

Fighting corruption more than 9 to 5 job

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MANZOOR HASAN

ANY undergraduate law student, let alone lawyers and judges who are (or were) ministers and commissioners, will recall the maxim of res ipsa loquitur. In the law of negligence, a person (or a class of persons) claiming damages can put forward a set of facts and circumstances, which establish a prima facie case of negligence against the defendant.

In other words, there are certain happenings that do not normally occur in the absence of negligence. Major General (retd) Abdul Matin, adviser to the caretaker government, spoke in his characteristically curt and candid manner at a recent press conference regarding the Anti-Corruption Commission, and inaction on the part of the ACC since its inception is tantamount to negligence of duty.

I had the privilege of formulating

a transition plan for the ACC in 2004, which was meant to have transformed the BAC into ACC. I suspect that that transition document is lying somewhere and gathering dust, and may not see the light of day.

I say this because of what has transpired since the formulation of that document in late 2004. The first setback was the departure of Major General Matin from the ACC. Subsequent events are a tale of the blind leading the blind or to borrow Major General's colorful language, "the clown leading the clowns."

Looking ahead to a more effective ACC, I would like to put forward an agenda:

- Given the fact that the present three commissioners weren't appointed according to the letter and spirit of the Anti-Corruption Commission Act 2004 (ACCA) they could legally resign (Section 10(1)) and new commissioners could then be appointed according to the

process outlined in the act: a search committee is to be formed and qualified people to be appointed (Section 6, 7 & 8).

- Concurrently, the present legislation needs to be amended to improve the overall legal framework and to add clarity to the present provisions of the act. Specifically, the ACC should be given greater financial independence (Section 25). Rather than relying on the vagaries of the Ministry of Finance, the ACC should be given a ring-fenced fund (similar to the concept of consolidated fund as enjoyed by the constitutional body of the Office of the Comptroller and Auditor General). The ACC should be accountable to the parliament rather than the president (Section 29), and place its annual and financial reports before the parliament for scrutiny. The Parliamentary Accounts

Committee could become the relevant standing committee for ACC. Furthermore, the Act needs to be amended to speed up the court proceedings with fewer opportunities to obstruct by way of "a stay" from higher courts. The accused's right of appeal should become time-bound, with redline penalty for non-compliance by both parties. Finally, the schedule of offences should be reviewed (Section 17(a)) and expanded.

- In appointing the new commissioners special consideration should be given to select the best (Section 13 & 16). There are many highly qualified professionals (bankers, accountants, lawyers, bureaucrats), and many with multiple competencies. In order to attract them the ACC has to offer an attractive incentive package, not necessarily just financial. As the rules under the Act are yet to be formulated I would urge that special consideration be given to: (a) profile of future commissioners and (b) the incentive package. Due to deliberate undermining of meritocracy in selection processes the national and constitutional institutions have

been sapped of their ethics and energy by appointing "cowboys" (or clowns) at leadership positions. They have aided and abetted their "godfathers" and have undermined well-established systems and norms by becoming agents of unelected power centers for personal/private or political party aggrandizement.

- In order to make the ACC functional in the shortest period of time I would urge the government to form an "A" team (Section 16(3)). This core team of professionals/experts should be given the sole task of detecting and prosecuting the grand corruptors (Sections 17-24). The chief commissioner should head this team, and this important work of the commission should start at the earliest as the general public expects some quick action to bring to book a handful of corrupt individuals who have amassed a huge amount of ill-gotten wealth (Sections 26-27). The clear message from the ACC should be that of "zero tolerance" for corruption, and corrupt behaviour will become "high risk-low return" activities. This was the strategy followed in both Hong

Kong and Singapore when their anti-corruption agencies started to function, and they succeeded primarily because of high level of political commitment.

- While the "A" team forges ahead with its task the other commissioners should concentrate on the screening of the present personnel of the ACC, and only retain the honest and dedicated officers. Other officers should be returned to the government for redeployment or be given "golden handshake." The ACC will have to recruit many new officers, and the Public Service Commission should be kept out of this process due to its own poor track record.
- The ACC should also immediately launch a vigorous media campaign to reinforce certain important messages. TIB has already started this process in Bangladesh, but ACC should spearhead such public awareness exercise and involve educational institutions, particularly schools and colleges. In countries with low level of corruption research indicates that pursuing a vigorous deterrent campaign forms the anti-corruption mindset.
- The ACC has to formulate important policy papers on



different important issues, for example, prioritization of targets, prosecution of individuals, repatriation of stolen funds, granting of amnesty, among others. Assistance can be sought from specialized organizations to gather international best practice and case studies.

