



Proliferating small arms

Substantive plan of action needed

It does not need an expert to say that the use of illegal weapons is on the rise in the country. If one took stock of the casualties and deaths in the last six months from social violence, more than 90 percent are due to illegal weapons. But not only the recent casualties, the unfortunate consequences of diffusion of illegal weapons is only too evident in the form of the 21st August grenade attack on the then leader of the opposition. On the 6th anniversary of the incident it is even more important that the relevant agencies address the issue more earnestly that we have been given to understand.

The proliferation has gone on in a such an unbridled fashion that the situation demands of the government a deliberate and well thought out strategy to combat the menace. Over the years we have been highlighting the deleterious consequences to the society and the state of illegal small arms, but no substantive plan of action has been formulated as yet. Given that we are a signatory to the UN convention on prevention of SA&LW our inaction is indefensible.

No one has the exact figure of illegal weapons in circulation in the country, and perhaps it is not possible to exactly pin down the number, but that small arms have become arbiter of disputes and means of settling differences is blatantly demonstrated by the number of people that has fallen victim to illegal weapons in the last six months.

Without going into whether societal violence engenders proliferation or easy availability of weapons cause violence, it is important to look both at the demand and supply equation as well the geopolitical ambience that we live in. Bangladesh is an easy transit route for trafficking of small arms as well as drugs. But we are also the end user as evident from the incidents of violence in Bangladesh where small arms have been used and also from those captured from the terrorists and extremists groups.

It is also true that in Bangladesh, as indeed in the rest of the region, there is a symbiotic relationship between politics and small arms. Armed militant groups of various shades have easy access to these weapons. Political patronisation of the miscreants and armed groups in Bangladesh has become patently clear from the confessions of several leaders of hard core criminal groups who have been apprehended by the security forces from time to time.

However, the menace cannot be combated only by sporadic raids by the police in the capital and other metropolis. It would require a comprehensive approach. And given the trans-frontier linkages of the illegal arms dealers the menace cannot be tackled by Bangladesh alone. The international community, particularly the regional countries must pool resources if we were to make headway in preventing diffusion of illegal small arms.

Footpath markets

Create space for hawkers

SMALL traders and hawkers occupying footpaths is a common sight in the city, and matters get worse during the month of Ramadan when even makeshift kitchen markets are set up on pavements, blocking the movement of pedestrians and causing traffic congestion.

The services rendered by the kitchen market are demand-driven, particularly for the low and middle income groups of people, and so they cannot be just wished away. However, there are other points to consider since these markets are set up illegally without the DCC's approval and set up just about anywhere which proves rather obstructive to ebb and flow of traffic.

Obviously, the law enforcers cannot allow traders to set up markets arbitrarily. Apart from traffic jam, a market can also be a source of public health concern. It can pollute a place and turn a residential area into a busy and filthy one.

Hawkers, however, pay for running such business and it is quite obvious that they cannot do so without bribing the law enforcers. Hawkercs do not bother about the problems that they create for the pedestrians or vehicular traffic, once they can silence the law enforcers through regular payment of an amount of money, depending on the type and volume of the business.

So, the footpath shops and markets are far from being a legal business. But eviction drives tend to throw a large number of hawkers into uncertainty and they usually try to come back once the eviction drive is over. However, it does not offer a durable solution to the problems faced by people.

The solution perhaps lies in arranging everything in a more organised manner. Instead of allowing the hawkers to occupy a place day after day, the city bosses can earmark certain locations for such markets to operate on particular days of the week. The zoning system can be useful in this respect. Some of these might have been tried out but hardly ever on a sustained basis.

The DCC appears to be nothing more than a nonchalant onlooker when it comes to these pavement shops and markets. It should work on the basis of a plan that will have space for hawkers, while preventing illegal occupation of footpaths everywhere in the city.

Need for a comprehensive law on contempt

Socio-economic and politico-cultural aspects of Bangladesh, India and Pakistan are same to a large extent. This suggests that Bangladesh repeal the existing Contempt of Courts Act-1926 and replace it with a new and comprehensive law, particularly in line with the Contempt of Court laws in the neighbouring countries. This will help remove the doubts existing in the mind of the people regarding offences that constitute contempt of court.

