

The 'incomplete' verdict

Judge's comments raise serious questions

AT long last, we have a court verdict in the jail killing case arising out of the cold-blooded murder of four national leaders. Earlier, we saw the judgement delivered and convictions handed out in the Bangabandhu assassination case by a court under the ordinary law of the land, not by any special tribunal that would most probably have held a summary trial.

One shameful blood-stained episode followed the other within a matter of three months between August 15 and November 3, 1975 and the verdicts too have been delivered sequentially, although shamefully far removed from the time those two most heinous crimes in our national history were committed.

The point is both the cases went through legal processes, and in that particular sense, the supremacy of law as a principle stood vindicated, some weighty reservations expressed by the relatives of the victims and the legal experts regardless.

That said, perhaps as a precursor to enlightened national discourse and debate over the entire subject of justice or rule of law, we now raise the quintessential issue. Khondaker Mushtaq Ahmed promulgated the indemnity ordinance effectively whisking away the culprits of the whole series of assassinations, those of Bangabandhu, most of his family members, and the four national leaders Syed Nazrul Islam, Tajuddin Ahmed, M Mansur Ali and AHM Qamaruzzaman completely out of the rule of law. The Zia government took it into the statute book indemnifying those murderers under the garb of law. Khaleda Zia virtually proved acquiescent as she didn't initiate any legal processes against the self-declared killers. She stuck to the past even after the restoration of democracy from autocracy in 1991 and her coming to power in changed circumstances that raised hopes for making a new beginning.

The huge time-lags between the events, start of the legal processes and delivery of verdicts are rooted in the very moratorium that was clamped by the instrumentality of the indemnity law. So, it remained for the Awami League and its leader Sheikh Hasina to come to power in 1996 and annul the indemnity law clearing the course for trials in both cases. In matters of jail killing in particular, 29 years have passed before a verdict could see the light of day, albeit not without raising a plethora of questions.

There were three parts to jail killing -- the masterminding or the plotting of it, the passing of orders in whatever form, and the action part. It is only a plausible commonsensical inference to make that those who committed the crimes must have spared no effort to erase traces of evidence that could be held against them. Even so most legal experts believe that on the basis of witness accounts such as by the close relatives of some victims, the plotters could be identified and sentenced.

By the admission of the judge himself, the probe was flawed and if it hadn't been the case, 'some killers wouldn't have escaped death penalty'. The chief prosecutor of the case had said as much. So, that cast a shadow over the verdict itself.

The way the original team of prosecutors was replaced and the dates for pronouncing the judgement shifted conjure up a scenario that is bound to give rise to all sorts of questions about the verdict.

Given that the honourable judge himself found the investigation to be incomplete and felt that some others would have received different sentences if the IO's report was more thorough, we are forced to comment that justice has not been carried to the full.

Change in Myanmar

It should not stand in the way of democratic reforms

THOSE that want to see the implementation of democratic reforms in Myanmar will have received the news of the sacking of Myanmar's prime minister Khin Nyunt with a great deal of dismay.

The ousted prime minister, a more liberal and forward looking person, credited with the formulation of the seven-point 'road map to democracy' was in favour of a dialogue with the leading opposition parties in Myanmar as well as for setting the NLD leader Aung San Suu Kyi free.

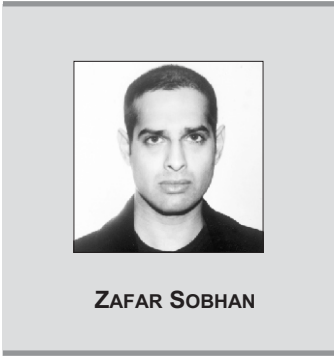
The unceremonious departure of a person who was third in the Junta hierarchy is indicative of not only an internal power struggle between the Myanmar strong man and hardliner Than Shwe and Khin Nyunt, but also of the bleak prospect of democratic reforms in Myanmar.

The change has perhaps been brought about by Than Shwe's compulsion to forestall any challenge to his rule by the ousted premier, who was not only the prime minister but was also the head of, reportedly, the most powerful government institution in Myanmar, the military intelligence.

The fact that a hardliner has replaced Khin Nyunt has in all likelihood put paid to whatever little chance there was of political reforms in Myanmar. Lt Gen Soe Win, the new Prime minister, is known to favour hardline posture against the NLD.