- The ACC would also benefit from a long-term strategic plan. Such a plan will help to provide a sense of direction for the government and give a clear signal to the international community that the ACC means business. Unfortunately,

Bangladesh has come out poorly in various governance indices, and particularly TI's Corruption Perceptions Index. Past governments have tried to wish it away but the strategy has backfired. The ACC, and the present government, should take a different approach.

Major General Matin, the country awaits your marching orders.

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When only the best is good enough

There are still plenty of fine upstanding citizens who could head our vital institutions. For example, imagine an Election Commission and ACC headed by the likes of Akbar Ali Khan and General Hasan Mashud. Such outstanding personalities would not only strengthen institutions, but also act as the conscience of the nation.

SYED S KAISER KABIR

BANGLADESH at the moment is awash with the "feel-good" factor. People are smiling and looking relaxed. Economic activity has picked-up considerably, the stock market is experiencing its first bull run in several months. The rest-of-the-world is also joining the merriment by withdrawing travel advisory warnings placed earlier for its citizens.

It is hard to believe that less than a fortnight ago the nation was facing its worst crisis since 1971. The 4-Party Election Engineering locomotive was at full throttle. In the process it hijacked the Constitution, relegated the presidency into a back-office department, besmirched the Supreme Court, and transformed the Election Commission into a farce.

And if that wasn't bad enough, the 14-Party Alliance leading the fight for free and fair elections inexplicably thought it fit to embrace a religious fundamentalist party, thus signalling the death of its commitment to secularism. To those who cherish religious tolerance and harmony the 14-Party flashed a rude message saying: "Fatwa you!"

Just when it seemed that the last breath had been squeezed out of the aspiration for a free society, angels of mercy working behind the

scenes masterminded a miracle. The speed of transformation was magical. It was like living in a fairy tale. Within a few hours the poisonous climate choking the nation's spirit began to dissipate. Good replaced evil. The corrupt ran for cover. The morally bankrupt made a humiliating climb down.

Yes! At the height of the January winter, spring in all its splendour seems to have arrived early.

Maybe! But spring is also the shortest season. Just how short will spring be for Bangladesh?

Gauging from the experimentation with democracy since 1991, politicians have turned out to be the single biggest disappointment for Bangladesh. Of course, there are exceptions, but as a whole politicians have failed us. It is they who have stifled Parliament, glorified partisanship, made corruption into a way of life, chiselled away at vital institutions, promoted the Mafiosi, fostered religious divisiveness, and so on.

And as these politicians are away from the helm of power for the moment, it is of little wonder that the people seem so elated. Yet, it takes but one general election to bring them back -- and then it would be business as usual.

It is tragic that a general election has come to be viewed as a double-edged sword. Evidence over the last 15 years suggests that a general election effectively repre-

sents the beginning and end of participatory democracy at five-year intervals.

So, spring for Bangladesh will last until the next general election -- unless of course the natural tendencies of these politicians can somehow be reined in through constitutional mechanisms.

By now it is abundantly clear as to why so many Bangladeshi politicians are so desperate to be in power. Politics is business, and there is big money to be made through government-funded projects. Next, there is a need to protect the heist by getting immunity from prosecution. On both counts it becomes vital to hold onto power, and such politicians are willing to spend vast sums ensuring that they do.

In theory, there are two institutions that can decimate the cushy arrangement that politicians have created for themselves. The Anti-Corruption Commission (ACC) is empowered to investigate irregularities in government procurement, and the Election Commission (EC) is obligated to ensure that a candidate is elected only through free and fair means.

Yet, drawing lessons from the recent calamitous history, it is evident that institutions are essentially as good as the persons running them. Contrast the integrity of the presidency under Shahabuddin and Iajuddin, or the

effectiveness of the EC headed by Sayeed and Aziz.

More on this theme -- the Awami league had a five-year opportunity to separate the judiciary from the executive. BNP had 10 years. Neither political party took the plunge. Yet, the caretaker government (CTG) headed by Dr. Fakhruddin and his ten advisers did the job in seven days. Is it not ironic that an unelected and supposedly unaccountable government seems more interested in empowering the public than three elected regimes in the last 15 years?

