

# Custodial torture: A new beginning?

I hope that in the New Year session of the Parliament, the Private Member Bill that I have proposed with respect to the above and which has also been vetted by the Committee will in fact not only be placed but also enacted as law. Mere legislation by itself will, however, not bring about meaningful change unless it is complemented by political will, but a law is a necessary first step.

SABER H. CHOWDHURY

If any reminding was necessary, torture in custody on political grounds and directions was a reprehensible feature of the BNP Jamaat Alliance Government. I know this for a fact and can vouch for it first-hand based on my own personal experience as can I am certain, individuals such as Muntasir Mamun, Shahriar Kabir, Mohiudding Khan Alamgir, Bahauddin Nasim, BSS and Reuters Correspondent of that time, Enam and a vast number of others.

All the above news items made it to the national media but I suspect and fear that there are numerous instances of custodial violence and torture involving citizens that take place all over Bangladesh but never make it to the national, let alone local media. So much for Article 7 of our Constitution that holds that all powers of the Republic are vested in/belong to the people and yet these "owners" are often overlooked and forgotten!

As the current government completes its second year in office, for the first time in its tenure there has been an allegation of torture in custody and this has been made by Salahuddin Quader Chowdhury, a high profile war crimes suspect. It is interesting that none of the other individuals who have been taken in on specific

charges (as opposed to Section 54 during the BNP Jamaat tenure involving myself and other individuals) over the past two years of the AL government have made any such allegations of custodial torture.

I have followed with interest the various reports in the media on this allegation of torture. Whilst SQC himself and his family have lamented and alleged that he was subjected to torture in custody and have said that "this is humiliating for a politician and an MP."

The police have refuted the allegations and an official is quoted to have said: "He is a parliamentarian. Why would we torture him? We're mindful of the law, his social status and police code during his interrogation."

Implicit in both the above statements is the sad fact and unacceptable assumption and mindset that somehow there are two codes to our law -- one that applies to high profile elites and the other for the common man or citizen.

Are we then to take it that it is okay to torture in custody common citizens who do not have the "requisite" social status? This is an example of the disconnect that exists between what the law actually states and what even our lawmakers and administrative servants of the Republic think or perceive what it states.

The unprecedented and monumental



SAMI SARKIS

verdict in favour of the AL and Moha Jote in the December 208 elections was on the one hand a massive popular rejection of the corruption, patronisation of terrorism and complete disregard for rule of law by the BNP/Jamaat Alliance government and on the other high expectations from the AL on the basis of its slogan of, and refreshing commitment to, bringing about a discernable qualitative change in all spheres.

I have never had much time for, and in fact vigorously oppose and challenge the brand, culture and substance of politics that SQC typifies and promotes, but having said that, I would be most disap-

pointed and deeply disturbed and concerned if the allegations of custodial torture on him are in fact true.

I say this as a fellow parliamentarian, a citizen of Bangladesh and most importantly, one who himself experienced more than once during BNP/Jamaat tenure how inhuman, degrading and even dehumanising, such acts can be.

I would, for the record, be just as disappointed if so-called justice was meted out to the most notorious criminals of our society through "encounters," a lame euphuism for extra-judicial killings.

For me and I hope for others who lived through the horrors of such treatments, it

is not a question of giving it to the opposition in double dose and measure what was meted out to us. As Gandhi observed, an eye for an eye will only make the whole world blind.

We need to change and urgently overhaul the existing system so that first, no one ever has to face under any circumstance what we faced during our time in opposition and secondly, custody is indeed the safest place for a citizen and not one where it becomes the most brutal and dangerous, the darkest episode being the jail killings of our four national leaders in November, 1975.

I have confidence and faith in the current government and I also know at a personal level how strongly our Hon. prime minister values and upholds human rights, without exceptions, and this confidence encourages me to think that in the case of SQC, due process has not been deviated from.

What SQC's allegations do allow for, however, is a timely opportunity to revisit the question of custodial torture and deaths in Bangladesh and that too from the point of view of how due process and rule of law can be ensured for the common man. Our social and political elites also need to understand that the most effective protection for them too lies in upholding the rule of law for all.

Per Article 27 of our Constitution, we are all equal in the eyes of the law and are entitled to equal protection of the law. Article 35 (5) of our Constitution emphatically states that no citizen of the country shall be subjected to torture, or to cruel, inhuman or degrading punishment or treatment.