Much of Myanmar's potential has been sapped because of its present political dispensation and reluctance of the junta to implement political reforms. It is our hope as a neighbour and well wisher of its people that the recent political change would hasten rather than hamper democratic reforms in Myanmar.

Deafening silence



THE recent attack by ruling party activists on a public meeting held jointly by the Jatiya Oikya Mancha and Bikalpa Dhara Bangladesh at Rangpur Town Hall heralds a new low for the government.

Where have we come to as a country when an ex-president and an ex-foreign minister, both of whom have devoted decades of their life to the country, can be pelted with refuse by hooligans allied to the government, and have to be protected from physical harm by their own supporters?

The recent initiative jointly announced by the two doctors to tour the country and solicit the opinion of the general public with a view to preparing a "people's manifesto" is one of the more positive developments in Bangladeshi politics of late.

The initiative was a welcome change from politics as usual on a number of levels. In the first place, the concept of actually soliciting the views of the public and listening to their concerns is a novel idea that the ruling alliance, and indeed, the main opposition, would do well to consider.

Politics in Bangladesh has long been a top-down process, dominated by the leadership of the main political parties, with the less influential members of the parties, to say nothing of the actual electorate, rarely consulted as to their opinions

or aspirations.

The importance of the initiative to make politics a more participatory and inclusive process and to listen to the voices of the long-suffering people of the country cannot be stressed enough.

In addition, the fact that the two doctors are erstwhile political rivals, and have entered into no electoral alliance, but are willing and able to join together for a programme that both believe in, is also a welcome change from the partisan division that mars the politics in this country.

This willingness to reach across

scheduled to take place at Rangpur Town Hall, and this is where trouble erupted.

That the attack on the meeting was pre-meditated and accomplished with the collusion of the local authorities can be inferred from the fact that the police deployed in and outside the hall didn't raise a finger to thwart the assault or to help protect the safety of those being attacked. It was left to the supporters of the leaders on-stage to usher them to safety.

Coincidentally, perhaps, the local

STRAIGHT TALK

How is it that we are not more shocked by this latest evidence of lawlessness on the part of ruling alliance cadres? How is it that we do not cringe inside when we hear senior members of the government deny responsibility for actions that we -- and they -- know full well were committed by their cadres? How is it that we can sit silent and turn a blind eye when the government that we democratically elected goes about dismantling democracy?

the aisle to create alliances and unity where possible is the kind of forward thinking that the country needs at this time of extreme polarisation, and stands in stark contrast to the bitter enmity and no-holds-barred rhetoric of the main political parties.

The listening tour kicked off in Dinajpur and proved to be an immediate success. People responded enthusiastically to the novel spectacle of two such eminent political personalities actually asking them what they thought and what their ideas were, and the feedback from the first meeting showed that not only are ordinary people fully cognisant of the troubles that the nation faces, but that they also have an eloquent grasp of possible solutions.

The second such meeting was

superintendent of police claimed to be sick and the deputy commissioner was also unavailable on the day, so that blame for the failure of security could be deflected.

Nearly as bad as the actual violence, which left thirty people injured, some severely, was the pelting of the dais with shoes, sandals, and rotten eggs. This kind of disgraceful conduct goes beyond any bounds of decency and shames us all.

However, even worse is the fact that the assailants also indiscriminately beat up the audience members who were there merely to express their opinions and to attempt to participate in the political process. The message from Tuesday's attack was that the general public should open their mouth and speak about their dissatisfactions

government that has hitherto drawn its power from its popular mandate.

The government's increasing contempt for the public manifests itself in other troubling ways. The main evidence for this contempt is the abandon with which the government apparently feels free to deny things that everyone knows to be true.

When the government states that the attack in Rangpur was not carried out by its cadres -- although the identity of the attackers has been comprehensively established by credible witness accounts -- it is tantamount to insulting the intelligence of the public.

This is the government's stock in trade. The unacceptable -- be it mass arrests or attacks on political opponents -- followed by bare-faced denial. The government has been

elected in 2001. I will continue to expect that it uphold law and order and the ideals of democracy.

I will continue to expect that the government not act in an unlawful manner and that it respect the rule of law. I will continue to expect that the government acknowledge its missteps and take responsibility for its actions.

Even though it seems that the government is either unwilling or unable to provide us with even a modicum of good governance, that even the smallest sign of democratic dissent will not be tolerated, and that government spokesmen will come out and say that black is white and night is day without the slightest semblance of shame or thought that they might be held accountable for their falsehoods -- I will continue to expect and demand

better.

