

## Right to boycott but not to forcibly resist

*The qualitative difference between the two must not be lost*

**S**HEIKH Hasina-led grand alliance's declaration of a tough action program with non-stop siege of Bangabhaban, four-day country-wide blockade and two-day hartal is accompanied by single-line exhortation: 'boycott and resist the 22nd January polls at any cost'.

We can have nothing against boycott but we have something to say on resisting the poll 'at any cost', which implies use of force. Of course, a political party in its best light may decide not to participate in an election, even pronounce its boycott of the same in what would be seen as a rightful exercise of its democratic choice.

The very boycott of polls by a major political party makes these one-sided which in itself is a body-blow dealt to the credibility of the polls. That is too obvious a fact to be stressed any further. The point we are trying to drive home is to put out a call to resist the poll 'at any cost', is not only inviting open confrontation with the party participating in the election but also provoking violence in the process.

Through our reports and editorial columns, we have abundantly put across to our readers the futility of one-sided election. Lately, the monitoring groups, both national and international, have openly expressed their disinterest in following the course of the election devoid of participation by a major political alliance.

We think the alliance has a good cause to persuade the people to desist from the election but not to force them to do so. We urge the leaders to realise that there is a qualitative difference between a call to resist the poll and to take a line of persuasion to convince the voters about the farcical and unacceptable nature of the elections that will neither be credible at home nor abroad. To all intents and purposes, the task before the grand alliance should be to launch a massive peaceful door-to-door campaign of persuasion rather than putting up resistance to the polls.

## Eviction of Adivasis

*Alleviate their plight urgently*

**A**T least 250 landless people belonging to the indigenous community, the Adivasis, were reportedly living under the open sky in this bitter cold following a recent incident that took place at a place called Amoir under the Dinajpur Upazilas. These people belonged to 50 families living on a piece of government khas land for the past nine months.

A gang of 40 to 50 people swooped on their homes, dismantled them and even set them on fire. So brutal and merciless was the attack, as reported by a woman inmate of one of the houses that one of the attackers threw her two and half year old son into fire although she ultimately manage to rescue her son. Even the chairman of the union where the incident took place said: "The gang carried out the attack with a view to grabbing the government land." In the meantime the three people apprehended and accused of being involved in the incident have denied any wrong doing claiming that the landed property on which these people were staying belonged to them.

It looks as though the manifestation of the ugly legacy of torture and the marginalisation of the Adivasis in this country, far from coming to an end, continues unabated. These people are as much citizens of the country as any one else. This must never be forgotten.

We condemn the entire incident in no uncertain terms. Even if the Adivasis had to be evacuated or relocated surely it could have been done through a process that is more civil, rational and humane. Also consider this that they did not settle on the particular piece of land on their own accord. Apparently, as stated by the victims, an NGO of the area had asked them to stay there.

We recommend that a vigorous and swift enquiry into the incident be undertaken and those responsible brought to justice. In the meantime, the district administration should do more than just visiting the place of the incident; it must provide immediate relief to these poor victims side by side with arrangements made for their rehabilitation.

## All bets are off



ZAFAR SOBHAN

## STRAIGHT TALK

The army is mindful of its constitutional obligations and would not question a democratically elected government, however dubious its electoral legitimacy, hence the BNP's haste to get the elections over and done with. But if the army were to face a threat to its peace-keeping missions, or, indeed, the situation on the streets deteriorates to October 28 levels, then all bets are off.

sion, and have replaced their homilies on comity and consensus with firm warnings that one-sided elections will not be acceptable internationally, and to this end, all the major players have taken the decision to withdraw their planned monitoring and observation programs. Makes sense: why monitor a one-sided election? Nothing to see here.

That the caretaker government will attempt to hold the line for the last ten days should come as no surprise. It is quite clear that this was always the plan from day one. The idea had always been to provoke the AL and its allies into boycotting the election, thus saving the BNP slate from having to go to the bother of rigging it. Uncontested elections were always the safest bet.

It is not just the AL and its allies, the general public understands that an election without opposition is a meaningless exercise and grants the ostensible winner no legitimacy whatsoever, and that for the opposition to participate in elections that are so deeply flawed would have been equally meaningless.

