

Flawed charge sheet, sullied reputation

Government must display seriousness in investigating cases

AT last a charge sheet on the Chittagong arms haul case has come up to the court for hearing. The court has reproved the relevant authorities for the way the charge sheet was framed and ordered appropriate action against the investigating officer (IO). One can only express anguish and shock at the way the charge sheet has been framed, having so many loopholes that it has been left looking like a net. We are aghast and dumb-founded at the slipshod manner in which the IO has gone about his task.

One has not heard of any substantive action being initiated against the IO. It was expected of the police to take the errant officer to task, instead of waiting for the court's directive to do so.

The manner in which the investigation has been conducted and the level of efficiency exhibited by the IO, excluding three of the ten trucks in a most surreptitious manner, force us to question the earnestness of the government in getting at the bottom of the case.

One would have thought, being a case of grave nature which is being observed by several South Asian countries, the government would have addressed the matter with the seriousness that it deserved. Unfortunately, it seems that the authorities have treated this case even less seriously than an ordinary one.

Needless to say, this case has great security implications, not only for Bangladesh but also for the region as a whole. For the slipshod manner the case has been handled, Bangladesh may rightly expect similar queries from our neighbours, which we are posing. One wonders what plausible reply to their concerns can we give? The consequence of all this is Bangladesh's loss of face and credibility internationally.

The government must take up this case more seriously than just 'any other' case. Not only the gravity of the case but also our reputation as a nation demands that the government does so.

Admission to college

It shouldn't be a source of student leaders' income

EVEN admission to the government colleges in the city has not been spared the crippling influence of negative student politics. The leaders of the JCD are reported to be doing brisk business as disqualified, or not eligible, admission seekers are willing to pay a hefty amount to cross the hurdle. A report published in this newspaper gives a detailed description of how much they are charging for admission into the colleges. The amount varies, not surprisingly, according to the standing of a college. The business is extremely unethical, to say the least. Here merit is being guillotined by the urge to make money. And all that is being done by none other than the leaders of the student wing of the ruling party.

The academic arena has witnessed a lot many things in the last few years which amount to gross violation of the norms and rules that were once considered sacrosanct. And, regrettably, student politics is held responsible for many of the ills -- the list of which is a long one. What haven't we watched? There have been killing, extortion, abduction, rape and free-for-all brawls on the campuses of universities and colleges. Unfortunately, the situation is worsening day by day.

Now that the admission process has been made a source of money-making, the well-meaning will feel greatly disheartened. Corruption in such an area will certainly have a highly negative effect on the education system as a whole.

The responsibility of the ruling party is always much greater than those not in power. It is not enough to say that the student wing of the previous ruling party had also taken control of the admission process in some colleges. A crime is not legitimised only because it was committed by political rivals of a party.

The leaders of the BNP should take a closer look at what is going on. If bribe becomes the order of the day, higher education worth the name will soon become a thing of the past in this country. They should act with a sense of purpose and make sure that their student leaders take their hands off the admission process in any educational institution.

Bar, bench and criminal justice



AMM SHAWKAT ALI

THAT all is not well in the administration of criminal justice has been articulated in many newspaper reports published in various dailies from time to time. Generally, the criticism has been leveled at the police for failure to submit charge sheets, arrest offenders and bring them to justice. Sometimes, the public prosecutors have complained of low quality of investigation resulting in failure to secure a conviction. Thus the brunt of the attack has either been on the investigation machinery or the police prosecutors. The need to establish a separate prosecuting machinery for the subordinate judiciary has also been voiced from time to time. The debate has continued without any appreciable change in the criminal justice system.

New aspects of the debate: An English daily has published a news that adds a new dimension to the on-going debate (The Daily Star, July 15, 2004). In an unprecedented move, the Supreme Court Bar Association (SCBA) is reported to have called upon the chief justice (CJ) to appoint efficient judges to the High Court (HC) or stop appointing judges if competent people are not available.