But I also expect more from my fellow countrymen and women.

How is it that we are not more shocked by this latest evidence of lawlessness on the part of ruling alliance cadres? How is it that we do not cringe inside when we hear senior members of the government deny responsibility for actions that we -- and they -- know full well were committed by their cadres? How is it that we can sit silent and turn a blind eye when the government that we democratically elected goes about dismantling democracy?

Surely most people who support the government do so because they thought that it would provide good governance and would protect democratic institutions.

Surely most people who support the government do so because of their belief in the four-party alliance's ability to manage the economy and not because of their approval for stomach-churning attacks on its opponents.

Surely most people who support the government feel that these kinds of heavy-handed and repressive measures only diminish the government's credibility and do disservice to those many government officials who are working conscientiously and selflessly for the betterment of the nation.

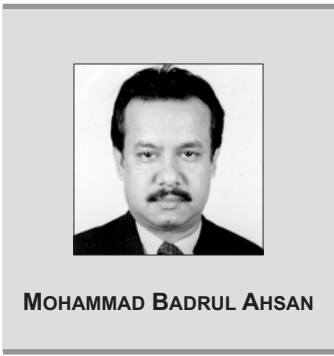
So where then is the outcry when the government oversteps the bounds of decency and acts in a manner that demeans its own ideals and shames us as a nation?

Is this where we have come to -- that we are no longer even shocked or shamed by the kind of civility that was on display in Rangpur?

Has it come to this? At long last have we -- as a nation -- no sense of decency left?

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An island story of the world



IT is an island story, but not an isolated one. Last month seven men were accused of rape and underage sex on an island and they included the island's mayor, who alone faces six charges of rape and four of indecent assault on four women. It is the same old story of lecherous men, lashing out their lust on unsuspecting women. But there is an interesting twist to this particular story for which I need to give you a little background.

If you go about midway between Peru and New Zealand, you will find an island, which was discovered by the British in 1767. In 1790 the mutineers of the British ship HMS Bounty led by Fletcher Christian settled in that island, which came to be known as Pitcairn Island. In 1838, Pitcairn was the first Pacific Island to become a British colony and today remains the last vestige of that empire in the South Pacific. Outmigration, primarily to New Zealand, has thinned the population from a peak of 233 in 1937 to less than 47 at last count.

There are only 12 adult men in the population of Pitcairn Island out of which seven face lengthy prison terms if convicted. But that is not a good news for the island, which has no port, airstrip or paved roads. Longboats are rowed out to passing

freight and cruise ships to collect essential supplies for the island. Convictions of seven men threaten to drastically diminish the adult male population of the island, making it virtually impossible to operate those boats, the islanders' lifeline to the outside world. It would be difficult to ensure the flow of supplies to the island if these men were put behind the bars.

So the Pitcairn Island right now is in catch-22, which is a lose-lose situation in the US Army term. The island is damned with these seven alleged rapists; it is also damned

steam, people who conspire, fight, worry, push, pull, work hard to get involved in life. These are people, who covet no matter what it costs. They get what they want, they are every bit selfish and worldly, people who take the cash and let the credit go. These are people who kill, rob, rape, cheat and snatch. These are people, who are desperate and, at times, dangerous, because they spare nothing and dare everything. They believe that the game is only as good as the prize.

These are people who will not return the money they take from the

obtained during feudalism had created an atmosphere of corruption within the Catholic Church. Economics had encroached upon ethics.

This is how Columbus discovered the American continent by ruthlessly slaughtering the American Indians, and this is how the United States of America was created by brutally oppressing them. Australia was born when the Australian Aborigines were pushed off their land by settlers, who started to arrive right after Joseph Banks (a naturalist on Cook's voyage) sug-

Organised religion came much later. Buddha, Confucius and Lao Tse lived around 500 BCE. The Hebrew liberator, leader, lawgiver, prophet, and historian named Moses did not live until the 13th and early part of the 12th century BCE. Jesus Christ traveled from Galilee to the Jordan River to be baptised by his cousin John the Baptist in the year 27. Prophet Muhammad would be born centuries after that in 569.

In these times, human destiny showed the irony of manure, animal excrements used for treatment to

traction, the human nature acquired its contradictions, folded in good and evil and layered in the deep recess of human minds. From the manlike mammals in semi-erect postures to those having the skulls of modern man, the process of evolution spanned many centuries. Nearly 1.3 million years elapsed before the brain of man fully developed to give him the power of speech.

