

Agenda before caretaker government

Clean road map needed soonest

INTO its third week, the caretaker government needs to demonstrate a sense of direction towards fulfilling its primary goal of holding free, fair and impartial general election. Reflecting the urgency of the overall situation, the centre for policy dialogue (CPD) has proffered a 12-point agenda for the caretaker government.

Out of the 12 points recommended, six have a direct bearing on holding good elections. CPD has put forward some structural and institutional measures to keep black money at bay as far as the electoral process goes. For instance, CPD has asked for strengthening money laundering act, disclosure of names of those who whitened black money, redefining loan default to zero in in wilful defaulters, credit information bureau report for candidates etc. Disclosure provisions under RPO 1972 should be applied. Enactment of promotion of political participation act and enactment of the right to information act when done will have salubrious effect on the electoral process.

These CPD-suggested agenda merit urgent consideration of the government and by the wider public. The issues have been deliberated on by think-tanks and the media has also focused on them from time to time so that public opinion stands galvanised on the issues. The Daily Star, Channel-i and Prothom Alo have jointly held nearly two dozen consultation sessions with people in various parts of the country. Experts were also engaged in the deliberation. Based on the outcomes of the interactions CPD formulated the 12-point agenda for caretaker government.

We urge the government to pay heed to the CPD's well-thought-out recommendations and draw a time-bound roadmap to implement them. What is particularly noteworthy is that the agenda are doable. If the caretaker government under the able leadership of Dr Fakhrudin Ahmed makes energetic efforts to address them, these can be accomplished in reasonably quick time.

Drive against adulterated food

Constant vigil needed

IT is heartening to see that special mobile courts are once again sweeping down on restaurants and manufacturers of adulterated and harmful food after a long absence. The other day a so-called reputable restaurant at Dhanmondi area was fined Tk.1 lakh for having an unhygienic kitchen at the back. It was a laudable act indeed and we feel that such strong measures would help instil fear in the minds of the reckless businessmen who only care about doubling their profits.

Last year, the same mobile courts also fined some big names in restaurant business in Gulshan and Banani area for giving little thought and money to improve the hygiene and quality of food they served before unsuspecting customers. On many occasions, stale meat and fish, cooked food from the previous day, harmful textile grade colour and toxic preservatives were discovered from the kitchens of these restaurants. Because of the relentless drive launched by some patriotic and courageous officials, some sanity had returned to the food sector but for unknown reasons the good work came to an end after some months.

So, the sight of the mobile team pushing their way into the kitchens of big restaurants and hotels came as a welcome sign that the department concerned has got back on its feet and they will be able to finish the unfinished work this time around. The team of magistrates must keep this in mind that they have the people's support behind them and they must push ahead without any fear or favour. The punishment also has to be severe so that the perpetrators do not have temerity to commit the same crime again and again. We feel the officials should be given all support by the government so that they are not intimidated by any unscrupulous manufacturer, as happened on some occasions in the past.

We welcome the team of magistrates and wish them all success on their noble mission.

We want to vote

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LECTION of course, is the foremost priority. Just to hold a fair and acceptable election we had all the political turbulence in last three months. The Election Commission alone wasted over Taka 100 crore of taxpayers' money in abortive efforts. The President has however left enough hints in his address that the faulty voter list, black money and violence are hindrance to a free and fair election. The caretaker government is virtually gone within the mandatory 90 days. Except for a legal loophole, in all probability, we have a non-partisan interim government now whose strength primarily comes from the goodwill of the people and the surviving institutions of the state. A government beyond 90 days cannot be a caretaker one. We are with a government

whose performance alone can justify its existence.

That being so eyebrows obviously rise: what the nation is getting out of the emergency? Dr. Fakhrudin Ahmed is not a person whose integrity or ability is questionable nor that of his team. This is a rare opportunity created by default of our dirty political culture to act with a rock solid determination for a new direction. Now is the time or never again. Dear Dr. Fakhrudin, we are at straws end, the blessing of the silent majority is with you -- you have no right to fail.