It is understood that SCBA has submitted a memorandum to the CJ

asking him to take necessary steps and copies of the memorandum would also be sent to other judges of the Supreme Court (SC). It is said that the practising lawyers have the highest tier of the judiciary pointed an accusing finger at some of the judges of the criminal motion benches for less than desirable performance. The president of SCBA made a public statement that the rate of disposal of cases was low. He also reportedly made a stronger statement that "Only the inefficiency of the judges is the reason behind this". In the new aspect of

more competent people for elevation to the judgeship or keep the posts vacant appears to indicate deep frustration that most of the practicing lawyers have. What about the aggrieved citizens? Has anybody assessed that?

Rationale of the unprecedented move: The rationale of the unprecedented move by SCBA, as it appeared in the press, remains an area of major concern. The primary rationale appears to be absence of independence of the CJ in matters relating to constitution and dissolution of benches. It has been alleged

reported to have said that he has problems with that (The Daily Star, July 15, 2004). An even more damaging statement has been reported in the press that tends to confirm the difficulties of CJ. The alleged statement refers to a briefing of 11 senior judges by the CJ in matters relating to bail and stay order. Another lawyer referred to 'remote control' system that needed to be broken or eliminated.

Politicisation of the higher judiciary: The published news also speaks of politicisation of the higher judiciary. It refers to the fact that

public over such a sensitive issue. He further said that the action taken by the 186 lawyers was inconsistent with their responsibility which is to uphold the image and independence of the judiciary. A section of lawyers protested the action of SCBA (Prothom Alo, July 19, 2004).

Demands of public interest: The citizens of Bangladesh are not interested in statements and counter-statements of one group of lawyers across the political divide or the other. Indeed, the issues raised by SCBA is a formal one and is addressed to the CJ for remedial

Historic image of judiciary: The historic image of the judiciary, in particular, the higher judiciary, has never been in doubt. Even in case of magistracy, there was enough confidence among the people in the past. The courts immediately above that level also fully enjoyed such public confidence. Public perceptions appear to have changed now across the board. The UNDP (1997-98) report titled *Human Security in Bangladesh: In Search of Justice and Dignity* provides an analytical view of our criminal justice system. It was updated in 2002. According to one view, in Bangladesh 'an inefficient, complex and corrupt criminal justice system operating in an anti-poor environment'. Further it is said that 'Pervasive corrupt influence of politics' is clearly at the root of the skepticism about the Criminal Justice System (CJS). The firm belief that money can buy anything and if money fails, appropriate and proper 'connections' can take any criminal out of any fix, rightly or wrongly, is the foundation of much of the skepticism about the criminal justice system' (CPD, Human Security in Bangladesh, 2003).

What has been left unsaid in the above view is that many innocent persons become victims of criminal trial for political or other reasons. The subordinate judiciary is unable to protect them. They come to get relief in the High Court. The SCBA's unprecedented, if a bit aggressive move, should be seen in that light. The allegations made by SCBA, however, merit attention and need to be addressed. This should be done in public interest and for the sake of keeping the entire judiciary, in particular the higher judiciary, above all controversy.

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WORTH A LOOK

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the debate, some judges appear to have been made part of the inefficient criminal justice system.

Perception of a Greek philosopher: It is said that about four thousand years ago, a Greek philosopher commented that, "Ignorance of judges is calamitous for the civil population". The president of SCBA, of course, did not refer to the aforesaid comment of the Greek philosopher. However, that unusual delays in the disposal of criminal cases do affect the citizens is an article of faith with many, including judges. For last three decades or more, some of our CJs and their colleagues had affirmed that justice delayed is justice denied. The president of SCBA had categorically referred to inefficiency of some judges. His assertion that the CJ should find

that the decision-making process is believed to be influenced by extraneous sources. Dr. Kamal Hossain, an eminent jurist, is reported to have said: "The chief justice must be told of our grave concern, that people are being deprived of the shelter of the law". If this concern is valid, it forebodes disaster for the aggrieved citizens seeking relief at the highest altar of justice. Indeed, in such an event, this will only confirm what the Greek philosopher had said four thousand years ago.

