

Judicial logjam

Alternative dispute resolution is a good idea

THE justice delivery system has found itself in the midst of intense scrutiny lately. Increasing concern has been aired at different forums over inordinate delays entailed in disposing of court cases, the latest instances of expeditious trial and quick delivery of justice in a few sensitive cases notwithstanding.

The conclusion has been more or less unanimous that the judiciary cannot properly function unless the huge logjam of pending cases is taken care of. The law, justice and parliamentary affairs minister, at a workshop on Thursday last, put the number of cases pending at different tiers of the judiciary at 968,305. While effective and expeditious judicial and legal reforms have been suggested as a remedy, alternative dispute resolution has also been proposed as a means to "mitigate the difficulties in litigation in courts".

Now, as Chief Justice Mainur Reza Chowdhury told the workshop, alternative dispute resolution could provide an "opportunity to resolve disputes and conflicts efficiently, rapidly, effectively and amicably by finding self-made processes best suited for the parties". Moreover, "disposing disputes without damaging relationship between the parties is better achieved through informal consensual arrangements than through adversarial atmosphere, which is endemic in the traditional system". This alternative mechanism could yield a two-dimensional benefit. First, it would screen out cases that should not go to court; and second, with the animosity factor reasonably reduced, the possibility is the parties would not try to vent their grievances against each other in the shape of more cases. On balance, alternative dispute resolution does sound like an effective and efficient option.

However, that still leaves us with some one million pending cases. Surely, a substantial percentage of these cases can be resolved outside the courtroom. The question is how do we make that happen? To take the cue from the law minister, there should be a constant monitoring and supervision not only to quicken trial but also to identify the cases that could easily be resolved outside the courtroom. True, the logjam that the judiciary is now faced with cannot be sorted out overnight but the process has to begin. The sooner it does the better.

The United Nations Development Programme has recently termed the country's criminal justice system 'anti-poor', saying inordinate delay in justice dispensation has pushed the cost beyond the reach of the poor and the marginalised sections of society. The opinion is incontestable. It is time we did something about it.

Global warming challenge

Collective response still missing!

IF anything, the UN climate talks in New Delhi have brought into a sharper focus the differences between rich and poor countries over emission of greenhouse gases. The conference almost came to naught when developing countries rejected, and rightfully so, a demand made by a group of developed countries led by European Union. They called upon developing countries to set a target for themselves to reduce pollution, which could cause global warming.

The developing countries have always maintained that they produced only a minimal fraction of total greenhouse emissions and reducing them further would cost their industrial development severely. Though at the moment the Kyoto Protocol does not set any emission levels for developing nations, rich countries suggested at the conference that they should at least begin negotiations on restricting gas emission beyond 2012. Refusal to make any commitment on the issue only shows that poor countries are hell-bent on not bowing down to the big bosses. Not surprisingly, European Union was disappointed at the outcome after ten grueling days of talks because the meeting was supposed to thrash out details of 1997 Kyoto Protocol coming into force next year.

The role of the United States and Australia on the issue of gas emission has been controversial, to say the least, since they have refused to ratify the treaty in the first place. And, with the emergence of new differences of opinion, the UN's job would surely be more difficult than they would have expected. After much debate and argument between the rich and poor countries, the Delhi declaration stressed on all signatories to participate in implementing the treaty. How would that be possible without the active cooperation and help of the powerful industrialised nations of the world, is anybody's guess.

The climate change has already begun to affect not just the developing nations, the developed countries have also begun to bear the brunt of it - the recent unprecedented flood in Eastern Europe could be a prime example. It is nonetheless a very worrying sign, especially at a high powered conference organized by the UN where sharp differences of opinion almost thwarted efforts by delegates to bring a consensus on an issue that is damaging not to just one singular part of the world, but to all countries irrespective of their economic strength. We sincerely hope that whether rich or poor, the leaders of all nations would put the interest of people at the forefront of their agenda.

Coping with poll verdict

AMM SHAHAUBUDDIN

THE most surprising and unexpected outcome that had emerged from the recently held general elections in Pakistan, both in the National Assembly (Parliament) and particularly in two northern provinces bordering Afghanistan, namely, NWFP (North Western Frontier Province) and Baluchistan, had literally sent a shiver down the spine of many, raising many questions that deserve a clinical analysis.

