

About Judges and Student Politics; Three Unique Court Cases from Pakistan; and a Tribute to the Chairman of the First Journalists' Wage Board

Of Language

Jamal Arsalan

HAVING paid our tributes on a number of occasions to our judges here, especially to the Chief Justice Muhammad Shahabuddin for his role as our Acting President during one of the most crucial times of our national history, we should now turn to the judiciary in Pakistan which has made some courageous recommendations, known as suo moto rules in legal language, in recent months.

As this paper's Special Correspondent in Karachi, M.J. Zahedi reported last week, the Pakistan Supreme Court called for banning of participation of students in politics in a series of recommendations made last June. This was the Court's response to a number of petitions on human rights as well as to complaints of malpractices in educational institutions, ranging from cheating in examinations to disregard of normal discipline.

Then, there was the rise of violence among students that got the full attention of the bench that comprised of the Chief Justice and two other judges.

This record of violence, involving even murders, is staggering, although, judging by the report from Karachi, the political polarisation among students may not be as sharp as it is in Bangladesh.

Significantly enough, the government of the late Gen. Ziaul Huq had banned the students unions in 1984. But it was a ban only in name, since the unions continued to work as before. In fact, since the so-called ban was imposed, incidents of campus-related violence, arrests of hooligans posing as students and expulsions of undesirable elements by university authorities increased many times.

So, the Supreme Court had good reasons to take a firm position on the matter.

Again, not surprisingly, the court's wide-ranging recommendation evoked mixed reaction among a cross-section of the educated elite, politicians and of course the student community. The result, even some four months after the court issued its non-binding suo moto rule, none of the recommendations had taken effect.

Time for despair? Not really. It is now reported by Zahedi that as many as nine student groups which are adjuncts to various political parties in the country, ranging from the Peoples Party to Jamaat-e-Islami, have formed one joint organisation to create and maintain a peaceful academic atmosphere in their institutions and to solve their problems themselves. Only two bodies, one representing a section of mohajirs and the other speaking for Pakhtoons, have not joined the common organisation whose network covers all the major educational institutions in Pakistan. It may not take long, one hopes, before Mohajirs and Pakhtoons fall in line.

There is little doubt that ruling of the Pakistan Supreme Court made in June provided

the impetus for the move announced by student unions to unite on a common platform to maintain academic peace in the country. So, let's give credit to the judiciary in Pakistan and wish every success to the move by the student unions.

Two other recommendations by the Pakistan Supreme Court have created waves in the country, but, as far as we know, have gone virtually unreported in the media outside, including the press in Bangladesh.

In one, the Court has "ordered" that not more than two children be taken to the airport for the reception of a visiting foreign dignitary to present flowers and that they should be accompanied by their parents. The move stems

contempt of court—and left me with the impression that they would like to know more about what's going on in the courts of other South Asian countries on a continuing basis, if we could bring out—here's a challenging proposition—a regional law journal.

According to a retired judge who is involved in human right issues, the judiciary in Bangladesh has handled only a few petitions involving suo moto rules. Even the legal formalities connected with the presentation of a petition on an issue of public interest may not be known to a cross-section of the concerned public.

"It is not the case in India," according to my learned friend. As he puts it, courts in India

journalists' unions, equally divided between the two wings of the country, and a secretary who also happened to be a working journalist.

In my capacity as the then President of East-Pakistan Union of Journalists, I had the unexpected privilege of serving on the board as one of the two representatives of working journalists.

For all of us, it was an unique experience, unique because of the way Justice Jan handled his assignment, with fairness, farsightedness and, above all, with an understanding of problems facing not only of journalists but also of the industry as a whole. "Please stop thinking only of your own constituencies," he would say to all of us again and again. "But start being my advisers." Somehow, we got the message alright.

In time, the group of Jan's team mates, men with totally different backgrounds and divergent affiliations, turned into a cohesive team, concerned with the whole range of issues that affected the industry and the wages of working journalists. Travelling from one end of the country to another, from Quetta to Sylhet, we came face to face with problems in the media which had so far escaped our attention, from the pathetic condition of community weeklies to the need for training for journalists, from the poor rate the papers received for government advertisements to the control a section of newspaper owners exercised over their editors. Many of these problems are still with us, in Bangladesh and perhaps in Pakistan.

We were tied down to this job for long six months, including one month that we spent in Abbotabad, Justice Jan's home town, writing the final report. At the end of this challenging assignment, we knew the problems of the media better than before, with some of the things we learnt, individually and collectively, forming part of our professional background. What's more, speaking for myself, I came to know a judge, almost like a mentor, and often wondered if I could still become a lawyer just for the excitement of appearing before Justice Sajjad Ahmed Jan.

