

Good News Shaping for CU

HERE may still be quite a few loose ends to take care of; nevertheless, we view the marathon meeting between the Chittagong University authorities and the All-Party Student Alliance leaders as a giant stride forward to resumption of normal academic activities at the beleaguered institution. Although a definitive date was not agreed upon for an effective reopening of the university, we think the path has been paved with the APSA's assent to withdraw its siege programme from May 8. Overall, the stand-off at Chittagong University appears headed for an end. However, both sides should follow up on the progress made at the meeting until such time as the contentious issues are settled effectively and proper atmosphere for academic activities is restored.

The somewhat changed scenario at the university certainly makes one wish that the authorities had shown such prudence earlier instead of rushing into a rather unrealistic and predictably abortive attempt at reopening of the university on April 1. Similarly, the realisation that their adamant posture was actually detrimental to the interest of the student community, one would wish, could have come earlier. The net result of the deadlock still remains — loss of four valuable months from the lives of thousands of students. This forced delay in their graduation into the working world would not only be excruciating for the individual families but would also deny the economy thousands of man-hours.

Our argument goes against such insanity in the name of student politics as we have seen infecting all the campuses across the country. Why would student activists engage in the orgy of killing and getting killed in the first place? Years of indulgence by our political leadership have had our student politics snowball into demonic proportions. The pride the nation used to take of its student leaders has been replaced by fear and revulsion, and justifiably so. For all practical purposes, the student activists have become soldiers of fortune, driven by material, and not ideological, interest.

As we have repeatedly said, our objection is not against student politics *per se*. We would like to see future leaders of the nation coming out from the universities. But, the brand of politics now in practice on the campuses is definitely not giving birth to leaders. Our politicians must realise that and dissociate themselves from the campuses. There are good signs on the horizon for Chittagong University, but there is no guarantee that the political violence and thereby killing would end and dispelled would be the pall of yet another indefinite strike. We have to strike at the roots.

Double Tragedy in Meghna

JUST empathise with the feelings of the victims of Monday's launch disasters in the Meghna and then with the emotions their bereaved families have been left to writhe in. How agonising it must have been for the 250 passengers whose windpipes were choked in the watery grave. And have a feel, too, of the impoverishment of the members of their families. We send our condolences to them.

Our shock is only surpassed by anger at the thought of how avoidable the disasters were. Tornado is not to blame here, although this might be touted to obscure the real culprit which is obviously the criminal neglect of river safety precautions, specially in a season of tornadoes.

The two launches were so overloaded that even under normal circumstances they would have been headed for a capsiz, to say nothing of the vulnerability of the spiralling wind action at gale force that condemned them to a catastrophe. And most callously the passengers of a scheduled launch trip that did not take place were allowed to board one of the ill-fated launches which had its own quota of passengers to carry anyway. No river police personnel were at the ghat to stop this nor was there any launch company official to enforce the crucial safety requirement. In fact, riverine travel enjoys the lowest priority with the authorities in terms of the concern for human lives.

The structural design of the launches has often been faulty, dilapidated barges are converted into passenger craft, and unlicensed launches have been plying. Not long ago a river craft using the route permit of another passenger launch met with a disastrous accident. What is the BIWTA doing?

Since launch accidents claim a heavy toll of lives it is imperative that an insurance cover be given to the travelling passengers. The craft are perhaps insured but the passengers are not. The cost of ticket may be inclusive of a small premium to make this possible. Only binding provisions can make travel by launch safe enough for the operators and passengers alike.

Photojournalist Hurt Again!

