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A fitting verdict

Let such a heinous act never occur again

THE Anti-Terrorism Special Tribunal of Dhaka has found seven of the eight accused in the attack on Holey Artisan bakery, and the brutal murder of 20 hostages and the death in the operation of two police officers in 2016 guilty, and has awarded the death sentence. We would like to compliment the law enforcing agencies for being able to complete the process of investigation quickly, and the court for completing the trial within a year. We recognise that nothing can recompense adequately their irreparable loss, but the verdict, we hope, would bring some solace to the bereaved family members.

We would like to recall the sacrifices of all those who lost their lives in the line of duty and the bravery of a young man named Faraaz Ayaaz Hossain, who refused the offer to leave his friends behind and instead preferred death to the ignominy of bartering his principles for the most valuable thing to any person—his life.

The killings were carried out by a bunch of individuals misled by a distorted narrative of the religious scripture for fulfilling an aim that is at best nebulous. Their professed philosophy has no relationship with the teachings of Islam and of the Holy Prophet. These terrorists had wanted to destabilise the country and depict the land as an inhospitable one for foreigners. Their goal was to draw the attention of international terrorist groups. That plan has not worked.

The law enforcement agencies have done a commendable job of dismantling terror cells across the country since that fateful day, but a word of caution remains. We cannot let our guard down even for a second. It is premature, we feel, to suggest that we have seen the end of extremism in this country with the conclusion of the Holey Artisan saga; and it is a waste of time to split hairs on whether there is physical presence of international radical groups in Bangladesh or not. It should be remembered that the Holey Artisan attackers were most certainly influenced by the warped narratives of international terrorist groups.

We need to make our own counter-narrative to the one that brought about the most terrible of terrorist acts on our land and that will require constant alertness and awareness of the public. Only when we exercise constant vigilance, side-by-side with security measures and operations and where the people are brought into confidence on halting the spread of militant ideas in our education institutions, can we succeed in offering a solid defence against the scourge of militancy.

Evicting illegal structures have been ineffective

Make sure the places are not reoccupied

A picture published in *The Daily Star* on November 27 depicting a part of an illegal market building on the Dhaka-Aricha highway in Savar Thana Stand being bulldozed by the Roads and Highways department does not give us much hope that the place that has been reclaimed by the authorities will remain clear for long. A similar picture published in this daily on November 26 shows that law enforcers are dismantling shops set up alongside the rail track in Dhaka's Karwan Bazar. Such eviction drives carried out by the various government agencies fail to make an impact eventually, because the structures that are demolished to clear the roads or reclaim government land are reoccupied in no time.

From several news reports and pictures published in this daily as well as other local newspapers over the years, we have learnt how such mobile court drives to evict illegal structures built on the riverbanks had failed to reclaim the land of the rivers. The reasons for the authorities' failure are also very clear. One, the grabbers are the local powerful elite who wield power over the local police and the administration. Two, in many cases, the local administration is also a party to such illegal acts. And three, there is no monitoring mechanism in place to make sure that the reclaimed lands are not reoccupied.

Moreover, the way illegal structures—on footpaths, roads, alongside railway tracks and on the riverbanks—are cleared and then reoccupied over and over again gives us the impression that there are underhand dealings between those who occupy the government land and the agencies that evict the illegal occupiers. The government must understand that just breaking the illegal structures is not enough. In order to make sure that the drives have a long-lasting impact, the whole system must be brought under the purview of law. And those involved in land-grabbing must be punished according to the law.

The colonial legacy of rape laws



TAQBIR HUDA

no surprise that for this year's 16 Days of Activism Against Gender Based Violence (an international campaign which was originally launched in 1991), the United Nations decided to highlight sexual violence, particularly rape, as its main area of focus. In her message for the International Day for the Elimination of Violence against Women on November 25, UN Women Executive Director Phumzile Mlambo-Nguka said "If I could have one wish granted, it might well be a total end to rape."

Many in Bangladesh will echo the wish of Phumzile, where rape appears to be ever increasing and a constant subject of social discourse. While legal reforms alone will not solve Bangladesh's rape problem, it is an important piece of the puzzle and one which this article focuses on.

