

When Government Violates the Law

In this space last week (Dawn August 17) I had argued that were it serious about bringing the crisis in Karachi to an end, the government of Pakistan shall launch, now and in earnest, a three-pronged policy to: (i) cleanse the law enforcement agencies of lawlessness and misuse of power, (ii) enfranchise Karachi's inhabitants by investing them with an elected and empowered city government, and (iii) bridge the yawning gap between Karachi's growing population and its decaying infrastructure. An elaboration of the first issue - dealing with violations of laws by the guardians of law - follows.

An elementary principle of politics is the symbiotic relationship between rule of law and legitimacy of states. When governments violate the law they damage the very foundations of statehood, and destroy the bases of civic life. Yet governments, including democratic governments, do occasionally violate laws, especially in times of war and civil strife. In democracies the Press plays a major role in exposing such infractions, the opposition acts as a watchdog over the errant government, the judiciary intervenes to punish violations and enforce the rule of law, and often widespread public protests force inquiries and punishment. Such interventions and protests serve as the mechanism of correction, of renewal and change following the state's slippage from legal and civilised norms.

During France's military operations in Algeria, the French engaged in torture and killed prisoners in captivity. After Henri Alleg wrote *The Question* describing the torture to which he was subjected, Djamila Bouhassane's story became known, and Larbi Ben M'Hidi was murdered in prison, liberal French opinion was finally aroused. The outcry which followed failed to significantly affect the French government's conduct. The internal rot soon led to the fall of the Fourth Republic and Charles de Gaulle had to do the necessary cleansing which included the trial and sentencing of senior officials, including General Raoul Salan.

During the Vietnam War American students, academics and clergy protested against the excesses of the US government in Vietnam, and its disregard of democratic norms at home. Soon they were reinforced by the media, and 'whistle blowing' government officials who risked their jobs for the sake of their conscience and their higher obligation to the American republic. The government responded with palliative such as the trial of Lt. Calley for his part in the My Lai massacres. The American executive's disregard of legal norms climaxed in the Watergate scandal, resignation of Richard Nixon, and prosecution of his aides, including White House Chief of Staff Robert Haldeman and Attorney-General John Mitchell. Again the state and American democracy greatly benefited from this process of cleansing, albeit a belated and limited one.

For four decades, Pakistan has suffered from a crisis of legitimacy. One half of the state founded in 1947 quit the federation in 1971. The country has been ruled alternately by parliamentary governments and military dictatorships. A state so fragile cannot afford to degrade the rule of law on a large scale and under parliamentary government. Governments' legal and constitutional violations must be understood in our situation as not only reprehensible encroachments on human rights but also as an assault on the very foundations of state, and democracy. Yet, such violations have been occurring on a large scale in Karachi, and the government both of Sindh and Pakistan has responded to appeals from human rights organisations, including HRCP and Amnesty International, with denials and denunciations reminiscent of General Ziaul Haq's days.

It is common knowledge that in their war on the MQM, the governments of Sindh and Pakistan have been allied to the break-away MQM-Haqiqi group. Its leader Afaq Ahmed Khan and his cadres had constituted the most ruthless elements of the MQM's violent

wing. The Press as well as human rights organisations confirm what is public knowledge in Karachi - that the MQM-H practises terror and extortion as does the MQM-A; but one is tolerated by the government while the other is targeted by it - a fact which devalues the government's authority, making it a partner in crime rather than the guardian of law. Informed sources say that the machine gun mounted Haqiqi pick-ups have not been seen cruising Landhi recently and there is a certain decline in the vigour with which it had extorted businesses in the area. This is good but not enough to restore the government's credibility. If Ms. Bhutto and her Interior Minister wish citizens to take seriously their claims of upholding the law in Karachi, they must end the government's links with the MQM-H and prosecute its leaders for the crimes which they are widely alleged to have committed. But this is one among several steps they must take to reclaim the state's authority.

Independent observers and victims of government excesses in Karachi testify that the Rangers and the police routinely terrorise innocent civilians on a large scale, inflict collective punishments, extort money, extract confessions, commit rapes, conduct mass arrests, torture detainees and kill people in captivity. In some instances the evidence of wrongdoing has been provided ironically by the government itself. Thus, as a recent Amnesty report noted, three 'disappeared' persons, including MQM senator Zahid Akhtar turned up from "unacknowledged" state detention when they were shown on the official television channel confessing to various acts of terrorism. It was a nauseating reminder of the worst days of Stalinism, and an indication also of our officials' insensitivity to basic legal and moral norms. In other cases like those of Sabzwari and Farooq Dada - whose fate bears resemblance to the case of Algeria's Larbi Ben M'Hidi - have received publicity and even Amnesty International has drawn Islamabad's attention to them. In response to Amnesty's appeal, the federal state minister for law denied any wrongdoing and accused AI of bias. Such denials do not lend credence to Ms. Bhutto's government abroad or at home.

During a recent visit to Karachi, I inquired into the case of Farooq Dada. There are reasons to suspect the government's claim that he and three others died in a shoot-out with the police: Neighbours and family members say that they had been arrested two days before the alleged shoot-out. No witnesses can be found for the allegedly intense shoot-out. The Suzuki van in question looked too small to hold the men and the arms displayed by the government. Yet, in this case as in hundreds of others, the truth may never be known in the absence of authoritative judicial inquiry. Justice shall never have been done without a process of accountability, prosecutions, convictions, or acquittals.

The most disturbing aspect of the government's counter-insurgency campaign has been the manner in which it has been carried out in the city's densely populated districts. It bears comparison with the French and American 'search and destroy' operations in Algeria and Vietnam respectively, and with Pakistan's 'police operation' in East Pakistan during March, April, May, and June of 1971. Officers and men in the field have tended to view all Urdu-speaking citizens as fair target. During the siege and search of neighbourhoods, homes have been occasionally looted, and invariably available men, 12 to 65 years old, have been arrested, beaten up, some tortured, and the fortunate ones released mostly after low-income, hard-up families have paid bribes of up to fifteen thousand rupees. The police especially have been vicious in piling on ethnic insults to personal injuries. Stories abound and require no telling.

How many innocent citizens have been put through the ringer of official brutality and ethnic humiliation? Again, in the absence of authoritative inquiry we may never know, and the state shall not be able to heal the deep wounds it has inflicted. Spot checks in Karachi's affected areas; with the man-in-the-street, mail men, and ambulance drivers, suggest that somewhere between 20,000 to 25,000 persons may have variously undergone the 'Rampur, Bhopal, UP, Bihar' or worse, the MQM treatment. This entire exercise had predictable outcomes: militarily, it helped thrash the MQM as though with a

sledgehammer. Politically, it has invested the MQM with a constituency potentially larger and angrier than it had before. Unless the government acts expeditiously to reverse this trend, this country shall reap a harvest of hate and repression.

In the previous essay I evaluated the MQM to be a defective and inept organisation both politically and in its use of violence. That evaluation has not changed. But a visit to Karachi has convinced me of another, more disturbing reality - that the failures and myopic militarism of the MQM is exceeded by those of the governments of Sindh and Pakistan. Unless they take a miraculous about-turn, Pakistan's tragedy would have vastly augmented.

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