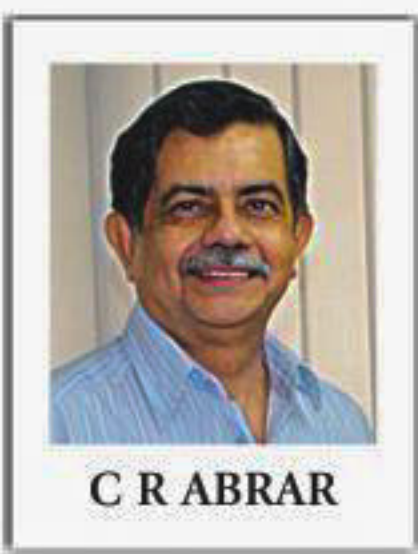


DEALING WITH DISSENT

Are enforcers of law and dispensers of justice beyond accountability?



C R ABRAR

RULE of law as a principle of governance involves that all persons, institutions and entities, public or private, including the state itself is accountable to laws. Law enforcement agencies are responsible to ensure that violators of the law are apprehended and brought to justice. Among other tasks judiciary is mandated to ascertain if laws have indeed been breached, and if so, punish the perpetrator. In pursuing their respective functions it is imperative that the state agencies act only within the purview of the law. The country's constitution, comprehensive codes of civil and criminal procedure, and a plethora of laws have been framed essentially to ensure that all actors operate and behave within the broad parameters of the law.

Over time, the alienation of the ruling elite of Bangladesh from the masses is manifested in the intolerance of opposition and dissent, and the pursuit of a zero-sum approach in governance. In such a scenario, enforcement of the law and dispensation of justice to an extent at least, become the elite's handy tools. This leads it to rely more and more on the coercive apparatuses of the state and thus begins the process of chipping away of the foundation of this important precept.

Granting impunity to errant members of law enforcement agencies on political and other considerations becomes a breeding ground for extrajudicial killing and disappearances, illegal detention, custodial torture and death, extortion, and disproportionate and excessive use of force.

In the recent past the heavy-handed approach of the state agencies has been particularly disconcerting during the civic movements for quota reform or road safety. While no effort was made to bring the perpetrators of violence to account, including the helmeted ones, peaceful protestors or social media activists exercising their constitutional right guaranteeing freedom of expression were picked up, detained, remanded and charged. In the process some were brutalised. This unbalanced enforcement of the law erodes public trust and further compromises professionalism and impartiality of the concerned agencies. For covering the event live and posting



Internationally acclaimed photographer and activist Shahidul Alam was detained by police detectives before a case was filed against him under the much-criticised Information Communication Technology (ICT) Act.

PHOTO: STAR

statuses on Facebook, award winning photographer Shahidul Alam incurred the state's wrath, forcibly detained on August 5, and was only granted bail after 102 days of incarceration and released after 107 days.

In the same vein with the forthcoming general elections and the realignment of political forces as the otherwise sterile political landscape has been revitalised, the propensity to exercise arbitrary power by the state agencies have become more pronounced. Two individuals, a pioneer in alternative healthcare and freedom fighter Dr Zafarullah Chowdhury, and Barrister Mainul Hossain, became the latest victims. Both were associated, albeit in different degrees, with the process of building a platform of united opposition parties and efforts to limit unchecked and arbitrary power.

It is not the intent of this article to delve into the merits of the charges pressed against these three individuals. Its purpose is to see if those involved in the process of enforcement of the law and dispensation of justice have acted within the remit of the law.

A series of breaches of the law took place in the case of Shahidul Alam. Witnesses recount and allege that around 10 pm Shahidul was forcibly picked up by an organised contingent in a white van; subsequently he was blindfolded and handcuffed. The group vandalised the CCTV

camera system and seized the cell phones of the guards of the building in which Shahidul was residing. No warrant of arrest was produced, nor was the victim informed of the charges against him. Under the law, the family was entitled to be informed about his whereabouts within 12 hours but that never happened. Earlier, the local police station refused to entertain the First Information Report when the family went to register his abduction. In court Shahidul, unable to walk unaided and, barefoot, alleged that he was beaten during interrogation, a violation of the Torture and Custodial Death (Prevention) Act, 2013, which this government had enacted, and the relevant Supreme Court directives. No investigation was instituted to ascertain the veracity of this grave charge. The Attorney General's doggedness in opposing the bail petition of an individual who has no prior criminal record, does not have the power to interfere with the judicial process and is no flight risk, is mind boggling. The bias against dissenters in the judicial process becomes stark when a Jubo League activist accused of culpable homicide is given bail within 24 hours, whereas Shahidul had to languish in prison for 107 days.