The point is clear: The quality of people matters. For an institution to work to full potential it requires both good systems and good persons at the helm. One is not a substitute for the other.

Much has been written about the systemic changes required to make the EC and ACC more effective. No doubt that these changes are essential, but the point about the quality of people at the helm has been understated. Bottom-line: People matter!

There are still plenty of fine upstanding citizens who could head our vital institutions. For example, imagine an Election Commission and ACC headed by the likes of Akbar Ali Khan and General Hasan Mashud. Such outstanding personalities would not only strengthen institutions, but also act as the conscience of the nation.

Be it weeks or months, this CTG has a short shelf-life. Now is the time for manning our precious institutions with our finest citizens.

Syed S Kaiser Kabir is a founding member of Phirye Anjo Bangladesh.

Going after the godfathers

We Bangladeshis are sometimes dazzled by looking at the riches of others, but we seldom give notice to how the riches were acquired. If we can develop a sense of morality, then ill-gotten riches will be shunned, and the people piling up the riches will be brought to justice and not be saluted by us, like servants/sycophants saluting the monarchs of the past.

ZIAUR RAHMAN

THE last few days have been quite eventful for Bangladesh. In spite of the hue and cry to move towards the election in the shortest possible time, we have been noticing that the names of alleged godfathers, corrupt politicians and business people are being focused in the national press, and that they are being hunted down.

This effort is praiseworthy as long as some "big fish" in the pond are captured, detained and put behind bars through judicial means. Of course, we need to ensure that bureaucratic snags do not allow them to walk away free, if proven guilty. The momentum of this eventful journey to weed out the bad influences in Bangladesh should also continue beyond the term of the caretaker government.

In practicality, the engines of economic progress can only be re-vitalized if there is transparency, accountability and no corruption. Then the people and the organizations with the right aptitude, attitude and knowledge will begin to come forward and take us to the glorious future we dream about, but could not deliver due to political infighting, bureaucratic red-tapeism, cor-

ruption in all spheres and no proper leadership vision.

As a Bangladeshi, all of a sudden, I am beginning to believe that prosperity and justice may, after all, be brought back to this land. I would also feel absolutely excited, and I am almost certain that peace loving people would also share the same passion, if we can truly bring back the people who have walked on the wrong side of the roads of justice. This will, for sure, give all the motivation in the world for the aspiring decent citizens of Bangladesh to believe that good old "hard work and smart thinking" are no longer a recipe stashed in the history books of Bangladesh.

The time has arrived for conscientious citizens to flex their muscles in the right earnest. For a long time, I felt suffocated in Bangladesh, especially with so much injustice around us. With the new twist in the political sphere, I hope that the CA and his team can create the road map for Bangladeshi success. How long can we keep ourselves associated with the tarnished image as the "most corrupt nation" in the universe?

Bangladesh has all the elements for taking it forward in the global polity. We must have a strategy to work on, like the ideas

shared by many in the newspapers and other forums. Some ideas may need to be expanded or re-formulated to address the concerns at hand. I am of the opinion that all actions will be in vain unless we root out the mother of all ills, and that is corruption.

We have to start somewhere, and now is the best time of all. In English there is a phrase, "procrastination is the thief of time." So, let us not allow the "time thief" to eat away at our potential future possibilities.

Additionally, we lack wisdom, courage and motivation to address issues of corruption. Why? Because, we have let some unscrupulous people tarnish the good name of Bangladesh. We also tend to forgive the wrongdoers. Our history is full of these oddities, starting with post-1971 pardons to people who worked against the formation of Bangladesh.

Education is also an issue that we have to worry about, but most importantly, we need to root out the imposters and corrupt people, and then progress will unfold like the Ganges flowing from the lap of the Himalayas.

We have to make an effort to pinpoint the fact that corruption is a disease, and due to corruption many ills start to manifest themselves. Therefore, even if we have

a plan to reduce corruption from its present state by 5% each year, then we may see 1-2% additional GDP growth in Bangladesh, aiding Bangladesh to achieve the MDGs ahead of internationally set dates.

Many stories abound regarding the unquestionably morally correct and corruption free politicians and bureaucrats of the region during the British period, and even some decades before the pre-Bangladesh period. The stories regarding their moral standing make us proud, and give us the courage to stay in the path of righteousness for glory and self-esteem.

