

# Purging the pernicious culture of torture

C R ABRAR

EARLY this week, a court in Dhaka refused the police's plea to grant the remand of one Hannan Chowdhury. Instead, it advised the police to attend to his medical needs first. Hannan was unable to walk due to alleged torture, and produced before the court being carried by the members of the police. Severe marks of beating on his body, particularly below the two knees and on the back, were evident. The gruesome image of the marks was published in a leading Bangla daily on June 22.

Hannan Chowdhury's counsel claimed in the court that the former was brutalised in custody. Hannan told journalists that after he was picked up, the members of Rapid Action Battalion tied up his hands and feet, and then tortured him in a city hotel. Media reports inform that the manager of the concerned hotel corroborated the claims. The commander of the RAB unit, however, denied inflicting torture on Hannan. He wasted no time in informing that the detainee "was an influential criminal". The commander reassured that if anyone lodges a written complaint in this regard, he would investigate the matter.

Torture by state agencies is endemic in Bangladesh. Over the decades rights organisations such as Odhikar and Ain O Shalish Kendra have been documenting reports of torture under successive governments. Numerous allegations of torture and deaths due to torture-in-custody have been reported from time to time. But those reports in most likelihood constitute only the tip of the iceberg, as in most instances, victims and members of their families either prefer not to report for fear of retribution from the state agencies or are coerced into silence. Odhikar documentation informs that between 2009 and May 2016 at least 101 people succumbed to death due to torture in custody.

Torture, and inhuman and degrading treatment in custody of law enforcement agencies (LEA) is a serious human rights violation and a criminal offence. The pernicious practice of torture is prohibited under the Constitution of Bangladesh. Moreover, being party to several human rights treaties, including the Convention against Torture (CAT), the country is also under international obligation to prohibit torture in custody. Article 35(5) of the Constitution reads: "No person shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment". In October 2013, after years of sustained campaigning by rights activists, the Torture and Custodial Death (Prevention) Act, 2013 was legislated. Despite falling short of the expectations of the campaigners, the Act was well received, as it had taken on board several important principles of the CAT, including the definition of 'torture'.

Quite like many other good laws, there has been very little application of this law. Despite the pervasive practice of torture by members of law enforcement agencies, only in a handful of instances has this law been invoked. And even then, there has been little tangible progress in such cases. The reason for non-application of the 2013 anti-torture law is not difficult to find.

Little has been done to disseminate the contents of the Act across various branches and tiers of law

enforcement agencies and the judiciary. The colonial and the Pakistani legacy of alienated law enforcement agencies, bereft of adequate human rights training, enable them to act in the most arbitrary and unaccountable ways. Lack of professionalism and politicisation of these agencies have exacerbated the problem. In addition, apparent impunity given to the errant members has created an enabling environment for the perpetrators to thrive. The Hannan case clearly demonstrates that even unambiguous evidence of misconduct and transgression is faced with blatant denials. Instead of taking action against the violators of the law, the political leadership appears to be deeply committed to endorsing such acts, however vile they might be.

The proposal of the Police headquarters, suggested in their letter of March 2015 to the Ministry of Home Affairs for the amendment of the Torture and Custodial Death (Prevention) Act, gives one the

Convention. Bangladesh, as a state-party, cannot depart from such universal principles. Article 1 of the Convention clearly defines the perpetrator as being "public officials or other persons acting in an official capacity" and includes any branch of police, and other investigating bodies, as well as the military.

The police also proposed to amend the complaint and investigation procedures regulated in Section 7 of the Act. The proposal suggests that complaints should be lodged before the police or a magistrate instead of a court. This would mean the petition would have to be filed with the very entity that is accused of torture. Certainly, this is against the basic principle of natural justice, and is in contradiction of Article 12 of CAT that stipulates "impartial and independent investigations" into torture allegations.

