

Anomalous case of incarcerated 'released prisoners'

C R ABRAR

"No person shall be deprived of life or personal liberty...." stipulates Article 32 of Bangladesh Constitution. Article 31 further guarantees "protection of the law and to be treated in accordance with law" as "the inalienable right of every citizen ... and of every other person for the time being within Bangladesh".

Personal liberty constitutes the core of the corpus of international human rights law. Article 3 of Universal Declaration of Human Rights guarantees the right to life, liberty and security of all persons. Article 9 of the International Covenant of the Civil and Political Rights states that no one shall be deprived of his liberty except in accordance of law. Authoritative interpretation of Article 1(1) of the Convention against Torture reveals that pain and suffering arising from unlawful sanction (indefinite detention in this case) amounts to torture. All these lead us to conclude that Bangladesh as a state party is obliged to honour personal liberty of all individuals, citizens and aliens.

This essay focuses on the predicament of the undocumented Rohingyas who are languishing in various prisons even after serving out sentences for violating the laws of Bangladesh. Figures provided by the prison authorities inform that in January 2016 there were 169 under trial, 8 convicted and 15 'released prisoners' of Myanmar origin.

Although the government's 2014 National Strategy Paper on Rohingyas

acknowledged "systematic persecution and deprivation of the Muslim minorities in Myanmar, especially in Rakhine state" as the root cause of their plight, the legislation that regulates their entry into Bangladesh is the Foreigners' Act (FA), 1946. According to the FA, the punishment for illegal entry is imprisonment for a term which may extend to five years along with fines as well. The FA is not applicable to the 30,000 registered refugees who have been granted permission to stay in the

imprisonment for illegal entry under the FA, they continue to remain incarcerated. In a few instances these officially dubbed "Released Prisoners" have been detained for a period of more than ten years!

Detaining an asylum seeker and keeping them detained even after serving their sentences is a violation of both national and international human rights norms and principles. Rule 516 of Bangladesh Jail Code clearly states, "Under no circumstances shall a prisoner be detained in jail beyond the period

indefinite period for no fault of their own". In the same judgment the Court further instructed the Ministry of Home Affairs to take necessary steps to ensure shelter of the prisoners after their release until they are repatriated to their respective country.

The right to secure protection and to access justice by asylum seekers and refugees is a long established principle. There is enough evidence to show that due to fear of being arrested under the FA the undocumented Rohingyas refrain from reporting any offence committed against them. In this way the FA impedes their access to justice and contributes to a culture of impunity.

Under the circumstances considering their protection needs and entitlement to humanitarian assistance (as acknowledged in the National Strategy Paper) the government should consider exempting the undocumented Rohingyas from the application of the Foreigners' Act, 2016. It may invoke the immunity under Article 10 of the Act. While the prisoners under trial detained under the FA may be granted bail with a friend or relative acting as 'guarantor', the 'Released Prisoners' may be released under 'parole' or 'probation'. The government may also consider sending the released prisoners to the camps where registered refugees are housed.

This anomalous application of the law further reinforces the need for a national law on asylum seekers and refugees.

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country. As per law, after serving their prison terms, foreign nationals should be returned to their respective countries with the assistance of the diplomatic missions of the concerned countries. As Myanmar authorities refuse to acknowledge the Rohingyas as their nationals, the undocumented Rohingyas convicted of illegal entry and other offences often have to remain in prison for indefinite periods. That means even after duly serving their terms of

indicated by the terms of the warrant of commitment". Also, in a landmark judgment, the High Court Division of the Supreme Court of Bangladesh observed that "keeping any prisoner in jail after serving out the sentences amounts to violation of the Human Rights and Fundamental Rights as guaranteed by the Constitution of the country" (Faustina Perera vs. State, 2011). The Court directed the government to ensure that steps be taken so that "such prisoners do not languish in jail for

The killing of an ashram worker

Will special drives thwart further attacks?

ONLY two days after a 70-year-old Hindu priest was hacked to death in Jhenidah, we have been confronted with another brutal killing, this time a 60-year-old devotee of an ashram. Since May, eight people have been killed in a similar fashion which smacks of militant operations. The latest murder gives the chilling message that the nightmare is far from over.

