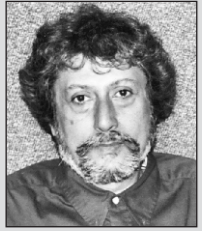


# People taken for a ride?



SHAHNOOR WAHID

## SENSE & INSENSIBILITY

Political analysts may want to analyse whether Abdul Jalil knew all along which way the dialogue was heading, or is it that he had no inkling whatsoever thereby exposing his political immaturity. He agreed to join the dialogue knowing full well that BNP would not agree to their very first demand on the KM Hasan issue. On the other hand, Abdul Mannan Bhuiya will now show the world that the government had organised a dialogue as per demand of everyone but Awami League could not make anything substantial out of it. He will even say that he had proposed an alternative name as chief advisor.



defused without forcing the country on the path of civil strife or paving the way for any undemocratic forces to seize power.

It is only obvious that all sorts of questions are now being asked by political analysts and discerning people: Who is responsible for such a situation? What did the two senior politicians talk in the six meetings? How many of the issues on Awami League's long list have been accepted so far by the ruling party? Did Abdul Jalil at all have the opportunity to bring up those issues in the six meetings? If not then what did the two talk about in the meetings? Nothing substantial? Then why did Abdul Jalil and Abdul Mannan Bhuiya raise the hopes of the people by giving the impression that talks were going on satisfactorily and they

would give the good news any day? On his part, why did Abdul Mannan Bhuiya make the show of a dialogue when he all along knew that his party chief would not budge an inch from the original stand with regard to appointing KM Hasan as the next caretaker government chief?

As the people grope in the dark for answers, they feel with great deal of resentment and disillusionment that both the leaders and both the political parties had taken them for a ride.

Political analysts may want to analyse whether Abdul Jalil knew all along which way the dialogue was heading, or is it that he had no inkling whatsoever thereby exposing his political immaturity. He agreed to join the dialogue knowing full well that BNP

would not agree to their very first demand on the KM Hasan issue. Therefore, the dialogue was doomed to failure at the very outset.

On the other hand, Abdul Mannan Bhuiya will now show the world that the government had organised a dialogue as per demand of everyone but Awami League could not make anything substantial out of it. He will even say that he had proposed an alternative name as chief advisor but Awami League could not give any decision on that.

History will put both the political leaders and their parties in true perspective one day. But a lot of damage will have been done to this country by then.

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# Justice Hasan's final judgement?

## COMMENTARY

Justice Hasan knows more than any of us, that justice not only has to be done, but has to be seen to be done. Meaning that the process must be as credible as the end result. For the process to be credible, the person in charge must enjoy the trust and confidence of all. Justice Hasan must use all his wisdom, experience, and moral force to determine whether he enjoys that today. The former chief judge must give the ultimate judgement on himself, and we hope it will be as full of wisdom and sagacity, and concern for the nation, as his judgements exhibited when he was the chief justice.

MAHFUZ ANAM

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is certainly not in any position for anyone to be envious of. In fact we sympathise with his plight but must hasten to add, much of it is his own creation.

So what should he do? Should he bow to Awami League's ultimatum or should he stay the course. One path leads to succumbing to crude political arm-twisting and the other sees the nation get engulfed in violence. Some examples of which have already become obvious last night.

The very first question to consider is whether or not we accept the supremacy of the constitution in all matters pertaining to the running of our country. Adhering to the constitution becomes all the more crucial in the matter of the formation of our caretaker government. This point needs elaboration.

A caretaker government, because it lacks the mandate of the people (being an unelected body), needs two elements to legitimise its rule. First, it needs the full and unambiguous authority of the constitution, and second, a consensual acceptance of its rule by the major political parties and all sections of the population. In other words, a caretaker government must be above all legal questions and must enjoy support from all major sections of the society.

Unfortunately Justice KM Hasan faces questions on both counts. Regrettably, he lacks consensus support and also the unambiguous authority of the constitution.

The fact that Awami League, the biggest opposition party, questions his neutrality has been known to us ever since he became the choice of caretaker chief. However, by itself, the AL's claim did not cut much ice with us. Whatever partisan leanings there were back in the 80s, Justice Hasan's subsequent role as a high court judge and later as the chief justice have revealed him to be a man of sufficient integrity and professionalism to be acceptable to all.

