

CUSTODIAL TORTURE

Breaking of spirits and bones



THE SOUND & THE FURY
SUSHMITA S. PREETHA

FORTY-four years since independence, must we remain a caricature of a dysfunctional, postcolonial state where law enforcers, whose primary role is to protect the people, is actually the very thing that ordinary citizens mistrust the most? Must we tolerate a state of affairs where those entrusted to enforce the law remain consistently above it, violating human rights, constitutional guarantees and laws of the land with all but absolute immunity? It is nothing if not embarrassing for us that, even with the reinstatement of democracy in 1991, we have failed to institute a process of holding law enforcement agencies accountable for their egregious violations, with the state, irrespective of which party is in power, resorting to repressive state apparatuses from time to time to do its "dirty bidding." In fact, it was under so-called democratic regimes that we saw the introduction, and further consolidation of power, of an elite force with all but an official mandate to "cross" the boundaries. Things have only gone from worse to worst, so much so that we seem to have become immune to increasing incidents of "crossfires", enforced disappearances, custodial torture and excessive use of force by law enforcers, accepting them as an inevitable, if undesired, part of our quasi-democratic existence.

This year alone, from January to September, 52 people died in jail custody – 21 of them were convicted and 31 were detained, reports Ain O Salish Kendra (ASK). The real numbers are likely to be much higher, as not all such incidents make it to the national newspapers. Let's remember that none of these people were served – nor deserved – the death sentence, and yet they met their death under the very "protection" of the state. Can we imagine the horror that were the last moments of their life, the excruciating torture they were likely subjected to, the sheer vulnerability of knowing that their pleas for mercy were falling on deaf institutional ears? And what of the families of these victims, who, in all likelihood, will never see the "killer" of their loved ones even reprimanded, much less tried? Perhaps it is easier for us to dismiss these experiences and deaths as insignificant – they were most likely criminals, we tell ourselves, thereby justifying, at least on a subconscious level, the systematic suspension of basic human rights and constitutional guarantees of people who are as much citizens of this country as we are.

And what of those who carry out such

ruthless acts of torture? What protection and compassion can we expect from those who do not hesitate to hang another human being by the limbs, beating him/her senseless, sexually assaulting, even raping them, suffocating them, burning and mutilating parts of their bodies...to the point that they die? What must happen to a person's psyche that they can carry out such cruel acts and yet go back home to their families and sleep soundly as if

sufficient wealth to save you, you will be subjected to some form of abuse, torture and ill-treatment in custody. The abhorrent practice of "remand" has institutionalised the process of extracting information through whatever means possible, including torture. Despite successive High Court rulings that laid down clear directives regarding arrest and remand in custody, including setting up rooms with glass walls in jails for interroga-

tion, and interrogating people in the presence of their lawyers and relatives until such rooms are set up, the practice of conducting "remand" behind closed doors, under very questionable circumstances, continues unabated. There are serious allegations that many in custody are forced into confessing, at times for crimes they didn't even commit. This is a sheer miscarriage of justice, which not only destroys the falsely accused person's

life, but also allows the real culprits, who might have the money or the power to manipulate the system, to carry out similar crimes in the future with immunity. It also sustains a corrupt system that crooked officials, criminals and politicians can easily take advantage of.

Following a writ petition on the arrest, torture and killing of university student Shamim Reza Rubel in police custody, the

investigation, and if found that the accused did, indeed, sustain injuries during interrogation in custody, action would be taken against the investigation officer, irrespective of whether the accused lodges a complaint. These directives, if followed, would have gone a long way towards ensuring that basic human rights are not violated in custody; unfortunately, however, except for a handful of high-profile cases, these directives continue to be flouted, in direct violation of the court's orders.