To its credit, the international community seems to have belatedly come to the same conclu-

been democratically elected is sworn in, it will be in an exponentially better situation and able to impose its authority on dissenting voices.

The wise men of the country still speak of a compromise solution, a reference to the Supreme Court for an extension of time for the election, a last-minute deal. I don't see it happening.

Having held on for seventy-five days, BNP surely isn't about to throw in the towel now. Why would they? The AL has not shown that it can truly shut the country down, and come January 23, the government will have an even freer hand to deal in a draconian manner with dissent.

The closest the AL has come to controlling the streets was on October 28 and 29 when it might have done better to push things to a head then. Perhaps this is still within its capacity and it is holding its fire for one final showdown, but I see little evidence of this in the events of the past two and a half months.

But with the police and caretaker administration (and the courts and presidency) firmly in their pocket, there is no need for the BNP and its allies to give an inch. There is every chance that

we will soon see mass arrests within the next few days and without doubt in the immediate run-up to the election.

The army wants no part of this. It has studiously avoided involvement despite constant entreaties by the caretaker government and the four-party alliance government before it. But the government has so far shown that it does not actually need the army to keep the peace. This might change in the next week if the AL and its allies are able to launch a big push, but it hasn't happened yet.

Which brings us to January 22. It is fine to oppose polls, but AL and its allies are on morally more dubious ground when it comes to stopping other people from voting. It runs the risk of losing the moral high ground if it tries to forcibly keep the nation from voting, as seems to be the plan.

BNP will, of course, stuff the ballot boxes. They are floating a trial balloon with the idea that if there is 50 per cent turn-out the elections will be acceptable.

AL should second this notion since simple mathematics points to the fact that no one-sided election in Bangladesh can possibly deliver 50 per cent of the electorate. Do the math. Turn-out in the

last two general elections has been steady at around 75 per cent and these last two were the first parliamentary elections in our history where turn-out rose above 60 per cent. Even under optimal circumstances it is unrealistic to expect more than 80 per cent turn-out, as an absolute maximum.

Then let's look at 2001, a year in which BNP and its allies won a two-thirds majority in parliament. Even then, the four-party alliance got only 47 per cent of the vote. Forty seven per cent of 75 translates into roughly 33 per cent of the electorate.

So even if every single person who voted for BNP and its allies last time out votes for them this time, it would only translate into 33 per cent of the total electorate. The idea that under the present circumstances that voter turn-out will approach anything remotely near 50 per cent is a laughable proposition. In fact, any claim that voter turn-out is in the environs of 50 per cent would, ipso facto, be evidence of massive voter fraud.

The international community has insisted that one-sided polls would be unacceptable, but it remains to be seen whether they would actually take any action beyond a stern finger-wagging. BNP is betting that once its election is a fait accompli, it will be allowed to proceed unsanctioned. Possession is nine-tenths of the law, after all.

In this context, the recent up-tick in militant activity is perhaps instructive. It has long been suspected that the militants can be turned on and off again, like a faucet, and we can thus expect to see the militant threat used to

frighten the both the public and the international community into accepting BNP's election to stop the country's apparent slide into chaos and anarchy.

The international community does have many sanctions that it could use: economic, trade, aid, etc -- but whether it will or not is another question. Perhaps a more likely sanction and one that has been quietly making the rounds is the threat of loss of peace-keeping missions if the caretaker government goes ahead and holds one-sided elections, which would put BNP on a direct collision course with the army, where, in any event, discontent with both the BNP and the puppet caretaker government runs high.

The army is mindful of its constitutional obligations and would not question a democratically elected government, however dubious its electoral legitimacy, hence the BNP's haste to get the elections over and done with. But if the army were to face a threat to its peace-keeping missions, or, indeed, the situation on the streets deteriorates to October 28 levels, then all bets are off.

[The president has just declared an emergency and will be addressing the nation later tonight. Whether this is an attempt to strengthen the caretaker government's hand in advance of January 22 or whether it is part of an agreement to transfer power from the chief adviser and postpone the election remains unclear at time of writing.]

