

## Whose rice in government silos?

### A sinister collusion

REPORTS have emerged after RAB seized 155 tons of food smuggled out of government depots in Chittagong in rice sacks stamped with Directorate General of Food. Interestingly, the Food Directorate, after having inspected all its silos, found its stocks intact and hence we are now left with the question-- who owns this rice? A report in this paper indicates that most of the 126 depots are only partially stocked with rice and the excess capacity was allegedly being used by black marketers to hoard their stock. Now we need to ask as to how such an elaborate scheme could be made whereby outside parties could store their merchandise in government warehouses without connivance of corrupt officials. And this at a time when the country was facing a crunch in rice supply.

We have perhaps stumbled on to a very big scam. Stocking rice in government depots is very convenient and would hardly raise an eyebrow, especially if it could be transported out in sacks that carried official stamps. For years we have known of the illegal hoarding practice of traders to create artificial crisis in the market to raise prices of rice and wheat, but this is for the first time that use of government facility to hoard private traders' stock has come to light. Indeed, certain rice dealers and traders have been named in the police case that has been lodged in this regard, and some of the accused are on the run from the law.

This points to a sinister collusion between hoarders and government storage depot managers and it is imperative that the matter is investigated thoroughly, and those involved brought to justice. It is necessary to break the cartel that is misusing government facilities to carry on an illegal trade.

## Bamboo replacing iron rods

### Unfettered and dangerous innovation

OUR people are known for innovations but some novelties can gravely threaten public life and safety. The use of bamboo replacing iron rods for building purposes is one such innovation that takes the cake. Of late this novelty has been added to our building industry, though related to entirely public construction. This time the masons were found using bamboo alongside iron rods in the extension of a Bandarban Government Women's College academic building, on the instructions of the contractors, according to the masons.

This is not the first time such gross violation of building code has been exposed. And the only reason why previous instances are being replicated is because the code-violators have not been held to account and made example of. What is regrettable is that the supervising engineers may be complicit in this act. In this case, statements of various persons associated with the construction -- the masons, contractor and the engineers of the CHTDB, are contradictory but nonetheless clearly indicate that there has been collusion at every level.

The matter has come to light after a good deal of construction work has been completed, and one wonders what the quality of material used for the construction that has been done so far, might be. It also speaks of the lax, deliberate or otherwise, supervision of the superior authority in the development board.

Needless to say, violation of building code endangers life, and is no less culpable an offense than deliberate manslaughter. These acts must not be taken lightly, and all those in the line of responsibility must be taken to task for dereliction of duty and corruption.

## LETTERS TO THE EDITOR

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### No one is above the law

The story of breaching traffic law is nothing new. The violators, more often than not, are highly educated judges, ministers, lawyers, officials of ministries and secretariats, top-ranked policemen themselves, and vehicles of VIPs and privileged schools. These practices are sometimes even allowed by the traffic cop in charge. When the general public witnesses this breach of law, they are encouraged to imitate the behaviour.

Traffic officials must be strict about traffic rules with all vehicles and pedestrians, regardless of their profession or social rank. The car of a VIP, for instance, should not be allowed on the wrong side of a road. It is by holding everyone, including the leaders, answerable to law that the authorities can expect all citizens to abide by it.

Rashidul Hasan  
Jagannath University Journalist Association

### The DU Law faculty needs a canteen

Almost 600 students are studying at present in the Faculty of Law, University of Dhaka. But it is a matter of regret that there is no canteen in our department. Students are forced to eat unhygienic street food, which is slowly harming their health. There are no good, hygienic and convenient restaurants nearby. Our faculty was established with the genesis of the University of Dhaka in 1921. Almost all the other departments have their own canteens, unlike us. The Dhaka University authorities should take this matter seriously and set up a convenient canteen in the Law faculty as soon as possible.

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MD. SAIMUM REZA TALUKDER

ACCORDING to several past reports published by Human Rights Watch, Privacy International, and Swedish Media, there has been a rise in incidences of enforced disappearances and extra-judicial killings in Bangladesh in the last couple of years. Several reports by Ain o Salish Kendra seem to support this allegation. As a sovereign state how does Bangladesh perceive such allegations? According to the UN Charter, a State has responsibilities to "protect", "promote" and "implement" human rights norms and principles enshrined in international treaties, conventions and covenants. Therefore, it is important to revisit how Bangladeshi laws deal with cases of forced disappearances.