PHOTOJOURNALIST of a Bangla daily was assaulted by police while he was performing his duty in front of Dhaka University Vice Chancellor's residence on Tuesday. The students of Bangladesh-Kuwait Moitree Hall, a dormitory for the girl students of Dhaka University, were demonstrating against university authorities including the provost of the hall for their hardship in the sweltering heat due to shortage of water and irregular supply of electricity. The agitated, slogan-chanting students were stopped by the police in front of the VC's house. They resorted to 'mild' lathi-charge on the processionists in an attempt to disperse them. As the police were there on a specific mission or duty 'to maintain law and order' so was the photojournalist engaged in his professional duty to take pictures. It was an open demonstration in an open place which he was duty-bound to cover for the benefit of his newspaper's readers. But the policemen on duty there, as in some cases in the past, apparently could not put up with the presence of the photojournalist who was taking snaps of perhaps use of force and hit him with a walkie-talkie on the nose and injured him.

Cases of this nature are nothing new for the innocent journalists performing their duty. Police in the past had not stayed away from showing their might and high-handedness against journalists on duty. Let's recall here that the IGP in a press conference some time ago had assured the members of the press that high-handedness would not occur in the future. We demand an inquiry into the incident with punishment meted out to the offending person so that the IGP's promise is redeemed.

Resorting to Rule of Law: By Stick and Terror!

The purpose was not merely to influence the judiciary but to frighten them into taking action as per one's whims. This is the greatest disservice a so-called democratic party could do by way of seeking to curb independence of the judiciary after having rendered the other state pillar, the Parliament, ineffective and partisan.

SEVERAL diplomats in Bangladesh made a general comment, "there is no dull moment in Bangladeshi politics." One does not have to stretch much imagination to test how true is the observation. The situation, however, often becomes matter of great interest or concern, depending upon who views it. The measure of excitement or apprehension rises high, depending upon the nature of controversial statements or actions occasionally made by political leaders and parties, interspersed by rigged elections, hartals and political movements by the opposition.

The Awami League's meeting in Paltan Maidan on 18 April and the procession that followed registered a high watermark in country's current politics with its characteristic alarm and anxiety. The meeting was held ostensibly for the purpose of expressing demand for a speedy execution of the judgement on Sheikh Mujib murder case. But, by the statements and actions of the assembled leaders, the demand turned into violent outbursts of undue criticism, outrageous vilification and menacing intimidation of the judiciary and, as a matter of habit, to some extent of the opposition. The speakers, including half a dozen Ministers and State Ministers, spoke in no unmistakable terms about their utter displeasure at the delay in the

implementation of the judgement on the murder case, totally and willfully disregarded the judicial procedure involved in all murder cases and intimidated the highest level of the judiciary goading the latter to take improper action. In order to substantiate their seriousness, they brought out a procession and paraded streets with supporters, brandishing lethal sticks and wrapping their heads with a piece of white cloth meant for the 'dead', as if asserting a 'do or die' vow. Some even warned with the saying they had simply exhibited sticks this time, but they knew fully well on whom these could be applied in future.

Such statements and actions against ordinary citizens would definitely constitute a legitimate case for filing a diary, FIR or such complaints in a police station. But, thanks to the government's legislative chef d'oeuvre, these would also constitute serious crime under the recently enacted Public Safety Act of 2000. Some lawyers of the Supreme Court, in fact, filed case under this Act. The police eventually took the case against five Ministers and an

Awami League leader only after the lawyers had threatened to file the case directly in a court of law.

The public utterances and actions of naked intimidation by senior Ministers and political leaders were not only most unfortunate and seriously hinders nation's march towards democracy, but is fraught with the grave and the most perilous

procedure is being meticulously followed since the British regime and is in vogue in most democratic countries, including Great Britain and the United States. The law-makers of the past had very carefully and judiciously evolved the procedure in order to prevent miscarriage of justice in cases of capital punishment and to avoid discrimination in favour

and to dispense justice, he could feel 'embarrassed'. The Chief Justice would, in that case and as per rules, assign another judge to act in his place. This has been a common and well-known practice, which has never in the past been disputed by anyone. For example, it is understood that in the *Habeas Corpus* application filed on behalf of former President Ershad in 1991 judges of as many as 11 benches felt embarrassed, in the case of deciding upon nationality of the Jamaat-e-Islami Amir Gholam Azam three judges were embarrassed and seven judges felt embarrassed in the case of granting bail to Barrister Moudud Ahmed. As Awami League leaders expressed indignation about some judges being embarrassed in Sheikh Mujib's case, it appeared to be a mere pretence and aimed at practically coercing judges to act in accordance with their wishes rather than with judge's own deliberations and decision.