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## Why a revolution is not possible



MOHAMMAD BADRUL AHSAN

## CROSS TALK

But why should we have a revolution? There is no autocrat, oppressor, foreign occupation, ideological conflict, or cultural dispute. What we have is contention for power, a schizophrenic nation that goes back and forth between two political denominations. There is no disagreement over higher virtues, ethical standards, or moral aptitude. It is the clamour of rivalry that fills the back alley when robbers fight over splitting their gains of robbery.

**T**AKE a scene from the mayhem when the police swoop down on the demonstrators, and it's mostly the ordinary men and women who get booted and beaten before being dragged to the prison van. Almost all of those who get killed in political violence are also ordinary people.

That answers the question. People don't want to rise because they are not convinced if one raft of leaders is going to be better than another. Revolts become revolutions when they are unified nationwide. Kanshat, Phulbari, and Shonir Akhra were mere flashpoints. They couldn't connect for the same reason random sparks don't make a fire.

Now there can be two types of revolutions. Social revolution occurs when prevailing relations of production become a hindrance to the development of the productive forces. Likewise, political revolution occurs when prevailing relations of political power threaten to restrict the productive

forces.

It is not the ineptness of rulers that creates the pre-revolutionary crisis. Instead, it is the paralysis engendered by an underlying social-cultural crisis that renders the rulers inept. Trotsky, the Russian revolutionary, captured the essence when he said: "Revolutions are nothing but the final blow and coup de grace given to a paralytic."

Lot of people would argue that we have a paralytic situation in hand, that the stage is set for a revolution when angry people should lash out at their leaders, perhaps drag them out of their homes and pile them up like stacks of firewood and then set them on fire so that the smoke rises so high in the sky that the world could see how the wrath of people singed the scum of earth.

True, the paralytic needs a blow to come out of its inertia. But who is going to deal that blow if people are not willing to fight? It is not that people are not paying the price or

making the sacrifice. Their bones are breaking under the police batons. Their blood is spilling in the wounds inflicted by guns and knives. Their lives are being laid down in senseless fights.

But why don't people want to fight for themselves? Why don't they want to rise against exploitation and oppression, against their leaders who treat them as nothing but fodder for their own ambitions?

Why do they suffer alone instead of protesting against their tormentors? It's not because they are on their knees. It's because they don't believe in standing up. Every time they tried, they were brought back right on their knees again and again.

Still these people go to political demonstrations and risk their lives in the reflex of the fantasy that sooner or later their deliverance was going to come. And these people have been raised like spoiled kids who learn to desire but not to deserve because their leaders like wicked relatives have

shattered their confidence. Our leaders never wanted to lead the people, but always wanted people to follow them, the resulting difference being in the tragedy that instead of taking people to freedom, they have been trapped in bondage.

So why do people, who suffer and die for their leaders, are not willing to do the same for themselves? It's not because they are scared. It's because they were never given a chance. In fact, they were never trusted by the leaders, who have eternally conspired to hijack their opinion. Vote rigging and election engineering, the whole shebang of unscrupulous politics stems from the desperate belief that winning in the name of the people doesn't mean you have to respect them.

Disrespect for people has led to many revolutions. The Mexican revolution started because laws were implemented to benefit foreign investors, confiscating land from the people. Fast growing cities and industry created opportunity and uncertainty for the peasants and industrial workers which coupled with inflation and food shortages led to the Russian Revolution. The French Revolution occurred due to the rigidity of the ancien régime, which couldn't cope with the ambitions of a rising bourgeoisie, grievances of peasants and wage-earners, and growing influence of the ideas of the Enlightenment on all classes of people.

But why should we have a revolution? There is no autocrat, oppressor, foreign occupation, ideological conflict, or cultural dispute. What we have is contention for power, a schizophrenic nation that goes back and forth between two political denominations. There is no disagreement over higher virtues, ethical standards, or moral aptitude. It is the clamour of rivalry that fills the back alley when robbers fight over splitting their gains of robbery.

The reality is that this nation is in a state of suspended animation. Evolution is disrupted because the leaders are pretentious. Revolution is difficult because people are contentious. What can happen is anarchy, since devoid of scope and devoid of hope, the only outcome is attendant chaos when nobody believes in anything.