The starting point of rape law in Bangladesh is section 375 of the Penal Code 1860, passed during the British colonial era. As a product of its time, section 375 of the Code narrowly defines rape to be a gender specific crime (i.e. by a man against a female, who is not his wife). It sets fourteen as the statutory age of consent, meaning a man's sexual intercourse with a female under fourteen

which continues to shape our laws is the notorious section 155(4) of the Evidence Act 1872, which allows defence lawyers to show that a rape complainant is of "general immoral character" to undermine her credibility in court. In practice, Section 155(4) has the effect of putting the rape victim on trial instead of the rape accused, as the focus on a woman's morality egged on by the defence inadvertently leads to questions about a woman's lifestyle, clothing and

rape was retained but the statutory age of consent was increased to sixteen. Similarly, the reform mainly focused on increasing the penalties, and for the first time in our history, a mandatory death penalty was introduced for homicidal rape. For rape not leading to death, punishment can either be death penalty or life imprisonment. For the first time, life imprisonment became the lowest possible punishment for rape. The third reform came five short

when she boarded a police van for a lift. Nevertheless, the focus is mostly on procedural law and penalties, with the substance of the rape offence being left unchanged.

Even though each reform came to repeal the previous legislation, as laws cannot have retrospective effect, it led to a bizarre scenario whereby accused rapists could face trial under three different laws, depending on when the rape took place and case against them



PHOTO: WWW.GIGAOM.COM

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(who is not his wife) will always be seen as rape in the eyes of the law, as girls under this age are seen as incapable of consenting to sexual intercourse. The punishment for committing rape is imprisonment for a term ranging up to ten years or life imprisonment (section 376). Marital rape is only criminalised if the wife is under the age of thirteen. The definition of rape excludes the possibility of men and hijras (transgender people) ever being victims of rape. Another embodiment of Victorian morality

sexual history. Since Bangladesh's independence in 1971 and the enactment of the Constitution which ensures equality and non-discrimination as fundamental rights, rape law has been reformed three times by three different governments as part of their wider efforts of introducing legislation on violence against women.

The first reform came in the form of the Cruelty to Women (Deterrent Punishment) Ordinance, 1983 under the military government of the late HM Ershad. It retained the Penal Code's definition of rape but increased the punishment for convicted rapists and for the first time introduced the death penalty for rape related offences. Where the victim dies as a result of the rape (i.e. homicidal rape), punishment was the death penalty or life imprisonment. For rape causing grievous hurt or attempted rape, punishment was imprisonment for up to fourteen years or life imprisonment.

The second reform came a decade later in the form of the Nari O Shishu Nirjatan Daman Ain (Bishesh Bidhan) Ain 1995 also known as Women and Children Repression Prevention (Special Provisions) Act 1995 under the government of Bangladesh Nationalist Party (BNP), which repealed and replaced the 1983 Ordinance. Here again, the Penal Code's definition of

years later, in the form of Nari O Shishu Nirjatan Daman Ain 2000 (Prevention of Women and Child Repression Act), under the government of Awami League, which repealed and replaced the 1995 Act. It, too, retained the definition of rape from the Penal Code but supplemented it with a short explanation which included consent obtained through fraud within the ambit of rape. The statutory age of consent was lowered to fourteen (but was subsequently raised to sixteen again by the 2003 Amendment to the 2000 Act). The mandatory death penalty for homicidal rape was removed, and punishment for any form of rape was either the death penalty or life imprisonment.

The 2000 Act goes the furthest in reform compared to its predecessors, in that it at least introduced minimum victim protection measures such as the prohibition on disclosing a rape victim's identity (section 14), closed door examination of rape victims in court (section 20) and emphasised the need to conduct immediate medical examination of rape victims (section 32). It also specifically criminalised the failure to prevent custodial rape with five to ten years of imprisonment. This reflected the demands of the nationwide protests that spread from Dinajpur after Yasmin, a fourteen-year-old girl was heinously gang raped in police custody

was filed. If one opens any of the major law reports from the mid-2000s, they are likely to see rape cases being listed from the 1983 Ordinance, 1995 Act and 2000 Act, in the same year.

As the above overview should make clear, the gut reaction of successive governments faced by pressing demands for violence against women to be addressed, has been to simply introduce new and substantively similar legislation by replacing the older law mostly in name, retaining the archaic and outdated definition of rape and only altering (usually increasing) penalties and the statutory age of consent. Even more problematically, the successive governments failed to consider the constitutionality of discriminatory provisions such as section 375 of the Penal Code and section 155(4) of the Evidence Act, which clearly breach basic principles of non-discrimination and gender equality as guaranteed by the Constitution. It is a pity that in spite of our successful struggles to break-free from the shackles of colonialism, first in 1947 and then in 1971, rape victims in our country continue to be governed by the regressive laws passed by our colonisers.