The whole criminal justice system of Bangladesh is mainly covered by the three archaic laws — the Code of Criminal Procedure (CrPC), the Penal Code, and the Evidence Act. Although "enforced disappearance" is considered a systematic, serious and grave crime, we still do not have any specific law regarding this. Regarding allegations of enforced disappearances, the only law to deal with evidence is the Evidence Act. But, according to this Act, whoever claims any special circumstance (e.g. enforced disappearance), s/he has to prove it. There is no provision that says the burden of proof lies on the State, or at least the State has a greater burden of proof; nor is there any law that deals with victim protection regarding enforced disappearances. In this sense, this is a major loophole of this Act. Thus it is important to shift the burden of proof on the State.

The "uncertainty" created in the absence of the body of the victim is one of the prime difficulties for any human rights court to determine the admissibility of evidence, burden of proof, and requisite of standard of proof, which are all important components of disappearance cases.

On the other hand, the term "enforced disappearance" is a heavily contested concept and state involvement in enforced disappearances worldwide causes more complex and multiple human rights violations. The adaptation of the International Convention for the Protection of All persons from Enforced Disappearance and the formation of special mechanisms under the United Nations, brought a certain "normative equivalence" within different international and regional legal systems. At least three important cross-jurisdictional human rights bodies, namely, Human Rights Committee (HRC), the Inter-American Court of Human Rights (IACHR) and the European Court of Human Rights (ECHR) deal with cases of enforced disappearances and are constantly creating and adopting human rights jurisprudence in a global scale. However, it is indisputable that under modern international human rights law, the notion of enforced disappearance is comparatively a new phenomenon.

Already there have been some developments in the IACHR, and ECHR in dealing with the issue of burden of proof. The two-step approach developed by IACHR in Velásquez Rodríguez v. Honduras case says that if someone claims that there is a case of disappearance,

s/he should prove: 1. that there is a pattern and phenomenon of government practice of disappearances; and 2. the person who disappeared was subject to that particular pattern. In addition, the Court observed that government tolerance to the practice suffices to prove the governmental practices, therefore, there is no need to prove direct conduct. The Court's subsequent decisions also brought similar reasoning in Godínez Cruz v. Honduras; Caballero Delgado v. Colombia; and United States v. Santana cases. Moreover, the State's lack of cooperation or State control of evidence might have a negative effect on the burden of proof in certain circumstances.



SOURCE: GAZETTEREVIEW.COM

Interestingly enough, the ECHR does not recognise the phenomenon or pattern or governmental practice of disappearances into their Court reasoning, rather their system adopts different approaches. For the first time, in the Akkım v Turkey case ECHR opined that "when a person is taken into custody before he disappeared and the State provides no reasonable explanation for his disappearances, he must be presumed dead". A similar view was taken in the case of Tongcu v Turkey in addition with shifting the burden of proof on the government. According to the Court, "to shift the burden of proof onto the government in such circumstances requires, by implication that the applicant has already made out a prima facie case". The

## PROJECT ■ SYNDICATE

# Trump's surprisingly strong start with India

THOMAS R. PICKERING and ATMAN TRIVEDI

HEADING into the recent meeting between Indian Prime Minister Narendra Modi and US President Donald Trump, expectations were modest. Even the Indian government played down Modi's trip to the White House as a "no-frills" visit. Yet the leaders of the world's two most populous democracies ended up making important headway, demonstrating the power of diplomacy to transform challenges into opportunities.

The US-India relationship, despite having become closer, has been burdened by mutual misgivings as of late. For the Trump administration, concerns have focused on issues such as the growing bilateral trade deficit, the displacement of US workers by Indian information-technology professionals, and India's alleged use of the Paris climate agreement to extract

India matters to America for a host of reasons. It is the world's fastest-growing major economy; it boasts the world's largest middle class; and, soon, it will have the world's largest population. Moreover, India abuts crucial global shipping lanes in the Indian Ocean. And it serves as an important democratic bulwark in Asia.

Such factors have given rise to rare bipartisan support for deepening US ties with India since the early 1990s. Yet they have not always proved sufficient to capture the sustained attention of US decision-makers. Judging by Modi's recent visit, however, this may not be the case under Trump's administration, which appears keen to build on bilateral security cooperation as a key tenet of its Asia policy.