After decades of lobbying by human rights activists, the government passed the Torture and Custodial Death (Prevention) Act, 2013, which makes torture by a law enforcer punishable by at least 5 years imprisonment and a Tk. 25,000 fine, and custodial death due to torture, punishable with life imprisonment and a Tk. 100,000 fine. This is no doubt a landmark legislation that sends a strong message about the state's commitment to end this barbaric practice, but questions remain as to what extent this law is being implemented, particularly as we are yet to repeal provisions of the Code of Criminal Procedure which prohibit prosecutions against public officials without the government's prior sanction if the offence is committed in an official capacity. If the government can excuse any and all acts of barbarity conducted while in uniform, then what is really the point of allowing victims the freedom to lodge complaints? Particularly if the torture is carried out by orders from above, it is all but impossible to get legal redress by ordinary citizens.

Custodial deaths and torture are illegal and unconstitutional, violating Article 31: Right to Protection of the Law; Article 32: Protection of Right to Life; Article 33: Safeguards in case of arrest or detention and Article 35 (5) Protection from torture or cruel, inhuman, or degrading punishment or treatment. In 1998, Bangladesh ratified the Convention against Torture and other Cruel, Inhuman, Degrading Treatment or Punishment (CAT), which prohibits torture under any circumstances – "whether a state of war or a threat of war, internal political instability or any other public emergency" [Article 2(2)] – but successive governments have failed to implement an anti-torture stance, resorting to these questionable tactics themselves from time to time to further their political agenda.

As another Human Rights Day rolls by, we remind the state that if it wishes to convince its citizens and the world that it is a democratic one, it must take urgent steps to stop this barbaric practice of custodial torture, rather than empower law enforcement agencies even further, giving them a tacit endorsement to violate constitutional rights with impunity.

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those brutalities are no-big-deal? But let's not simply vilify these personnel as "monsters", when it is the system itself that has created and sustained them. Individuals should be held accountable for their crimes, surely, but we must also question the system that has allowed, albeit encouraged, torture as an indispensable tactic of interrogation.

In Bangladesh, it is assumed that once arrested, unless you have political clout or

High Court, on April 7, 2003, directed that prior to sending an arrested person to remand, s/he should be examined by a doctor and the medical report should be submitted to the magistrate concerned, and that after the interrogation – which can only be carried out by the investigation officer – the accused must be produced before the magistrate. If the accused alleges that s/he was tortured, s/he must be sent to the same doctor for

corporations' jurisdiction and will break the extortion racket some police officials and thugs at the grassroots allegedly run. It will also help the mayors' office to identify the hawkers when the rehabilitation takes place.

The biggest challenge in this regard is perhaps the fluid nature of the business that these traders run. To make matters even more complicated, some hawkers in the city slap a temporary moratorium on their business for a couple of months during the harvest, a time when they return to the village. New hawkers turn up; these stalls do not have a set-up cost to speak of as the investment is low. Keeping track of them is indeed tough and demands a separate department in the city corporations.

Illegal parking of vehicles is a huge problem. This is especially true for buses, which board passengers in the middle of the street and that too with a certain degree of impunity. The latter is the mother of almost all traffic related evils. The government's earning from traffic related fines in surprisingly low in a city where flouting of traffic laws is more than rampant. The traffic police, as a force, is understaffed and riddled

Reclaiming the streets of Dhaka

A good beginning lies in setting up examples, precedents that will help the violators of the law to know that one will be punished regardless of how influential s/he may be.



CLEAR AS MUD
AHMEDE HUSSAIN

LAST week the Mayor of Dhaka North City Corporation (DNCC) Annisul Huq had found himself confined to a room encircled by agitating labourers after he had tried to evict a couple of illegal establishments from government land. He had later put his foot firmly down and the encroachments have been dismantled. This is a fairly brave move that deserves to be lauded. It is also a long overdue action to free the area adjacent to a truck terminal in Tejaon that was under illegal occupation for over a couple of decades. It is however not an exception, but a norm, following which public spaces are encroached upon to make room for illegal private establishments. Most of them are reportedly used to run shady activities. Some of the evicted structures in Tejaon were frequented by drug

peddlers.

