

Remembering Bangabandhu

Let us do justice to his memory

ANOTHER August 15th is upon us, and still those who murdered Bangabandhu Sheikh Mujibur Rahman have not been brought to justice. The case against the killers of August 15th has been pending in the Appellate Division for over three years, an unprecedented length of time, and regrettably neither the government nor the judiciary shows any inclination to move it forward and bring this painful chapter of our nation's history to a close.

It is unfortunate that no government other than the AL government of 1996 showed any interest in repealing the Indemnity Ordinance that shielded the killers from the law, or has shown any interest in prosecuting them for their crimes. Please recall that apart from the killing of the Sheikh, their crimes included the murder of all but two of the Sheikh's immediate family, let alone several members of the extended family.

The fact that successive Bangladesh governments had failed to repeal the Indemnity Ordinance, and that, to this day, the murder case has not been brought to a close remains a blot on the nation's conscience.

For the sake of the nation and in the name of common decency and truth, the efforts to erase the Sheikh from history must stop. The Sheikh's leadership of the liberation war is an integral part of the history of Bangladesh, and efforts to airbrush his role out of history or to diminish his iconic stature in the eyes of the people, are both unhistorical and evidence of a lamentable smallness of mind and spirit.

If a nation cannot find it within itself to honour its heroes and leaders and founders it is in danger of losing its soul. Let us never try to remove Bangabandhu from the pedestal of greatness his leadership so richly deserved.

The Daily Star since its early days has been calling for making August 15 a national mourning day, and we do so again today. Honouring the memory of Bangabandhu should be above politics and partisanship. He belongs to the entire nation and must be honoured as such.

Humayun Azad no more

Seeds of speculation must be eliminated

THE news of Prof. Humayun Azad's death in Munich last Thursday saddens us greatly; for, none of us thought that his return from the jaws of death in February this year, following a barbaric attack, and the 'new lease of life' would be so shortlived. It has cast a pall of gloom across the nation.

The professor's death is an irreparable loss to the nation, not only because he was a committed teacher, researcher, critic and a prominent literary figure, but also because he was a free spirit taking a bold and clear position against the obscurantists, even when he knew his life was at stake. He was a crusader for liberal values and free thinking.

Indeed, his loss has created a void in the intellectual firmament that will be extremely difficult to fill.

The Germans have told us that it was a natural death, though we will have to wait for some days before the final report comes. The circumstances abroad in which his end came and the fact that the fundamentalists had been issuing threats against him for a long time have given rise to some speculation over his death. The Bangladesh government and its German counterpart should cooperate and make sure that any seeds of speculation there might be are wiped out and a clear account of the death emerges.

We condole the death of Professor Humayun Azad and express our sympathy for the bereaved family and his innumerable friends and admirers.

BANGABANDHU'S DEATH ANNIVERSARY SPECIAL

The leader and the man

NURUL ISLAM ANU

THE fifteenth day of August is a sad day. On this fateful day in 1975, the glory of a nation's history earned through enormous sacrifices of decades, was stained by a small group of armed adventurists who usurped the right of the sovereign (common man) to change the pattern of governance intoxicated by a dubious claim to patriotism. It was a heinous and abhorrent act which put a sudden and premature end to the life of Bangladesh's most celebrated political hero Bangabandhu Sheikh Mujibur Rahman. The act was violent and its debased ruthlessness did not spare even individuals having nothing to do with politics. It was a senseless and barbaric act, to say the least. We again express our deepest condolences to all the families.

History has a strange way of recognising heroes and establishing them in their true and legitimate place of honour. Attempts to distort are convincingly and quietly discarded by history in its relentless and eternal pursuit for truth. Because Truth has been History's most precious treasure, the principal barometer it uses to discard and choose between the relevant and the irrelevant with mystic accuracy. In Bangabandhu's case the verdict, in my humble judgement has already been delivered and he stands majestically established in the history of Bangladesh. There are events & personalities which cannot be equated with others and attempts to draw parallels are undertaken in stupid defiance of this fundamental lesson of history. Such as acts of defiance is treated by history with dignified indifference and in this case it should not be different.