CJ has difficulties: The element of grave concern has also been articulated by other lawyers of high repute, besides Dr. Kamal Hossain. President of SCBA's reactions to the press indicate that the lawyers have requested the CJ constitute benches with senior judges. The CJ to is

SCBA has accused the government of appointing judges more on political considerations than on merit and competence. If this accusation were true, independence of the judiciary, guaranteed in our constitution, would be something devoutly to be wished but unlikely to be achieved.

Political divide across the bar: It is widely known that there is a political divide across the bar. However, the published news has provided the reactions of two ministers of the alliance government. One of them termed the statement of president of SCBA as 'vicious' and threatened him with contempt of court. The other minister called SCBA resolution 'unfortunate'. He reacted by saying SCBA could have discussed the issue with the CJ instead of going

action in public interest and in the overriding interest to ensure independence of the judiciary and impartial dispensation of justice. This the SCBA has done in utter desperation, having failed to get remedy after previous discussion with the CJ as is reported in the press. Public interest demands that the allegations of inefficiency of some judges and the reported inability of the CJ to constitute appropriate benches for fair and expeditious disposal of criminal cases, on appeal, review or revision from subordinate judiciary, should be looked into and remedial actions taken. The allegations made are of grave and serious nature to be dismissed lightly on grounds of political divide among the community of lawyers.

One risk too many?



IKRAM SEHGAL
writes from Karachi

PERVEZ Musharraf is used to taking risks -- risks are what has got him this far in the first place. Nothing risked, nothing gained! There is irrefutable evidence about his flirting with danger constantly during training. Some take risks instinctively. I like to think that the President (and Army Chief) takes calculated risks, set-piece gambles measured to succeed. Pakistan's circumstances and his own interests have tended to dovetail in risk-taking, e.g. the 180 degree turn after 9/11 saw us safely to the right side of the 'war against terrorism', it established Musharraf in the eyes of the western world. Like every human being, he is fallible, e.g. the ill-adviced 'referendum' in mid-2002 was a disaster that brought the President down from the pedestal we had put him on, this despite the fact that he was genuinely popular at that time.

Given that the President was fed up with my friend Zafarullah Khan Jamali for any number of reasons unknown to most Pakistanis, there must have been urgency for removing him only days after the Federal Budget was passed, in fact the third day after the first-ever National Security Council (NSC) meeting? Some grace was certainly shown by officially dining him out! The NSC was meant to be a 'buffer entity' in which issues of prime national security interest would be discussed

so as to forestall drastic changes such as the change of PM. As one of those who have strongly recommended the formation of NSC and its effective functioning thereof, not only as the constitutional 'buffer entity' envisaged because of our special political circumstances where PMs tend to have short career spans, but as a national security clearing house, the NSC has turned out to be a severe disappointment in its first appearance in its buffer mode. As for confronting national security issues in the manner of NSC in the US, we ain't seen nothing yet!

deposit-taker, on the one hand to keep Citibank's clients from pulling their money out while on the other ensuring that the money deposited was not illegal, when there is more or less a fine-line whether the money stashed in 'private banking' accounts (mainly to escape taxation and other cynosure from the country of origin) is legal or not. While Shaikat Aziz does not claim to be an economist, he was always a good banker, his career advancement in Citibank must be a model for all upwardly mobile banking profes-

generals need destiny on their side at the right time!

