

## Contempt rule on secretaries

Political intervention has to stop

THE contempt rule issued by the Supreme Court (SC) on four secretaries including the principal secretary to the prime minister for not complying with the 12-point directive on separation of the judiciary from the executive reinforces our faith in the authority of the SC at such difficult times in our nation's history. The court has also asked the secretaries to explain within three weeks why contempt proceedings should not be brought against them. It is a common understanding that things have come to such a pass because of deliberate prolongation, based more on excuses and pretext than any acceptable logic, of the process of the separation of judiciary from the executive by the present government. And in the whole charade, senior government servants appeared to have acted in an unexplainable manner that has ultimately earned them the contempt rule.

In fact, the entire nation watched and listened over the last four years what the law minister has been saying before asking for time-extensions to implement the directives of the SC. Initially, he talked positively on the issue of separation. But, towards the end he began to oscillate and then without a blink of an eye he let the nation know that it was not an easy undertaking and could not be completed during the tenure of the present government. So, the question is, where are we on this vital issue of separation of judiciary?

It is of paramount importance that the highest court of the country in discharge of its sacrosanct constitutional responsibilities ensure that its orders are executed. Those defying or ignoring the directives must be made to face the wrath of law. However, a pertinent question that arises from all these is, did the officials act of their own accord or they were dictated to by the political higher-ups.

It is our hope that the court will take due cognizance of the question of political diktat coming into play in this instance. We reiterate our support for the effort of the judiciary for its separation from the executive. We have criticised earlier the delaying tactics of the government and do so even now. The core question is what has the government done during the four years of time extension that it took. Has requisite progress been made? We seriously doubt. And that is where the real contempt lies.

## The curse of fatwa

Violation of women's rights must be resisted

ALL the growing menaces in the society, we find fatwa an institutional dictate of self-proclaimed religious leaders. Exploited by a handful of self-styled religious clerics particularly in the rural areas of the country this has become a matter of grave concern. Their actions in turn often are supported by vested groups of socially influential people of concerned localities. In most cases a fatwa implies blatant violation of basic rights of women in particular.

Although there has been a noticeable lull in fatwa-related incidences in recent times, but of late we feel worried about an incident, which took place in a village at Fulachari Upazila. Apparently a 16-year-old girl was allegedly raped by Madhu Mia and Fariduddin Fakim on January 31, subsequently on March 24 the principal of the Fulchari Madrasah Sirajul Islam and teacher Aminul Islam issued a fatwa sentencing both the accused and the victim to 57 lashes. While the young rape victim became unconscious after being subjected to 51 lashes the two accused managed to flee after taking 21 lashes.

It is, however, heartening to see that having been enraged thousands formed a human chain in Fulchari protesting against all such forms of barbarism of the medieval age enacted in the name of fatwa. We wish to commend all local NGOs and women's rights bodies that organised the protest against the heinous act.

We have the Dowry Prevention Act of 1980, the Family Ordinance 1985 and the Women Repression Act of 1983 -- all apparently aimed at preventing repression against women. Despite all these acts and ordinances, it is sad to see that as yet both the society and the state have failed to enforce the rights of women. It is clear that mere existence of laws cannot ensure prevention against such serious violations unless the state is serious about enforcing the provisions of all such acts and ordinances. The civil society should also be proactively involved in creating social awareness against such criminal violations of women's rights. However, the lead has to come from the administration.

## Degenerating politics

AR SHAMSUL ISLAM

BACK to 15 July 2005, some nine months ago from now, Sheikh Hasina, the leader of the opposition, on behalf of the 14-party opposition alliance, first released in the public the proposals of reforms in the caretaker government (CTG) and the election commission (EC). As characteristic with the tenor and temperament of our country's ruling parties, the proposals were ridiculed away by the top leaders of the BNP and its allies.

Meanwhile, the genocidal activities of the religious militants in our country heightened alarmingly. Our development partners and western dignitaries began to pinpoint the need for holding acceptable elections with participation of major political parties for the sake of fledgling democracy in Bangladesh. They also asserted that Parliament should restore its position as the focal point of discussions on national and other issues. They urged upon resolving reform issues through meaningful dialogues between the ruling and opposition parties.

The alliance government leaders asked the opposition AL to come to the House to ventilate their demands, if they had any.

At last the AL returned to the Parliament after long absence that risked their membership to fall vacant under the constitutional bar.

On 12 March 2006 on the floor of the House the leader of the opposition Sheikh Hasina gave a detailed speech on the proposed reforms in the CTG, EC spelling out their merit to ensure fair and credible polls.