The involvement of Dr Zafarullah Chowdhury with the Oikyafront initiative has resulted in a series of attacks of retribution on the Gonoshasthaya Kendra or GK (People's

Health Centre) from October 15 to 24, 2018. The attacks came after filing of five cases, which the GK claims to have been filed with "malicious intent". According to news reports, the attackers forcibly broke the gate, gate outpost and perimeter wall, occupied tracts of land, fell trees and erected walls. Those assaults were followed by another assault of an armed group of about 200 men on October 26. They vandalised and looted furniture, computers, televisions, air conditioners and many other items. They reportedly also assaulted and threatened women students, and hit and injured Limon, a young LLB student, who had already survived extreme injustice after being shot in the leg by RAB years earlier in a case that had been championed by the NHRC and other human rights defenders. The total loss was estimated by GK at Tk 75,00,000. If the failure of law enforcing agencies in protecting GK property is worrisome, inaction of the police present in the vicinity is alarming.

On October 23, 2018 about 100 members of Rapid Action Battalion (RAB) and police entered the GK premises and conducted a detailed search. In a written statement read out at a press conference, GK authorities levelled serious allegations of irregularities committed during the almost five-hour search. Included among those are: among the items seized were expired culture discs that were already placed in a refrigerator earmarked for "discarded items" and were awaiting standard disposal procedure; tablets and bottles of medicine that were already in the "discarded section" of the room of central store of GK, and some other medicine and injection vials that had not crossed the expiration date.

More disconcerting was the allegation, according to GK's statement, of securing "forced admission" of GK employees under Section 7(2) of the Mobile Court Act and the imposition of on-the-spot fine of Tk 25,00,000. Their plea for paying the fine by cheque (GK financial rules approved by the government do not allow cash transaction) was summarily rejected and after a lot of prodding, RAB agreed to accept the payment of the fine within the first hour of bank operation in the following working day. GK further claims that three of their employees were detained for not complying with the on-the-spot fine order and that no cash receipt was furnished by the authorities after the payment was made. Thus far, there has not been any official rebuttal of the GK claims.

In the matter pertaining to Barrister

Mainul Hossain, a number of cases were lodged against him in different parts of the country for "defamation" under both the ordinary Penal Code as well as the new Digital Security Act, after he termed a fellow guest in a TV talk show as "choritroheen" (questioning her character). On October 22, he was arrested from an opposition leader's residence. Hossain secured bail in the case filed by the aggrieved journalist but later, his bail petition on cases filed by other unrelated parties were denied. While the barrister's act is surely inexcusable, and could and should have been followed by an immediate apology as demanded, there is every reason to question the state response in handling his case. Law professor Asif Nazrul pertinently reminds us that under Section 198 of the Criminal Procedure Code it is only the aggrieved party who can register a defamation case. Despite this unambiguous provision persons associated with the ruling party or its affiliate organisations having no *locus standi* were allowed to file cases, severely compromising the legal maxim "no person should be vexed twice" (Prothom Alo, October 26, 2018). Nazrul points out there is hardly any instance of more than one case filed for heinous cases such as murder, whereas evidence is aplenty, including the ones against the editors of *The Daily Star* and *Prothom Alo*, where a number of cases have been entertained for a single minor offence of defamation.

Until recently, in defamation cases, only summons were issued instead of warrants of arrest and judges were generous in granting bail. Decriminalising defamation has been the general trend the world over, whereas Bangladesh appears to be treading a reverse path. Needless to say it is the dissenters who are paying a disproportionate price for this backslide.

As Bangladesh, the people's republic by nomenclature, prepares to celebrate the golden jubilee of its statehood, active citizens may wish to ponder if indeed there has been much progress in attaining the lofty ideals of rule of law, equity and fair justice for all. While the ruling elite, citing a number of economic indicators, claims to have achieved miracle and smartly pitches the choice of "democracy or development", time has come for the people, the owners of the state, to reflect if indeed the state has been respectful in enforcing the law and dispensing justice.

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SOCIAL ENTREPRENEURSHIP IN BANGLADESH

An effective game-changer

SAYEM HOSSAIN

EARLY in 2015, when political uncertainty and violence were plaguing Bangladesh, I flew to Bangladesh from Australia with a mission which almost seemed impossible to do at the time: complete the fieldwork of my PhD degree. I must acknowledge that I was never a fan of research and the journey to PhD was almost a serendipitous one. As such, undertaking the fieldwork amidst all this chaos was far from what I had ever imagined.

The topic of my PhD was related to social entrepreneurship, which I chose after being tremendously influenced by reading about Nobel Laureate Professor Muhammad Yunus. The impact he had made in the world is undeniable. I was moved with a simple but profound quote where he said: "Human beings are much bigger than just making money." As I immersed myself into literature on social entrepreneurship, I was overjoyed to see that Bangladesh had been recognised as a "global pioneer" of social entrepreneurship. It was overwhelming to know that a number of Bangladeshi social entrepreneurs championed revolutionary social enterprise business models and brought glory to an almost nondescript country like Bangladesh. Whereas the rest of the world seems to be celebrating the impact of social enterprises in Bangladesh, the country itself is ironically plagued by lots of problems when it comes to social entrepreneurship which were echoed by the participants of my field study.