Jamali's exit could have been better orchestrated to ensure Shaikat does not get the rough-ride he has started to get in our political quagmire, this will become far worse as time goes by. Shaikat Aziz should have been elevated to Deputy PM and then taken the election route he is now taking. Once Shaikat was elected as MNA, Jamali should have resigned at a convenient time. If Ch Shujaat was needed for the interim, Shaikat Aziz should

having suffered personally because of a Punjabi/Bengali mixed origin, in our real world only lip-service is given to the concept of a 'global village,' ethnicity is very much a fact of life. As much as merit must surpass all other considerations, pragmatism and realpolitik dictate prudence and soul-searching: fools rush in where angels fear to tread! Gen Pervez Musharraf is a Mohajir, the problem is that both the Naval Chief Shahid Karimullah and the PAF Chief Kaleem Sadaat are of the same ethnic origin. What are the

stage in Gen Musharraf's career where he is likely to shoot the messenger bringing bad news, the President's close advisors (and intelligence agencies) would rather shove this issue under the carpet and only tell the President what he wants to hear, I would rather Pervez Musharraf faces this issue now and not put his own existence in line. The opposition may well let Shaikat Aziz take oath as PM before bringing the entire government machinery to a standstill on this potent emotional issue. In the meantime another outlandish theory is gaining currency, the 'Chile Solution' where Gen Pinochet remains Army Chief having given up the Presidency he occupied for almost two decades. Many suggest that the Musharraf gameplan is to elevate Senate Chairman Muhammadan Soomro to President while remaining in the Army House a la Pinochet. Possible? Given three PMs in three months, anything is! The frustrating thing is that because of his name recognition among world leaders and his personal PR par excellence, Shaikat will always make a good PM. At this time he would have made a wonderful Foreign Minister for Pakistan, particularly at this juncture in our relations with India. As an asset Shaikat Aziz will be lost to this nation if he is misled in treacherous controversy in the near future.

It would stand to reason and logic that Pervez Musharraf has thought out this "calculated risk." As an avid military student he is a strong believer in one of the more important lessons of Field Marshal Slim's "Unofficial History" -- "do not take counsel of your fears." Pragmatically Pervez Musharraf must balance this against taking "one risk too many" with the "great silent majority" in Pakistan who still believe he holds the national interest above his own.

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AS I SEE IT

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Shaikat Aziz has the qualifications as a technocrat to be a good Prime Minister. As for being a politician, he wouldn't have got this far in Citibank, and in Pakistan, unless he had been street-smart. He is intelligent, suave and charming, has excellent contacts the world over (and in the country), is very personable and above all, has the trust of the one person who really matters, General Pervez Musharraf. Citibank was not stupid to select him to head its 'private banking' unit. When Citibank's President John Reid was taken to task by the US 'Senate Committee for Money-Laundering' and ordered to clean up Citibank's act with respect to dubious clients depositing tons of tainted money, he brought in Shaikat Aziz to do just that. Shaikat's strong suit, Public Relations (PR), helped him in good stead in walking a tight-rope as a

sionals. As Finance Minister, he was lucky on two counts, viz (1) as a technocrat member of an autocratic regime he had the necessary backing to keep on implementing the reforms envisaged by his political predecessors, implemented only partly by both PPP and PML (N) Finance Ministers because of political considerations and (2) 9/11 came in really handy, Pakistan otherwise would have defaulted (no fault of the ruling regime) on debt repayments by September 15, 2001. Persevering with the reforms diligently and because of debt forgiveness, debt rescheduling, inward remittances, etc., Shaikat represented the success of Pakistan being turned around economically. We are now sitting pretty with over \$12 billion in the foreign exchange kitty, how many Finance Ministers in Pakistan can claim that? Even good

have been Deputy PM (and PM in all but name). At an appropriate time because of 'ill health' Shujaat would have called it quits, after all he is genuinely ill. The way Jamali was packed off restores to the public psyche the perception that despite our 'democratic' facade, our government remains very much a military regime, whatever democracy there is has been manipulated. In most Muslim countries, a single authority supersedes democracy, in our case it is the President in his more potent role as Army Chief.

