

CLEAN POLITICS AS A WAY TO A CLEANHEART

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The Origins of Operation Cleanheart

Operation Cleanheart has been formally terminated. Its legacy, however, lingers on and may come to haunt the current administration in the days ahead. Cleanheart's origins, operational life and its termination remain troubling for a country which would like to be viewed as democratic and committed to the rule of law. At its inception, the overriding objective of Operation Cleanheart, as articulated by the government as well as its publicists, was the determination of the government to once and for all enforce law and order within a society where crime was perceived to be rampant. The ruling party alliance had made the issue of the breakdown of law and order under the Awami League administration into its principal campaign theme during the last election. There was therefore a presumption that the newly elected administration would prioritise effective law enforcement so that citizens could walk the streets without fear, go about their business and sleep peacefully.

In the first year of the incumbent administration, however, there was little evidence of an improvement in the state of law and order, which, if anything, deteriorated. Criminals/terrorists who had, in the aftermath of the elections last October, targetted minorities and supporters of the Awami League, became more indiscriminate in their choice of victims. The general public, thus, continued to live in a state of insecurity where crimes against women, extortion, and terrorism remained a fact of daily life. The main difference was that the face of the criminals and their sources of patronage had changed. Though in some cases the same hoodlums who had terrorized the community under the patronage of the outgoing ruling party remained in business but with a renewed mandate from the incumbent ruling party.

It was in these circumstances that the Prime Minister, after presiding over a regime where law and order appeared to be going out of control, decided to bring in the armed forces, through Operation Cleanheart, to assume charge of the process of law enforcement. However, the very decision to bring in the armed forces to assume responsibilities for which they have no formal training and had hitherto remained the preserve of the police, raised serious questions which

should have been addressed at the outset rather than remain unanswered even at the termination of the operation.

A Systemic Crisis

It was evident to all, including the Prime Minister, that the source of the deterioration in law and order originated in the continuing patronage of criminals and terrorists by the incumbent ruling party. This patronage is not the monopoly of the present regime but has been in evidence since the emergence of Bangladesh and even before that. What we witness today is the end result of a cumulative process of patronized crime, practiced over successive regimes. It is not very helpful to claim that this patronage was evident under the Ershad Administration or for the Awami League to claim that the situation deteriorated under the first Khaleda Zia's administration or for the BNP to claim that the situation was out of control under the recent Awami League (AL) administration, or for the AL to claim that the state of law and order has reached its nadir under the current BNP administration. What is evident is that if criminals continue to enjoy immunity from law enforcement over 4 successive administrations, then Bangladesh is not just faced with an immediate problem of governance failure but is facing a systemic crisis manifest in a breakdown in the institutions of law enforcement.

This crisis in law enforcement reflects the fact that over the last 20 years, if not longer, the police force of Bangladesh have operated under a regime of selective law enforcement. Under this regime criminals and terrorists patronized by the incumbent ruling party tended to remain above the law. Under such a system of selective law enforcement, the principal casualties became the institutions of the rule of law and law enforcement. The police force of Bangladesh have come to recognize that it is hazardous to their careers to enforce the law, *suo moto*. The bigger the criminal, the greater the hazard. We have reached a point where law enforcement now needs political clearance which is only provided selectively. In such an environment, where initially the crimes of political loyalists enjoyed the protection of the law, today common or hardened criminals have joined a political party in order to practice their trade with immunity. As a consequence the ranks of the major political parties are now polluted with criminals and hoodlums, whose musclepower has become an indispensable resource for furthering the political

as well as commercial fortunes of their political patrons. In return for these services, criminals are assured of immunity from law enforcement. Over the years these patronized criminals are now graduating into the upper echelon of these political parties, by using their muscle to usurp electoral office and graduate into business. After all using arms to win a tender is more lucrative than the extraction of tolls. In turn, enjoying immunity from loan default is an even stronger incentive for seeking political office.

