POLICE FIRING ON EWU STUDENTS

THE USE OF EXCESSIVE FORCE

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WE all know the idiom -- to shoot out of cannon into sparrows. It is a moral principle that discourages us from taking unnecessary, widespread, indiscriminate means and measures against someone. In the legal field, a similar concept is known as the Doctrine of Proportionality.

During the protest against the 7.5 percent VAT on private universities, the police fired rubber bullets at the students of East West University who held the protests. Students claimed that several faculty members and students were wounded in the process.

Although there is no hard and fast rule to determine the proportionality, the following questions are considered in international humanitarian law while determining an action during an armed conflict: Was the target a legitimate object? Was that legitimate object specific? Was that specific legitimate object a threat to law and order? Was the action necessary? Was it the last resort to deal with that specific legitimate object?

The same can be applied to determine whether the firing on East West University students on September 9 was at all called for. First, as they were protesting for their "right to education" in a non-violent way, they cannot be called a legitimate object. They were not demanding anything illegal. Secondly, police did not have a specific target. Not only students but two university teachers were also injured although they were not protesting along with the students. Third, were the students really a threat to law and order? The news on papers, TV channels and online media show that their protest were organised and peaceful, that no vehicles or property was vandalised in Dhaka, Chittagong or Sylhet! Nor did the students call for any violent move so far. Fourth, was it really necessary to fire on the students? The Deputy Registrar of EWU complained to *The Daily Star* that police fired on the students without any provocation while they were returning to EWU after the blockade of the road! Was the firing necessary? Lastly, was firing the last resort for the police to disburse the students? The answer is a categorical 'No'. Instead of being more patient, tactical and responsible, police fired at students putting their lives in danger.

Moreover, according to Rule 153 (a) of Police Regulations Bengal (PRB), police is permitted to use firearms for the following three purposes only: (i) If police sees that a person's life or property is in danger and the right of private defence is necessary to be exercised; (ii) For the dispersal of unlawful assemblies as per the manner of Sections 127-128 of Code of Criminal Procedure (CrPC); and (iii) If a person creates obstacles to be arrested, then police can fire per the Section 46 of the CrPC. It is also stated in Section 46 (3) of CrPC that police cannot cause death while arresting. Rule 153 (c) of PRB says that the use of firearms is strictly a last resort. Now, can we say that there was no last resort but to fire on EWU students? In one sense, their public assembly was illegal, but their purpose was justified and legitimate. We all have that constitutional right to protest an affront on the right to education. That is why from an ethical and moral perspective, can we term the gathering of EWU students as "unlawful assembly"? Also, as per Rule 152 (ii) of PRB, police cannot come too close to the protesters to shoot with firearms. The pictures and videos that were shared on social media clearly show that police fired from close range. Police also fired indiscriminately violating the Rule 154 (b) of PRB, which left several faculty members and students of EWU injured.

Another serious issue has arisen out of this situation. The motto of police is to protect civilians from injury. But alarmingly, we have seen that the number of fatal injuries by police has increased rapidly in the last couple of years. According to Ain O Salish Kendra, 128 people died in "crossfire" and "gunfight" between law enforcers and alleged "criminals" in 2014, while the number was 72 in 2013. What provoked the police personnel to fire upon the unarmed student protesters? It needs to be investigated. Could they not have used baton, water spray or any other non-lethal weapon? Could they not have arrested the students instead of firing on them? Or just stand and wait? It was not a riot situation which was out of control, nor did any of the students vandalise property. Then what provoked or compelled the police to use rubber bullets? Such questions seriously challenge the proportionality of force used on the EWU students.

Bangladesh needs to ratify the "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials" which was adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders at Havana, Cuba in 1990. Had Bangladesh ratified it earlier, we could have brought a check and balance on policing in public assemblies through principles 12 to 14. Our civil and criminal laws should also be reformed according to these basic principles. Moreover, the police force needs to be given training in basic human rights education so that they respect the law before using firearms and using disproportionate force. We do not want to see children being shot while demanding their rights.

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