Several conclusions can be derived out of the event under consideration. Firstly, the incident manifests a daring audacity of the ruling party by

staging highly improper public demonstration of force in order to secure something which the law of the land cannot secure for them. This constitutes a gross violation of the law and order situation. Secondly, the target of intimidation was not confined only to judges of the highest court in the country, but extended to the very institution of the judiciary, one of the three constitutional pillars of the state. The purpose was not merely to influence the judiciary but to frighten them to taking action as per one's whims. This is the greatest disservice a so-called democratic party could do by way of seeking to curb independence of the judiciary after having rendered the other state pillar, the Parliament, ineffective and partisan. The attempt, therefore, was designed to subordinate the judiciary, as to the legislature, to the executive and to perpetuate an autocratic rule in the garb of democracy. Thirdly, this fact also serves to give an indication that not only in the matter of running the statecraft, but also in the strategy set for the forthcoming general election the ruling party will not only limit itself merely to a show of force but will be merciless in its application in order to achieve its desired objectives.

The author, a former ambassador, is a member of BNP's advisory Council

Currents and Crosscurrents

by M M Rezaul Karim

danger to the constitutional rights and duties of the Supreme Court, as one of the three pillars of the state, in carrying out its prescribed legitimate functions. There is no doubt that people would like to see that judgement passed by a court of law and its implementation expedited, since all are well aware of the fact that justice delayed is justice denied. But fulfillment of the requisite procedure for a 'death reference' often takes long. This of one accused against the other.

An important factor attributed to generating anger of Awami League leaders lay in the fact that some judges were 'embarrassed' and were unable to sit in judgement on this case. Such a situation arises when a judge considers that, due to preconceived notion, past association, existing prejudices or some other reasons, it might not be possible for him to act in a fair and impartial manner

OPINION

Judges' Embarrassment and Judicial Transparency

by Dr. M. Amanullah Khan

AMARTYA Sen in one of his articles quoted from a Chinese writing of 122 BC which described corruption as follows: "If the measuring line is true, then the wood will be straight, not because one makes a special effort, but because that which it is 'ruled' by makes it so. In the same way if the ruler is sincere and upright, then honest officials will serve in the government and scoundrels will go in hiding, but if the ruler is not upright, then evil men will have their way and loyal men will retire to seclusion". While the general essence of this ancient wisdom is philosophically true, I have doubts if in our country, the 'scoundrels' will indeed flee leaving the upright ruler continue preach and practice her or his wisdom. The evils, ironically as it may be, will defend their acts and uproot the honest and sincere ruler to make a safer room to perpetuate their practices.

Delaying justice is seen as an act of corruption and so is denying. The recent consecutive feeling of embarrassment by the High Court judges to hear the death reference in Bangabandhu murder case spearheaded confessions, agitation and counter-agitation. It is true that the term 'embarrassment' has a slightly different connotation in the legal terminology; however, the spirit behind one's feeling of embarrassment is the same. It is an act of feeling shaky, shy or unsure to deal with a matter on the cognitive

ground of fear, or perhaps favour to a party in the case. At least, this is the impression one derives from this act. On any count, it reflects the judiciary's inability to respond to the sentiments of the victims' family and in this instance hurts the feelings of the nation at large. The recent statements by the opposition chief and the unnecessary debates (rather provocation) these have produced are doing more harm than good to herself and her party. One may quite justifiably smell a rat in that the opposition had never supported the trial and would try its best to dislodge the process and who knows what the fate of the verdict will be if they return to power.