As soon as I received consent from top social entrepreneurs like Sir Fazle Hasan Abed and Runa Khan, among a few others agreeing to participate in my research, my apprehensions turned into passion and soon the perils of blockades in the country which had claimed the lives of more than 75 people seemed trivial. I came to know that a myriad of challenges are faced by the social enterprise sector in Bangladesh which, if resolved, can offer abundant possibilities.

The biggest problem which all the social entrepreneurs echoed is the structural ambiguity of social ventures in Bangladesh. Although there is mounting enthusiasm on being "social" or doing business with a "social purpose", there is

limited understanding on what is a social venture. The apparent ambiguity is reflected in the manifestation of various forms of social ventures, e.g. NGOs, co-operatives, social businesses, micro-finance businesses, and more recently, private social enterprise start-ups. Although all of these ventures share a similar purpose—"to do good for the society"—the way they function and operate are very different. The limited understanding about social enterprises can be attributed to the lack of awareness on socially-driven businesses in Bangladesh.

Although programmes like BRAC Social Innovation Lab and Grameen Social Business Design Lab are working to relentlessly promote a social entrepreneurial ecosystem in Bangladesh, the acceptance and promotion of such programmes are far too scant considering the breadth of social problems. Interestingly enough, I was perplexed to see that social entrepreneurship is more popular in countries which face less social problems. A search through "Google trends" with the keywords "social entrepreneurship" shows that people searched the topic of social entrepreneurship more often in countries like Australia and the US compared to Bangladesh. In reality, it should be the reverse considering the magnitude of social problems in Bangladesh and the low level of support from the government.

Consistent with ambiguous structural identity, social enterprises in Bangladesh operate under no specific policy or government legislation. This has caused major debate and often led to questions on the role played by social enterprises. Microfinance, which is a pioneering concept of Bangladesh and was replicated even by developed nations, has often been criticised for exploiting the poor. This is in part due to the lack of understanding and bottom-line legislation to monitor actions by social ventures. Fortunately, after repeated calls from stakeholders, in recent years, the government of Bangladesh introduced regulations to monitor social ventures and microfinance practices.

In Bangladesh, there is hardly any educational institution which offers formal degrees or accredited courses to teach social entrepreneurship. This is

also the case of academic research whereas Bangladesh is a fertile ground for building scholarly research practice in such areas. In contrast, I have seen even primary educational institutions in Australia embrace topics such as sustainable thinking and philanthropy to instil the spirit of social welfare at an early age. By the time students reach college or university, they are ready to pitch ideas to venture capitalists, get exposed to business incubators or travel abroad to network with social entrepreneurs. There are state-of-the-art research facilities in universities aimed towards social innovation which attracts

driven organisations are not profitable and there are risks involved in lending them money. Although Grameen Bank, the Nobel Prize-winning organisation, has debunked this myth recording a whopping Tk 220 crore in net profit in 2017, which was a 58 percent increase from the previous years, the story of other ventures is not as rosy. Except for a few, most start-up social enterprises do not receive any funding support either from the public or private sector. In developed countries like Australia, social entrepreneurs get tremendous support from the government and other funding bodies including private commercial banks.



iSocial is one of many social enterprises in Bangladesh. Tech-savvy women, travelling on bicycles, deliver vital information and services to isolated communities throughout the country.

PHOTO: INFOLADY SOCIAL ENTERPRISE

lots of funding and international collaboration.

