

HC order against extra-judicial punishment

Law enforces and community at large need to be mobilised to stop the evil practice

THE High Court (HC) verdict declaring the practice of meting out extra-judicial punishment to people, especially women, through local level arbitration or salish, often in exercise of the so-called fatwa, an illegal and punishable offence under law is a welcome piece of news. We appreciate the highest court's bold directive in this regard.

Clearly, the HC ruling has nothing to do with the religious significance of fatwa as issued by qualified leaders and scholars on religious matters. On the contrary, the HC verdict in question has emphasised that no one has the authority to hold trial, pronounce sentence and execute that sentence in the name of local salish or the so-called fatwa, which sometimes deal with physical punishment and social humiliation of citizens, especially women.

We feel that HC's having pulled its weight behind the matter, it will go a long way in applying a brake on the unlawful practice of punishing members of vulnerable segments of society, including, women by local powerful quarters and vested groups in the name of local arbitration. In particular, such groups used their extra-judicial activities in the name of fatwa to punish women engaged in professional work outside home, or those who are conscious and vocal about their rights as well as those who want to enhance their status in society.

It has also been observed that impostors and vested groups try to play on people's religious sentiment to misinterpret religion and carry out their illegal and nefarious designs. As reported by the leader of a legal aid body, 10 to 12 incidents of extra-judicial punishment took place in the country last year. Till date, some six instances of awarding unlawful punishment through local groups have been reported this year, in one of which a person was caned at Banchharampur in Brahmanbaria.

These incidents are happening in violation of the constitutionally provided human and legal rights of the citizens. Here the HC, as it has done on many other occasions, has invoked the constitutional provisions in this respect and provided the necessary legal instrument to strengthen the hands of the law enforcers. This will help them implement the law to root out the evil practice of extra-judicial punishment.

But the existence of a law in itself is no guarantee to stop the evil practice of extra-judicial punishment in society. That depends on the sincerity of the enforcers of law to act promptly as soon any information is received or complaint lodged at their end to this effect. At the same time, the local population has to be made aware of the HC order so that they may not tolerate this kind of impromptu justice delivered through salish or fatwa, but bring those immediately to the notice of the law enforcing agencies or to that of the court. The media, the civil rights groups, the legal aid groups and NGOs need to play an energetic role to enhance people's level of awareness about the unlawful nature of the extra-judicial justice and punishment and the HC's verdict on the matter.

The government, too, should use its publicity organs and mobilise its administrative network to convey the message to the mass people.

Why this abominable discrimination?

Equality is a matter of right, not of privilege

IT is an eye-opener of a news report appearing in this paper on Thursday. It reveals in shocking detail the depth and dimension of social prejudice otherwise incipient being at play vis-a-vis members belonging to the lower stratum of society. To be honest, we find it repugnant to our sensibilities to even label them as 'untouchables' or 'dalits', because they are not only one of us, but also the ones who do yeoman's service to society. But for the services of the cobblers, dhopis (washermen), sweepers, janitors and barbers society would have come to a standstill.

The narrative of discrimination they are subjected to, like for instance, being turned away from tea stalls, denied access to schools or boycotting them in games and sports, makes a horrific reading in man's inhumanity to man. Actually, such behaviour should be against our very grain -- both our religion and the country's constitution are clearly wedded to equality of citizens, irrespective of sex, caste, creed and faith.

Yet, the hard truth is that there are pockets in the country of social under-classes who are being discriminated against more overtly than perhaps covertly. This is shame in a secular, democratic and pluralistic society that we take so much pride in calling ourselves.

We know of persons coming from low caste or origins rising to the height of professions they were educated and trained in by virtue of their access to such avocations. If we look around we might find some examples in our own country.

Treating any segment of the populace as something of a social outcast just because they were born to a particular caste is anachronism in the present-day world. It is inhuman to the extent of being self-demeaning. While focussed NGO activism is needed for assimilating them as useful members of the society, the broad community and local body leaderships can do a lot in sensitising people to extricate themselves from what we would like to believe to be vestigial remnants of age-old prejudices whose time is up and over.

We must uphold human decency including dignity of labour not as a matter of compassion but respect for others' rights as citizens.



Deterring enforcement aberrations

It would not be improper to say that in our environment corrective actions have not been forthcoming taking in view the poor state of consciousness of rights, the absence of prompt legal service and random resorting to third degree methods. Unfortunately, torture tactics have been revealed in police practices.