As one of those who generally (and genuinely) supports the Pakistan Army and its Chief, a major cause for concern is something that is probably more coincidental than intentional but could become a matter of great controversy for this regime sooner rather than later. As much as one detests ethnicity,

chances that the next COAS (if Gen Musharraf takes off his uniform) or VCOAS (if he doesn't) will also not be the same? While the present choices may well have been on merit and future choice may also be on merit, in the absence of an ethnic balance a whispering campaign needs addressing before it gets out of hand. Shaikat Aziz has already been called a number of things he is certainly not, i.e. a Qadiani, a US citizen, etc., his wife (who happens to be a God-fearing Muslim housewife to the core) has wrongly been labelled a Jewish businesswoman. With Shaikat as PM almost everyone who matters in important decision-making posts in Pakistan will be of similar ethnic background (notwithstanding the fact that Shaikat's mother was from a Kashmiri family from Jullunder).

Since we may have reached the

OPINION

From Ramna-10 to Gazipur-2: In expectation of a sensible end

KAZI ALAUDDIN AHMED

"HASTE is of devil" so says the holy Quran. It is just possible that the holy books of all other religions have the same message for their respective followers. Haste is universally known as a satanic vice, its impact is often full of incongruities to invoke common despise. Things done in haste can breed doubt as well as uncertainty. In ordinary domestic and social life whosever tries to do anything hastily invariably does so to achieve or earn instant benefit. In the political arena it is individual's personal standing within the community and his self confidence that are reflected in his haste to do anything.

Very recently in the by-election of Dhaka-10 constituency the city dwellers had an opportunity to watch 'immaculate' performance of an unusually articulate candidate launching his election campaign long before he was formally nominated by his party. He did indeed display a 'great' ability to organise huge 'meet the people' rally moving from door to door. Initially, in all

such preliminary stock-taking of the man the direct involvement of the party stalwarts was not observed. Nevertheless the ground work went on well and undisputed till his formal nomination was in place. In abhorring haste the man mobilised all his resources and a huge number of workers to 'defend his fort' from the 'intruders' the principal one being another powerful contestant and former party colleague and sitting number of Parliament from the same constituency.

When the Munshiganj seat was eventually lost to the party in power, precisely BNP, it could be very much palpable that the high command would have to lose the Dhaka-10 seat. It turned out to be a very big challenge to get the party nominee elected by 'hook or by crook.' Like the Munshiganj seat, Ramna-Tejgaon seat too has been known to be a BNP stronghold for long. Maj (ret'd) Mannan, an industrial tycoon was elected in the past from this constituency as BNP candidate.

This time the 4-party/BNP nominee Al-Hajj Mosaedek Ali Falu had no other choice but to make an all out effort to win the support of the voters. His campaign soon gained

rapid momentum with the 'ghastly' enthusiasm of his workers who appeared to have been 'tutored' by their affluent benefactor to use any conceivable device to intercept the other formidable candidate and his workers at every point of the polling area. As a result, there had been free physical assaults on Major Mannan's boys and even on him and Mahi B Chowdhury. On one occasion the last two had to take shelter in the police commissioner's office for life.

In order to contain such ugly hostilities Major (ret'd) Mannan and Mahi B Chowdhury took to 'sweet-meat diplomacy' carrying huge quantity of sweetmeat to the election camps of their adversary. They pleaded for friendly gestures till the end of the polling on 1 July 2004. But their offer was not reciprocated. It was rather returned with bitter pills. Between the period Major (ret'd) Mannan had to move with the High/Supreme Court for his election symbol 'Kula' and for deployment of Army at every polling centre.

On both counts he emerged victorious which, incidentally could provide him an additional filip or impetus to resume his campaign with more zeal and enthusiasm. Pitifully for him his relentless endeavour at straightening things with legal support from the highest level proved exercises in futility. His rival was absolutely unmoved. His campaign boys and reportedly a huge number of musclemen and armed hoodlums showed no sign of retreat from their aggressive acts. The 'Bikalpa Dhara' nominee made frantic efforts to meet the people but he was brutally repulsed. His roadside camps were ransacked at many places said to be under the nose of the policemen. Roughly, this was the ominous prelude to a yet more unnerving interlude and to a most despicable conclusion of the whole game.