During Prime Minister Sheikh Hasina's first term, Bangladesh became a signatory to the UN Convention Against Torture on October 5, 1998, but as per provisions and requirements of this Convention, we have not as of date and

for 12 years since, enacted appropriate domestic legislation to criminalise torture.

If we are indeed to make a fresh start and move away from business as usual mode and bring in qualitative changes on the issue of custodial torture, we must immediately enact in Parliament legislation criminalising torture.

Given that torture in custody is no easy to prove and substantiate as one would hardly expect law enforcement officials or instance to testify against their own colleagues, superiors and departments, the onus of proof must lie on the individual/department against whom allegations have been brought to prove that the victim was not subjected to torture whilst in their custody.

The High Court has also ruled and given specific directions and guidelines on remand conditions and how interrogations are to be conducted but sadly these are yet to be followed and practiced.

I hope that in the New Year session of the Parliament, the Private Member Bill that I have proposed with respect to the above and which has also been vetted by the Committee will in fact not only be placed but also enacted as law. Mere legislation by itself will, however, not bring about meaningful change unless it is complemented by political will, but a law is a necessary first step.

Now that would indeed be a new beginning and one that would surely add immense value, substance and credibility to the agenda for change that we campaigned so vigorously on prior to the elections to the 9th Parliament and one which the people of this country so overwhelmingly and whole-heartedly approved and endorsed through ballots.

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## USA China Bhai Bhai

US China relations have many facets and have morphed in many directions. We are no longer enemies with them nor is China calling US "paper tiger." In fact, the most fascinating change that happened in the global scenario is the fact that China is now US's largest lender.

ABDULLAH SHIBLI

In the aftermath of the WikiLeaks disclosure of US diplomatic documents, we are all nervous and wondering when the other shoe will drop. The reason for us being concerned about leaks is very simple. We have all in our lifetime written many emails, letters, memos, and what have you to the White House in support of various causes, some popular and some unpopular.

US policy in the Middle East, during the Bangladesh War of

particularly in the two decades since the Tiananmen Square protests, is the mutual dependence of USA and China in the economic and political sphere.

Needless to point out, as I will try in this short note, this intricate dynamic of global politics is closely inter-linked with US China trade relations and its rapid evolution in the past. I could have not imagined that I will write this article whose title should tell the reader that I do not plan to accuse or criticise China of any deeds or misdeeds. Far from it!

burst out chanting "US China Bhai Bhai". Obviously, my outburst baffles them considerably since the brotherhood between USA and China is still quite a distance away, given that misunderstandings and suspicions of the past die very hard.

US China relations have many facets and have morphed in many directions. We are no longer enemies with them nor is China calling US "paper tiger." In fact, the most fascinating change that happened in the global scenario is the fact that China is now US's largest lender. US exports to China and imports are grossly mismatched, with imports exceeding exports roughly by a factor of 5 to 1, and accordingly USA is borrowing to finance its lifestyle. China currently holds approximately \$1 trillion of US government securities, and this exposure has had an important influence in US economic and foreign policy debates.

Obviously, all this is good as long

Then, in July, 2005 it delinked its currency from the US, letting it float, but some policy makers still believe that China's currency is undervalued by 40% giving its exports a strong competitive advantage.

USA has threatened to impose tariffs on imports from China unless it takes action to stop exchange rate manipulations. China's currency manipulation, specifically its effort to devalue or undervalue its currency, allows it to keep its products cheap for its trading countries. Earlier this month, US won a victory of sorts when a panel of the World Trade Organization ruled that the US last year acted consistently with its obligations under global trade rules when it slapped levies of as high as 35% on Chinese tires used in cars and light trucks.

Obviously, cheap Chinese products, while good for the average US consumers and Wal-Mart, is bad for US trade deficit and is also making US products non-competitive in China. While Chinese like our aircraft and raw materials, it is not helping the US makers of computer and other technological items. We can't make any inroads in their market since the undervalued currency is equivalent to a tariff on our products and a subsidy for theirs.

So, why doesn't the USA retaliate? USA has been happy not to rock the boat too much since it needs China to keep North Korea in check. North Korea poses a problem not only because of its nuclear ambitions but also for its aggressive stance towards the South. The latest crisis erupted in late November when North fired an artillery barrage on Yeonpyeong Island, eight miles from the North Korean coast. The shelling killed two South Korean marines and two civilians.

UN Secretary General Ban Ki Moon called this incident "one of the gravest provocations since the end of the Korean War." This event reflected poorly on the USA and China because of the latter's purported influence on the regime. For now, USA is counting on China, in return for economic concessions, to use its leverage with North Korea let affairs to cool off a bit.