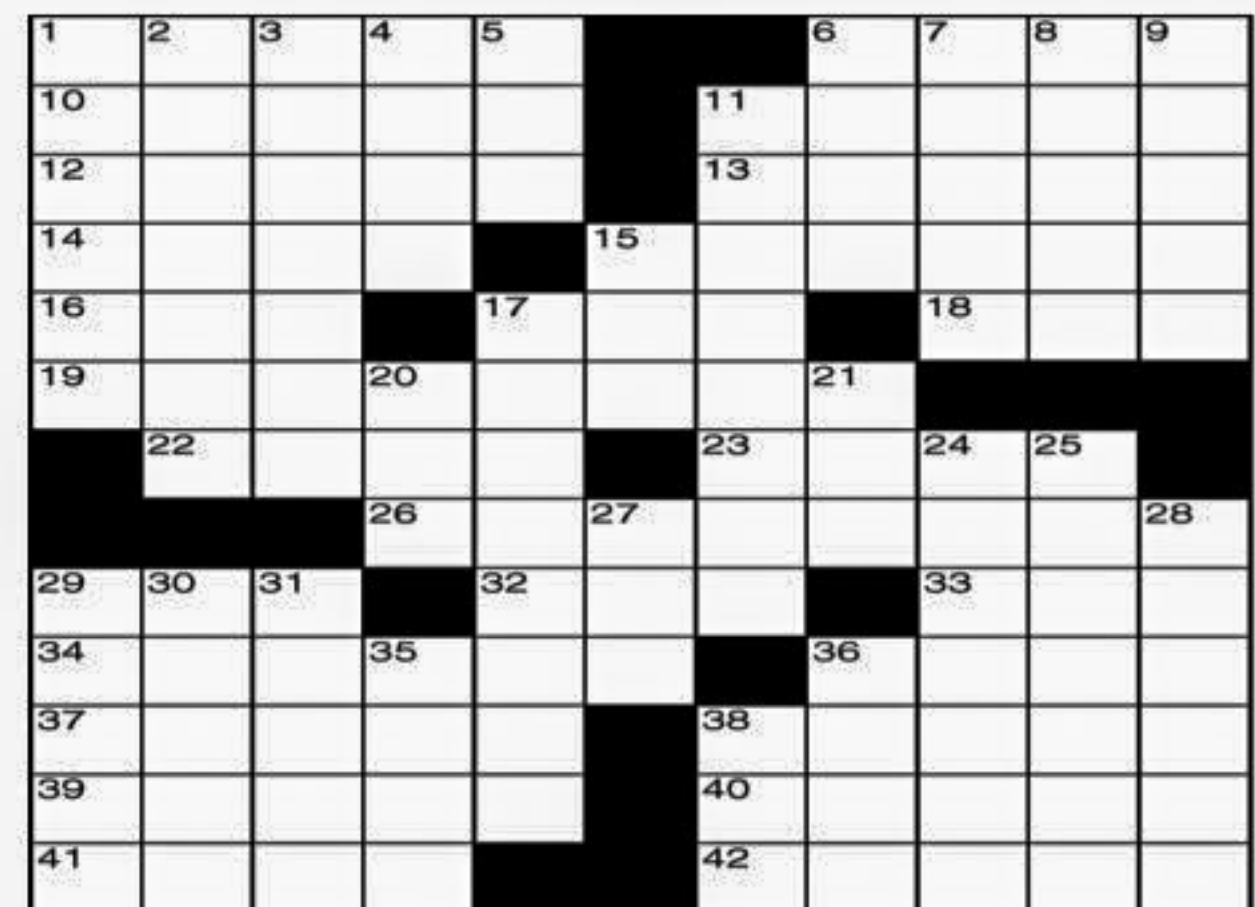
Access to funding stood out as another major challenge for social enterprises in Bangladesh. A vast majority of social entrepreneurs expressed that access to start-up capital and scale-up capital is very limited. This eventually jeopardises the existence of the venture even though the venture may have addressed a vital social issue. The traditional support mechanisms, such as banks or financial institutions that can foster the growth of social enterprises, are scarce compared to commercial enterprises. This is largely due to the fundamental misconception that socially-

I hope that the policymakers in Bangladesh realise the true potential of social entrepreneurship and find ways to incentivise growth and sustainability of social enterprises. Social entrepreneurs like Professor Muhammad Yunus and Sir Fazle Hasan Abed have already laid the groundwork and have shown how a tiny gesture can transform the world. Now it is up to the future generation of Bangladesh to be inspired and realise the potential of doing business with a social mission.

Sayem Hossain is an academic, researcher and social enterprise enthusiast residing in Australia. Email: musayem@gmail.com

CROSSWORD BY THOMAS JOSEPH

ACROSS	29 Linking word	7 Less refined
1 Police ID	32 Morse E	8 Stun
6 Brother's home	33 Cornfield cry	9 Muscularly fit
10 Ryan of "Paper Moon"	34 Sci-fi zapper	11 Hangar contents
11 Crockett's last stand	36 Job for Sherlock	15 Clinic cost
12 Washington's successor	37 Has a banquet	17 Hoagy Carmichael song
13 Hawkeye	38 Scoundrel	20 Pearshaped fruit
14 Ripped	39 Bit of history	21 Plop down
15 "Don't move!"	40 Left on a liner	24 Ten-sided figure
16 Hosp. sections	41 Egg holder	25 Sign of error
17 Brief time	42 Gift from parents	27 Charged bit
18 Roulette bet	DOWN	28 Candy
19 Rootless people	1 Enjoyed the canal	29 Old English forest
22 Diva's piece	2 Neighbor of Spain	30 Ingenuous
23 Staff member	3 Letter start	31 Force units
26 Con artists	4 Toy store buy	35 Nice guy
	5 High trains	36 Make do
	6 Drifting ice	38 Cloth scrap



YESTERDAY'S ANSWER

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

Write for us. Send us your opinion pieces to dsopinion@gmail.com.