In fact, it has sounded a danger signal both for Washington and Islamabad, mainly because the success achieved by the MMA (Muttahida Majlis-e-Amal), a united front of six extremist Islamic parties who are die-hard opposed to US-led war on terror in Afghanistan and Pakistan's participation in this war. It is said that the coming events always cast their shadows before. But in this case none could see the shadows of such dark clouds. It is more surprising that the "frightening genie" (as self-exiled PPP leader Benazir Bhutto calls the six-party alliance -- MMA) could jump over the so tightly-built fencing, with all possible amendments brought to the constitution by Gen. Musharraf, making the election more controversial. Even raising the education barrier to graduation for the candidates could not stop the 'Mullahs' from crossing the hurdle successfully.

The MMA has captured a big chunk of seats in the parliament (49 members) of 272 (leaving the reserved women's and other seats), as against the pro-government party, known as the King's Party, PML (Q), (Pakistan Muslim League-Quaid), 73, and the former prime minister Benazir Bhutto's PPP (Pakistan People's Party), 63. Not only that, the most frightening aspect is that MMA, a pro-Taliban and anti-US alliance, has gained a dominating position in the NWFP and Baluchistan Assemblies to run the provincial governments there. It is indeed a cause for anxiety for many in Pakistan.

"Frightening genie"

What was brewing under the surface, since the US-led war on terror

in Afghanistan with Pakistan as a key-player, burst out at the first available opportunity, via a democratic way -- the election. Now the general apprehension is that if the MMA comes to power in the two provinces bordering Afghanistan, and holds a balancing force in the National Assembly, or becomes an active part in the central government, the first casualty will be US dream of 'cleansing' Afghanistan of

party -- PPP -- and an anti-US alliance of six Islamic extremist parties MMA -- are in negotiations. Of course, such negotiations with and among other parties, both over and under the table are being held and political horse-trading will be continued till the final whistle is blown. Benazir Bhutto had announced that PPP is ready to cooperate with MMA if the latter moderated its policy of closing down US bases in Pakistan

time will show.

India's concern

Meanwhile, India has shown its own card to play. Perhaps they know well that 'England's difficulty is Ireland's opportunity.' India's Deputy Prime Minister L K Advani has maintained that the recent success of the pro-Al-Qaida extremist Islamic parties had 'increased Indian concern' of terrorism, particularly 'cross-border terrorism.' So Advani seems to have

Now if there is any 'unholy game' or 'trickery' by somebody by following a 'dog in the manger policy' to deprive MMA of its due share of power that elections have bestowed on it, then it would be a suicidal policy, causing a political disaster for Pakistan. Apparently the most plausible way to tackle the situation, however bitter it may be, would be to accommodate MMA and to share power with them in the National Assembly and allow them to form governments in the NWFP and Baluchistan. And that's perhaps the way to 'tame' them and motivate them to work in national interest, following the constitutional provisions.

Al-Qaida and Taliban activists, still left over there despite the large-scale mopping up operation. And the second casualty will be Musharraf government's active role in flushing out the al-Qaida and Taliban men in the two MMA-dominated provinces, thereby creating a nightmare for the US operation against them in Afghanistan. That is why Benazir Bhutto has called the MMA "frightening genie" created by Musharraf. Now the West, particularly America, thinks that with such victory of MMA, the hunt for the al-Qaida and Taliban fugitives in Pakistan's two northern provinces will come to an end, which was so far being carried out unhindered by the Pakistan army personnel with the help of the American FBI. And that 'doomsday' may come soon because the alliance, in their election manifesto and election campaign had although expressed their 'vow' to end Pakistan's role in the US-led operation in Afghanistan by expelling US troops from Pakistani airbases and ending the haunt for fugitives.

Strange bedfellows However, there are some overt or covert loopholes for escaping from such 'eruptive' situation for those who would like to avoid a disaster in the national and regional interest. There is, therefore, no wonder that under such circumstances a pro-US

that is, if MMA is prepared to put its anti-US stance on the back-burner. For a party like PPP, to take such a step to form government at the centre, if successful, would undoubtedly be welcomed by Washington, and consequently by Musharraf. Perhaps PPP's posture is aimed at throwing a wet-blanket on the pro-government King's Party -- PML (Q) -- and thereby dampen the spirit of President Musharraf. Perhaps, for PPP this is the only way to tame the 'frightening genie' let loose by election. In that respect, PPP seems to have taken the right path, perhaps blessed and nodded by its distant friends. But it all depends on MMA attitude towards PPP's proposal, although MMA has given out an encouraging signal that PPP proposal is negotiable. So the door is not closed. It may prove true once again that time-honoured adage -- 'adversity makes strange bedfellows'!