I am not defending the utterances and the overdoing of the ruling party echelons in this respect. However, I have a hint of sympathy for them when a fear of 'justice delayed is justice denied' grips their mind, especially when the country had to wait long twenty-three years before the culprits were brought to the courts after so many hurdles. Let's not discuss the history. Any conscious person would be able to do the sums easily.

The judiciary is certainly not above criticism and above law. It seems to me that it has been taken for granted that no words can be spoken against the judicial system and this institution is above all laws, criticisms, and in fact even above any suspicion. Any words spo-

ken against judiciary is construed as 'encroachment on the independence of judiciary'. Politicians create these controversies to suit their self-interest and confuse the citizens. It seems that the judiciary is there to point fingers to the people only and say 'thou shall have better'. It sounds like a hopeless situation. Where does the concepts of good governance, judicial transparency, accountability and above all, fairness to citizens fit in to the judicial practices in our society?

Judging from the perspectives of civil society acting as the watch dog against corruption and unfairness in the society, the protests and demands by the various social groups surrounding the Bangabandhu murder case is well justified. However, violence and threats are not the way to go. People's mind can be sensitized only if rational and peaceful means are adhered to. What must be resisted, perhaps through proper advocacy and media initiated moves, is the claim that the judiciary is above criticism and above law. Our constitution does not either provide for that indemnity. If I can criticize the government and the various legislative and administrative institutions, I must also have the right to criticize the judiciary.

In many countries, judiciaries are often subject to criticism from the civil society actors and I am not aware of any evidence where politicians used

these criticisms to fan a conflict in the society. In the Philippines where democracy suffered immense fragility for many decades, more than 30 judiciary officials have been disciplined by the Court during 1997-1999 for infractions of the Anti-Graft and Corrupt Practices Act. Nine judges have been dismissed outright with more administrative cases still pending while 14 court personnel have been dismissed for graft and corruption. At present, more than a hundred cases involving violations of the Anti-Graft and Corrupt Practices Act have been processed with 35 informal preliminary inquiries involving 60 judicial personnel. The Chief Justice in the Philippines is hell-bent in curbing corruption in the judiciary. This is because corruption in the judiciary gives the rest of the government a bad name and seriously impedes the effectiveness of governance. An excellent example of good governance practice indeed!

Corruption in our country must be seen as an act which operates in traditionally well guarded system instead of just viewing it as individual transaction. By doing so, one can compute the systemic costs and risks of corruption and begin to break the apathy and helplessness among our people. Corruption has bred cynicism in the minds of our people. Corruption should not degrade the judiciary and transform it in to a marketplace where justice goes to the highest bidder — regard-

less of the law, regardless of the fundamental principles of fair play, and sometimes, regardless of plain common sense.

In the short term, it may seem that graft works. In practice, it does not. But it is deeply entrenched in the way we do things, even when the things we do which ideally should not be touched by base considerations that are the motive forces behind corruption: greed, ambition, and the desire to put one over the others. In many countries, such as Hong Kong, the Philippines, and Australia, this strategy is being implemented through the operations of a public information office type of structure which is mandated, among other things, to inform the public on the policies, plans, activities, and accomplishments of the courts. This structure demonstrates the effort of the courts to engage the public, more specifically, the media, in a cooperative and constructive partnership that would increase the chances of corrupt practices being uncovered. This makes judiciary officials directly accountable to the public.

The recent events in Malaysia surrounding Anwar Ibrahim's trial gave rise to questions about judicial fair play. The civil society groups played a significant role in mobilising public opinion against what they said 'corrupt judiciary'. There is no harm in such moves. In fact, it has been a healthy move from all standpoints. Thirty community and

civil society organizations sent a joint petition to the Chief Justice and the press. Without dwelling on the specific contents of the letter, I quote from the preamble of the petition to show that judiciary is not above law and must be subject to public scrutiny: "Recent events are underscoring the continuing political crisis in the country and the continued loss of confidence in the key judicial and political institutions of our country.... We would urge the Malaysian judiciary to note that as an institution it is not above criticism and ought to be able to tolerate a degree of criticism. We are of the view, especially in the wake of the Anwar trial that public confidence in the judiciary is wanting and its integrity under question. A reaction of this nature to public criticism can only worsen the public image of the judiciary."