It is quite apparent that certain categories of people have become the targets of militant attacks. This has sent a wave of fear among people, especially those belonging to different faiths and ideologies. Even families of law enforcers engaged in catching militants are in the radar of these extremists.

The police have announced a weeklong clamp down on militants from June 10 but this will not necessarily allay our fears if the real killers and those who have conspired to instruct them to kill, are not caught. Announcing the clamp down seems a little imprudent as it gives criminals the opportunity to disappear from the scene. Also, we are surprised that such drives in which field-level officers are being instructed to find out the whereabouts of suspected militants in their areas, have not been done before as the killing spree started long before June. Over the last two years or so, suspected militants have attacked and killed university professors, secular bloggers, publishers, LGBT rights activists, members of religious minorities including Shia and Sufi Muslims, Hindus and Christians. What have the law enforcers been waiting for?

We fervently hope that a coordinated effort of all the security agencies will bring positive results in terms of catching the real killers along with the masterminds instead of making wholesale arrests.

Roanu victims still suffer

Gear up post-disaster efforts

HUNDREDS of students in Patuakhali's Kalapara Upazila can no longer go to their school. A dyke, which served as a road to their school had collapsed during the Cyclone Roanu. In Kutubdia of Cox's Bazar, the situation is similar. Hundreds of houses were destroyed in the cyclone, and now the inhabitants have to sleep out in the open, living on little or no food.

The two cases are a fair representation of the condition of the southern part of the country after Roanu had hit Bangladesh. The death toll was minimum, since pre-disaster management was quick to relocate the people. But, post-disaster, the situation is dire. What the government achieved in preventing loss of lives is being undone by its inadequate response.

We have come a long way in terms of disaster management. More than 3,000 people were killed by Sidr and around 200, by Aila. In contrast, a little more than 20 died during Roanu. A massive evacuation plan was undertaken, weekly holidays for officials cancelled in 18 coastal districts, and in Noakhali, Laxmipur and Feni, more than 5 lakh were moved to cyclone shelters well before the cyclone made landfall.

So, why this lax in rehabilitating the affected people after the cyclone? The government seems to be ambivalent towards post-cyclone rehabilitation, since there is no direct casualty from this. But loss of homestead, lack of food supply, and a return to normalcy of their lives is just as important. We have come a long way in preventing the loss of lives due to natural calamities. We now urge the government to take steps to ensure post-disaster efforts are taken so that those affected can go back to normal life.



SHASHI THAROOR

NEW DELHI - In late April, a 17-year-old girl named Kriti Tripathi leaped to her death in Kota, India, shortly after passing the country's examination for admission to the prestigious Indian Institutes of Technology (IIT). A week later, another Kota student, Preeti Singh, hanged herself, succumbing to her injuries after a few days. Singh's was the ninth suicide by a student in Kota this year alone, and the 56th in the last five. All attended Kota's "coaching institutes," whose sole purpose is to prepare high-school students for the IIT Joint Entrance Examination (JEE).

In a five-page suicide note, Tripathi expressed her frustration at having been compelled to study engineering, when her real ambition was to become a NASA scientist. She also described the pressure she had faced at the coaching institution. Tripathi implored the Human Resource Development Ministry to shut down such institutes, which force their students to endure unbearable stress and depression. The story is all too common, but should the blame really be laid on the coaching institutes?

In fact, Kota's coaching institutes are a symptom of a larger problem, hinted at by the city's senior administrator, District Collector Ravi Kumar Surpur, in an emotional letter he wrote in response to the latest deaths. Addressing parents directly, Surpur pleaded with them not to subject their children to excessive stress in an attempt to live vicariously through them.

Indian parents are known for demanding academic excellence from their children. They know that a professional degree in the right field is a passport to social and economic advancement, so they push hard to ensure that their children get one - something that India's higher-education system does not make easy.

Given this deeply entrenched culture of academic ambition, the planned administrative inquiry into conditions at the Kota coaching institutes is unlikely to result in remedial action.