The eventful political life of Bangabandhu, spread over three decades, has touched every aspect of our political history. Every event in the evolution of Bengali nationalism, from its inception to the achievement of nationhood, received the magic touch of his bold and charismatic leadership. He picked up the baby -- Bengali nationalism -- caressed, nursed and defended it against predators with the caring defiance of a father. He managed with deep compassion its restless adolescence, its wild youth with imagination and its adulthood with an uncanny level of political maturity. He converted political charisma into an art, the creative element of which he used with the brilliant skill to inspire a Nation and a People to a greater vision.

His leadership demonstrated the critical difference between a political programme and a political philosophy imbued with a noble content of deep commitment to the welfare of the common man and a burning sense of patriotism. These two elements got combined in a mystic proportion in the content of his political messages to the masses sincere, unadulterated, pure and transparent and he transmitted his message through an wave length of incredible receptivity he created with the masses. His defiance of an insensitive minority in Pakistan to the legitimacy of the voice of the majority was inspired simply by his deep love for the common man and their rights. These two elements provided an inspiring inner strength and an element of invincibility to the quality of his conviction. To Bangabandhu, these issues were non-negotiable both politically and morally. He personally commanded a great belief in the invincibility of his position and that gave the inner strength to continuously gamble with life -- Agartala and the arrest in 1970 being the most conspicuous and daring examples. The historic speech of 7th March was an incredible manifestation of this twin urge

of patriotism and defiance and this will remain a immortal milestone in the political history of Bangladesh.

Bangabandhu commanded a clear vision of future Bangladesh as a Nation and this presented a fundamental challenge to him in post -- independence Bangladesh. One of the significant elements in Bangabandhu's political programme was the element of universality born out of a conviction that future Bangladesh must and can only be built on the basis of a non-discriminatory political structure. He clearly realised that discrimination is the breeding ground for exploitation -- both economic and political; and a disdain for discrimination and exploitation became the core elements in his political philosophy. He articulated his vision of NATIONHOOD in the constitution of 1972 which embodied the basic element of the NATIONHOOD -- a non-discriminatory secular Bangladesh and a message against economic exploitation of the common man through an indulgence in unbridled capitalism. While the Nation has experienced aberrations in its pursuit of these twin objectives, principally because of the shortsighted intervention of the political usurpers -- the core element of the NATIONHOOD still remains consolidated.

In defining the fundamental political structure of Bangladesh, Bangabandhu showed remarkable vision and foresight and lifted himself beyond any narrow personal consideration. A least-known historical example would bring out the resolution of a issue of monumental importance. I was working as a Joint Secretary to the President Late Justice Abu Sayeed Chowdhury, shortly before I joined Bangabandhu as his Private Secretary. While the constitution of 1972 was in its final stages of drafting, Bangabandhu requested Dr. Kamal Hossain to show the draft to the President. A very significant issue, an Article regarding location of the Executive Authority of the Republic as mentioned in the draft received the attention of the President. In the context of the bitter historical experience with authoritarianism, the Executive Authority was proposed to be located with the Prime Minister. This concept, as mentioned in the original draft was contrary to the

provision of most constitutions where parliamentary democracy was being practiced.

The President differed with the draft philosophically and decided to bring it to the notice of Bangabandhu. Myself and my boss Mr. A.S.H.K. Sadique, the former education minister and the principal secretary to the President were given the responsibility of going through documents and speeches of Dr. Ambedkar, the framer of the Indian constitution and all the relevant literature on the subject -- the most prominent being Dr. Malhotra's "Treaties on Indian Constitution". At the President's instruction we prepared a draft on the issue reflecting the President's views which the President decided to send to the Prime Minister, Bangabandhu. Essentially the President felt that the Executive Authority of the Republic should be located with the custodian of the Republic, the President. A tricky problem arose regarding typing the President's letter to the Prime Minister. Since it was a very sensitive issue potentially triggering a difference between the President and the Prime Minister, and its potential leak to the press through the typist, the President decided to write the letter under his own hand writing which he did. I was assigned the responsibility of personally handing it over to Bangabandhu and I was strictly instructed by the President not to hand it over to any one excepting Bangabandhu. I met my respected senior colleague Late Mr. Rafiqullah Chowdhury, the Prime Minister's Secretary and conveyed President's instruction to him. I was duly presented to Bangabandhu who was alone and handed over the envelope to him which he personally opened. He went through the letter with unusual attention and commented almost immediately he finished reading the letter "Anu, I agree with the President". He could immediately see the conceptual strength in the President's proposal. I felt tempted to mention this example to demonstrate the extent to which Bangabandhu could rise above personal ego and be respectful to be requirements on which the NATIONHOOD should rest.