M. ABDUL LATIF MONDAL

INDIA and Pakistan, which emerged as two independent states following the partition of British India in 1947, inherited The Contempt of Courts Act, 1926 (Act No. XI of 1926). Bangladesh, which was one of the two provinces of the united Pakistan, also adopted this law after its independence in 1971.

The Contempt of Courts Act (CCA), 1926 has only three Sections. Section 1 mentions the title, extent and commencement date of the Act. Section 2 has three sub-sections that briefly describe the power of superior courts to punish contempt of court, while Section 3 specifies limit of punishment for contempt of court.

The CCA, 1926 does not define what is, or amounts to, contempt of court. Actually, the matter has been left to the discretion of the courts. So, any act that a judge thinks to be disrespectful of the court is contempt of court.

Within six years of her independence, India replaced the CCA, 1926, saying that it was "not a comprehensive piece of legislation." The CCA, 1926 was replaced by the CCA, 1952. The scope of the CCA, 1952 was

also not wide enough to define what constituted contempt of court.

The 1952 Act was repealed and replaced by the CCA, 1971 on the recommendation of a committee set up in 1961 under the chairmanship of the then additional solicitor general H.N. Sanyal. The recommendations which the committee made took note of the importance given to freedom of speech in the Indian Constitution and of the need for safeguarding the status and dignity of courts and interests of administration of justice.

The CCA, 1971 of India has 24 Sections, which include, inter alia, definitions, the activities that do not constitute contempt, punishment for contempt of court, contempt not punishable in certain cases, appeals, limitation on action for contempt, and power of Supreme Court and High Courts to make rules.

As stated earlier, the CCA, 1926 did not define contempt of court. Section 2 of the CCA, 1971 of India clearly defines contempt of court. While stating that contempt of court means civil contempt or criminal contempt, it elaborates both civil contempt and criminal contempt.

The Act has provided that the following activities shall not constitute offences of

contempt:

A person shall not be guilty of contempt of court on the ground that he has published (whether by words, spoken or written, or by visible representations, or otherwise) any matter which interferes or tends to interfere with, or obstructs or tends to obstruct, the course of justice in connection with any civil or criminal proceeding pending at that time of publication, if at that time he had no reasonable grounds for believing that the proceeding was pending; A person shall not be guilty of contempt of court on the ground that he has distributed a publication containing any such matter as is mentioned above, if at the time of distribution he had no reasonable grounds for believing that it contained or was likely to contain any such matter as aforesaid; A person shall not be guilty of contempt of court for publishing a fair and accurate report of judicial proceedings before any court sitting in chambers or in camera except in certain cases; A person shall not be guilty of contempt of court for publishing any fair comment on the merits of any case which has been heard and finally decided; A person shall not be guilty of contempt of court in respect of any statement made by him in good faith concerning the presiding officer or any subordinate court to (a) any other subordinate court, or (b) the High Court to which it is subordinate. Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence under the CCA for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice. Contempt of Court Ordinance, 2003 read with Contempt of Court Ordinance, 1998 that repealed the Contempt of Court Act, 1976 of Pakistan have, among others, the following provisions:

• The publication of a substantially accurate

account of what has transpired in a court, or of legal proceedings shall not constitute contempt of a court;

• Fair and healthy comments on a judgement involving questions of public importance in a case which has been finally decided shall not constitute contempt provided it is phrased in temperate language and the integrity and impartiality of a judge is not impugned;

• No person shall be guilty of contempt of court for making any statement, or publishing any material, pertaining to any matter which forms the subject of pending proceedings, if he was not aware of the pendency thereof.

• No proceedings for contempt of court shall lie in relation to the following:

(i) Remarks made in an administrative capacity by any authority in the course of official business, including those in connection with a disciplinary inquiry or in an inspection note or a character roll or confidential report; and (ii) A true statement without intent to scandalise a judge regarding his conduct in a matter not connected with the performance of his judicial functions.

• No person shall be found guilty of contempt of court, or punished accordingly, unless the court is satisfied that the contempt is one which is substantially detrimental to the administration of justice.