President Musharraf, sensing the danger ahead, and to allay the concern being expressed by certain quarters, has announced that Pakistan "will not be swayed from its front-line role in the US-led war on terror" by the success of the anti-US Islamic extremist parties in the recent election. But how long Musharraf would be able to continue his tight rope walking, only

hit the nail at the right moment. But India should not be so much panicked with the success of Islamic extremist forces in Pakistan because the new elements would be more preoccupied with happenings on Pak-Afghan border than Indo-Pak border. Moreover, many such unpalatable developments had taken place in the past, apparently causing much concern in outer circles, but in the long run they were found to have been 'domesticated' to avert any mishap. Take for example the case of BJP's rise to power to run the country almost from scratch, after giving a good thrashing to its arch-rival, the secular Congress. Well-known as an extreme nationalist Hindu political party, which, along with its front-organizations, like VHP (Viswa Hindu Parishad), Siva Sena, RSS and Bajrang Dal, is more devoted to avowed creed of 'Hindutva' than secularism in India. When the Indian people voted BJP to power, ditching Congress, they knew well what they were doing. It is not true that they all overnight became communal and votaries of BJP's 'Hindutva' philosophy. They just turned the table upside down, throwing the Congress's 'apple cart' helter-skelter, because they were fed up with the empty slogans of Congress during the last five decades or so. So they wanted a change being

desperate. And they brought it for good or bad, only time will show. However, one thing is clear. BJP's rule over India has not cast any wrong shadow over India's foreign policy. The western countries, including America, are now eager to see BJP well stabilised in power. For obvious reasons, while Congress had failed. How to describe it? Take it as you like, in the rise of extreme communal/fundamentalist parties

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to power, there seems nothing so much to be worried or scared of. MMA's success: A repeat performance of BJP Now, if the focus is shifted from India's BJP scenario to the latest scenario of sudden emergence of Islamic extremist parties in Pakistan in the recent elections, and poised for assuming power in NWFP and Baluchistan and holding a balance in the Parliament, it can be considered at best a 'repeat performance' of what BJP had done earlier in India. There may be difference in their political philosophy, but the physical dominance on the political stage is the same. The people of Pakistan, particularly from NWFP and Baluchistan, who had witnessed the horrible things that had happened in Afghanistan with innocent people in the name of war on terror, bounced back with a spirit of revenge, but not in criminal sense. Thus the so far subdued forces were thrown up, thanks to the election, to speak out their suppressed mind, taking a lead to run the governments in NWFP and Baluchistan and holding a power balance at the centre. And this is a fact 'stranger than fiction'. Nature never tolerates an artificial vacuum and the vacuum has been filled, whether somebody likes it or not.

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Practising democratic norms

Let not problems override prospects

M H BARI

AFTER a spectacular failure of socialism and dictatorship democracy has been accepted as the most desirable system throughout the world because democracy is "people's power". It ensures mass participation for determining the absolute power of the state. To Maciver "democracy is not way of governing whether by the majority or otherwise but primarily a way of determining who shall govern and broadly to what end." President Lincoln has given the most acceptable definition of democracy: "The government by the people, of the people, for the people". Though, theoretically speaking, democracy is the best form of government, in practice it is the toughest. Sir Henry Maine opined, "In all forms of government democracy is the most complicated." Thus Bangladesh is practising the most complicated and sophisticated system of government.

Almost half of its existence of 31

years has been wasted under military rule. It is unfortunate that people of Bangladesh could not taste real democracy even under the democratic system because the democratically elected governments ran more dictatorially than

should be created for such infusion. Degree of acceptability of democratic practice To make democratic government successful the people must cherish democratic spirit. They must realise

extremely unhelpful not only for growth but also survival of democracy. Among other serious ills prevailing in our society are corruption, nepotism and terrorism. These must be immediately brought down to a tolerable level, if not eradicated

fully there exists a sort of semblance. The government must encourage further freedom of media to develop its efficiency. Constructive criticism in fact helps them to be effective in both economic and political fields. Even the socialist regimes had realised, if a little too late, that it is a good policy to allow criticism of the government to a limited extent.