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Of tears and desperation

Is the onion crisis symbolic of deeper roots of social discontent?



MANUCHEHER SHAFEE

Not to mention the fact that the crisis is primarily the result of an internal decision made by India—a country we have a love-hate relationship with—and the malpractice of a handful of traders. Thus, it makes absolute sense that people are angry, frustrated, and have opted to express themselves in every way possible. The lack of timely action by the government and the corrupt manipulation of the market by the traders' syndicate should be spoken out against.

But a recent op-ed published in this

If economic well-being alone meant rainbows and butterflies, people in Chile, for instance, would not be out in the streets right now participating in violent and massive demonstrations. The country now is in a state of emergency, and things look gloomy.



daily on why onions should not make us "cry", also makes sense. At least it's not rice, our most important staple food. Maybe we indeed should prioritise and choose to cry about other injustices, or maybe just boycott the purchase of unfairly priced onions as a sign of protest? We as a country have gone through worse, and we can definitely wait out a few months without onions. But it's important to ask ourselves the question: is it really, deep down, just about onions?

Economically speaking, things have never been better for us. Albeit they are significantly better for a minority of the population compared to the rest, but people, in general, are better. Some may argue that the relationship between development and time is linear, but that couldn't be further from the truth. Sustaining a 6-plus percent growth for nearly a decade, as we have done so, is no normal feat. Nor is increasing the per capita income by three-fold in that same

time period. Millions still suffer, but there is no denying that more people are healthier and wealthier than they were a decade ago. But if the statistics say we are better, why are we not content? Why are we triggered so easily, and why do we pounce on every opportunity to question the judgment and competence of our decision-makers?

If economic well-being alone meant rainbows and butterflies, people in Chile, for instance, would not be out in the streets right now participating in violent and massive demonstrations. The country now is in a state of emergency, and things look gloomy. The protests have come as a shock, because Chile, by most international economists, is seen as a successful example of a market-based economy. Since 1990, its story has been that of the end of a military dictatorship, the advent of democratic governments, economic growth, and rising income.

But that is not the entire story, and there exists a darker side. Economic

growth has slowed down in recent years, and Chile's inequality is one of the highest among its peers in the OECD. But growth and inequality as the sole factors of discontent are challenged by the fact that Chile since 1990, has made significant progress in fighting inequality, and its growth rate still averages better than most of its Latin American neighbours.

The most profound factor, evidently, is the extreme disconnect in Chile between its citizens and the political system. Chile also ranks the lowest in the OECD in its measure of "civic engagement", and no country in South America has lower political participation. The overwhelming majority of Chile's population either do not identify with a political party or perceive them as highly corrupt. Chile's story is also that of unequal economic growth, a state increasingly withdrawn from its regulatory roles, and a political class unwilling to transform the country's economic and social model.

Chile's social unrest is a lesson of the dangers of ignoring inequality and the importance of building inclusive political institutions. Inequality in Bangladesh is also at an all-time high, and the latest data reveals an increasing trend. But perhaps the more alarming fact is that in Bangladesh, just like in Chile, political participation and peoples' trust in state institutions have also been depleted.

Sure, the fulfilment of our short-term needs of economic growth and increased per capita income has turned us into passive political actors. It does not affect us much to look the other way, to go with the flow, or be somewhat content with whatever is the status quo. But it would be good practice for our decision-makers to realise that similar rates of growth cannot be sustained consistently forever, just like it wasn't in Chile. What really matters during economic crises, besides the strength of our economic fundamentals, is the people's trust in the system and its institutions.

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LETTERS TO THE EDITOR

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The onion outcry

In my life of 63 years, never have I seen a situation where multiple authorities together could not regulate the price of a simple commodity like onion. It seemed absolutely absurd when all the commotion began a few months back. Then it appeared that the situation will be under control since multiple initiatives to tackle the crisis were being taken by the authorities. Yet, per kg of the infamous spice is still being sold for Tk 240-250! Like many of the citizens, the dots that I am unable to connect are: how come despite the mass imports of onions, the price remains high? Why have we not been able to punish the culprits who fabricated this chaos, yet? Will the situation ever stabilise? Even though the Trading Corporation of Bangladesh is providing onions at a fair price, it is a struggle to stand for hours in the long queues just to end up with a limited amount of the commodity.

It was also shocking to see news reports of onions rotting away while the market prices choked the general public. It made no sense. But I have overcome the burden by restricting the consumption of onions and asked my wife to do the same and we are still a healthy and happy family.

Monirul Islam, by email