None, not even the ruling party and the judicial personnel protested saying that this was an encroachment on their independence or a remark that is 'intolerable'. People said what was considered by them appropriate given what the judiciary has been projecting itself in the general public.

Let our judicial system assure us that they are doing the right thing in a right manner without being 'embarrassed' too often.

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To the Editor ...

Letters for publication in these columns should be addressed to the Editor and legibly written or typed with double space. For reasons of space, short letters are preferred, and all are subject to editing and cuts. Pseudonyms are accepted. However, all communications must bear the writer's real name, signature and address.

Felling of trees

Sir, This refers to the news 'DCC felling roadside Mahogany trees at Banani,' published in the DS on 1 May, 2000. The news is really shocking. We are stunned as how the city planners could order to cut 15-year old Mahogany trees.

However, this is not the only instance for similar action is being taken at Mirpur as well.

Recently, the DCC has taken a

project to widen the roads from Mirpur circle 10 to section 12. There are number of old Rain Trees on both sides of the roads and these old trees are now on the verge of being cut down to make the roads wider. But these trees are not creating that much obstruction to the extended portion of the roadside for which they needed to be cut down. The extended portion can easily be used for rickshaw garage without cutting the trees. We should remember that these trees are offering us shades and maintaining the ecological balance in the area for many years.

Therefore, we would like to request the city planners and the DCC authorities to take alternative plans while keeping these trees intact.

A. Husain
Dhaka

BTW transparency

Sir, The Chief Justice's observations at the Bangladesh Bar Council conference was blacked out by the BTW the same evening, while the PM's speech went through, speaking from the same platform (BSS report on 22 April).

Where is the official trans-

parency? Sudden subjective agita-

tions have to be taken with a

grain of salt. Why BTW feel 'em-

barassed' presenting both sides

of the coin?

A. Husain
Dhaka

Inefficient BB

Sir, As a citizen (with half a century of listening experience), I am not at all proud of Bangladesh Betar's low technical and professional efficiency and performance. The audio modulation is kept low in all the transmitters, although the peak cut-off meter can be reset for high average modulation (who is monitoring all the novelty, laced with bad grace). Such behaviour (display of *lathis* in the processions) is totally unacceptable. Had the opposition carried out similar

lost all motivation, perhaps due to absence of pressure from the top (the senior engineers are provided with radio set and telephone at residence). Why the weekly review meetings produce no positive improvement?

The news presentation is full of sycophancy, and is worse than that of the BTW. News, good or bad, is news, and it cannot be suppressed (please the regime). The time allocations to different types of news items in a single broadcast are highly disproportionate, and amusingly partial to the regime (oiling has its limits!). The private sector is not allowed to broadcast or present news independently. What have we learnt about freedom in three decades?

On the other hand, the wise' politicians are talking all the time about the virtues of democracy. How can the citizens be proud of this sham show?

A. Z. Dhaka

This culture of road-blocks

Sir, Now the female students of a girls' school in Manikganj blocked the highway to protest non-payment of stipend money. Earlier, according to news items, students damaged vehicles in the road, for internal educational disputes, and other flimsy reasons, for which the vehicle owners and the politics of the country are not responsible. The labour and staff unions have started adopting a dictatorial attitude which are not at all in public interest. Government policies are being defined even by a Mayor of a major city! Acts of indiscipline and violence are getting out of control of the government machinery. Is a government working in Dhaka?

The conclusion is that the bad examples set by the political activists during the decade of the 1990s have filtered down into the different areas of the society, and the philosophy of wanton destruction of non-relevant properties prevails. The political leaders, who run