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democratically. For running successful democratic governments there are obviously some prerequisites to be fulfilled: Organised political party and honest leadership

In a democratic system organised political parties reach the general people about the rights and privileges to make them vigilant against undemocratic forces. This needs good political organisation and honest leadership. In Bangladesh there is serious scarcity of honest and good politicians. Condition

that all democratic rights are reciprocatory obligations in a democratic society. Voltaire said long ago: "I may disapprove of what you say, but I shall defend your right to say till my death." The community as a whole is to be self-restrained, well-tolerant and committed to fair play towards others. To make the foundation of democracy strong people of Bangladesh must practise self-restraint.

Education

I have already stated that democ-

cracy is a very sophisticated system. This needs knowledgeable public and political leaders. People must understand that democracy is the best system. Education will enable them to understand the meaning of democracy and to choose right

Rule of law

Democracy cannot exist without the operation of rule of law. The present condition of law and order is

altogether. Our politicians must realise that without their concerted and sincere effort these evils cannot be eliminated. Putting blame on bureaucracy is simply no remedy. Judiciary must be separated from executive to ensure establishment of rule of law.

Freedom of expression

Without free media a democratic government tends to run like a dictatorship. This is particularly true in case of developing countries where usually money rules. Hope-

fully there exists a sort of semblance. The government must encourage further freedom of media to develop its efficiency. Constructive criticism in fact helps them to be effective in both economic and political fields. Even the socialist regimes had realised, if a little too late, that it is a good policy to allow criticism of the government to a limited extent.

There is hardly any difference of opinion that democracy is not running properly in Bangladesh. Our parliament is ineffective. We believe in negative politics. Instead of helping economic growth we are encouraging stagnation. Strangely enough governments in position try to follow the bad instances left by their predecessors. We fail to understand as to why the party (or parties in power) in their bid to punish the opposition actually punish the general public. It is time for all the politicians, particularly of the major parties, to think positively to establish true democracy in Bangladesh.

M.H. Bari is the General Manager of a fish processing industry, Khulna

TO THE EDITOR TO THE EDITOR TO THE EDITOR TO THE EDITOR TO THE EDITOR

Letters will only be considered if they carry the writer's full name, address and telephone number (if any). The identity of the writers will be protected. Letters must be limited to 300 words. All letters will be subject to editing.

"Saluting the Nation Builders of Tomorrow"

I salute *The Daily Star*, for arranging such a gorgeous, colourful and wonderful award giving ceremony for the 'O' Level and 'A' Level students.

The ceremony was well attended and it was indeed a special occasion for the students of English medium schools of our country. It was an incentive for the Principals and the teachers of those schools as well.

We, the teachers sitting together at the gallery under one roof enjoyed the whole proceedings and programmes thoroughly. We also had the opportunity to share the joy and to know the exact results of the students excepting the actual numbers of the examinees of each school. We took pride in cheering at each and every achiever. The feeling of joy mingled with pride is not for the monthly remuneration, but surely it is the joy of creation and success.

The sponsors also acted as the philanthropist by co-operating wholeheartedly with the management of *The Daily Star* in inspiring the future nation builders. They also deserve credit and thanks. It was not

an easy task to honour 319 students together in one function. Once again my hats off to *The Daily Star* for this an innovative idea. We are eagerly waiting for the next year's celebration!

Fouzia Haque
Teacher, South Breeze School, Dhaka

"AL and terrorism in Bangladesh"

I thank *The Daily Star* for their editorial (November 02) on AL's comment and terrorism in Bangladesh. It was very timely and aptly reflects the true sentiments of the ordinary citizens.

When I first read Sheikh Hasina's recent speech in Brussels, I was speechless. Loaded my email software to protest in the strongest of terms, but stopped short. Here is a former Prime Minister of Bangladesh calling her country a terrorist nation and all because she miserably lost the last election and that too due to the faults of her administration! Bangabandhu Sheikh Mujibur Rahman must be tossing and turning in his grave.

AA
California, USA

I was shocked to read your editorial (2 November) on AL and terrorism in

Bangladesh. I wonder if you are indeed attempting to play a balancing game by pleasing the opposition one day and the ruling party the next. When you criticise Sheikh Hasina for what you call trying to destroy the image of the country abroad, I hear you are joining the chorus of denial that terrorism and Islamic fanatics do exist in Bangladesh. You are certainly not helping Bangladesh! Your editorial is the mirror image of our Foreign Ministry's statement after TIME published the story on Al-Qaida in Bangladesh which said that the report on Bangladesh was 'fictitious, baseless and imaginative'.