From the establishment of Civilian Authority, defining



the core infrastructure of the Republic, Bangabandhu realised the critical need to be a part of the international community to earn respect as a Nation. In the context of geo-political of the day American Chinese Pakistan axis, (the moral basis apart) Bangabandhu showed remarkable diplomatic vision in ensuring Bangladesh's admission to the United Nations. For a poor Bangladesh its inclusion in the aid disbursing economic network was critical for its initial survival. Membership of the World Bank and the IMF came to the forefront demanding decision. Thorny issues like division of assets was raised by the World Bank with certain unreasonable conditionalities. Mr. Peter Cargill, a former ICS Officer who served in India and later became the Vice President for Asia in the World Bank came to Dhaka to formally discuss the issue with the Prime Minister. I was present during the discussion with curious interest. After exchange of pleasantries the subject was opened. Bangabandhu asked Mr. Cargill to look outside the balcony of the old Gono Bhaban and comment on the objects that Mr. Cargill observed. Mr. Cargill was apparently amused and perplexed at Bangabandhu's request and answered: "Excellency, I see a lawn outside with full of grass". Bangabandhu told Mr. Cargill politely and yet firmly with his huge structure taking a shake: "Mr. Cargill my people will eat grass that you saw in that lawn -- but will not accept unreasonable conditions imposed by you". Mr. Cargill smiled -- and yet the message was loud and clear conveyed through a small act of political drama by a great actor. Under Planning Secretary Mr. Syeduzzaman's leadership the issue was resolved between the World Bank and Bangladesh on the principle of taking responsibility for visibly located projects and Bangladesh became a member of the World Bank and the IMF. The rest is history.

Bangabandhu's love for the common man was a matter of consuming passion with him and a precious article of faith with his conscience. Examples testifying to that are too many to be quoted. I feel almost irresistibly tempted to narrate a small and yet profound incident experienced by me. Bangabandhu was in the hospital in London to undergo surgery to remove a huge stone in his gallbladder. As an accompanying officer, I had my duty to attend to him a few days after the surgery. He asked me with a tired voice from his hospital bed: "Anu, where are you staying". I answered: "Sir, myself and Hashem Bhai (his press secretary) were staying in one room in a small hotel on Oxford Street, so that we could minimise the hotel rent". An apparently insignificant issue. Bangabandhu commented: "Anu, please stay in a small hotel, don't spend too much money -- it is poor people's money -- I have always wanted to give and never to take". With these words expressed with a sobbing voice Bangabandhu wept in that quiet room in a London Hospital tears rolling down his cheeks and he weeping like a child; myself, a young civil servant being the lone spectator of this historic expression of a great man's transparent love for the common man of Bangladesh. There was no political stage, no big audience before the stage -- the greatest political hero at the height of power and glory paying a quiet tribute to and expressing his love for the common man in the lonely room of a London Hospital through tears.

That was Bangabandhu the leader and the man.

Nurul Islam Anu is a former civil servant and Private Secretary to the then Prime Minister of Bangladesh.

Delayed, for how long?

ZAYADUL AHSAN

TO establish the rule of law and progressive and impartial society and to ensure constitutional responsibility, the Bangabandhu murder case, which is in final stage, should have been disposed of within the shortest period of time. But the real situation sends a wrong signal.

Judges, one after another, felt embarrassed and were reluctant to hear the case. Besides the government has been appointing those judges to the Appellate Division who had earlier felt embarrassed in the High Court.

One wonders why the judiciary has not been able to find sufficient number of judges to hear the murder case for years. The long-drawn Bangabandhu Murder Case is not likely to resume until March 2007; especially after the parliament amended the constitution to extend the retirement age of Supreme Court judges by two years. The case, suspended since August 2001 for shortage of one judge, was supposed to resume in March 2005 with the elevation of a judge to the Appellate Division after retirement of Chief Justice JR Mudassar Husain. With the provision of age extension, Chief Justice Mudassar, who was supposed to retire on March 1, 2005 will now do so on March 1, 2007.