The police also suggested the repeal of Section 12 of the Act that provides that "a state of war, threat of war, internal political instability, public emergency, or an



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impression of a lack of due importance to the issue on the part of the top echelons of law enforcement agencies. As per the proposal, the Act would exclude the RAB, as well as the Criminal Investigation Department, Special Branch and Detective Branch - the very actors frequently alleged to resort to torture - from the definition of law enforcement agencies, thereby protecting them altogether from responsibility and prosecution under the Act. The proposal further suggests limiting the definition of torture to "acts or omissions which cause physical pain to any person for the purpose of obtaining information or confession". The other purposes - punishment, intimidation, coercion and discrimination - as well as causing "mental pain" have been proposed to be repealed.

The two amendments are in contravention with Article 1 of the CAT that provides comprehensive definition of torture binding upon all parties to the

order of superior officer or a public authority" shall not be an excuse for torture. Section 12 has been in compliance of Articles 2 and 3 of the CAT that made prohibition of torture both absolute and non-derogable. In other words, nothing can justify torture under any circumstance, including war, emergency or superior orders.

Despite having an appropriate legal framework, Bangladesh has a long way to go in containing torture, let alone eliminating the practice. Professionalism of members of law enforcement agencies and keenness of the political leadership are necessary conditions to bring about the change. No less important is the sustained engagement of a committed unbiased civil society.

The writer is Professor of International Relations at the University of Dhaka. He researches and writes on rights and migration issues.

## UK referendum result

### A throwback to the past

EUROPEAN integration was a grand experiment that's been dealt a body blow by Britain's decision to leave the EU. Whether it a death blow to a concept only time will tell. This was an example to the world of conflicting nations integrating in the aftermath of a global war to come together for development of different nations of the region transcending the past without forfeiting individual nation's identity and history.

It is therefore a sad day for us to see that idea fractured. While we respect the wishes of the people of the UK, we feel constrained to say that the path of separation is a mistake. There is already talk of another referendum for the Scots and we do not yet know what Northern Ireland will do in the future.

The message that had emanated from different quarters around the globe regarding the consequences of Britain severing four-decade long ties with the EU was loud clear, that it would have the most serious impact on the British economy. And it was evident from the very first day after the results came out. However, the majority of those that cast their vote have chosen to leave the EU.

Although the debate was predicated on three main issues of immigration, sovereignty and economy, it's the first issue that prevailed over the rest. And it is this which is worrisome because the primary motivation for those who chose to leave was not economic, rather it was xenophobic. We are sorry to see that Britain, where multiculturalism and inclusiveness have purged narrow mindedness and bigotry should succumb to such prejudices. This we feel is a throwback to the past that will affect not only UK but the rest of the world as well.

## A fugitive MP's mysterious movement

### A slur to the rule of law

THE ruling party MP from Tangail-3 constituency, wanted by the police in a murder case, seems to have attained the powers of the invisible man. No one apparently saw him as he entered the Parliament building on Monday, signed the attendance book and left safely. He performed the same miracle on July 5 last year to keep his membership in parliament. The lawmaker has been absconding for the last 19 months following the murder of freedom fighter and Tangail AL leader Faruk Ahmed in 2013.

During the latest drive by law enforcement agencies, about 15,000 people, accused of various crimes, were arrested. Why couldn't they find the MP? He has been reportedly keeping contact with his followers over the phone. How hard is it to track someone's location using his cell phone number?

The whole drama is an affront to the rule of law. How can he retain his status as an MP despite being a fugitive? How can he enter and exit the Parliament without getting caught if he does not enjoy the blessings of some in the corridors of power? Are those protecting him not abetting an alleged criminal? What kind of an example are we setting?

The MP from Tangail not only insulted law but also the Parliament, a symbol of the nation's hopes and aspirations. The government would do well in understanding what's at stake here: Trust in governance.

### SHIFTING IMAGES



MILIA ALI

WHILE in the middle of writing my column for this week, I was hit by a deeply disturbing piece of news - the assassination of renowned Qawwali singer

Amjad Sabri. He was shot dead in Karachi on June 22, when assailants fired at his car. The Pakistani Taliban, Hakimullah Mehsud group, has accepted responsibility for the brutal and shameful attack. Amjad Sabri belonged to a long line of Qawwals, who claim to be descendants of the legendary musician Mian Tansen of Akbar's court. True to his ancestors' musical genre, Amjad's renditions preserved the pure Sufi style and mysticism and captured the hearts and souls of millions!