The leader of the House Begum Khaleda Zia attended the Parliament in the winding up session and told that a committee might be formed with the ruling and opposition members to examine the proposed reforms.

After the 14-party opposition held demonstrations like street agitations, hartal etc to drum up support routinely encountering police actions like lathi-charge, teargas shelling, water cannons etc, sometimes not even sparing the lady demonstrators, and BNP leaders declaring the reform proposals as useless, unnecessary, conspiratorial to subvert government's wave of development activities punctuated with the declaration of the Prime Minister in a mammoth public meeting that the defence of the government during the tenure of the CTG would remain with the President that the reform proposals demanded to be placed with the chief of the CTG

to maintain the continuity of the heritage of the Parliamentary democracy -- came on 20 March 2006 a letter from the BNP to the general secretary of the AL asking him to send names of their representatives to sit on that committee.

Within one and a half hours of receipt of the letter, the AL leaders sat and discussed the matter. Next day they conferred with the leaders of the other members of the alliance. On 22 March 2006 they gave a reply to the BNP secretary-general Abdul Mannan Bhuiya requesting him to inform on the number of representatives they (AL) would nominate, the kind of the committee, its tenure, terms of reference etc.

After 9 days the BNP Secretary-General replied that the committee would be composed of 10 members, both the sides having equal representation, asking his counterpart of the AL to submit names of five members from his side.

The prelude to dialogue exercise is on.

The public are watching with concern if the committee will break the stalemate that has plagued the two major political parties and will be able to fetch some results through meaningful dialogues. Or it is simply

tactic of the ruling BNP to buy time to hoodwink the adversary who often threaten to uproot the government.

In my humble judgement an answer to the above issues depends on mainly three factors. First, is the ruling alliance strong enough to protect their roadmap to victory in the upcoming national polls? Second, will the opposition alliance be able to muster people under their banner to launch potential movement against the government? Third, will the donor countries, mainly the US, find it that expedient as to potentially pressure the alliance government to accept the proposed reforms, wholly or partly?

Let us examine the factors one by one.

Factor one: The alliance government has assiduously completed the election engineering blueprint. The chief adviser of the CTG will be their man because they have enhanced

retirement age of the judges of higher Judiciary to get him in. The chief election commissioner is their hand-picked and to give him a majority in the commission two more election commissioners of proven learning to the BNP have been inducted. The administration, the police are made pathetically submitting to the ruling parties by reckless, rampant promo-

tion, transfer, privilege, punishment. Above all to meet any eventuality, if occurring, during the tenure of the CTG, there remains the partisan President to realise party wish. So, the alliance government may at best

sacrifice one or two pawns in the game of dialogue with the opposition but will surely fight tooth and nail to defend their king.

Strange is the game of politics in Bangladesh. True, power politics has fashioned the present day world. Even the most developed countries of Europe, America are found to have stooped to this vice, let alone poor, developing countries of Asia, Africa, Latin America. But as is prevailing in Bangladesh, very few countries of world have granted also almost total immunities to the ruling party leaders and their cohorts from accountability - financial, political and other kinds.

"I am the Estate." Louis xvi continued -- "What I desire is decree." Our Louis were sometimes 'enlightened.' But our Louis are furthest from that enlightenment which dryden deridingly described as one who "never deviates into sense."

Factor two: The main opposition AL have blown many false whistles to

topple the government. They are fortunate that the alliance government have offered them (AL) many issues like price hike, electricity, diesel, fertiliser, religious militancy etc to launch movement against the government. But the BNP are more

fortunate that the AL failed badly to capitalise on them. For a movement people's active participation is a prerequisite. So far on AL's call people have not marched on probably because the people have also seen their (AL's) greedy faces incompatible with promoting people's welfare unless it comes as a by-product.

However, the formation of an opposition alliance has somehow inspired the people because if the opposition alliance come to power there will remain some personalities to balance the dictatorship of the top brass of the AL. By now something like a campaign has been while floated that the opposition alliance would abandon corrupt persons nominating for the upcoming parliamentary polls.

Meanwhile, the issue of religious militancy has come on the top. Fortunately not one percent of the people of Bangladesh has approved it. The masterminds of religious militancy who hoped to befool the people by instituting

balance sheet of its funds between the date of declaring election schedule and the date of election in all constituencies to the EC. So, the political parties have not given any importance to the need for submission of aforesaid election expenditure statements and balance sheets of their funds to the EC. This speaks of the necessity for a further provision in the RPO for imposing a heavy fine on the defaulting political party/parties.