Starting on the burning issues of public concern, money is colourless -- neither black nor white. The holders of money give colour to this powerful weapon of possibility. Money has become very dear to an unscrupulous section of people. Unless these privileged people are exposed, black money at large in the society will do all kinds of mischief

including election engineering and vote buying orgy. A beefy bull was on sale for 1.2 million in Gantali during Eidul Azha. As the story goes, Ershad was on much higher price in the election market. It is absurd to think that illegal money will freely flow everywhere but will not play the dirty tricks in the hopped-up free and fair elections. Roping black money is conditional to free and fair election, without that the wish of fair election will be a daydream and all efforts doubtful. If the country is ready to pay a heavy price like promulgation of national emergency, that restricts human rights assured under constitution, the benefit must compensate the

people for the loss. Where is the benefit of emergency if the black money continues to play its dirty tricks in the election?

The government must ask for the accountability of black money and bring the criminals to justice. The godfathers are not gift of God; they raise their ugly heads under political patronage. Elected governments might be blamed for nourishing criminals but who would take the responsibility of denying justice to the nation under emergency? People are sick with the abuse of democracy by successive governments. People are breathlessly waiting for delivery; breather though it will be, still give some buoy-

Independent judiciary finally round the corner



MUHAMMAD ZAMIR

tives on 2 December 1999:

1. The Judicial Service, though a Service of the Republic, was completely separate and distinct in character. As a result, control of Judicial Service would be guided by rules framed according to Article 115 and not Rules under Article 133 or 136 of the constitution. The Services Act, 1975 would also not apply. The tagging of BCS Judicial Cadre with other executive cadres under Civil Service Order, 1980 was unconstitutional and that the

allowances and other privileges of those in the Judicial Service and to recommend the same from time to time within the framework of rules/laws/orders to be framed under Article 115.

5. The government was directed to secure security of tenure, security of salary and other benefits for those in the Judicial service. It was also made clear that institutional independence from the Parliament and the Executive had to be ensured through rules/laws and

exercising judicial function within the category of persons of judicial service.

It may be recalled in this context that the basis of separation of judiciary is contained in Article 22 (Part II, Fundamental Principles of State Policy) of our constitution, which says that the state shall ensure separation of the judiciary from the executive. Article 22 itself is however not judicially enforceable in a court of law, according to provisions in Article 8 (2).

The President, a few days ago, has promulgated four fresh sets of rules on the judicial service. The latest gazette notifications have tried to reflect the wishes of the Supreme Court in this regard. The enacted confusions include -- the Judicial Service Commission Rules, 2007, the Bangladesh Judicial Service Pay Commission Rules, 2007, the Bangladesh Judicial Service Rules, 2007 (regarding Service Constitution Composition, Recruitment,

officers, who will then eventually take over from the existing Magistrates (presently discharging judicial duties on deputation from the administrative cadre). The rules however also stipulate for absorption of the existing Magistrates into the judicial service, pending scrutiny and recommendation from a Selection Committee. Such a satisfactory Selection Committee will however have to be formed.

The structure of the civil courts as it stands today might not require major changes after such a separation takes place but there will be considerable effect on the criminal court infrastructure. Separation will require additional manpower at the levels of Assistant Sessions Judges, Additional Sessions Judges and Sessions Judges. This will be important given the fact that the subordinate criminal courts are trial courts and because the Sessions Judge has appellate jurisdiction.

The upcoming exercise could also result in a more streamlined magisterial structure. At present there are three classes of Magistrates besides Metropolitan Magistrates. After separation, this could be streamlined into only one category.

What we now have is a potential for establishing the rule of law in the country. One can only hope that necessary measures will now be taken on urgent basis to make such separation effective. We must remember that if these steps can be implemented, then Bangladesh can be a model for other developing countries. The next political government will have to ensure that this takes place, and all related efforts should be undertaken strictly on a bipartisan basis. There is no other option.

Muhammad Zamir is a former Secretary and Ambassador who can be reached at mzamir@dhaka.net

POST BREAKFAST

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Bangladesh Civil Service Recruitment Rules 1981 did not apply to Judges.