Moved by the tragedy, I felt a compelling urge to change track and write about my reflections on this heartrending incident. This column, however, is not about Amjad Sabri's life, neither is it about the Islamic extremists who continue to instigate and execute the killings of innocent people, in the name of God. This is more a personal story of how the Sabris introduced me to a whole new world of Sufi music. My first introduction to the Sabri brothers (Amjad's father and uncle) occurred when we were living in Armenia in the late 90s. The pace of social life was

sluggish as the country was still recovering from the collapse of the Soviet system. I invested a large chunk of my time listening to music, while sitting in our balcony, and gazing at the distant snow-capped biblical Mount Ararat. Just by chance, I stumbled on a CD of Qawwalis by the Sabris. I could only understand a few words, but the haunting rhythm and melody captivated me. Apart from some Hindi film songs, I was not familiar with Urdu *ghazals* or qawwalis, and my knowledge of the language was limited. My husband's

Creator and His creations are joined in a beautiful union. The sublime voices, the spiritual lyrics and the powerful melodies communicated with me in a divine language. With the help of some background reading, I discovered that the deep connection between man, nature and God is an integral part of the Sufi tradition of South Asia. Since a similar theme features predominantly in Rabindra Sangeet (that I have been singing for nearly a lifetime), I established an intimate bond with this new genre. However, Sufi *qawwalis* are

with a life of "peace and contentment"? A singer myself, how can I not condemn the brutal act that silenced a voice which could have gifted us with many more years of divine music? In fact, I pity the perpetrators of the crime because they lack the soul to fathom the spiritual experience of Sufi music! My friends and family have cautioned me against protesting publicly, given the prevailing intolerance. But as an artist how can I not cry out aloud in despair when I hear Amjad Sabri's lament:

*We have no one to call our own, we are stricken with grief  
We come and cry for justice at your door  
Please spare us a merciful glance, or we will  
Die at your threshold, uttering your name....*

I realise we will never fully understand how contorted minds think and react. But it's time we protested against the rising tide of fanaticism and bigotry - each one of us in our small way. Not through the instrument of violence which extremists employ. But with our pens, our voices and in our social discourse. Let us make each street corner a Sufi shrine from which peaceful music will flow and let's write and recite poems and stories that will reestablish tolerance and compassion amongst our fellow beings. After all, we have the advantage - we are the majority and we are on the side of what is right!

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## LETTERS TO THE EDITOR

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### Violence against women in Pakistan

In Pakistan, women are in a vulnerable condition and their status is very low in the society. Women's overall literacy rate is 40 percent. Every year, thousands of women become victims of rape,

murder, acid attacks and honour killing. Women suffer from violence at their own home too. Pakistan should learn to treat women with dignity.  
**Guljan Sbay Ibrabim**  
Kech, Balochistan, Pakistan

### Reality and Sir Frank's dream school

I couldn't agree more with Sir Frank when he says that schools should be a place of learning, an environment that stimulates the minds of students where they gather daily for fun, laughter, games and learning. It should be a place where a child feels totally secure and where a child wants

to be. Unfortunately, most schools in our country do not embrace these ideas. Very little is being done to eradicate corporal punishment from schools, homes and madrasas. Thus we are failing our children and in so doing, we are failing ourselves.

**Hamida Joy**  
Banani, Dhaka

### "Anti-militancy drive and crossfire..."

The piece by Brig Gen (Retd) Shahedul Anam Khan published on June 23, 2016 was well-written and I enjoyed reading it very much. It appears that the law enforcing agencies never wanted to catch anyone with terrorist and criminal links.

Criminals such as Faizullah and Sharif who could have provided valuable information on terrorist activities in the country were eliminated in 'crossfire'. How can we trust these drives to bring about desired results?  
**Sbahjan Hafiz**  
Gulshan, Dhaka