The Trump administration seems to recognise that, at a time when rapid power shifts in Asia could affect regional stability, an increasingly confident India can help the US in underwriting security. It can work



PHOTO: AFP

Indian Prime Minister Narendra Modi greets US President Donald Trump.

billions of dollars in assistance.

India, for its part, has been increasingly worried about the Trump administration's isolationist worldview and, in particular, its apparent retreat from Asia, where the US has been a key guarantor of security for the last 70 years. These perceptions dampened hopes that India and the US would continue to regard each other as reliable strategic partners.

But, in Washington, Modi and Trump displayed a comfortable chemistry, with no real discord to be seen—a departure from some of Trump's other early diplomatic forays. More important than their apparent bonhomie, however, was their joint statement, which recognised what makes the bilateral relationship so valuable.

alongside the US to engage constructively with an ascendant China, not just to support economic growth and protect the environment, but also to ensure that China's decisions help to sustain, rather than undermine, peace and prosperity in Asia.

This recognition is reflected in a significant new defence deal, announced at the recent meeting, as well as plans to increase military sales and exercises, deepen cooperation in the Indian Ocean, and build on last year's cyber-security agreement. Public statements indicated that the two sides plan to continue with previous sensible policies in these areas. While they did not mention explicitly the hotly contested South China Sea, they should do so in the future.

Modi and Trump also demonstrated additional

flexibility approach by ECHR developed in finding prima facie death in disappearance cases led to the development of a number of guidelines in the Bazorkina v. Russia case, where an application by victim's family member(s) will constitute a prima facie case. Both IACHR, and ECHR adopted "flexible approach and free evolution" of admission of evidence and requisite standard of proof.

Hence, as Article 25 of our Constitution promotes international peace, security and solidarity, the above legal principles developed by HRC, IACHR, and ECHR are also related and important for legal reforms in Bangladesh. Because, in a true democracy, it is the State

that bears the higher threshold of accountability towards the citizen, not the other way around. So if there is any allegation from people (including the media, civil society, minority or ethnic groups etc.), then the burden of proof should lie on the State. Therefore, it is crucial that the lawmakers of Bangladesh initiate the necessary legal reforms as soon as possible. Our courts should also come up with a judicial activism approach by considering the above mentioned precedents from IACHR and ECHR, if there is absence of proper legislation.

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clarity and solidarity on confronting terrorism, by asking Pakistan to do more to disrupt extremist sanctuaries in its territory. A less permissive US approach toward Pakistan is not only likely to contribute to South Asia's security; it can also help to reverse deteriorating security conditions in Afghanistan, where America remains mired in its longest-ever war.

Not surprisingly, however, Modi and Trump still seem unable to see eye to eye on trade and commercial ties. Although the bilateral relationship has historically tended to emphasise security and defence more than economics, the two leaders' perspectives, exemplified in their new initiatives, threaten to leave things even more unbalanced.

Modi and Trump are nationalist leaders, focused on manufacturing-led domestic employment growth. But, in modern global supply chains, there is plenty of opportunity to go around. Finding mutually beneficial common ground requires reimagining the economic dimension of the bilateral relationship.

As it stands, both countries suffer from a gap between workers' skills and available jobs. This should provide a basis for a robust dialogue on worker training and competitiveness, including a discussion of a contentious issue for the Trump administration: how India's tech sector uses H 1B visas, which are designed to give highly skilled workers access to the US.

If the US and India can overcome their differences on this front, they will find significant opportunities to learn from each other in important areas, such as how to use e-commerce and digital platforms to help small and medium-size enterprises increase exports. Infrastructure shortcomings offer another chance for deeper cooperation: the US and India, along with countries like Japan and Singapore, can share technology and pool resources in innovative ways, in order to develop tomorrow's economy-boosting transportation links and urban centres.

Identifying synergies between Trump's "America first" and Modi's "Make in India" approaches will require creativity, patience, flexibility, and most important, a strategic focus. Both leaders will need to concentrate on the big picture: how to achieve mutually beneficial outcomes, in terms of productivity, competitiveness, and innovation.

Success will require engagement at all levels of the US government, from cabinet officials to diplomats. As a first step, the State Department must move faster to fill critical vacancies for positions dealing with South Asia.

Despite ongoing challenges, the US-India relationship under Trump and Modi has gotten off to a stronger-than-expected start. Each side has demonstrated a willingness to invest in the other's future, not just lurch from deal to deal. Now the hard work begins: developing their joint strategic vision and implementing it consistently.

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