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M. Abdul Latif Mondal is a former Secretary, E-mail: latifm43@gmail.com

Déjà vu: Back to army in Pakistan

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M.J. AKBAR

THE reservoir of hatred has to be very deep for Pakistan to reject India's aid at a time when desperate, flood-affected, marauding men snatch precious food from wailing, helpless women; when advertisements for donations are appearing in British and American newspapers; when the United Nations has stepped in to lead a rescue effort; and when the World Bank has offered two billion dollars over the next two years to ameliorate the consequences of an unprecedented national calamity. It took an American rap across the knuckles before Pakistan accepted India's five million dollars.

Dr. Manmohan Singh's response to this gratuitous insult was a testament to his faith; he offered more. The best answer to visceral animosity is surely a civilised handshake, even if one may have to count one's fingers after the hand has been shaken.

A caveat is essential. We must not confuse the Pakistani people with the Pakistan government. The government was playing politics with a crisis. The starving have no time for cynicism. The true victims of any such calamity are the poor, for the rich live above water. No poll has indicated that

Pakistan's flood-displaced would rather go hungry and roofless than eat wheat or take shelter under a tent purchased with India's dollars.

Was Asif Zardari's fear of Indian money directly related to his fear of the Pakistan army?

A natural disaster of these proportions can become a defining moment in history. There were many reasons why East Pakistan broke away to create Bangladesh in 1971, but the Yahya Khan regime's hopeless, and perhaps even prejudiced, neglect of the region after the devastation caused by the cyclone in 1970 became the conclusive evidence that persuaded Bengalis that they would never get justice in Pakistan. There is already sufficient information from the ground to indicate that Pakistanis are at least as angry with Zardari as Bengalis were with Yahya Khan.

The Khyber-to-Balochistan deluge -- stretching across 20% of the country, a space larger than Italy -- has begun to reinforce a resurgent public view that the Pakistan army might have become a more natural institution of governance than the Pakistan People's Party and the democratic organisations now in power. Its chief Ashfaq Kayani mobilised his troops for relief instantly.

Zardari, in a display of astonishing, callous indifference, preferred to go on what can only be described as a working holiday in France and Britain, wherein the holiday invited more publicity than the work. The army also donated, very quickly, a day's pay, a thought that did not immediately occur to legislators.

Zardari, in sharp contrast, breezed through his expensive jaunt, spending \$12,000 per night for his suite in London, and zooming off, with his children and his nominated heir to the Bhutto throne, on helicopters to his chateau in France. A Zardari spokesman explained that this chateau had been in the family possession for 18 years. That then would be around the time when the Bhuttos were in power in Islamabad. Two plus two in Islamabad equals a chateau in France and a lordly estate in England.

Pakistan's internet is also in flood. The invective against Zardari has to be read to be believed. Alas, the most exhilarating examples cannot be reprinted in a newspaper. It is safe to assume that the credibility of the PPP has been washed away in this flood, and it remains in office from now for purely legal, rather than politically legitimate, reasons.

The reputation of the principal opposition party, led by Nawaz Sharif, which rules Punjab, has been battered by allegations of corruption and maladministration. The main parties have a vested interest in protecting one another. But the fact is that their incompetence has left a huge vacuum, and the only institution capable of filling it is the army.

The civilian challenge to political parties comes from a far more dangerous

force than the army. To put this in a single sentence; fundamentalist organisations with a terrorist wing, like the renamed Lashkar-e-Tayyaba, reached the affected people long before the government.

The only comforting news from internet chatter is the manner in which civil society in Pakistan has mobilised to fill the gap that Islamabad has left. But there is only so much that impromptu citizen action groups can do. They cannot be a substitute for a nation's government.

Zardari's fear is valid. Would a coup be as unpopular today as it would have been a year ago? In fact, a year ago it would have been impossible. It might not have become probable even now, but Kayani is a patient man in a country where elected officials are conducting impatient harakiri.

Zardari has been cozying up to American VIPs like John Kerry, but Washington's generic dislike of coups is not so strong as to sabotage its self-interest. America is involved in a borderless war in Afghanistan. America's strategic imperative demands a strong government in Islamabad, and if that means giving recognition to a future President Kayani, so be it.

Asif Zardari's decision to buy a chateau in France could prove to be a wise investment. It is certainly a far more comfortable address for an ex-president than a VIP jail within a fortress on the Indus.

M.J. Akbar is Editor, The Sunday Guardian, published from Delhi, and India on Sunday, published from London.