Several lawyers and former judges that we have spoken to reinforce our view that he is sufficiently capable of carrying out his



task as the chief of the caretaker government with fairness and competence. We also consider the controversy surrounding his latest visit to a mazar in Comilla to be highly exaggerated and blown out of proportion. Therefore, we repeat, by itself the argument of partisanship does not impress us.

However, it is the constitutional legitimacy of Justice Hasan's position, in other words the way he became the choice to be the caretaker chief that, in our view, greatly weakens his moral authority to be the next caretaker chief. This raises doubts in our mind as to whether he can deliver the task he will be entrusted with, namely to deliver a free and fair election, credible in the

eyes of all.

If Justice Hasan were the choice through a natural constitutional process, then his moral authority would have been much stronger. The fact that he became the choice to be the caretaker chief because of a special constitutional amendment, in May 2004, extending the retirement age of judges from 65 to 67, naturally weakens his position.

The way BNP has governed during the last five years, and the way it used legal, and sometimes not so legal, means to strengthen its hold on power naturally raises suspicion as to the motive behind the extension of the retirement age of judges, for which there was not immediate and overwhelming need.

(There was a far greater need to implement the Supreme Court judgement on separation of the judiciary from the executive, for which Khaleda Zia's government showed utter disregard).

In fact, concerned BNP leaders have admitted in private that this amendment was done on instructions from the top, with making Justice Hasan the caretaker chief in mind. When such be the background of Justice Hasan's position, how can he exert the moral authority to be the head of an interim arrangement?

Perhaps the most compelling argument that should govern his decision is whether he can deliver the sole task, namely a free and fair national election, for which he is slotted to be the caretaker chief. With the biggest opposition party, and its 13 (however small) allies, now joined by the dissident BNP group forming itself into the new Liberal Democratic Party, expressing no-confidence in Justice Hasan, how can he preside over a caretaker government that will hold the election?

The government he aspires to head must enjoy the highest possible credibility of being both non-partisan and neutral. Is that really possible under the circumstances? We put this question before a man who served as the country's highest judge, the chief justice of the Supreme Court.

We remember that he declined to be a judge of the appellate division in the case of Bangabandhu murder case because he felt he could not do justice as he was related to one of the accused. His finer senses as a judge forced him to take such a decision. That same finer sense should now compel him to think how he can perform a most crucial and complex task like holding elections when both his legitimacy and his acceptability have come under severe scrutiny.

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Justice Hasan must use all his wisdom, experience, and moral force to determine whether he enjoys that today. The former chief judge must give the ultimate judgement on himself, and we hope it will be as full of wisdom and sagacity, and concern for the nation, as his judgements exhibited when he was the chief justice.

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# Why be the fall guy?

It is apprehended by different quarters that caretaker regime led by KM Hasan might find things really unmanageable. It thus poses a real problem for him. Under such circumstances, it is really difficult to predict that the Hasan regime will be able to conduct the next general elections and if -- as threatened -- the AL-led opposition parties boycott that election, that would turn into a veritable farce.

KAZI SM KHASRUL ALAM QUDDUSI

IT'S now all down to Mr KM Hasan. It was in fact a duel between two major parties of the country. Mr KM Hasan had been catapulted into the middle by increasing the retirement age of Supreme Court judges. Why did the BNP coalition increase the retirement age of Supreme Court judges? What message did Mr Hasan want to convey by visiting the Comilla shrines along with BNP leaders?

Anyway, however, if democracy is lost -- though I am still optimistic of a welcome twist in the sequence of events initiated either by Mr Hasan or the Honourable President -- the questions raised previously will no doubt be the most frequently asked ones no matter how microscopic they currently look to the outgoing BNP coalition.

As things stand now, the whole blame might well be placed on one man no matter how unconstitutional it might sound. Constitution is indeed a sacred entity, but the entity of the country itself is, however, preferable to the Constitution.

Without any prejudice to Mr KM Hasan, it is my firm conviction that he should not have felt embarrassed then, that is, during the Bangabandhu murder trial. He should have meted out justice instead. Had he not felt embarrassed then, few, perhaps, could have dared to ask him to feel embarrassed now. Judges are the guardians of law and are thus supposed to be neutral in every contingency.