As for the second question regarding actions so far taken by the EC against the defaulting political parties, available information suggests that the actions taken by the EC so far are limited to issuing "a number of circulars asking the contesting political parties to submit the returns of their election expenditure." But none of the contesting political parties has responded. We have a divided EC for the last few years. The EC source suggests that the immediate past chief election commissioner (CEC) MA Syed did not convene any meeting of the commission to discuss the issue. The EC is in a mess under the incumbent CEC MA Aziz. So, ineffectiveness of the EC has provided a scope to the political parties nominating candidates in the general election of 2001 to flout the relevant provisions of the electoral law.

Second, the provisions introduced by the CTG in the RPO for submitting election expenditure statements of the parties fielding candidates in the general elections and their balance sheets of funds between the date of declaring election schedule and the date of completion of election in all constituencies have not been liked by the political parties, including the BNP and the AL.

The expenditure limits of political parties for election purposes are far from the ground realities. While the major political parties, in particular the BNP and the AL, spend hundreds of crores of taka for election purposes, the electoral law permits expenditure of only Tk 1.50 crore by a political party nominating more than two hundred candidates. Failing to make a match between their actual expenses and the limits set by the electoral law for election purposes, the political parties prefer not to submit returns on their election expenditure to the EC.

Third, Article 44CCC of the amended RPO is silent about the punishment to be meted out to a political party fielding candidates in general election for its failure to submit to the EC concerned (for onward transmission to the EC) election expenditure statements within sixty days of the completion of election in all constituencies and

champion in corruption. What a paradox!

A member of parliament is a legislator, and nothing but a legislator. But in our country we have made them get involved in development works of their constituencies. A great mistake we have done by enlarging the role of a legislator beyond his/her sphere.

Another election anecdote to end with: a few years back I was in Brussels, the capital city of Belgium. One morning I came out on the street at around 10 am only to find out the usually busy street was so calm and quiet. I found the metro (underground) station as well as the bus stop equally deserted, as if the city was under seige. I met a Belgian friend and asked him if anything was going wrong. He said: "Oh, you don't know, today the general election is going on in Belgium, so it is a holiday; and everybody is enjoying a day off at home."

In Bangladesh, we make an election day look like a festival. And after election we get a government which does not bother to solve the electricity problem, cannot provide us with water, fertilizer, cannot keep the price of essentials at sustainable level, and only becomes successful in making corruption the order of the day.

Every political leader, every political party in Bangladesh is a crusader/jihad against corruption; and yet every year we become the world

## Flouting electoral law



M ABDUL LATIF MONDAL

## BARE FACTS

Respect for law and equality before law are important pre-conditions for functioning of a just and democratic society. By showing indifference to the provisions of the RPO for submitting election expenditure returns to the EC through the ROs concerned, the major political parties, including the BNP, AL, JP (Ershad) and Jamaat-e-Islami, have not only proved their unwillingness to be transparent in their election expenses, but also shown their disrespect for the law of the land. In the instant case, the ruling BNP has to set the example to be followed by others.

period from the date of declaring the election schedule till the completion of elections in all the constituencies in which it has set up candidates and such account showing clearly the amount received by it as donation above Tk 1,000 from any candidate or any other person seeking nomination or from any other person or source.

-- Depositing moneys of every political party in its account maintained in any scheduled bank.

-- No spending by any political party during the election period for election expenses for the contesting candidates set up by it, an amount exceeding Tk 1.50 crore where the number of its candidates is more than two hundred; -- Tk 1.00 crore where the number of candidates is more than one hundred but not more than two hundred; Tk 0.75 crore where the number of candidates is not more than one hundred.

-- Restricting receipt by any political party any donation amounting to more than Tk 1,000 unless it is made by cheque.

Contravention of any of the above provisions is punishable with fine which may extend to Tk 10 lakh.

Article 44CCC

-- Submitting by a contesting political party to the ROs concerned, within sixty days of the completion of election in all constituencies, an expenditure statement giving details of the expenses incurred or authorised by it in connection with the election of its candidates for the

period from the date declaring the election schedule till the completion of elections in all the constituencies in which it set up candidates.

-- Showing separately expenditure incurred on general propagation of the manifesto, policy aims and objects of the party and expenditure incurred or authorised in connection with the election of each of its contesting candidates.

-- Furnishing by every political party to the EC a separate statement certified as correct and complete by the secretary of the party showing the opening balance of the party funds on the date of declaring the election schedule, the closing balance of the funds on the date of completion of election in all constituencies and the total amount received by the party as donation or otherwise, during the period between the said two dates.

-- Forwarding by the ROs concerned the expenditure statements received by them to the EC together with the result of the scrutiny made by them in respect thereof.