Within a system of politically patronized crime, the capacity, muscle and probity of the law enforcement agencies has become the other major systemic casualty. If police officers know that law enforcement can, at best, be selective and that there are no rewards for the bold and impartial discharge of their duties, then some officers and their rank and file will eventually seek to abuse the system for their own advantage. As a result, politically selective law enforcement has now become linked with law enforcement for private gain. We now live in a society where there is no uniform law for all citizens but some citizens can now purchase whatever law enforcement services they are willing to pay for. Thus, law enforcement is no longer a public service but a marketable commodity. This perspective on the law has been validated by a number of opinion surveys by Transparency International as well as other micro surveys of the system.

It is thus evident that the problem which inspired Operation Cleanheart was not a simple issue of more effective law enforcement but originated in a systemic crisis located within the political parties and within the very machinery of law enforcement. Unless the political leadership today, yesterday or tomorrow, is willing to clean up their political parties and exorcise the party from criminals, hoodlum and terrorists, its political compulsions will demand that we perpetuate a system of politicized law enforcement. Unless the police force is emancipated from the tyranny of selective law enforcement they can never be disciplined to enforce the law as a public service without fear or favour. Operation Cleanheart was thus, at best, a temporary cure applied to the symptoms of a disease which is corroding our body politic. Its medical equivalent would be the use of antibiotics to treat an infection which originates within a patient suffering from AIDS.

A Mandate for Cleanheart?

In such circumstances, Operation Cleanheart needed to be preceded by or at least to proceed concurrently with, a move to reform party politics and clean up the police force. Such a task cannot be carried through by the ruling party alone. It can only originate through a process of bipartisan consultations which also involves civil society. After all, it is not only politicians who benefit from selective law enforcement. No party, least of all a ruling party, will demobilize its hoodlums unless it can be assured of a reciprocal response from its political opponents. Such a major move to build a national consensus to support a major interaction amongst the political parties and the institutions of law enforcement should have preceded the involvement of the armed forces.

Since all political parties, including the Awami League, appear to have recognized the need for Cleanheart this failure by the government to consult them appears to have been an avoidable provocation. Operation Cleanheart thus originated in a political vacuum whose rationale was and still has not been made transparent thereby leaving its legal as well as political mandate undefined. Any operation, which involves the use of armed forces in operations which are outside their normal mandate as well as professional training, demands careful political supervision as well as accountability under the law. The failure to lay the political groundwork for Operation Cleanheart, to establish its legal authority and to ensure a system of safeguards and accountability, has contributed to the problems of torture and custodial deaths. As a result the actual perpetrators of such offenses remain concealed behind a veil of often contradictory information. This has now culminated in the decision to abruptly terminate the operation and to sanitize it through the Indemnity Ordinance. Such an attempt to legally immunize the Operation is likely to have the opposite of its intended effect.

The Termination of Cleanheart

The sudden decision to terminate Operation Cleanheart on the eve of the Union Parishad (UP) Elections was interpreted by not just the Opposition parties, but many non-aligned voters, as a partisan act. The demise of Cleanheart has to also be juxtaposed with the decision by the Government to overrule the Election Commission, and defer the date of the elections on the

ground that the armed forces were too involved in Operation Cleanheart to support the EC in the elections. The subsequent decision of the government to deny the formal request from the EC for the deployment of the armed forces across the countryside, in support of law enforcement during the UP elections, did little to clarify misgivings about the intentions of the government.

It was generally perceived that hoodlum elements within the ruling party, who had either been detained under Operation Cleanheart or were on the run, could hardly assert themselves in the election campaign as long as the army was present across the countryside. Since the Awami League hoodlums had also been detained or were fugitives from Operation Cleanheart, the presence of the armed forces may have had the positive effect of immunizing, to some degree, the election process at the local level from the malign influence of the criminal classes. The subsequent decision to therefore terminate Cleanheart and to deny the EC's request to deploy the armed forces during the election, provides an open invitation to the hoodlum element to return to the political arena and play an active part in the UP election campaign. I am myself, in no position to confirm or deny this argument since I am neither privy to the political compulsions of the ruling party nor have I carried out any empirical survey of the revival of hoodlum politics at the Union level following the end of Cleanheart. I can only read the newspapers which report of some violence and use of firearms during the ongoing campaign.