Yes, there is a provision for feeling embarrassed. But, that is, perhaps, suitable only for the tentative ones, not definitely for those who are committed to remaining dedicated to their professional ethics, come what may. There are many instances of

good judgment and sacrifices on the parts of many people for the sake of justice at the cost of their near and dear ones. Despite having known full about the reservations of AL-led opposition parties regarding his past political career, Mr Hasan visited the shrines along with BNP leaders which just fanned the fire of opposition suspicion and emboldened the sceptics.

I wonder what answer Mr. Hasan has regarding this. I am, however, certain about this fact, that it is little possible for a caretaker regime to calm political unrest. If anybody is with the misconception that political unrest can be set at rest by law enforcement agencies under the present circumstances, he must be living in fool's paradise.

That, perhaps, could have been possible if there were mass support behind such a regime. Mind you, AL got 40% popular votes in the 2001 general elections and last five years of little electricity and exorbitant price spiral have created many anti-4 party alliance supporters, if not pro-AL ones.

Yes, the situation might change dramatically once BNP coalition is out of power. The incumbency disadvantage might start taking its toll. Admittedly, people want peace. It is also true that current public sympathy is hardly with the BNP coalition for its failure to provide basic necessities and for being engulfed in unprecedented corruption, against which a good number of its old guard have very recently formed a new political party, namely Liberal Democratic Party.

AL-led parties and BNP have vowed to fight each other on the street. The countrymen have every reason to be apprehensive. If the face off turns into open conflict and clashes, the situation might go out of control of law enforcement agencies. But, what will happen to the wretched masses of the

country? Are they destined to undergo trepidation throughout their lives? We are the most corrupt nation thanks to our rulers. We are the happiest nation on account of our minimal wants.

Professor Yunus has elevated our status in the world by winning the Nobel Peace Prize. Thus, we just don't want to be the most unfortunate nation as well on account of our errant political leadership -- irrespective of party affiliation -- and supposedly responsible and respected personalities like judges.

It is apprehended by different quarters that caretaker regime led by KM Hasan might find things really unmanageable. It thus poses a real problem for him. Under such circumstances, it is really difficult to predict that the Hasan regime will be able to conduct the next general elections and if -- as threatened -- the AL-led opposition parties boycott that election, that would turn into a veritable farce.

Meanwhile, if any third force takes over, the outcome would hardly be welcome for Mr Hasan as he will be regarded as the villain of the piece. The bottom line is that it is now or never for Mr. Hasan. He can easily go down in history by expressing embarrassment in taking the post of chief advisor. Hopefully, good sense would prevail in time and national interest would take precedence over self-interest. Moreover, there is no point in being the villain of the piece or "fall guy" for no creditable gain.

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# Stakes could not be higher

The necessity at the moment is to have a neutral CTG and a credible EC. First and foremost job of CTG would be to dismantle the existing pre-arranged administration and replace it with people having neutrality as much as possible. Simultaneous to that, it should make a crack down on all godfathers and their bands of hoodlums. Everybody should remember that failure to conduct a free and fair election may lead the country towards a take-over by the criminals in the name of democracy.

GM QUADER

THE question at the moment is whether a free and fair election is possible under the present context, and if not, what might be the consequences.

Free and fair election means an election where voters are free to choose in a fair environment. The terms "free to choose" and "in a fair environment" may be summarized as voters' independence of choice in a neutral atmosphere.

There must not be any intimidation of voters is the basic necessity for a free and fair election. There are laws to curb the same. There is a maximum limit of election expenses for each candidate above which they are not allowed to spend. Distributing pecuniary benefits in cash or kind to the voters or even pledge for those by any candidate is prohibited by election rule. Demonstrating muscle power and resorting to violence is prohibited by law and is punishable offence. Creating any type of obstruction to voters is also prohibited.

But, in the present context of Bangladesh today none of the above rules or laws really works to ensure that a voter can decide with an open mind.

Reason behind this is the total failure of the bureaucratic machinery, including civil and military administration, police, election commission, etc to create confidence in people about their safety by ensuring proper law and order and also to impose election rules to regulate over and irregular spending by the candidates.