HAVING paid due respects to our judges, I may perhaps end this piece with a little joke without running the risk of committing a contempt of court.

During a trial, a District Judge looks at the accused—rather a familiar face—and says, "This is the fifth time you are appearing before my court."

The accused looks straight ahead at the Judge and says, "My Lord, it is not my fault that you have not been promoted to a higher court. So, we are both stuck with each other."

MY WORLD

S. M. Ali

from the court's concern over hundreds of school children lining up the road from the airport to the city, which places these teenagers under considerable physical strain, sometimes at the cost of their studies.

What happens if, following the example from Pakistan, the Bangladesh Supreme Court issues a suo moto rule banning the activities of student bodies which are linked to national political parties? Isn't it worth trying?

In the second ruling on which we are awaiting some details, the Court has banned the export of Houbara bird—hope I have got the spelling right—an endangered species found in some parts of Sindh. Until recently, Houbaras used to be sold to Arab countries where they are used as hunting birds. At one stage, the government introduced the system of permits for their export, but the system did not work all that well. So, the Supreme Court has put in the total ban.

LAST week, I discussed all the three cases with a couple of my friends in our own judiciary. They were all pleased that the judges in Pakistan were flexing their muscles—hope the expression does not involve a

have handled many cases, submitted by concerned organisations or ordinary citizens, and made their appropriate recommendations. Even an inmate of a jail, sending a postcard to a High Court judge, protesting against prison conditions may get a hearing, sooner rather than later.

What will happen if some concerned parents here should petition the Bangladesh judiciary to ban the activities of student bodies which are adjuncts of national political organisations, in educational institutions? May be an affirmative move by the Supreme Court, even if it cannot be enforced, will give a jolt to our political parties and persuade our student bodies to set up a platform of their own to restore academic peace to our colleges and universities. Isn't it worth trying?

TALKING about judges in Pakistan, I cannot forget how much we, journalists in Bangladesh, owe to one of them, the late Sajjad Ahmed Jan who served at the High Court of West Punjab in the fifties and sixties and eventually came to head one important commission after another, earning a name for himself and, indeed, for the judiciary of his country.

Some of my contemporaries would remember, Justice Jan served as the Chairman of the first Journalists' Wage Board which had been set up by the government of Ayub Khan in 1960.

Besides the Judge, there were four members, two representing the employers and two

likewise that even among companies who 'pirate' talents, the pirated employees would have changed jobs for exactly the same reason that pirated Third World intellectuals did.)

The acquisition of professionals as well as material goods in general is described by some mathematicians as a 'zero-sum game'—the gain of one is the loss of another. The nature of these goods breeds competition.

The acquisition of information goods, however, is a 'positive-sum game'—two, three or an infinite number of people can benefit from the same goods. The nature of information calls for cooperation. This makes information a radically different kind of goods.

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The 'Piracy' of Intellectuals and Intellectual Property

by Roberto Verzola

MANY Metro Manila computer users copy programmes from computer shops, or from a number of computer bulletin board systems which have proliferated around the city. They give copies of these programmes to friends and colleagues, who, in turn, give copies to other friends and colleagues.

In the terminology of Western software companies, they are pirates. To copy commercial software and give it away to friends and colleagues is called piracy.

I've seen pirates in movies and they're a man punch. They are villains who steal, kill and plunder. At the movie's ending, when these good-for-nothing pirates, get their just due, the audience invariably applauds. For the pirates get the punishment they roundly deserve.

It is no fun to be called a pirate. Or to be treated like one.

Filipinos who exchange software freely and share them with others freely hardly resemble the pirates in the movies. Yet, according to Western software firms, copying without paying is piracy. So, they are pirates just the same. And they're no better than those one-eyed villains who kill and plunder for a living.

I've seen a number of people who come from or work for Western software firms. Well groomed, in coat and tie, they look the antithesis of the pirate they hate so much. They come and visit his country of pirates, and perhaps make a little study of how much they are losing from piracy in the Philippines.

Quite a number of them, I'd say, come to the country to do some pirating themselves. However, they don't pirate software, which is apparently beneath their dignity. They pirate people. They pirate those who write the software. They pirate our best systems analysts, our best engineers, our best programmers, and our best computer operators.

The advanced countries of the West routinely pirate from the Third World our best professionals and skilled workers, but begrudge the people of the Third World if they engaged in some piracy themselves. They accuse the Third World of 'piracy of intellectual property', yet they themselves engage in 'piracy of intellectuals'.