Polish Prime Mieczyslaw Rakowski had concluded if the "socialist formation" did not find the strength to reform itself, "the further history of our formation will be marked by shocks and revolutionary explosions, initiated by an increasingly enlightened people."

We need a revolution, if we want change, and that needs to wait for further history, because it can come only after the enlightenment of people. Hero people, not leaders, have to take the lead.

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## Advisory opinion the way out

The judiciary has several times helped us to rid of crisis, why not this time we repose our faith on them? Though in a recent case the role of present chief justice has been questioned, and in another case the highest court has shut down the door of disclosing the basic information of a candidate, nevertheless, we hope collective wisdom will win.

SHEIKH HAFIZUR RAHMAN KARZON

S the present impasse political or constitutional? Has Professor Iajuddin destroyed the very spirit of caretaker government? Should we seek the opinion of the highest court to determine whether the 90 days time limit is mandatory or declaratory? Can the time confine be extended to adhere to the true spirit of the constitutional provisions, that means, to ensure a free and fair election with the participation of all the major political parties?

All these questions are surfacing in the context of present deadlock, cutting of the breath of citizenry, specifically created by the present president and chief

adviser when carrying out the desire of a particular political group.

The present crisis is as much political as constitutional. Political demands and constitutional questions have inextricably intertwined with each other. Undeniably the situation has come to the present stage because of the power-centred politics of major two political groups. But now some vital questions of constitution have come before us which require the judicious opinion of the highest court. It will, I believe, will strengthen democracy and constitutionalism.

Quoting Article 123(3) of the constitution, the leaders of the BNP-Jamaat alliance are arguing that, a general election of members of parliament shall be held within 90 days after parliament is dissolved. As there is no ambiguity in the language of the constitutional provision, so it is mandatory, 90 days confine is not applicable here, the leaders of the grand alliance argue.

The situation has gone so far that it is very difficult to reconcile

the demands of two rival political alliances. BNP-Jamaat alliance has taken very firm stand to hold the election within 90 days, and the grand alliance has vowed to resist the election at any cost. Now the only way out is to take resort to the Supreme Court of Bangladesh, which can rescue the nation from this suffocating situation.

The president can seek the advisory opinion of the Supreme Court under Article 106 of the constitution. This article states that, if at any time it appears to the president that question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court for its advisory opinion. Constitutions of India (Article 143), Pakistan (Article 186), Sri Lanka (Article 129), and Malaysia (Article 130) contain provisions of advisory jurisdiction by the highest court.

The advisory jurisdiction of the Supreme Court of Bangladesh has its origin in the Government of India Act, 1935. Section 213 of the Act was written in the same language as that of Article 106 of Bangladesh Constitution, providing for reference to the federal court by the governor-general. Similar provision was stated in both the constitutions of 1956 (Article 162) and of 1962 (Article 59) of Pakistan.

The highest courts of UK, Australia and USA have no such advisory jurisdiction under the

of law may be referred to the Appellate Division, not a question of fact; (ii) Appellate Division has the discretion to give or decline to express any opinion on the question submitted to it; (iii) The given opinion is advisory, and does not create any binding effect on the referring authority.

There are weighty arguments both for and against this advisory jurisdiction of Supreme Court. Many constitutional experts consider that the Supreme Court should not be dragged into any political controversy, hence the practice of invoking advisory judicial opinion is not universally approved.

But if the problem involves a question of constitutional law, if it incurs a grave question of public importance, if the judiciary's role is necessary to get the nation rid of a deadlock, the exercise of advisory jurisdiction is justified both under the constitutional provision and the doctrine of necessity.

Many times our highest judiciary pioneered to protect the

rights of the citizens, to minimize the sufferings of the prisoners, to preserve environment, and remedy different issues pertaining to public interests. In 1991, the then Chief Justice Sahabuddin Ahmed assumed the post of chief executive and helped the Election Commission to hold a free and fair election with the participation of all major political parties.

Similarly Justice Habibur Rahman, as the chief adviser of the caretaker government, created an atmosphere to arrange a free and fair election in 1996. The judiciary has several times helped us to rid of crisis, why not this time we repose our faith on them?

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