The most abominable episode enacted on the election day rocked the conscience of the whole nation. The newspapers, particularly The Daily Star and the vernacular daily 'Pratham Alo' very loudly condemned. In its editorial the latter said, inter alia, that 'if the government administration and those in the power centre influence the result of the election that result never gets acceptability of the common man.' It also held the election commission

responsible for not intervening the illegal occupiers of the polling booths, casting forged votes, blocking by force genuine voters coming to cast their vote. The scanty presence of female voters in the polling centres was attributed to the open threats from the thugs alleged to be 4-party activists.

A number of independent organisations like Fema, Broti, Barnasop, Janipope etc deputed their workers to almost all the 103 centres to physically observe vote casting. On 2 July 2004, the last two bodies sat in a press conference to give out their findings. They said: 'in the by-election of Dhaka-10 there had been large scale false voting and rigging. Due to proofs available on such a high rate of forged votes the election cannot be claimed to have been free and fair. They also spoke on a number of irregularities such as, scarce presence of genuine voters, publicity campaign within the polling centres in favour of 4-party (BNP) nominee and free access of their workers all around and within, offering temptation to the voters, cash transaction, intimidation of voters. Besides, they observed blatant flouting of the High Court

order in respect of army deployment at each polling centre. This enabled bus loads of fake voters brought from Lalbag, Kamrangichar, Narayanganj and other distant places. They were given absolute freedom to cast false votes where too, according to one observer group, hasty action by the polling agents, polling officers, administration and police was preponderant. To expedite things voting (fake voting) reportedly commenced at some centres from 7 am instead of the officially declared timing of 8 am. A rickshawpuller caught by police for impersonation revealed that he was hired for Tk 20.00 only!

Major (ret'd) Mannan announced his boycott of the farcical election at mid-day and went again to the High Court. The court ordered personal attendance of four senior government officials for their failure to carry out court's order on army deployment at every centre. The election commission has also been asked to give its report on the alleged malpractices and fake voting vis-à-vis their failure to ensure fair election. Meantime the four senior officials have filed petition with supreme court for staying the order

on their personal attendance. The hearing is awaited.

The climax of a viciously hasty manoeuvre on the part of the winner in obtaining gazette notification in 36 hours and taking oath within the next 48 hours had been unprecedented and dubious.

Meantime the statement given by the European Union was made public within 24 hours after the order of the High Court. It contained references to numerous observational reports of both local and foreign agencies portraying large scale awe-inspiring picture of mass rigging in favour of Falu Mia. It made a serious note of warning that unless the complaints are properly investigated into, the democratic image of Bangladesh will be at jeopardy globally. The aggrieved party has waged a legal battle against the alleged mass rigging seeking ultimate quashing of the results and to arrange a fresh election. We have got to wait till the High Court/Supreme Court gives its judgement.

All eyes are now set to Gazipur-Tongi by-election in consequence of the tragic assassination of Ahsanullah Master. The Awami

League has nominated the late leader's son Russell while BNP for that matter the 4-party alliance candidate is Prof Abdul Mannan. Their campaign goes on in full swing. Here too, the teacher-cum-politician launched his publicity campaign ahead of his main rival and son of Ahsanullah Master. Mr Mannan, watched on television, was found to be very confident to win. In his words, his main contestant didn't have the experience to work for the development of the constituency, at least the latter's age wouldn't allow him to do justice. An undertone of threat could be distantly felt. Repetition or replication of Dhaka-10 episode is yet to surface. Hopefully the mass condemnation of mischiefs there plus the possibility of the High Court and/or the Supreme Court taking a very strong and firm decision in favour of the aggrieved party, Gazipur-2 will be deterred from re-enacting the self-same ugliest episode. Here prudence and good sense will be hopefully the decisive factor. Let us no more slap our own faces.

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