The Appellate Division needs at least three judges to form a bench to hear the case, which can only be formed after the Chief Justice retires. Five of the seven-judge Appellate Division cannot hear the case now, as they have already heard the case in the High Court or felt embarrassed to hear the case at different times.

Justice Ruhul Amin and Justice Mohammed Fazlul Karim heard the case in the High Court and Justice

Mudassar, Justice Amirul Kabir Chowdhury and Justice MM Ruhul Amin expressed embarrassment.

The Appellate Division now has only two judges -- Justice MA Aziz and Justice Tafazzul Islam -- who did not express embarrassment nor did they hear the case in the High Court Division or Appellate Division.

The murder case was filed on October 2, 1996, 21 years after the assassination of Bangabandhu Sheikh Mujibur Rahman and most of his family. The trial court gave the verdict on November 8, 1998, handing down capital punishment to 15 retired and sacked army men. The High Court upheld the punishment of 12 with only four of them now in jail. The four filed petitions for leave of appeal with the Appellate Division against the High Court verdict.

The case has also faced delay after the most senior judge of the High Court Division of the Supreme Court was superseded by his junior in the appointment to the Appellate Division. Had the government followed the line of seniority in appointing the judge, the hearing of the case might have taken place in February 2004. The judges assigned no reason why they felt embarrassed frequently.

For 21 long years the trial was barred by an executive order, which was later legalised through parliament. Still, there is no other instance in world history where the killers of a head of state were indemnified by law. The infamous Indemnity Ordinance was finally scrapped in 1996.

Though, scrapping of the ordinance paved the way for holding the trial, legal tangles are obstructing the trial process of one of the most brutal killings we have witnessed. It is not only unfortunate for the nation and the judiciary, but also unacceptable.

Still, a solution can be reached if the government decides

to appoint a judge on an *ad hoc* basis to the Appellate Division. If that happens, the hearing can resume even today. But it solely depends on the government's willingness whether they actually want to complete the trial. The indication is that the present government is not willing to do so. Law Minister Barrister Moudud Ahmed has already ruled out the possibility of any such appointment.

In October 2001, the then Chief Justice Mahmudul Amin Choudhury wanted to have a judge in the Appellate Division appointed on *ad hoc* basis and suggested the government do so, but he didn't get a positive response. "If you do not want to continue with the case, then do let us know, please... I don't get it why every government tries to pull the trigger resting the gun on the shoulder of the court," he said later.

One may call it a coincidence, but the fact remains that the hearing of this case has not taken place for a single day since the BNP-led government came to power. Maybe the government does not want to continue the case for political reasons. But why are the judges showing their unwillingness to hear the matter? Why are they feeling embarrassed without giving any reason although a judge should make know the reason for the sake of justice and transparency? These are questions often raised by the people.

There might be logical grounds for a judge to feel embarrassed. However, if a judge feels embarrassed just to avoid any political controversy that might arise afterwards, he, in fact, denies justice. Moreover, if a pattern of embarrassment is developed on a particular case, the ultimate end of justice will not be served.

Former chief justice and ex-chief advisor to the caretaker administration Latifur Rahman, in his book on his time as

the head of the caretaker government, said that when most of the senior judges felt embarrassed to hear the Bangabandhu Murder Case, the (Supreme Judicial) Council was of the view that the judges were unwilling to hear the case, and in doing so, avoiding their responsibility.

"I've even seen that when the hearing of the case was about to end, the judge, going by the words of lawyers, would often feel embarrassed to hear the case without assigning any specific reason," he added.

Former chief justice Mostafa Kamal told the BBC on March 27, 2002, "This is an important case which has political implications, and no judge wants to get involved in politics... but ultimately the judges have to be bold enough to deal with the issue".

Unfortunately these judges do not bother to assign the reasons for their embarrassment, although a judge should inform the reason for the sake of justice and transparency. The judges while taking oath pledge to discharge their responsibilities as per law and with total faithfulness. He says on oath, "-----and that I will do right to all manner of people according to law, without fear of favour, affection or ill-will." The question is -- are they doing it?

