

Money, muscle power, and elections



AMM SHAWKAT ALI

are such examples. In the Common Cause case (1996), the Supreme Court judicially noticed that the political parties spend over Rs. 1,000 crores on elections and that "nobody discloses the source of money." The Court reminded the EC that it had the power to preserve the purity of elections. In the Vohra Committee case (1997), the Court noted the nexus between money, muscle, and power at all levels of governance. Still, the EC did not act until May 28, 2002, following a

show of unity of 21 political parties at an all party meeting on July 8, 2002. They opposed the order given by the EC requiring the candidates to provide information in light of the Court verdict which included, among others, disclosure of criminal records. Although the EC was merely implementing the instructions contained in the Court verdict, the politicians felt that it was an intrusion into legislative area. They argued that the Parliament was supreme and had

interest of fair elections that allow the voters' right to information and choose candidates.

The above developments relating to electoral reform process has opened up and perhaps partly settled a number of issues. First, if the Parliament declines to enact electoral law to ensure a diminishing influence of money and muscle power in elections, will it not be the duty of the EC to make rules for the purpose. Second, in the absence of legislation in essential areas, and if it is necessary to preserve the integrity of the electoral process, the EC has a constitutional obligation to devise means to achieve the same. Third, whether Parliament can sit in judgment over the directions given by the Court. Fourth, whether it is in the interest of good governance for Parliament to transgress into the inherent powers of the EC.

Bangladesh case

Money and muscle power are at all levels of governance in Bangladesh. This is what many civil society organizations (CSOs), conscious citizens, and some political parties with leftist leanings have been articulating during the last one decade or so. Unlike in India, this has never formed the subject of Parliamentary discussions. Its deleterious effect on free and fair elections has also not been subjected to judicial scrutiny.

Our law relating to disclosure is similar to that of India. There is no need for disclosure of criminal records, assets and liabilities, etc. Unlike in India, there has not been any public interest litigation that enabled the higher judiciary to intervene. However, as discussions in some electronic media indicate, a number of CSOs have taken the initiative to ask candidates to face their electorate with such disclosure. At least this is what these CSOs have claimed to have done during the recently held municipal elections. This is a good initiative, but there is need to formalise the requirement, not by rewriting the law, which may be resisted by interested political parties. Perhaps this can be given formal shape through a Court verdict provided there is a writ in public interest.

In this context, it is relevant to mention that in Bangladesh case the public dues issue is limited to banks. It does not include public dues such as unpaid utility bills. The recent disclosure in the press about Tk. 80 million arrears of telephone bills of many of our lawmakers underscores the need for action in this regard. Unpaid bills in case of lawmakers do not lead to disconnections of telephone lines. In case of other citizens, it does. This is discriminatory and needs serious attention because it is violative of the non-discriminatory clause of our Constitution.

Dhaka by-poll

The uncertainties surrounding the Dhaka by-poll were set at rest by the timely and speedy intervention from the Supreme Court (both the divisions) in the symbol allocation case. However, pre-poll violence continues to be reported that exemplifies the application of muscle power over which the EC has little control. EC has, however, requested the government to ensure the safety and security of Major (Retd) Abdul Mannan, the contesting candidate from Bikalpa Dhara who was earlier denied the symbol of his party, that led to the writ petition in High Court. He and his supporters are said to be under constant threat from the activists of another party. It is highly damaging to the integrity of the electoral process. How and to what extent the existing electoral law needs to be amended remain a major area of concern. Whether it should be left to the domain of the executive is a question that remains unanswered.

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WORTH A LOOK

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verdict by the Delhi High Court about the voters' right to know the criminal antecedents and assets of candidates seeking elections.

The voters' right to know

The Delhi High Court gave detailed instructions on the right of an Indian voter to know full details about the persons who stand for elections. The verdict so given is said to have been placed on a firmer foundation by the Supreme Court. In 1999 the Association for Democratic Reforms filed a Writ Petition to the Delhi High Court seeking a directive to the EC to disclose the criminal antecedents, and assets and liabilities of candidates contesting elections to the Parliament and State Legislatures. On November 2, 2000, the Delhi High Court, while allowing the above petition, held that disclosure of this information was also obligated by Article 19 (1) (a) of the Indian Constitution, which gave citizens the right to freedom of speech and expression and hence the right to information.

The Union of India went in appeal against this judgement. The Supreme Court in its landmark judgment on May 2002 held that the persons contesting elections should file a sworn affidavit along with the nomination papers containing information about their financial assets and liabilities and criminal antecedents, if any. The elections to the Assemblies of Delhi, Madhya Pradesh, Chhattisgarh, Rajasthan, and Mizoram were held under this new dispensation.

