

Does she possess the moral authority to demand trials?

Mozammel H Khan

Leader of the Opposition Khaleda Zia, on the eve of International Day against Torture, urged the government to immediately take effective steps to investigate each incident of 'repression on politicians, businessmen and citizens' during the emergency period and hold trials of the people responsible. She also appealed to the United Nations to take necessary steps for encouraging the government to take such initiatives. This is indeed a befitting statement from the leader of the opposition of a democratic country. It would have been better-suited if the statement were made inside the parliament of which she is the leader of the opposition. However, as far as Khaleda Zia and her five-year rule is concerned, it would be only natural to ask if she possesses the moral authority to ask for the trials of the perpetrators of the alleged crimes committed during the past caretaker government. If one reflects back what happened following the general election of October 2001, it would be obvious that all the alleged crimes Khaleda Zia is talking about now, the modes of many of those were invented whereas the others reached their peak only during her dreadful rule. Torture in remand, custodial torture and death, extrajudicial killing through so-called 'operation clean heart' and 'crossfire' remain the landmark of the BNP-Jamat regime. Remand became such a widely 'abused' phenomenon to torture the political opponents that one of our revered retired Chief Justices wrote a poem entitled, "The State is on Remand". Our main (later deceased) poet wrote "the nation is passing through the dark period of the lunar cycle". New methods, such as beating by hammers were invented by the BNP activists to torture the opposition political workers and religious minority. Torture, rapes and killings became the rule of the day. Hundreds of opposition political activists, including personalities like SAMS Kibria and Ahasanullah Master, were killed and thousands were driven out from their homes for months. Nation never witnessed such a horrendous brutality after the genocide of 1971. Investigations by the criminal investigation department became a mockery where innocent people were arrested and made to confess the crimes they have never committed. Every judicial investigation, whose reports were never made public, invariably pointed to 'foreign' involvement.

Violations of human rights were so rampant that international conferences were held in many capitals of the western world, including the British House of Lords (with Lord Avebury as prime mover), to press the Bangladesh government to redress the situations. The author of this piece attended and organized more than one such conferences and kept constant communications with the UNHRC and its chief former Canadian Supreme Court Justice Ms. Louise Arbour about the despicable human right situations in Bangladesh.

In fact, it was during her last tenure Bangladesh was included in the list of countries prepared by the United States Commission on International Religious Freedom (USCIRF), a US Congressional panel, where there were violations of minorities' right. On May 4, 2009, the said body dropped Bangladesh from its Watch List of countries deemed to violate minorities' right to religious freedom. The USCIRF mentioned in its report that says, "the absence of measures to promote minority voting rights and the failure of the government to investigate the severe anti-minority violence of 2001 were among the reasons for which Bangladesh was placed in the Watch List from 2005 to 2008. However, in light of the positive developments witnessed during

the December 29, 2008 general elections, the commission removed Bangladesh from its Watch List of 2009.”

It was during her tenure, to mention a few, free thinker and author Muntasir Mamoon, human right activist Shahriar Kabir, politician of the like of Saber Hossain Chowdhury, journalists Eanmul Hoque Chowdhury and Selim Samad (who had to take asylum in Canada) were arrested and tortured in custody. At the end of the investigations, even when she was at the helm of the state, the accusations brought against them were found to be absolutely unfounded. It was during her rule, before any opposition’s political program, thousands of people, many of them were innocent bystanders were arrested, bundled in police vans and were locked behind bar for indefinite period, for reasons totally unknown to them and their keens. Is it not natural that before demanding trials of the alleged wrong-doers during the emergency when the fundamental rights of the people were constitutionally suspended anyway, trials should be held for those perpetrators who indulged themselves in more severe crimes during her regime when the fundamental rights of the citizens were still constitutionally on?

In her statement the leader of the opposition termed the past caretaker government (CTG) an ‘unconstitutional’ one. Here again, the natural question would be if the Iajuddin-led government that preceded the last CTG was a constitutional one to start with. The answer is a big nay. In fact, the seed of the Fakhruddin-led CTG was sowed itself in the unconstitutionality of the Dr. Iajuddin’s takeover of the CTG chief bypassing a number of provisions of the constitution. And it was known to the nation who was behind Dr. Iajudddin’s decision to declare himself the chief adviser of the CTG and his subsequent actions as a remote control chief adviser to materialize her nefarious agenda. Even when a bench of the honourable High Court, in response to a writ petition challenging the constitutional legality of the Iajudddin government, was about to deliver its ruling, it was apparent to the nation who manipulated the then CJ, in a manner with no precedence in the operation of higher judiciary, in suspending the issuance of the ruling at the last minute.

As a citizen of a democratic country and more so as the leader of the parliamentary opposition of the parliament, constituted out of the most free and fair election in Bangladesh’s electoral history, she has all the legal rights to ask for the trials for wrong doings committed by government machinery of any past government. However, her moral right to demand the investigations and trials loses much of the ground when she fails to include and apologize for the similar offences committed during her own tenure, which in magnitude, severity and number, much outweigh what happened in the tenure of the last CTG.

Dr. Mozammel H. Khan is the Convener of the Canadian Committee for Human Rights and Democracy in Bangladesh.