MUHAMMAD NURUL HUDA

THE malfeasance and misfeasance of personnel charged with criminal law enforcement and maintenance of order have once again attracted adverse public attention. The deviations or aberrations, if one would like to so describe them, relate to custodial deaths, brutal assault of unarmed people and disproportionate force applied to maintain public order.

The manifestly indefensible use of excessive physical force after entering the house of a prominent political leader raises some disturbing questions. Have police officers themselves, including some in highly placed positions, evinced an undiluted proclivity to please the political bosses for their personal and professional aggrandisement?

If this is so then without doubt such officers are setting a bad example for the

entire force. Shall one suspect the existence of some police-politician liaison to the detriment of the norms of law and justice?

Policemen's aberrations should naturally be the focus of primary concern in a democratic polity. However well the police may be performing otherwise on its professional front, the unchecked excesses will result in a progressive lowering of police image in public perception. In fact, the persisting aberrations have contributed to the building of a derogatory and anti-police mindset.

Under circumstances as above, police functions assume a critical dimension because the democratic and human rights of the people invariably interact with the process of criminal justice with which the police is directly involved.

The credibility among the common man and accountability towards the society at large are the twin-tests to judge whether

the police force has desirably professionalised its functioning.

The reasons why police in Bangladesh have deficits in the above two areas are often traceable from within the society itself. On one hand the people are used to looking at the police contemptuously and on the other hand the authority displays inadequate political will to introduce police reforms advocated by various quarters.

One cannot be oblivious of the reality that the police forms part of the executive. An efficient police force provides teeth to the government. By maintaining law and order and ensuring public peace, a basic requirement for socio-economic advancement, the police facilitate the task of a democratic welfare state.

In the sphere of criminal administration of justice the police play a key role. As a crime prevention and investigation agency the police performs a supplementary role to the courts of law. In spite of the pivotal place of the police in democracy, its role has not been brought to the public scrutiny and public debate so as to infuse broad based awareness about police functions and duties.

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dom resorting to third degree methods. Unfortunately, torture tactics have been revealed in police practices.

The sad reality is that unless we make concerted efforts to effect police reform, the tendency to rely more on fists than wits or on torture than culture will continue unabated. The affected members of public do not know as to when the desirable change will be felt. Therefore, the court has an important role in preventing and punishing major police deviance, particularly the custodial deaths.

We may consider an amendment to the Bangladesh Evidence Act so as to provide that in prosecution of a police officer for alleged offence of causing 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 police officer having custody of that person during that period, unless the police officer proves to the contrary.

The above proposal is principally to deter, because there is often no direct evidence of physical abuse within the precincts of a police station to prove who the offenders are. It is time to think of putting an effective brake on custodial torture.

Muhammad Nurul Huda is a columnist of The Daily Star.

US exit means Taliban's entry

Indeed, America has changed the scenario in favour of Pakistan. President Hamid Karzai, who was literally abusing Pakistan till a few months ago, met Chief of Army Staff General Parvez Kayani to show intimacy between Islamabad and Kabul. The basic question remains unanswered: How to eliminate the Taliban who have made Afghanistan and parts of Pakistan their playground?

KULDIP NAYAR

BEFORE the entry of the Soviet forces into Afghanistan on Christmas Day in 1979, I used to visit Kabul regularly. I found President Mohammed Daud in the sixties a fatherly figure who had no idea of what was happening in his country. Even otherwise, he was dependent on provincial warlords, a pattern which has not changed since. But he was not aware of the strong base that the communists, particularly the Khalaq, had developed in the country. This was the period of innocence.

That Daud was pro-India was significant because New Delhi wanted to keep out Islamabad, which insisted that Afghanistan was its "strategic depth." For that reason, Pakistan denied India the use of roads to transit goods to Kabul.

President Hafizulla Amin, a communist, was at the helm of affairs in the second half of the seventies, ousting Daud in a coup. But Amin did not want Afghanistan to be a Soviet satellite. He was anti-Pakistan and did not allow even Zulfikar Ali Bhutto's plane to land at Kabul.

Atal Behari Vajpayee, then foreign minister, told me that when he met President Amin, the latter suggested to him that the Indian forces should march into Pakistan from the East and the Afghanistan forces from the West.