The Court verdict elicited a rare

the exclusive right to alter the terms and conditions for contesting elections by amending the Representation of People's Act, 1951.

An assertive EC

It was not easy for the EC to start the implementation of the Court verdict. The Indian government is said to have played a hide and seek game much on the lines of a Tom and Jerry cartoon.

The EC wrote to the government on May 14, to amend relevant forms of nominations and also sent draft for revised forms. The government replied on June 19 saying that (a) the Law Ministry was considering the matter, (b) an all-party meeting was being convened on the issue on July 8, and (c) the EC should approach the Supreme Court for an extension of the two-months implementation period. Within two days i.e. on June 21, the EC replied back saying that it was for the government to approach the Supreme Court for the extension proposed. On May 28, the EC issued the final order on revised forms.

The order required each candidate to furnish information to the Returning Officer on (a) past criminal convictions, (b) pending criminal cases carrying convictions of more than two years, (c) assets, (d) liabilities (especially public dues), and (e) educational qualifications.

The Court verdict on disclosure, it is said, has not involved any legal change. All that the Court has ordered is to interpret, in an expansive manner, the authority of the EC to take actions in the

How are Indo-Pak ties shaping up under new Indian government?



ZAGLUL AHMED CHOWDHURY

foreign policy for obvious reasons. For any government in Islamabad, it is New Delhi that matters most in the realm of external matters and likewise, an Indian government attaches top priority to issues related to Pakistan, since their ties are characteristically marked by sensitivities. The Indo-Pakistan relations often remain mired by disputes and even belligerence, but there are also phases when the state of ties is described as relatively and reasonably

war. Fortunately, the full blown conflict did not finally occur, thanks to the efforts of the international community and like minded parties. Even though Vajpeyi is known as liberal within his BJP party, the driving force behind the NDA, hardliners like L.K. Advani were seen as disfavouring improved Indo-Pakistan relationship.

All these happened ahead of the Indian polls, and an impression had gained ground that friendly relations with Pakistan might pay good dividends in the voting and

MATTERS AROUND US

It would be height of folly to expect that India and Pakistan can soon resolve their main problem, but the efforts can continue in that direction. Bilateral co-operative ventures may develop in the meantime in different areas that will benefit their people. The spirit demonstrated by the two countries in the successful dialogue on nuclear related matters should be exemplified in the future, and the present time is propitious for better ties even though no one really suffers from the illusion that Indo-Pakistan relations can be totally friendly and trouble-free in the near future.

satisfactory. For the last six years, it was the NDA government that conducted policy with Pakistan regardless of ups and downs, and now a new authority in New Delhi is charged with the task. How is this UPA government dealing with the policy with Pakistan, an issue which is cynosure of all eyes.

It appears that the UPA government is keen to carry forward the positive approach demonstrated by the NDA during the last phase of its rule, and it is in that line that New Delhi is encouraging dialogue with Pakistan President General Pervez Musharraf has been at the helm in Islamabad for more than four years and during this entire period the NDA government and Prime Minister Vajpeyi was in power in India. The relationship between the two countries during this period was mostly bad and hostile even though the last six months of the NDA rule saw a marked improvement towards normalisation of New Delhi-Islamabad ties.

The two countries were on the brink of war twice and on the latest occasion more than a million troops remained deployed for a pretty long time along their borders prepared for a possible satisfactory. For the last six years, it was the NDA government that conducted policy with Pakistan regardless of ups and downs, and now a new authority in New Delhi is charged with the task. How is this UPA government dealing with the policy with Pakistan, an issue which is cynosure of all eyes.

NDA government allowed Indian cricket team to play in Pakistan after fourteen years. Certainly, the mood and tenor of the Indian people favoured good ties with the neighbour and this did play a role in the elections. But the voters did not credit the NDA for the development since the opposition was equally if not more willing for a better New Delhi-Islamabad relationship. If Vajpeyi dispatched the cricket team, Congress chief Sonia Gandhi sent her son Rahul and daughter Priyanka to Karachi to witness the match. Besides, almost all the partners of today's UPA supported NDA government's initiatives to lessen tensions with Pakistan, but some partners of the NDA itself and its allies opposed such moves as they are known as rabidly anti-Pakistanis.

The Shiv Sena, a component of the NDA, opposes tooth and nail co-operation with Pakistan in any field including the sports, while the Congress and allies were more favourably disposed to improved relationship with Islamabad although expectedly, all spoke of protecting national interests. Consequently, if desire of majority of the Indians for better ties with

Pakistan played any role in the polls, it has comparatively gone in favour of the Congress and like minded parties. Even though Vajpeyi is known as liberal within his BJP party, the driving force behind the NDA, hardliners like L.K. Advani were seen as disfavouring improved Indo-Pakistan relationship.