What makes it even more grievous is the land grabbers' connection with the law enforcers. There are hundreds of illegally occupied government land across the capital that have been spared any eviction drive because of the nexus that exists between the police and local hoodlums who in exchange of bribes allow the land grabbers to run their activities. It is no less than tragic that a large swathe of railway land, especially the ones on both sides of the rail line that snakes through the capital, has been grabbed by private individuals who have set up slums to rent them off. Most of the footpaths in the city are also occupied by makeshift stalls. This clogs the walkways and, at times, spills over the street, seriously impeding vehicular traffic. The situation is even worse at crossroads where these street vendors are a serious threat to the traffic movement as they force pedestrians to take to the street, a move that inevitably gives birth to road accidents. Illegal parking of buses and other private vehicles in the street and in walkways pose considerable threat to the pedestrians.

It is time that the DNCC Mayor's move to reclaim the streets and government-owned land was replicated across the capital. It is understandable that these makeshift stalls are the only source of livelihood for the poor hawkers who are illegally occupying the footpaths. Having said that, there cannot be any private establishment built on a public space. These stalls must be immediately dismantled after rehabilitating these small traders in a manner that will help them flourish. The rehabilitation plan can include giving them a Smart ID card that will help them to quickly get a trade license and other government service. Setting up a separate hawkers market where small businessmen will be able to run their trade is a good idea, but it will take a couple of years to make that happen. Before that, both the city corporations can designate certain places in the city where the hawkers will be allowed to set up stalls at a certain time of the day. There are such instances in Singapore, Bangkok and other Asian capitals where hawkers are allowed to sell their goods in some designated streets. The ID card will incorporate the hawkers under the city

with corrupt practices. There is no denying that Dhaka has earned the ignominious title of the second most unliveable city in the world because of corruption and the culture of impunity that shrouds it. It is true that it is not possible to enforce law in every sphere of life; this is especially so in case of traffic, which is manned by law enforcers who are not even properly equipped with the knowledge or the logistics to perform their job. There is no quick fix to the problems that have been heaped on our everyday life over the years. A good beginning lies in setting up examples, precedents that will help the violators of the law to know that one will be punished regardless of how influential s/he may be. That can start with evicting the rich and powerful who have been occupying public spaces for a long time. Annisul's move, if followed by the others, can be the beginning of a popular movement against corruption. Only time can tell if he has what it takes.

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QUOTABLE Quote

We should not conclude from this that politics and religion have a common object among us, but that in the beginning stages of nations the one serves as an instrument of the other.

JEAN-JACQUES ROUSSEAU

CROSSWORD BY THOMAS JOSEPH

ACROSS

- Fossil resin
- Misbehave
- "Atlantic City" director
- Semi-balance
- Berate
- Make fresh
- Floated on the breeze
- Coffee dispenser
- Old soap ingredient
- Lou and Mary's TV station
- Zany
- Apple or olive
- Destroyed
- Lecherous
- Gave the boot
- Directional suffix
- Gift tag word
- Overhead trains
- Fabled sailor
- Oscar's roommate
- Island greeting
- Make amends
- Like some situations
- Like some athletes' wrists
- Transmits

DOWN

- Mornings, for short
- Buddy
- Knocked over in a gale
- Singer Fitzgerald
- Danger signal
- Concur
- Signaled on stage
- Light metal
- Try out
- Chapel seat
- Violent weather
- Like Uriah Heep
- Less common
- Jotted
- Ruby or garnet
- Repairs
- Cow's chew
- NFL scores
- Wrapped headdresses
- Repaired
- Trig function
- Lotion additive
- Diet no-no
- Greek vowel
- Cut off
- Stashed
- Solution: Abbr.

YESTERDAY'S ANSWER

C	R	E	D	O	S	L	I	T		
R	I	P	E	N	S	P	I	N	E	
A	L	I	C	E	W	A	N	T	S	
V	E	T	O	D	E	S	E	R	T	
A	D	O	I	R	A	R	O	Y		
T	U	M	B	L	E	R	S			
P	E	A	L	S	A	N	D			
		R	U	M	B	L	E	R	S	
H	A	M	S	A	Y	V	I	E		
I	C	E	B	O	X	H	I	V	E	
T	U	T	O	R	D	O	L	E	D	
I	T	A	L	O	R	J	O	L	I	E
T	E	L	L	S	P	E	N	D		

BEETLE BAILEY by Mort Walker

BABY BLUES by Kirkman & Scott