What has been more than apparent in recent time is that the case has been viewed more with political consideration. Such unfortunate attitude on the part of the government would only fuel antagonism. The government must realise that delaying the case indefinitely would only increase the risk of losing public confidence, not only in the government but also in the judiciary. Meanwhile we continue to keep our fingers crossed.

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People spontaneously accepted him...

An interview with veteran journalist Ataus Samad

KAUSHIK SANKAR DAS

The Daily Star (DS): Putting the controversy over declaration of independence in context, why Bangabandhu Sheikh Mujibur Rahman's name has always been at the centre of controversy in our politics?

Ataus Samad (AS): There are few factors behind it to my understanding. First when Zia was alive, he was the main political capital of BNP, but when he was not there, Begum Zia had to rebuild the party with his name. Secondly those who were and are in BNP felt that there had to be a parallel force in favour of the party, mainly because of Sheikh Mujib's charismatic appeal, he was the undisputed leader of the country once. They wanted to go to people and tell them that they had a leader like him. And now they want to prove that he was superior to Sheikh Mujib.

And lastly Begum Zia and by and large what remained of BNP after Zia was assassinated, were looked down upon by the Awami League, they were not taken seriously politically. But after winning the 1991 election BNP perhaps wanted political acceptance by Awami League. And they could only do it by establishing Zia in the political history of the country which Awami League didn't like. Therefore the unfortunate hatred created between the two parties culminated in the present situation. I personally feel that whatever Begum

Zia may say in public now, she probably knows that when she is not there, people are not going to talk about Zia as the person who announced the independence. At some point of time, they will say Zia's announcement was crucial to the extent that people heard it, but he himself revised the announcement and said that 'on behalf of our great leader Bangabandhu Sheikh Mujibur Rahman....' and that's the announcement most of us heard.

DS: Setting aside that kind of situation, why should Sheikh Mujibur Rahman's name be talked about in a negative tone?

AS: Well, Sheikh Mujib was a very assertive person in his political conduct. He sort of came from behind. He was very active, he was a follower of Hosseyn Shahid Soharwardy. When some of the top level leaders of Bengal Muslim League became disenchanted with the main party after the British had left, he was still an activist, at most an active student leader. Sheikh Mujib managed to capture the imagination of those who supported Awami League, he worked very hard to organise the party and therefore he became a real strength of the party. He was a real politician and he bid for power. So a time came when when he brushed aside the seniors of the party and took over the leadership. And Ayub Khan identified Sheikh Mujib as the person

who could organise the biggest party in the then East Pakistan, who had the largest support of the Bengalis.

Sheikh Mujib understood, unlike the leftists, that the struggle was not only for food and shelter, the movement was also for securing an identity of the Bengalis. The other young leaders of Awami League also realised it too and they began to support him. He was seen as a political threat by the Pakistani rulers, he was perceived as threat to senior Bengali leaders, he was seen as a rival who couldn't be beaten by his peers. Such a man would definitely be at the centre of controversies. But all his subsequent actions till the election of 1970 made him the most bravest, charismatic and undisputed political leader of the country.

DS: If that's true, why is there the tendency not to unanimously recognise him as 'the undisputed leader' of the Bengalis?

AS: I don't know about others, but whenever I write I say he was the undisputed leader of the Bengalis in 1971. Even Moulana Bhasani had said that. I have no doubt that people of Bangladesh would readily agree with that.

DS: Then I return to my earlier question why there is so much negativity when it comes to discussing Sheikh Mujib?

AS: The negativity started with the return of Sheikh Mujibur Rahman from

Delhi on January 10, 1972. I was accompanying him as a reporter in the plane and I told him that other political parties had also taken part in the freedom struggle and there should be an effort to find out their contributions, meet them and recognise their contribution. But he didn't do that. I don't know why, I never asked him either. He didn't recognise the sufferings of those who were not directly involved with Awami league but nevertheless fought the war.

Therefore from the very beginning people became very skeptic. There were political forces that wanted an independent Bangladesh but were not with Awami League at that time. Obviously there were many opinions on how the country should be ruled, how the economy should be run etc. Most people wanted democracy. Sheikh Mujib was appreciated and congratulated for having the Constitution drafted and adopting it so quickly. But other parties demanded to have their roles in building the country. When that was also denied, armed frictions followed. Many on both sides were killed. Then came Bksal -- the one party rule.