It would appear from the above that a political party is punishable with a fine of maximum amount of Tk 10 lakh for contravention of any provision of Article 44CCC. But Article 44CCC has not prescribed any punishment for contravening any of the provisions. This, however, cannot be an excuse for non-compliance of the provisions of law for submitting election expenditure statements and balance sheet of the party funds to the EC.

Now the questions arise as to why the political parties are flouting

the provisions of the RPO for submitting election expenditure statements and balance sheets of the parties' funds to the EC; and what actions the EC have taken so far against the defaulting political parties.

It may not be very difficult to find answers to these questions.

First, our political parties that have ruled the independent Bangladesh so far have one thing in common and that is their avoidance of transparency, whether in politics or in governance. The ruling party/parties do not like framing transparent laws, rules, etc that obstruct their working at their own sweet will.

For understandable reasons, the AL that ruled Bangladesh for three plus years immediately after its independence did not take any initiative to frame Rules of Business (ROB) or Secretariat Instructions, the former constituting procedures of transaction of business of the government and allocation of functions among different ministries/divisions and the latter providing procedures for the disposal of business in the Bangladesh Secretariat, commonly known as the seat of the government. After 15 years of dictatorial military and presidential rules since August 15, 1975 the country got back parliamentary democracy in 1991.

The BNP and the AL that ruled the country in succession between March 1991 and July 2001 (excluding the CTG period between April 3, 1996 and June 23, 1996) did not take initiative to amend the 1972 RPO to

make provisions for registration of political parties or for submission of election expenditure statements to the EC by the political parties that nominate candidates in the general elections. The simple reasons are: (i) they do not want transparency in the management and financing of their parties; and (ii) they want to avoid accountability.

In its election pledges of 2001, the BNP committed to take legal measures for disclosure of assets and properties of all elected people's representatives, including the prime minister, ministers and others with the rank and status of minister. But during the last four years and a half, the BNP-led alliance government has not taken any legal step towards that end. The lust for amassing wealth illegally by the people's representatives stands in the way to translate the commitment into reality.

Second, the provisions introduced by the CTG in the RPO for submitting election expenditure statements of the parties fielding candidates in the general elections and their balance sheets of funds between the date of declaring election schedule and the date of completion of election in all constituencies have not been liked by the political parties, including the BNP and the AL.

As for the second question regarding actions so far taken by the EC against the defaulting political parties, available information suggests that the actions taken by the EC so far are limited to issuing "a number of circulars asking the contesting political parties to submit the returns of their election expenditure." But none of the contesting political parties has responded. We have a divided EC for the last few years. The EC source suggests that the immediate past chief election commissioner (CEC) MA Syed did not convene any meeting of the commission to discuss the issue. The EC is in a mess under the incumbent CEC MA Aziz. So, ineffectiveness of the EC has provided a scope to the political parties nominating candidates in the general election of 2001 to flout the relevant provisions of the electoral law.

The expenditure limits of political parties for election purposes are far from the ground realities. While the major political parties, in particular the BNP and the AL, spend hundreds of crores of taka for election purposes, the electoral law permits expenditure of only Tk 1.50 crore by a political party nominating more than two hundred candidates. Failing to make a match between their actual expenses and the limits set by the electoral law for election purposes, the political parties prefer not to submit returns on their election expenditure to the EC.

Third, Article 44CCC of the amended RPO is silent about the punishment to be meted out to a political party fielding candidates in general election for its failure to submit to the EC concerned (for onward transmission to the EC) election expenditure statements within sixty days of the completion of election in all constituencies and

## Elections in Bangladesh and elsewhere

The omen is there that the next parliament election in Bangladesh will be a bloody one. Inter-party as well as intra-party conflicts will take place during the election months. Many of the prospective candidates will try to physically obliterate one another to make an easy sailing in bagging the party nomination as well as to win the election. By making politics and power as the means of minting money, the political leaders have made their lives unsafe.

FARUQUE HASAN

ON the eve of the British parliamentary election to be held in 1986, I was in London on a tour. There I was staying with my cousin's family. It was an early evening; and we sat to have dinner. At that time the doorbell buzzed. I went to answer the call, and opened the door to see a lone gentleman standing in front of it. Greetings were exchanged, he introduced himself to me as the Labour Party candidate in the general election for the post of the Member of Parliament from the constituency where my cousin was living.

I was looking behind him to see a procession of his supporters, but none was there. I was surprised to find that a candidate for the membership in the British Parliament was doing election campaign alone without a big procession following him, chanting thunderous slogans in his favour, waving their hands in the air. My election experience at home jolted me.

"You see