Two of the seven men from Pitcairn have confessed to their crimes, claiming that underage sex has been common on the island since the time of its early settlers. But the truth is that their crimes came in the larger tradition of historical reality. Power and affluence have always fallen in the hands of those who crossed the line and the hands, which rule, are also the same hands, which shape that reality in their own inordinate style. From village vanguards to city coelacanth to national nabobs, from people who put the lashes on adulterers in the village to people who raise tolls in your neighbourhood to people who make the policies to run the country, that inordinate style is peculiarly common amongst all of them.

Although it happened in an island last month, it was not an isolated incident. The hands, which row the longboats of economics, also call the shots for ethical standards. It happens in the larger world all the time. Economics is the alter ego of ethics. Those who ride high on one, go low on another. The wheel turns, the boat rows, the plot intensifies. Vice, not virtue, is the name of the game, because those who push the wheels also pull the strings. Those who row the boat also rock the water.

Mohammad Badrul Ahsan is a banker.

CROSS TALK

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without them. It is a dilemma, which is almost universal. Keepers turn usurpers. Behind every financial success, there is a crime. French philosopher Proudhon was certain of it almost two hundred years ago. "Wealth is theft", he concluded.

It is unfortunate that people who succeed also exceed. They make money, run business, own factories, join politics and build dynasties, because, more often than not, these are people with lots of energy. These are also people who take most interest in the world, who are ambitious and aggressive, who hold the world in their hand like a soccer ball and turn it on their fingertips.

These are people who have lot of

banks, yet they will not be touched because they create jobs, because they, like those seven men on Pitcairn Island, row the longboat of economy and keep it running. They provide the grease to the wheels of a nation, but are not necessarily honourable men.

Which opens the dispute between economics and ethics, between the end and the means, between the harnessers of resources and the hermits of rectitude. This has been an intriguing story right from the beginning of history. This is the reason why 200 years of Crusade was followed by Reformation Movement in Europe, because power, territory, and riches

gested in 1779 that Britain could solve overcrowding problems in its prisons by transporting convicts to New South Wales.

As a matter of fact, the rise of military power and overlords did not happen until 2500 BCE when parts of Western Europe saw the first use of metals, wheeled vehicles, managed woodlands, simple irrigation systems, and a wider use of the plough. These technological advancements led to increased regional trade and, therefore, to the need for protection by regional chiefs. The first recognition for ethics in life came in 1755 BCE when the Code of Hammurabi was framed.

fertilize the soil. The human condition must deteriorate, degenerate before the turnaround comes for improvement. It must be first rotten before it is rectified and restored to newer heights. As Lance Morrow wrote in his *Time* essay many years ago, decadence is to be not just corrupt, but terminally corrupt. It captures the capricious fate of every civilization and repeats itself like a vicious circle.

Perhaps that circle is the secret of mystery that shrouds the universe, which expanded from the size of an atom, seething like hot soup of particles and then cooling off to form the stars and the planets. Somewhere in that expansion and con-

Eliminating torture

BASIL FERNANDO

IN a recent meeting organised by the Dhaka based Odhikar human rights organisation, attended by a former chief justice, and both the present and former ministers of law, there was a serious discussion on the problems faced in Bangladesh to eliminate torture. There was consensus that torture exists in a very serious way throughout the country and that the causes are systemic. The following are some of the causes mentioned during the discussion.

Torture not a crime: Despite of the ratification of Convention Against Torture by the Bangladesh government in November 1998 no enabling legislation has been passed to make torture a crime in Bangladesh. Old British laws still remain. Such laws were made at times when the colonial regime used torture against all freedom fighters. Due to this defect in law, there is an impediment to developing a local jurisprudence regarding elimination of torture and the assimilation of international law against torture. There is no immedi-

ate plan to introduce such a law.

No compensation or reparations: No legal provisions have been made to enable victims of torture to make claims for compensation for torture. Thus, the jurisprudence of compensation and rehabilitation of torture victims developed elsewhere has not become part of law in Bangladesh. The state does not provide medical facilities for physical and psychological injuries suffered as a result of torture. There is no immediate plan to introduce such legal provisions.