2. The constitution needed to be amended to ensure effective separation consistent with Article 115 of the constitution and that the Judicial Service needed to be designated as Judicial Service of Bangladesh. There was also need to establish a Judicial Service Commission comprising of members from the senior judiciary of the Supreme Court and Subordinate Courts to recruit Judges on merit without gender discrimination.

3. The government was directed to make rules/laws/orders under Article 133 of the constitution keeping the spirit of Articles 116 and 116A with regard to posting, promotion, leave, discipline (except suspension and removal), pay, allowance, pensions and other terms and conditions.

4. The government was directed to establish a Judicial Pay Commission to review the pay,

orders to be framed under Article 133.

6. The Supreme Court, it was also made clear, need not have any approval from the government to expend the budget allocated for the Supreme Court and that the government would secure this budget through necessary administrative and financial delegation (of power).

7. The government was directed to extend all benefits of service to the members of the Judicial Service like the other cadres until the above directives were complied with.

In short, the government was directed to establish a Judicial Service Commission, a Judicial Pay Commission and to make necessary service laws that would be applicable only for the members of the Judiciary. Another aspect that was not expressly spelt out but clearly hinted, was the need to amend the Criminal Procedure Code to ensure institutional independence by including Magistrates

and the complexity of the situation was made that much more difficult because of the reluctance of successive governments and bureaucratic tangles. The Supreme Court had to extend the dateline for implementation 24 times over the last few years since it passed its directives. The former Awami League Administration initiated proceedings in this regard but could not complete the undertaking due to shortage of time. Subsequently, the BNP led Alliance made efforts but that was also insufficient because of the lack of necessary political will. The constitution states that the government is supposed to act in line with and be in aid of the Supreme Court (Article 112) but the government procrastinated on this issue.

Well, thanks to the present caretaker government and the insistence of the Supreme Court, we are finally going to have a Judiciary independent of the Executive.

Suspension, Dismissal and Removal) and the Bangladesh Judicial Service Rules, 2007 (regarding Posting, Promotion, Leave, Discipline and other service conditions).

It is understood that the subsequent implementation of the amendments being brought to the Criminal Procedure Code, 1898 will make the process comprehensive.

The effects of such separation will be basic and fundamental. The Magistrates who are currently under the control of the Executive will then come under the authority of the higher court and be known as Judicial Magistrates.

It must however be noted that a wide range of procedural actions will now have to follow if this separation is going to be effective. The Judicial Service Commission will have to be re-constituted along with the Judicial Service Pay Commission. The Judicial Service Commission will also have to arrange for tests to recruit judicial

go.

Gandhi's country has much of which it should be ashamed about - poverty, disease and crime. Still more disconcerting is lack of sensitivity. Civil society does not want to even hear the word poverty. Their world of malls and plazas, built even at the expense of environment, is soaked with foreign brands and eating places. The number of those who frequent them may not be more than 250 million which is only one-fifth of India's population.

But they control everything -- politics, economics, government and even the media.

They would not know or recall that Gandhi died at the hands of a Hindu who represented fundamentalism which the Mahatma thought his country would not uphold. India is still grappling with the onslaughts on its secular ethos. One editor rightly observed after the demolition of the Babri masjid that Gandhi was shot on January 30, but he died on December 6 when the masjid was destroyed. The problem the nation faces today is that there is none expect Gandhi who evokes respect. Unfortunately, his values have been lost in the Incredible India where the survival is that of the fittest and where the poor are increasingly pushed to the wall.

Kuldeep Nayar is an eminent Indian columnist.

Gandhi's dreams turn sour



KULDIP NAYAR
writes from New Delhi

why he employed non-violence as an instrument to wage the freedom struggle to oust the British. If you have to cross a pool of blood to reach your destination, he would say, it is not worth doing.

Post-independence India has not given that message. It should have at least distanced itself from the nuclear arms which epitomise violence. It should have pursued disarmament with conviction and vigour. Instead, the wrong done by Mrs Indira Gandhi in exploding the

MPs to save his government or Atal Behari Vajpayee who placated his allies through dubious methods, the purpose of the three prime ministers was the same: how to stay in power. For all of them, no law was sacrosanct enough and no amount of money high enough for managing a majority in the Lok Sabha.