The toll this culture takes on young people is obvious. Students are forced to pass brutally difficult examinations - only about 10,000 of the 500,000 who take the IIT-JEE each year score high enough to be admitted - in subjects they often detest. And Indian students are far more likely to push themselves until

many of which do not equip their graduates for today's labour market.

But at least there are enough engineering colleges in India to meet demand. Medicine, by contrast, is a frustratingly crowded field - and for no good reason.

India's medical profession is controlled by the Medical Council of India, an opaque and self-serving cabal that has intentionally limited the supply of available medical college seats. Medical colleges must be recognised by the MCI, which has seen

Those whose families can afford it often end up studying medicine abroad. Many do not return to India, depriving the country of their much-needed expertise. Some return after having attended obscure colleges in countries like Georgia or China, only to have the MCI refuse to recognise their degrees and block them from practicing. For those who cannot afford to go abroad - even bright students who barely missed the cutoff for a spot at an Indian university - studying medicine is no longer an option.

Yet India desperately needs doctors. According to the World Health Organization, the country has just 0.7 doctors per 1,000 people. In the United States and the United Kingdom - two countries to which Indian doctors often emigrate - the rate is 2.5 per 1,000 and 2.8 per 1,000, respectively. The crippling lack of capacity means that lives are lost every day - particularly in rural areas - for want of medical attention.

India could be graduating four or five times as many capable doctors as it does each year. Yet the MCI has been allowed to pursue its restrictive approach, depriving poor Indians of adequate health care, while augmenting the already-huge pressure on students to gain a seat in a medical college.

It is in this context - with a huge population competing for a tiny number of seats in professional colleges - that coaching institutes like those in Kota thrive. When succeeding in tough entrance examinations is the only way to fulfill one's educational goals, test preparation becomes the be-all and end-all of schooling. Eager to satisfy pushy parents, young people sacrifice their own interests at the altar of a false god. The 56 pyres lit in Kota over the last five years are a tragic testament to how damaging this conception of academic excellence can be.

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India's Deadly Entrance Exams



they crack than to drop out. Engineering and medicine remain the subjects of choice for middle-class Indian parents. The country graduates a half-million engineers every year, some 80 percent of whom end up in jobs that do not require an engineering degree. But, in a throwback to the mid-twentieth century, Indian parents view engineering as the gateway to modernity, and continue pressing their children to study it. Students who do not make it to an IIT end up in institutions of varying quality,

fit to permit only 381 to exist. That leaves only 63,800 slots each year in a country of 1.2 billion people - enough space for fewer than 1 percent of Indian students aspiring to attend medical school.

As if that were not bad enough, some of the seats are awarded against "donations," with the wealthy essentially purchasing positions that their marks do not merit. Meanwhile, high-achieving students who just barely missed the cutoff have to find alternatives - or pursue another field altogether.

LETTERS TO THE EDITOR

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Entangled in the vicious cycle

When the education system of the country is to blame, one just simply cannot take the anger and the frustrations out on the students. The outburst on the Bangla medium students of the country have created a massive stir all around the social media after a news channel blatantly portrayed the incompetence of the students when it comes to having knowledge about the simplest of matters. The TV channel has got its own share of fault as many think and believe that the news got covered in an improper way.

What is even more of concern is the education system of the country. Each year hundreds and thousands of pupils pass their HSC and SSC examinations with GPA 5.

It is certainly a positive sign for a country when the passing rate and the GPA 5 holder rate continue to thrive. However, it is a rising issue when these students fail to answer the simplest of questions based on nothing more than general knowledge. Many of these students would also fail to get jobs and horribly struggle

despite attaining the highest grades. The influx of GPA 5 holders also raises a common question in the mind of general people; is merit truly being considered here when a pupil is awarded with GPA 5? The students are not the one to be blamed here but the education system. The government, intellectuals, academics etc. all parties should pay due attention to this issue.

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War for advantages!

Almost all of America's wars were for some kind of trade advantage or for territory, which of course were always fought under different excuses.

That was the US policy in Vietnam too, to literally try to wipe them out. If it hadn't been for the anti-war activists, they probably would have. I wonder what their excuse will be for the next war.

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