Now in the UPA government is supported by the leftists, who are really keen to see that India's relations with the neighbours are as far as possible tension-free so that the region can concentrate more on the welfare oriented programmes that would help the vast multitude of South Asia. The influence of the leftists, whose support is critical for the UPA government, will provide additional impetus to better Indo-Pakistan ties and it is possible that bilateral relations will witness greater interactions during the UPA rule in India.

However, the main bone of contention between the two countries is clearly Kashmir and any forward movement towards settlement of this contentious issue is a complex task. The Kashmir tangle has so far proved almost intractable as two sides hold virtually divergent positions on this dispute that is in existence ever since the two neighbours were carved out as independent countries from British-ruled India. As India and Pakistan are carrying out bilateral dialogue at different levels, the talks will be put to serious test when the core Kashmir issue is taken up at an appropriate level.

True, the dispute is too vexed for a solution, but many seemingly intractable matters that defied settlement for long did see amicable and peaceful resolution in the international arena in recent times. It would be height of folly to expect that India and Pakistan can soon resolve their main problem, but the efforts can continue in that direction. Bilateral co-operative ventures may develop in the meantime in different areas that will benefit their people. The spirit demonstrated by the two countries in the successful dialogue on nuclear related matters should be exemplified in the future, and the present time is propitious for better ties even though no one really suffers from the illusion that Indo-Pakistan relations can be totally friendly and trouble-free in the near future.

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The quiet American

MALCOLM BEITH

THERE are two basic types of Americans abroad. The one most of you know is that irritating, talking-at-the-top-of-his-lungs, know-it-all swaggering cowboy who really wishes he were at home. He's not, so he pretends he owns yours, whether it be in Aix-en-Provence, Cancun, Bangkok, or Baghdad. You hate him and everything he stands for.

I'd like to introduce you to the other kind of American -- I'll call him the quiet one. When he travels, he embraces your culture, learns about your history, eats what you eat, tries his damndest to speak your language, and relishes every moment of every new experience. The reason he's somewhere else is exactly that -- to be somewhere else. He doesn't always agree with America's role in the world -- take Johnny Depp, who lives quietly in the south of France with his French wife and only makes headlines when he speaks critically of the United States -- and, perhaps to your surprise, may well see eye to eye with you on current affairs. At the very least, he'll hear you out.

I swear, this American exists. Unfortunately, you've probably never met him. The Quiet American likes to be somewhat inconspicuous. And even if you have had

the opportunity to spend time with him, you may not have known it. Because if you asked him where he was from, he probably said "Canada."

A small minority of self-conscious Americans have long pretended to be Canadian when traveling abroad. But given the record-levels of anti-Americanism these days, it seems as though more Yanks are traveling incognito than ever before. Almost every American I know has used the "I'm from Canada" line since Bush II took the throne. I've seen American travelers in Thailand paste maple leaf stickers to their backpacks, and heard tales of Connecticut kids Euro-railing across Old Europe wearing "I Love Canada" T-shirts. For those who are new to the Canada Con, the web site areyoucanadian.com is aimed specifically at poseurs. It sells "I'm from Canada, eh?" shirts, and has links to "Required reading for American travelers pretending to be Canadian overseas" (hockey trivia, facts about Molson beer -- you know, the important stuff). It even boasts an online pop quiz to make sure you don't break under interrogation.

Personally, I've never felt the need to be Canadian. And I've always insisted to friends who hide behind the maple leaf that we are the good few, and should therefore

present ourselves as ambassadors rather than covert tourists. Then again, it's always been easy for me -- as an Anglo-American I've got "Oh, I'm actually British" to fall back on if the going gets really tough. And I've even got the passport to prove it.

These days, however, I'm in a bit of a fix: I'm either an imperialist oilmongering cowboy or the little gullible poodle following along in his warpath. It's lose-lose. So, on a recent trip to Colombia, I decided to experiment with a trait rarely displayed on the international stage: honesty. When Colombians asked where I was from, I simply told them: I was born in Washington, D.C., spent my formative years in Britain, and now reside in New York. My father is British but born in Argentina, his Scottish father is from Chile but grew up in Germany; my mother -- now a naturalized American -- was born in what once was Germany but is now Poland. Her mother...

I didn't need to go on -- it worked. By the time I got to this point in my spiel, my captive audience was so bored they would have embraced me if I'd said I was originally from Mars -- or even Texas.

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