In fact, there is quite a difference between pirating intellectual property and pirating intellectuals. It costs our country perhaps \$10,000 to train one doctor. Training a second doctor would cost another \$10,000. Training 10 doctors would cost \$100,000. In short, given an 'original' doctor, it would cost us as much to make each 'copy' of the original.

When the Americans pirate our doctors, they take away an irreplaceable resource, for it takes more than 10 years to train a new doctor. The Philippines has approximately one doctor for every 6,700 citizens. When the US pirates this doctor, it denies 6,700 Filipinos of the services of a doctor. And every year, the US takes away hundreds of our doctors. How many Filipinos have died because they could not get the services of doctor on time?

What about a computer programme? Whatever amount Lotus Corporation spent in developing their spreadsheet programme, it costs practically nothing to make a second or third copy of the programme. It would take a few seconds for them to make each copy.

When Filipinos pirate their programme, they have not stolen any irreplaceable resources, nor would it take Lotus 10 years to replace the programme, nor have we denied any American citizen the use of the spreadsheet programme. It is still there, for Americans to use.

We make a copy of their programme, we don't steal it, because we have not taken anything away. We have made our own copy, but they still have the original.

Pirating a computer programme is quite different from pirating a doctor. When the US pirates our doctors, it doesn't take a copy and leave the original behind. Instead, it takes the original and leaves nothing behind.

But you can't compare the two, some would say. The US pays for our doctors with much higher salaries, so you can't call it piracy. Third World countries copy software without paying the commercial price, therefore they are pirates. If you have the money to pirate people, it stops being called piracy and becomes a respectable activity. But if you can't afford it, sorry.

On the other hand, we can also say that when the West draws away our professionals with attractive salary offers, they take away not a 'copy' but the 'original', and we are left with none. We've lost the services of these professionals for good. If we make a copy of their software, we never take away the original, and we leave them with as much as they originally had. We can give them an extra copy at no cost.

To illustrate this stealing in metaphors is as a stolen

Why is it wrong for Third World computer users to 'pirate' intellectual property (in the form of software programmes), while it is all right for Western countries and firms to 'pirate' Third World intellectuals, when the latter does more harm than the former?

glance, or a stolen kiss. They might say they lost a sale, but it is only an opportunity to sell and make a profit that they are referring to. In many cases, the opportunity isn't even there at all.

It is as if a company who insists on a monopoly of fish, accused us of causing them lost sales because we let loose fingerlings all over the lakes and rivers, so that people may catch them to eat. Fish, like software, love to go forth and multiply, whatever else their original creators might intend. And it is all for the better, because this means more people can enjoy them.

In fact, this distinction sets the new information technologies apart from the traditional services sector. Information, if it already exists in the modern high-technology form such as the information on a diskette, can be duplicated at practically no cost. It is therefore in perfect form to be given away freely to those who need it. Given a computer, software would in effect reproduce itself on the machine at the slightest provocation, copying themselves for next to nothing.

However, there is, so far, no easy way to freely duplicate the accumulated information in a doctor's head. So we must spend \$10,000 and more than 10 years, just to make a second copy.

This is why we actually do very little damage when we 'pirate' a copy of a computer programme, but the US does a lot of harm when it pirates one of our doctors.

Copying software is a benign case of piracy. Pirating doctors is a malignant case. We have been victims of this malignant form of piracy by Western countries for a long time. They should be the last to complain when they are affected by a benign one.

This piracy debate will become even more important in the future because advanced countries are now developing computer programmes that can mimic what goes on in a

doctor's mind. We can say with some certainty that the US, which, for decades, has been routinely pirating our best doctors and nurses, will raise a big row if we pirated this one programme.

In truth, the terms 'piracy' and 'theft' of intellectual property are emotionally-laden words normally used by copyright and patent holders to describe unauthorised copying. They are not, however, a very accurate description of the act. Legally, one might be charged for violating the copyright or patent laws of a country, but this would normally be different from the crime of theft or actual piracy. Using these words, however, automatically connotes immoral action on the part of the copier. Thus, in the polemics against the Third World, 'piracy' and 'theft' are favourite terms among advanced countries, particularly the US.

It is perhaps poetic justice asserting itself, that the act of inducing employees to leave their present job to work for another company is also called 'piracy'. Thus, firms routinely 'steal' talent from their competitors, and 'piracy' of top talents is considered common practice especially in very competitive industries.

