Bangladesh should also have an information archive, like Edgar, where investors and researchers will get relevant information to make a wise investment decision. Information regarding volumes and prices of every hour should also be included in the archive. All annual and half-yearly financial statements must be in the spotlight of the archive. We need to remember that only the sound flow of

timely, broad, and accurate information can help investors make wise investment decisions. What other direct benefits can investors, firms, researcher or the market, as a whole, reap from having an electronic database like Edgar?

What is the single most important factor to make an investment decision? Information. Whenever there is information in the market, representing a company's prospect, investors will act accordingly towards that stock. In fact, having sufficient information, and getting to know the essence of that information, makes all the difference between you and your peer investors. Unfortunately, in most cases, investors in Bangladesh make decisions based on what they hear on the street instead of analysing the firms' fundamentals.

Furthermore, having an archive like Edgar will prevent another stock market bubble like 1996 from forming in Bangladesh. Better information, which is easily accessible to investors, makes bubbles more difficult to form and be sustained. When a price seems to outstrip fundamentals, an investor logically asks whether it is a bubble or whether he does not have access to important information about fundamentals. Therefore, it is important that information is available not only to the select individuals, but to the general public. An archive like Edgar in Bangladesh can fulfill the goal of a having a bubble-free stock market by disseminating information to the all the market participants.

Better transparency is the surest way to make the market more efficient and less volatile. Greater transparency increases the willingness of international and local investors to commit capital. Moreover, the enhanced trans-

parency may influence value through pure cash-flow effects by reducing agency costs. For instance, transparency reduces the potential diversion of a firm's cash flows to managers and controlling shareholders, and, as a result, increases the value of the firm. In contrast, a lack of transparency could destroy a market. "Today's financial crisis was driven in part by a lack of accurate, easily usable information to give investors what they need to make informed, responsible decisions," testified Mark Bolgiano, CEO of XBRL, in front of the US Congress, and, transparency in the stock market in Bangladesh can be improved by making information available to all investors. A database like Edgar will improve market-wide transparency by disseminating information to the all the market participants.

Increasing market efficiency and also reducing cost of investment is still a prime responsibility of the market-regulating body. So, rules that govern the securities business all over the world gain from a simple concept: all investors, whether large institutions or small investors, should have access to certain basic information about an investment prior to buying it, and so long as they hold it to achieve this, the SEC in Bangladesh requires public companies to release meaningful financial and other information to the public. However, getting this publicly available information is costly which increases the overall expense of investment in Bangladesh. Thus, to increase efficiency and also to reduce the cost of investing in the DSE, the SEC in Bangladesh should have an online database like Edgar so that investors can easily get free access to the financial information of a firm.

carbon dioxide and other GHG will hit the atmosphere and destabilise life and living for the poorer and coastline countries like Bangladesh.

This brings into focus the problem of meeting the world's energy needs through developing cheaper and cleaner sources. That will necessitate providing incentives to alternative energy sources. In India, there has been a boom in wind power because the government has made it easier for entrepreneurs to get their hands on the necessary technology and has then required the national power grid to purchase the power that wind systems produce. The government of India is planning to invest Rs 3.8 billion (\$81.6 million) in an incentive program to materialise the wind potential of 48,000 MW, which has now an installed capacity of 10,500 MW.

The wind electricity producers are expected to get Rs.0.5 (\$.01) per unit of electricity fed into the grid. The average wind power price in India is about Rs.3 per unit. There have been innovations and rapid improvements in wind power generation in the US. Amory Lovins of the Rocky Mountain Institute in Colorado is now turning into a new generation of gearless wind turbines that will improve efficiency and lower the cost per kW-h.

Built in 2007 at a cost of Tk.12 crore, the wind power project at Kutubdia in Cox's Bazar, that was designed to meet power needs of 12,000 houses, is now being swept away by tidal flows. Until now it was providing electricity to about 500 houses but reports published in Prothom Alo in the recent past indicated that turbines set atop 50 ft high pillars have become inoperative because of the tidal fluctuations hitting the pillars, causing stoppage of power supply. Although Bangladesh has a vast coastline from Cox's Bazar to Teknaf to Bhola to Patuakhali, hardly any such effort to tap this natural bounty has been made so far.

Having a Bangladeshi version of Edgar will also render benefits to firms. As researchers Barry and Brown suggested, the cost of capital is a function of "estimation risk," i.e., the better investors are able to assess the prospects for a company, the lower is its expected cost of capital. And a lower cost of capital leads to an increase in the market value of the firm. So, if we have an archive like Edgar, our investors will also be able to estimate the risk associated with a firm's stock, which will ultimately reduce the cost of capital and will also increase the value of that firm. Thus, having a database like Edgar will help firms to experience higher market value.

Even an emerging market like us is too complex for even the most powerful regulators to dictate. An archive like Edgar will also help the market regulators. In context of Bangladesh, helping the market to function better through more disclosures is a sounder safeguard than a l-o-n-g-wait for the court verdict.

In his *An Inquiry into the Nature and Causes of the Wealth of Nations*, Adam Smith introduced the idea that selfish, greedy individuals, if allowed to pursue their interests largely unchecked, would interact to produce a viable society as if guided by an "invisible hand." Having an information database could serve as an "invisible hand." Informed traders will not buy at any price because they will use their special information to estimate what their expected gain will be. If the market maker makes them an offer to buy at a price that is larger than their expectation for the price increase, they will not have an incentive to buy.

Because of higher return, our market is getting attention from different corners of society. For instance, about one lakh new

investors, including non-resident Bangladeshis, have entered the market in the last two years with little or no knowledge about the stock market. Since relevant information, for example, an annual audited financial report, about a listed firm is costly and hard to get, investors follow the short-cut, i.e., they follow the rumor to invest their lifetime savings. In fact, research shows that it is optimal to imitate when lacking information: the less information you have, the stronger is your incentive to follow the consensus. But in such a situation, aren't you taking a huge risk with your lifetime savings? Investing without relevant information makes an investment as risky as gambling. However, an information archive, like Edgar, in Bangladesh will provide a common pool of knowledge for all investors to apply to judge for themselves whether to buy, sell, or hold a particular share. The result of this information flow is a far more active, efficient, and transparent capital market that facilitates the capital formation which is vital to our economy.

Information-rich and careful investors are so critical to the functioning of an efficient market because market wisdom results when more people access better information. Since July 2002, India has had an online database like Edgar, i.e., Edifar, Electronic Data Information Filing and Retrieval System. Pakistan is also on its way to having an online database with all relevant information to support investors' need. Why should Bangladesh deprive its investors from having access to a better and reliable cost-free information archive?

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