It is seen from past experience that the personnel responsible for conducting the election are in most cases corrupt, incapable, and insincere. As such, they neither have the will nor the competence to perform in a way to make the election free and fair.

This has made the election a game in which money and muscle plays the most important role in ensuring the victory. This is evident if we analyse the background and activities of successful candidates. It is seen that people with money and muscle are coming out victorious in larger proportion with each subsequent parliament.

It is obvious that recruiting of criminals of proper quality and sufficient quantity has turned out to be the magic formula for major political parties in order to achieve majority seats in parliament required to form the government.

The criminals can benefit out of their investment in election only in case they belong to winning party. For that the more desired ones prefer to join a party looking to that prospect.

It cannot be denied that major political parties are not unwilling to accommodate these elements in greater numbers every day. Maybe they consider easy and quick partisan success above national interest. In the process the political leadership is being replaced with persons having questionable past.

Present alliance government could better understand the magic formula and accommodated a good number of goons widely known as godfathers to become MPs. They are allowed to flourish

in black money and muscle power under the authority and protection of the government. Only one point needed to be ensured for a win: that the next general election continues to be far from free and fair.

The first action of the alliance government had been to capture all the government, semi-government, and organizations somehow having any link with government, by putting devoted party loyalists in all key positions. Then, irregular benefits are reaped through corrupt practices by party leadership for self and associates from all the organizations by manipulating tenders, taking commission on all deals, appointments, promotions, transfers, postings, etc. Huge amount of black money is amassed through these activities.

All new recruitments, transfers, promotions, postings, extension of service and even making of OSD (officer on special duty) or forced retirement has been done based on party interest, especially with a view towards influencing the next election. Positions of the administration which would be connected in conduct of the next general election are filled by people who are tested to be loyal to the parties of the present alliance government. Others who may not be so are transferred out. Even the next positions are also filled by BNP loyalists to be taken over in case of any reshuffle during care taker government.

A considerable number of police personnel have been recruited during this government. Most of those are done from the party cadres and also as per

recommendation of party leaders, irrespective of any criminal record of the candidate or competitive position in selection test. Their training is reduced substantially so that they can take over before election to work in favour of present government party.

Election officers posted in field offices are also recruited mostly from ruling alliance party cadres. Teachers of primary, secondary schools, colleges, officers of local banks etc. are given appointment from amongst the party loyalists and their family members with a view that they can work in favor of the ruling alliance candidates as polling officers, presiding officers etc of voting centers. These are just few examples how the present government manipulated a managed set up with the intension of influencing the next general election.

Government withdrew cases of reportedly about 70,000 accused criminals on different charges of violence and terrorism, terming those as politically motivated. Those were mostly people belonging to parties of the ruling alliance. Almost all the criminals of any locality are offered to be recruited with assurance of protection from police and share of booties from irregular deals. Anybody not agreeing had to face the wrath and may even death in custody.

With the help of those hoodlums and under the active support of the police the government parties have unleashed a reign of terror where nobody dare to protest any wrong doing or even talk against them. People are kept panicked constantly under threat.

The alliance government has manipulated all the election connected institutions at the national level to be manned with the people inclined to them. Even the nation's president was forced to resign for trying to act neutral and replaced by another one with more partisan attitude. The retirement age of judges of High

Court is enhanced in a way that one particular chief justice with a past record of intimate association with ruling party is to be made the chief of the caretaker government (CTG). Chief election commissioner and other election commissioners are appointed from among the party loyalists.

Having a group of godfather candidates equipped with black money and muscle power and an already intimidated bunch of voters, the ruling alliance has every reason to hope for a victory in an unfair and un-free election.

The ineffective administration, as has already been described, is not capable enough to make the election free and fair. By pre-arranging the election administration from top to bottom with people loyal to them the ruling alliance has set additional precaution to make the election results reflect their desire, and not the people's.

The necessity at the moment is to have a neutral CTG and a credible EC. First and foremost job of CTG would be to dismantle the existing pre-arranged administration and replace it with people having neutrality as much as possible. Simultaneous to that, it should make a crack down on all godfathers and their bands of hoodlums. Everybody should remember that failure to conduct a free and fair election may lead the country towards a take-over by the criminals in the name of democracy.

GM Quader is a Member of Parliament.