Mr Editor, you will know well that when a civil and democratically elected government changes its character to a repressive and fascist regime, one of the few options that are left open to the opposition and the civil society at large is to solicit international interventions and coalition. Sk. Hasina has not gone that far. She is merely saying what is right, or else the nation (you included) would be responsible for not acting early on. In this instance, you are not playing a responsible role, expected of a senior and distinguished journalist of your stature.

Another group is daily trying to collect tolls and harass people. One of the members of that group, is openly walking about from business to business with half a dozen others, demanding money to commemorate the 7th of November. Last year despite Khaleda Zia's call

What surprises me more is that you are giving undue attention to what the US Ambassador had said, describing as 'no less a person than the US Ambassador in Bangladesh outright rejected the Time magazine story!' We have heard her enough! Like the US regime in place, she takes a convenient stand when it serves the US interest.

Believe me, if we continue to deny and hide things under the carpet, one day the eruption will occur, as it did in Bali. It will be too late then and also too much for us to handle.

Mak Khan

Australia

Army crackdown

For us the residents of Shewrapara, so far this army crackdown has brought little relief for us. The main gangsters are in hiding. No doubt as soon as this drive is over they will reappear. But the second tier maastans are still active.

I think many readers would agree with me that the recent commentary on military action on the civil society has been good so far and timely. It's NOT too little too late! Hats off to Mr. Anam. After Mr. Anam, as a reader, I would

to refrain from toll collection regarding this occasion, we suffered. This year even with the army on the streets, the results seem about the same.

Kishore Pasha

Dhaka

"Will our elected government tell us what is happening?"

Mr. Mahfuz Anam made several commentaries during the past government. Conversely, he has written too little since last election. The condition of the country has not changed; it's even categorically worse. May be BTV news and government press releases would defy this view. But foreign and many national dailies including *The Daily Star* would echo my view. Then what restrained him until recently in writing about the incumbent government? Anyway, at last, the commentary is back for the moment.

I think many readers would agree with me that the recent commentary on military action on the civil society has been good so far and timely. It's NOT too little too late! Hats off to Mr. Anam. After Mr. Anam, as a reader, I would

like to drop few lines. If the military can track down the criminals as per list, why the police force failed to do so. If the military can serve our purpose we don't want to see police force in payroll; show them the door. The top brasses (I mean the minister and the IGP) should lead the march.

Tarik Zaman

Australia

Root of it all

One of the readers had rightly said that "the patient cannot be healed if the physician is the source of the infection". Yes, I am talking about the deterioration of law and order for which the army has been "deployed".

Now it is common knowledge that in our country the very process of the formation of a political party calls for "armed cadres". All the major political parties in this country have such cadres who ultimately resort to armed terrorism as a highly lucrative "business" using their political might. So, first of all, we must tell our political leaders to get rid of the cliché "terrorists do not belong to any party" - of course they do and if they were not part and parcel of political groups then they would not have dared to engage in such crimi-

nal activities in the first place! By being members of the "armed cadre" of a major political party (of course the one in the government) they ensure their immunity to the law and create disorder. We should, thus, look into the core of the problem and sort it out from there. A Distressed Observer
Chittagong

IGP: Please resign

The ongoing 'Operation Clean Hart' has already brought a lot of debate. There are people who are happy as it has brought some peace in life in general. On the other hand there are complaints of using the army for political purpose. One point is beyond doubt - police has failed to do their job. There are reasons - political pressure, lack of skill and manpower, ill paid staff etc. But they have failed to do their job and someone else is doing their job better. I have not heard that a single police has lost his/her job. Amazing! Should the Inspector General of Police not resign at least on the moral ground? I know he has 101 reasons/corners to point finger at. Please resign and make a big press conference.

Mohammad Nazmul Islam
Tokyo, Japan

M F Fakru
Cambridge

English Language Club?

This is in response to Md. Ashequl Islam's letter (October 28) where he pleaded to set up English language clubs in every neighbourhood of Bangladesh.

If failure in SSC, HSC etc. is the main reason for establishing such clubs, why don't we form "Mathematics Club", "Science Club", "Arabic Club" and so on? If the students can learn other subjects within the stipulated 30 or 40 minutes in the class, why do you need extra hours for learning English?

Above all, why are you stressing so much on English and dream of mushrooming our society with "English Clubs"? Is this the "same old brand new" colonial psychology? I think this is weird and over-enthusiastic to form such clubs where we don't have our own Bengali language or literary clubs in our country.

Mohammad Nazmul Islam
Tokyo, Japan