Criminal justice system remains primitive: Introduced during the colonial times, the system has hardly changed at all. Some of the laws themselves belong to the 19th or early 20th centuries. At no stage has there been a serious attempt to modernise the criminal justice system and to take advantage of the great developments which are happening elsewhere. The system of the implementation of laws is even worse.

Police officers overtasked: Such as providing protection to VIPs, doing day-to-day duties on foot or by

bicycle and at the same time carrying out criminal investigations. An average policeman is a jack of all trades but master of none. The idea of specialised police officers doing only their criminal investigations alone has not been introduced. One of the most primary reforms needed is to develop a separate criminal investigation branch and provide the necessary training and equipment for such a branch. The number of police officers available is in the ratio of 1:13,000. They are badly paid and poorly trained.

Public prosecutors selected politically: With every change of government all the officers holding public prosecutors posts throughout the country are replaced as each new government chooses its own set of public prosecutors. The result is that there is no accumulation of experience and there is no institutional legacy to pass on from one generation to another. Thus the skills of proper prosecuting does not develop in an organic way. Besides this there is naturally political bias.

No link between prosecutors and investigators: Due to the manner

in which the system was introduced in colonial times, the two branches remain completely separate. If the police for some reason do not investigate a crime the prosecuting branch has no responsibility for this matter at all. There needs to be some form of a link between the two branches so that the prosecuting branch can be made aware of the serious crimes that are being investigated and play a role in advising on basic legal issues. In this way the prevention of the fabrication of cases by the investigating branch against innocent persons can also be achieved. By collaborating while preserving the independence of each branch it is possible to avoid prosecutions without sufficient evidence and also to ensure successful prosecutions. At the moment the success rate is extremely low.

No independent investigations of police officers: At the moment these things are carried through the same system of investigations as other crimes. Naturally, when police officers within the same branches have to investigate their

colleagues, there is bound to be undue interference. The result is the lack of confidence on the part of the public in such investigations. Due to the lack of such faith many people may not even be complaining about the problems they encounter.

No witness protection programme: In many cases people do not want to complain or to give evidence, as they fear serious repercussions. This is particularly so regarding serious crimes. After witnessing horrendous forms of killings, people do not want to come forward and give evidence. The reason is that they know that they have no protection and that the perpetrators of such serious crimes would take revenge. This also applies to the victims of human rights violations who complain about law enforcement officers. In the local context these officers are very powerful and can cause serious harm to the victims, their families, and their properties. There is an immediate need to address this issue in a very serious manner if there is to be a serious improvement

in the people's cooperation regarding the systems of justice.

Politically motivated attacks: Often torture is a result of deliberate attempts to harm individuals engaged in political opposition. When one party is in power they harass others and this is repeated when a new party comes into power. While this can happen in a very large scale there has been no serious attempts to develop ways to eliminate this type of political repression of opponents through the law enforcement systems for political purposes. It remains an important part of the strategy to eliminate torture in bang to develop consensus.

Most torture victims poor: What is done to the poor does not attract public attention and bad treatment of the poor takes place in all areas of life. Thus, bad treatment of the poor at police stations is not considered an exception. The poor have little access to the law. Thus, a large amount of torture cases do not come to the attention of the public at all. Constant reporting on all cases of torture has not yet happened as a

regular habit.

No monitoring institutions: Despite of years of discussion about the establishment of a Human Rights Commission, no practical steps have been taken to implement it. Many years of discussion and even the drafting of some legislation has taken place in the past. However, for some unknown reason, practical implementation has been postponed. There is no time table set for the setting up of this institution. At the moment there has not even been a commitment given by the government to establish it. Even the opposition are not pressing for it as matter of urgency and sadly, civil society organisations have also not manifested their interest in a demonstrative manner.

Non-state actors: There are civil society actors who engage in torture for various reasons such as political or religious reasons. There are even ideological defences of such actions. A general ethos of intolerance contributes to such tendencies. The existing tolerance of discrimination against women also contributes to the fact that no effec-

tive action has been taken to eliminate violence against women.

All these obstacles are commonly acknowledged by everyone, including the major political parties who have a hand in the making of public opinion in the country. However, despite such consensus on the serious systemic defects that allow torture to go unabated in Bangladesh, there is no strong lobby calling for practical action to address these problems. It should be the specific role of civil society organisations to take a leading role in fostering public opinion in order to change this situation. By effective lobbying with specific demands for action, the existing consensus can be improved by enhancing the capacity for making complaints, proper investigations, and other actions to eliminate torture.

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