Obviously intolerance grew within Awami League too. I personally feel that no one would have backed Col. Rashid or Col. Fariq had Khandoker Mushtak

not backed them. So there was division within his own party. Somehow or the other he failed to identify these divisions. Or even if he did notice them, he failed to unite the people or satisfy the majority of the people.

DS: Are you saying that his actions after the independence created an atmosphere where he was not seen as the leader people had known?

AS: Definitely. Bksal was against everything that people of Bangladesh fought for, it was major blow for them who fought the war, who inspired others to fight the war, who gradually created a situation where a war of liberation was inevitable if there was no peaceful agreement. Their dream of democracy was gone. I was in Delhi at that time and faced a lot of questions -- why did Sheikh Mujib do this? He was a great democrat, how could he do it -- they asked? He had his loyal group of supporters even if they hadn't supported his actions but there was disenchantment within and outside the party. So those who wanted to remove him from the scene took advantage of it. When they came to power by an assassination they played up the emotion against him.

DS: But this attitude or feeling towards him could have continued for say 5, 10 years after his assassination. Why after almost 30 years of his death, we bring up these issues while talking about him? Why can't we treat him as a leader of the nation above all the faults he had?

AS: I would say that his own party is to be blamed for this. Awami League is not willing to listen a single negative word against Sheikh Mujibur Rahman. It is not prepared to see him as anything less than a demi-god. They don't want to tolerate any question against any action of Sheikh Mujib.

DS: But can that be the sole reason for not being able to separate Sheikh Mujibur Rahman from his party?

AS: If Awami League stops capitalising on Sheikh Mujib from today, you will see a different attitude.

DS: Why shouldn't they capitalise on Sheikh Mujib? He was their leader?

AS: Because while doing it, they also claim the war of liberation as their property. I am now going to an extreme. But whenever I think about the war, whenever I think about post-war situation, I can't support them. When Awami League capitalises on their leader, I also want to see him in a different light. I also want to say that he was not faultless.

DS: Why did the subsequent governments after his assassination try to completely erase his name from the political scene?

AS: What were the governments like after his assassination? First the group of military officers who went with Col Rashid and others. There were several factions of military officers in army. It was not really a united army.

Those who took power by killing him would obviously like to

demonise him. Then they were ousted, not by Awami League or a mass movement, by a counter coup followed by another counter coup. The man who comes to power through that -- Ziaur Rahman wanted to be in power and remain alive. His first job was to keep the armed forces together. After he came to power and gradually civilianised himself, he himself was not seen as criticising Sheikh Mujibur Rahman directly.

DS: But he didn't proclaim his respect for Sheikh Mujib in public, did he?

AS: He did not say that he was the father of the nation, but he knew that there were a lot of people within the army who did not like Sheikh Mujib and he did not dare praise him. I distinctly remember a report where he was asked about Bangabandhu Sheikh Mujibur Rahman. He said to the reporter that nobody will be able to reach the position Bangabandhu had in our history, and he also said that he was sitting on top of a volcano, which could erupt anytime.

DS: Then the obvious question is why does not his party BNP admit that now?

AS: Well, some leaders of BNP who were freedom fighters, openly say that we fought with the name of Sheikh Mujibur Rahman, that the slogan 'Joy Bangla' still has a hair-

raising effect on us. What I mean to say is that there are leaders in BNP who still respect him as the leader of Bangladesh who led the country to liberation. But then again it boils down to the mutual hatred between the two parties. Now I don't know why this hatred continues. We have been telling them to put it aside.

DS: Taking a cue from that, after almost thirty five years of independence, don't you think all the controversies or negativity regarding Sheikh Mujibur Rahman should also be put aside?

AS: The division between the two parties has deepened over a long period of time; it will take an equal amount of time to heal. I think BNP has definitely made a mistake when they changed text books or don't want to call him the leader who led the country to liberation. And they should also recognise that people of Bangladesh accepted him as the leader of the nation when he came back. He was the President during the war, though he wasn't physically present. And it was not forced upon people, they spontaneously accepted him. These are the political realities BNP ought to see, but at the same time Awami League ought to see that we are not an idolatrous nation.

Kaushik Sankar Das is Assistant Editor of The Daily Star.