Babrak Karmal came to Afghanistan riding the Soviet tank. Moscow looked like an unwilling supporter of the coup. But it

had committed itself so much to him in the name of communist ideology that it had to go along and see the execution of another communist, President Amin. New Delhi should have condemned the aggression, but stayed neutral because of its close relations with the then Soviet Union. It was the biggest disgrace to India's foreign policy.

Moscow's fears that it would be sucked into a war defending Babrak Karmal's government came true. Little did it realise that America was looking for an opportunity to bleed the Soviet Union to death. In fact, the happenings in Afghanistan at that time gave a fatal blow to Moscow and gave victory to America in the Cold War.

Washington constituted a force of fundamentalists -- the Taliban (with Pakistan in the front) -- who liked Kalashnikovs and unlimited dollars to fight against the kafirs (infidels) from the Soviet Union.

This was the opportunity which the then Martial Law Administrator General Zia-ul-Haq exploited, not only to get the maximum money and weapon for Pakistan but also to spread fundamentalism in his own country. He was the person who set up Sharia courts in Pakistan, which still come into conflict with regular law courts.

The US-Taliban inflicted so many casualties on the Soviet Union that public opinion in Russia was infuriated at receiving dead bodies from the Afghanistan front. Moscow had no option except to pull out. But, after defeating the Soviet Union, the worst that Washington did was to quit

immediately and drop everything, leaving behind weapons and the Taliban it had trained.

The world is today paying for the sins that America committed at that time. It is committing a similar blunder of projecting its withdrawal -- reminiscent of what it did in 1982 -- without bothering about what would happen to Afghanistan and the region. The Taliban became a menace and went on to occupy Afghanistan. They had all the weapons that America left behind.

When America found Afghanistan as an epicenter of terrorism after the 9/11 attack on New York and went after the Taliban, it looked like it was rectifying the mistake it made earlier. Pakistan was a reluctant partner of the US in 1979, as it is today. But after having suffered the Taliban's terrorism inside its own territory, for example the Swat, Islamabad has come on board to a large extent. But it still has contacts with "good Taliban."

Terrorism, today, has spilled over the Pakistan borders. Lashkar-e-Toiba, arm of the Taliban, has carried out attacks even on the Indian soil. The attack on Mumbai on 26/11 was Lashkar's doing. Today, the Lashkar does not need the help of even the ISI. Al-Qaida has taken the control over all the terrorist organisations, including the Lashkar, and renders all assistances.

For obvious reasons, America has become crucial to the area, not only because of the troops it has deployed but also because of the coalition of resistance, including the UK and the European Union, it has put together. Washington's focus is on the region itself. When President Barack Obama dismissed General Stanley McChrystal, who was the key in the new operation, he gave a message of his determination to fight the war wholeheartedly.

Yet President Obama's declaration that the US forces would begin withdrawing from next summer is tantamount to weakening "the wholehearted fight" against the Taliban. How can one fight without reservation when one declares beforehand one's decision to quit?

The last time when America did so it

gave birth to the Taliban government, a flagship of fundamentalism. This time the scenario could be worse because then the Taliban had not tasted power, which they did after America's withdrawal. At present, they are lying low and awaiting the departure of the American forces.

The Afghanistan government is not viable. Nor has its military developed enough teeth to thwart the Taliban. What was needed was not the change in command, but a change in American policy to withdraw its forces.

True, Islamabad has been able to keep New Delhi out. The latter has not taken up any new economic project. Pakistan has been able to convince America, which needs Islamabad's support the most, that Pakistan cannot fight with all its troops because it has to keep a large number of them on the border with India.

Indeed, America has changed the scenario in favour of Pakistan. President Hamid Karzai, who was literally abusing Pakistan till a few months ago, met Chief of Army Staff General Parvez Kayani to show intimacy between Islamabad and Kabul.

The basic question remains unanswered: How to eliminate the Taliban who have made Afghanistan and parts of Pakistan their playground? They have killed hundreds of Pakistanis. There is no alternative to the Taliban's elimination. And here India can be of great help. Both countries have to evolve a joint strategy to fight the Taliban who are threatening the entire South Asia. It may sound like wishful thinking.

When the intelligence chiefs of India and Pakistan meet to discuss how the agencies can fight against terrorism effectively, some type of joint mechanism against the Taliban becomes feasible. If nothing else, the two countries have to think of ways to fill the vacuum which the withdrawal of the American troops would create. If Taliban are allowed to step in, it would affect the peace and stability of the entire South Asia.

Kuldip Nayar is an eminent Indian columnist.