Therefore, the term 'piracy of intellectuals' can likewise be used, if one wanted to ascribe a sense of immorality to the act, as those who use the term 'piracy of intellectual property' do.

This is not to imply, of course, that countries 'own' their intellectuals. Both intellectuals and intellectual property have other important attributes, aside from simply being commodities on the market. Notwithstanding the fact that advanced countries normally encourage the best brains of the Third World to work for them through various incentives and enticements, these intellectuals have their own reasons for doing so—perhaps the chances for professional and personal ad-

WRITE TO MITA

Dear Mita,
After much hesitation I decided to write. I was in love with a man but my parents were against it and forced me to marry someone else. This was five years ago. I slowly learnt to adjust as my husband is kind and considerate. Few months ago, the other person phoned me and said he wanted to see me. I agreed and over the months we have become intimate again. He wants me to divorce my husband and marry him. My husband still does not know anything about it. I am very confused, what should I do? I don't want to destroy my family, but at the same time feel very attracted to this person. This is a very difficult decision for me to take alone and I need your help.

Dear Anonymous, Anonymously, Chittagong

Yes, this is a very difficult situation which needs a lot of thought and some serious thinking. First, there is no scope for you to be confused. You have to decide what your priorities are and before you do that, who do you really love and want to spend your life with. Can it be that your attraction for this person is just an attraction and nothing deeper? or, you are confusing what you felt for him before with what you feel for him now? The other important question is, your present life, your family and your husband. What do they really mean to you, will that person be worth leaving all that you have built over the last five years? I am not trying to discourage you, but just directing you towards a certain chain of questions which you will have to ask yourself and find answers to. My only advise is, please don't rush into anything because the decision you take will affect the lives of many people.

Dear Mita,
I am a Dhaka University final year student. My parents still think I am a child and do not give me any independence. I have to inform them about everything I do, my movements are restricted so much so that I feel I am in jail. On the other hand, my mother says that when she was young she was allowed to go everywhere in a rickshaw. I get very upset with my parents and feel very rebellious. What do you advise? You are a modern person and will understand what I am saying.

Dear Anita, Anita, Dhanmondi, Dhaka.

With a grown-up daughter of my own I find it difficult to answer your letter. Yes, it is true, we had more independence in terms of movement at your age. But, on the other hand, you all have the kind of independence and liberty that we never had. For example, you are free to express your ideas and thoughts much more than we ever dared. The important thing is to be treated as adults you must first behave as one. Prove to your parents that you are capable of taking sensible, matured decisions and that you can defend your decisions if need be. On the question of restricted movements you know how things are out in the streets? I suggest going out in groups, if possible. I know it is annoying but it cannot be helped.

Dear Mita,
For the past year and a half you have been a good friend. Though I never asked for advice, I felt you were always there to help if at any time I needed it. Well, I do need help now. I am 27, have a good job and am reasonably good looking. Few months ago, I fell in love with a woman whom I want to marry. There is, however, a big problem here—my best friend is also in love with her. We have discussed this and he tells me I should have her and I say vice versa. But we both know what ever happens it will mean the end of our friendship. What do you think we should do? It is causing tension between us and making both of us unhappy. Please advise.

Dear Anonymous, Anonymously

Before I give any advice, I would like to ask you a straight question: What about the woman that you are both supposedly in love with? Isn't her wish of any consequence? How can you both decide who will "have her" without taking her wish into consideration? These things are common in movies where one friend sacrifices for the happiness of the other, but in real life, the situation is very different. Love, marriage and relationship are serious matters and should not be confused with the make-belief world of movies. Please take a serious look at your relationship with the woman and also with your friend—you should be able to find the right answer within yourself.

Dear Mita,
I am a young working mother and always feel guilty about leaving my child with an ayah all day while I work. What is the solution? I have a very good job and don't want to lose it also. My husband understands but I'm too busy with his profession to help. Please advise.

Shumi, Maghbazaar, Dhaka

Dear Shumi
Your problem is the same as most working mothers face specially those with young children. The feeling of guilt will be there no matter what I say, but you can reduce the feeling by taking certain steps. First, if you are very concerned about leaving your child with the ayah all day, then put her in a day care centre. There are some good ones in the city now which will certainly be more stimulating than the company of the ayah. The other thing is children of working mothers do not necessarily suffer from psychological damage if the time spent with them is quality time. Our society has still not reached the stage where the needs of the working mother is taken into consideration. When that happens, perhaps fathers will be able to take paternity leave and look after children. Till then we will have to live with that guilty feeling and do the best we can.