It appears that China is now playing game. In recent weeks, North Korea has agreed to return to negotiations on the nuclear issue and invite international inspectors back. It also has allowed South Korea to carry out military exercises on Yeonpyeong without firing off retaliatory salvos.

Will anyone who thinks that "US China Bhai Bhai" is just an empty slogan, please stand up?

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## AfPak strategy US should follow



Islam as a religion of peace does not condone terrorism, that is, the use of indiscriminate violence against innocent civilians. That al-Qaeda has been pursuing a terrorist agenda is well known. There is accordingly ample justification for the fight against al-Qaeda whether in Afghanistan, in Pakistan or elsewhere in the world.

JAVID HUSAIN

THE annual review of the US strategy in Afghanistan and Pakistan made public on December 16 demonstrates once again the folly of basing a country's policy on flawed premises.

The review affirms that "the core goal of the US strategy in the Afghanistan and Pakistan theatre remains to disrupt, dismantle and eventually defeat al-Qaeda in the region and to prevent its return to either country."

It elaborates that the strategy is also focused on "preventing its (al-Qaeda's) capacity to threaten America, our citizens and our allies." These are goals which the overwhelming majority of the international community supports.

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The annual review after reaffirming the US determination to fight Al-Qaeda goes on to justify the US war against the Taliban in Afghanistan, as if the two are one and the same thing.

For instance, in the case of Afghanistan, the review gleefully notes that "the momentum achieved by the Taliban in recent years has been arrested in much of the country and reversed in some key areas, although these gains remain fragile and reversible."

What is not explained convincingly is the leap of logic or imagination through which the war against the Taliban becomes an inescapable necessity in the fight against al-Qaeda.

The 9/11 terrorist attacks may have been inspired and sponsored by al-Qaeda from its

base in Afghanistan, as alleged by the Americans, when Afghanistan was under the rule of the Taliban.

By refusing to take action against the al-Qaeda leadership or to expel it from Afghanistan, the Taliban invited the US retaliation which led to the overthrow of the Taliban government.

It is also true that the Taliban represent an obscurantist interpretation of Islam, which is out of touch with the realities of the modern world and ill-suited to face the challenges that Islam and the Muslim world now face.

It was for these reasons that I as an ambassador opposed Pakistan's pro-Taliban policy of 1990's, which tarnished Pakistan's image, isolated it internationally, and aggravated extremism and Klashnikov culture within the country.

A better choice for Pakistan would have been to pursue a more moderate approach, which would have resulted in national reconciliation and the establishment of a broad-based government in Afghanistan.

We are all now suffering from the after-effects of our deeply flawed pro-Taliban policy of 1990's. Be that as it may, the Afghan Taliban, despite their obscurantist character and despite being on the wrong side of history and politics, are not essentially a terrorist organisation.

Despite their flaws, they constitute an important segment of the Afghan political spectrum and a durable peace in Afghanistan is inconceivable without a political settlement, which enjoys their support.

That they have been fighting to such great effect against the US and other Nato forces for such a long time should alone establish their political credentials and military prowess.

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Independence, on the Kyoto Protocol, on the environment, etc. etc. have all been issues on which I have raised my voice to the various US presidents, and I am now very worried about when some of these documents will appear on the Internet and then become searchable by Google!

One of the well-kept secrets that Julian Assange, the WikiLeaks founder, and his team missed is State Department papers covering the true nature of US-China relations. One of the most remarkable changes that have taken place in recent years,

When I was a young boy growing up in Dhaka, I remember going from my home in Eskatan Gardens to Mymensingh Road, a few yards away, and standing with thousands of others to greet visiting Chinese dignitaries, including Chou En Lai and Liu Shaoqi. We would either carry a banner or chant "Pakistan China Bhai Bhai".

Now, in my office or wherever I hear my American friends criticising China for not helping out USA in its quarrels with North Korea, Iran or Sudan, or playing politics with nuclear pacts or trade relations, I

as China plays a cooperative game in two other areas of US-China relations: foreign exchange market and North Korea. Unfortunately, that is not the case and USA finds itself in a position where it is on the receiving end in all three areas of the bargaining table: sovereign debt, exchange market, and the Korean Peninsula.

The biggest source of tension between the US and China is the latter's practice of controlling the value of its currency, renminbi or RNB, in the foreign exchange market. For many years, China pegged its exchange rate to the US currency.