It is to be seen how far the return of the criminal classes influences the outcome of the Union Parishad elections. There is some indication from press reports that toll extraction is being resumed. The papers have also reported on the concerns of local government officials, in their pre-election meetings with Chief Election Commissioner, that the hoodlums were resurfacing in the local election campaigns after the army was withdrawn. In all fairness, we need to allow for more time to ascertain whether Cleanheart has sufficiently intimidated the criminal classes from returning to their predatory activities.

In the event that the criminal classes do gradually resume business as usual, in the days ahead a more serious consequence may emerge for the stability of the polity. There is little evidence to suggest that the patronized criminals have been purged from the ranks of the principal parties even if their current profile today remains somewhat lower. In the days ahead there is less reason

to assume that the links of the hoodlum class with the law enforcement agencies have been sundered. There is no indication that the police will cease to use their newer cell phones to seek political guidance on whether they should act against a particular law breaker. Thus, the collusive alliance, forged at the local level, between politicians, law breakers and the police appears likely to survive Operation Cleanheart until such time as the major parties have acted to clean up their party as well as their politics.

The Institutional Consequences

It should, furthermore be kept in mind that the police, as an institution, are demoralized. The decision to induct the military into law enforcement, over the heads of the police, was deeply damaging to the self-esteem of the police. Elevating a small segment of the police force into a special unit such as RAT, without necessary, political and systemic charges, is going to do little to restore their self-image. The chemistry of a demoralized police force and a resurgent criminal class, who have survived the most potent assault so far faced by them through Operation Cleanheart, constitutes a highly toxic weapon for the corrosion of the social fabric.

The final dimension of the crisis relates to the impact of Operation Cleanheart on the armed forces. One can sympathise with the good intentions of the Prime Minister to improve law and order through Operation Cleanheart. One can also compliment the armed forces for improving the state of law and order during the Operation through a largely non-partisan approach to law enforcement. The Prime Minister must have been aware of the collusive links between elements in her party and elements in the law enforcement agencies to recognize that she would have to bring in an institution such as the armed forces if she was to ensure an element of non-partisan law enforcement. However, involving the armed forces, in what is essentially a civilian responsibility, is fraught with hazards for the armed forces as an institution. Our history has shown that any prolonged exposure of the military to civilian administration exposes them to all the risks, temptations and prospects for discredit, associated with civilian governance. The Ershad administration represented the apotheosis of the process of institutional degeneration which arises out of a prolonged exposure of the military to the noxious climate of an unreconstructed polity and society.

To use the military for certain emergencies can, at best, be a temporary action, as a form of shock therapy. But such an operation needs political oversight as well as legal accountability which has to be situated within a clear context of institutional reform. All such preconditions appear to have been absent in Operation Cleanheart. The consequence has been to expose the armed forces to a depreciation in the very institutional credibility which, in the first instance, invoked their services. The irresponsible actions of particular elements in the military, leading to torture and custodial deaths, could have been avoided, if, *ab initio*, oversight mechanisms had been in place to deal with each incident as it arose. Mechanisms of accountability could have promptly dealt with such cases as individual aberrations which could have been addressed within the prevailing laws of the land.

The Consequences of the Indemnity Ordinance

By providing a blanket immunity to all those concerned with Operation Cleanheart, namely the government, the armed forces, and the law enforcement agencies, it is implied that these institutions have something to hide and are thereby neither willing to expose their actions to transparency or judicial accountability. The Ordinance, *prima facie*, appears to be violative of the Constitution of Bangladesh which guarantees all citizens equality before the law. The enactment therefore deserves to be challenged in the law courts by our leading jurists.

The Ordinance may turn out to be particularly damaging for the institutional credibility of the armed forces, who not only have to consider their reputation at home but also their standing abroad which has been built up through their excellent record in UN Peace Keeping operations. The government, also cannot afford to be viewed, within a democratic system, as putting itself above the law and violating the principles underlying the Constitution. Nor can the GOB afford to escape from accusations of human rights violations by immunizing itself from exposure to the due process of law, if they hope to project a global image of Bangladesh as a democracy bound by the rule of law. The Indemnity Ordinance has therefore hardly been helpful to the institutionalization of governance or the image of government and the country.