The present government may be

a shade better but half of its ministers are corrupt. Arrogance of

power of the Congress is apparent

trees.

Gandhi could not have imagined that the nation to which he promised food, employment and shelter,

would one day have development for a few at the expense of millions. Special economic zones which have driven out farmers from their fertile lands could not have been on his agenda. Grasping industrialists and speculative builders have destroyed the agricultural economy. Gandhi had talked about self-sufficiency of villages but would

some day destabilise the equanimity which the system of corruption has come to enjoy. But both politician and bureaucrat are finding ways to make transparency opaque.

Gandhi said last person first. How can this be possible when the government's policies are directed towards benefiting the organised sector, five per cent, in preference to the unorganised, which is 95 per cent? It is the first person who is getting fatter and fatter and the last

to be removed.

Gandhi's country has much of which it should be ashamed about - poverty, disease and crime. Still more disconcerting is lack of sensitivity. Civil society does not want to even hear the word poverty. Their world of malls and plazas, built even at the expense of environment, is soaked with foreign brands and eating places. The number of those who frequent them may not be more than 250 million which is only one-fifth of India's population.

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BETWEEN THE LINES

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from the appointments it makes or the prizes it doles out. In fact, the whole system is reeking with favouritism and corruption. Gandhi feared this and said four months after independence: "Today politics has become corrupt. Anybody who gets into politics gets contaminated. But in general there is so much corruption today that it frightens me." Gandhi has not been proved wrong. Men at high places can probably stop the rot to some extent, though not to Gandhi's expectations. But they themselves are so much part of the system that they cannot see the wood for the

have been shocked to hear that on an average 10 farmers have been committing suicide every day. They could not clear their debts or save the crop from drought. Success or wealth has become important, not how you attain it.

The apparatus of development is creaking and it is anybody's guess what portion of public funds is finding its way to individual's pockets or the party coffers. Not more than one third of funds reach the beneficiary, say official estimates. There are only a few bureaucrats who are above board. The right to information (RTI) may

one leaner and leaner, earning less than \$2 a day. The industry is becoming capital intensive and the avenues of employment are lessening day by day. Official figures for unemployment are 10 per cent. But it is much more and increasing rapidly. On the other hand, the state is withdrawing from the field of social welfare. Private schools and private hospitals are unaffordable. Public hospitals and government schools are very few and overburdened. What does the common man do when there is already a long queue ahead of him? Twenty million children have no school to

emerge. Anybody can paint; everybody can learn without even admitting it. It lives in the world of gravitation where shades, colours and opinions are of infinite variety. If you touch it, you disturb the gravitation, give them an incentive to unite against you.

a voter and we know it already from his/her date of birth. Hook the computers on a nationwide network. If cell phone companies are running so many networks, is it too much asking the government to run one? Believe you me; the business houses can do it at less than half the cost. Three months should be enough for updating if the electronic media is taken into confidence. The job can be decentralised to the constituencies or districts for simultaneous work everywhere. It is another matter if some non-professional businesspersons are already promised or want to create congestion in Dhaka for benefits of tender-bazi. If corruption is the burning issue, nothing should come to Dhaka if it can be managed from outside the capital. Not politics alone, Dhaka corrupts just about everything.

Media is national canvass -- painting goes on and lessons emerge. Anybody can paint; everybody can learn without even admitting it. It lives in the world of gravitation where shades, colours and opinions are of infinite variety. If you touch it, you disturb the gravitation, give them an incentive to unite against you.

The last thing the interim government should do is ask the PID to control the media. The green horns in the PID have propensity to invite poison from the media for nothing. Wise people learn a lot from the media and ignore things they do not like. My association with the media has taught me one thing: do not put your foot on the tail of a snake.

The last word again is election -- the soonest possible, if only voters are no more cows in the cattle market. How long the vote merchants in independent Bangladesh can treat people like sacrificial animals in the name of democracy?