A Crisis of Democracy in a Globalised World

Bangladesh is going through a very critical phase in its history where not only are the workings of its institutions of governance under threat but its political actions are increasingly coming under scrutiny in the global arena. This process constitutes the political fallout from a globalised world. In such a world, foreign governments with whom we have political or economic links, hold an incumbent regime directly responsible for whatever is going on in Bangladesh or any other dependent country. For Bangladesh this global scrutiny goes beyond the Indemnity Ordinance and extends to the general conduct of governance involving the workings of our political institutions and the state of human rights. The current policy of the government of arresting well known intellectuals, political figures and journalists, who are not directly linked to acts of violence, under vague charges of sedition and treason has not passed unnoticed in the embassies of our economic partners. The invocation of such charges as sedition, are part of the legacy of the colonial era where the goal was to silence criticism of colonial oppression. To invoke such laws at the dawn of the 21st Century invites not just ridicule within the country but also censure from International Human Rights organizations as well as from governments whose goodwill and economic favours, are cherished by our government.

If the incumbent regime is anxious about its international image as a liberal, democratic, moderate and even secular society, it needs to demonstrate this in the political tolerance and adherence to the rule of law it practices at home. Today there is a growing climate of unease across Bangladesh where people have to be careful of what they write or say lest they end up on three days remand or in a prison cell in Lalmonirhat. Such a climate of fear is alien to the political culture of Bangladesh and is unacceptable in a country which claims to be a functioning democracy. It is also unacceptable to the international community within the prevailing world order. If any government is determined to violate the human rights of its citizens it better make sure that it is strategically important in the calculations of a powerful country! Politically less significant countries such as Bangladesh had better clean up their act or delink themselves from the global economy as is the case with North Korea.

It is not very useful for the present government to complain of similar acts of oppression, real or imagined, practiced against the present ruling party by their opponent when they were in office. Both international governments as well as the Bangladeshi public remain preoccupied with the here and now and are not impressed by attempts to invoke memories of breakdown of law and order or even violation of human rights under the Awami League anymore than they were moved by the Awami League, during their tenure, to blame the erstwhile BNP regime for poor law enforcement in their tenure in office from 1991-96. As far as Bangladeshis are concerned, they recognize only the actions of the incumbent regime and hold them fully responsible for their conditions of living and security. Similarly, foreign government are not impressed by suggestions that their current actions vis a vis Bangladesh are influenced by the malicious propaganda of the Opposition parties, of our neighbours, or of irresponsible journalists practicing 'information terrorism'. Foreign governments have sizeable diplomatic missions in Dhaka as well as their own sources of intelligence and are quite capable of making up their own mind about Bangladesh. These opinions may not always be fair or accurate. But to suggest that foreign governments formulate their positions on Bangladesh, based on journalistic gossip, is somewhat offensive to the self-image of these countries and if anything further alienates them from the incumbent regime.

A Quest for Consensus

In the prevailing circumstances of Bangladesh it ill-serves the country for the leaders of our principal political parties to indulge in a blame game. This is particularly applicable to the ruling party who are immediately and directly responsible for whatever happens to our domestic institutions as well as our international reputation. It is a sign of maturity for our leaders, as well as for all Bangladeshis, to look inward to see how best we can correct the damage which we have inflicted on our domestic institutions as well as our international reputation. Such a process of collective self-appraisal must begin through a process of political reconciliation at home, in which the incumbent regime must invite the political opposition as well as civil society to a dialogue whose principal agenda should be to clean up our politics through its discrimination, backed by the depoliticisation of law enforcement as well as the administration. This agenda

should also include intensive discussion on how to cope with the immediate problems facing Bangladesh within the current global situation.

Is such a dialogue possible when our political leaders have not had a political dialogue in 10 years, political debate in the Parliament is provocative rather than constructive and even informal political discussions are rarely evident? Can our political parties demonstrate a degree of statesmanship by moving away from the culture of revenge and retribution? Will, for example, the ruling party abandon its hunger for vengeance in response to their sense of victimisation by the Awami League? In return, will the Awami League make a public commitment that if they are returned to power in the next elections, they will not seek retribution, with compound interest, against the present ruling alliance for the oppression which is currently being visited on them? Cynics may also ask, 'will the tiger become a vegetarian'. I prefer to leave this an open question and end with a quote from the legendary folksinger, Bob Dylan, 'the answer my friend is blowing in the wind'.