We Bangladeshis are sometimes dazzled by looking at the riches of others, but we seldom give notice to how the riches were acquired. If we can develop a sense of morality, then ill-gotten riches will be shunned, and the people piling up the riches will be brought to justice and not be saluted by us, like servants/sycophants saluting the monarchs of the past.

I urge the people of Bangladesh to share the concept of a non-corrupt nation with others. Good words may ring a positive bell in the minds of millions of Bangladeshis who can effect changes within their own environments, or act as pressure groups to ensure that corruption does not rear its ugly head around their neighbourhoods.

With these steps, a nation of global standing with culture and heritage will emerge.

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TRIBUTE

Troubador in search of heritage

Now he is gone, for good. The good old days will never be, not for me, not for the thousands who learned about life, about the stars in the heavens, from him. He goes back into the womb of creation. The darkness he sang of is not about to lift any time soon.

SYED BADRUL AHSAN

I was on a December day that I first met him. There was something of the stern looking about him as he asked me if I could write an editorial in the half hour ahead. I said I could.

It was something I should not have said, for there was the distinct possibility that I would fail to meet the deadline. Besides, I had never before written an editorial. In the event, though, the gods came in to help.

The editorial was ready in fifteen minutes. Waheedul Haque smiled, gave me a cup of tea and then took me to Barrister Mainul Husein. I walked out with an appointment letter in my hand, thrilled that I was officially a journalist.

After that exciting moment in my life, I travelled all across this city with Waheed Bhai, knowing all that I yet did not know, imagining

everything that I had not imagined till that point in time.

On a rickshaw taking us toward Shahbagh one autumn evening, he spoke about the universe. We are all concerned, he said, about the minuscule dots we are in this cosmic pattern of things. But doesn't it interest you to imagine that the universe could have begun somewhere up there and then narrowed itself all the way till it took your shape and dimension?

I wondered, for what Waheed Bhai had just told me made me and made every individual the centre of the universe. That was the way he thought. And even as ideas took shape in him, he did not let go of the yearnings of his soul. Music was a fundamental part of his soul. Those rickshaw rides were all too often punctuated by the songs he sang all the way, the ragas he tried out on sizzling afternoons.

It was a particular moment in

national history that I shared with Waheed Bhai. As the democratic movement against the Ershad regime gathered pace, Waheed Bhai and I found ourselves inexorably drawn to the public rallies, became part of the human sea which gathered to hear the politicians of the fifteen-party alliance at Manik Mia Avenue.

We walked through police tear gas shells on Bangabandhu Avenue. There was a song he sang with profundity in those days. Ekhone galo na andhar / ekhono roilo je bandha. It was forever the dark he rallied against.

In 1961, the battle against the sinister Ayub Khan martial law regime came in the shape of Chhayanaunt and the Tagore centenary celebrations, in 1971 it was as an organizer of the Liberation War that Waheedul Haque upheld the dignity of this country.

He was a full-blooded Bengali, a substantive believer in secular-

ism and would brook no compromise on the issue of Bengali nationalism. I will not forget the withering manner in which he re-emphasized national history for a visitor who had just referred to the 1971 war as days of trouble -- gondogoler deenguli.

Waheed Bhai stopped writing, looked the man in the eye, and quietly told him that there had been a war of national liberation in 1971. Where was the gondogol?

Idealism for Waheedul Haque was all. He was a fervent believer in socialism. He once told a visitor, who wondered if communism would at all define life for us in the future, that being a communist required the kind of sacrifice and dedication none of us had at that stage in our lives.

What was important, therefore, in the meantime was for us to focus on rebuilding secular nationalism, on beating back the medieval forces that had seized the country in 1975. He was hugely enthused when Mikhail Gorbachev rose to the top in the Soviet Union in 1985.

For once in a long time, he mused, here was a young, decisive and urbane communist leader ready to take on the likes of

Ronald Reagan. When Gorbachev collapsed along with the Soviet Union, he was disappointed, as were so many others.

Waheed Bhai's greatness lay in his ability to straddle both the political and the cultural. On a visit to Bangabandhu's residence in late 1989 (it had not yet turned into a museum), he and I shared "gur" and "muri" and tea with Sheikh Hasina even as he dispensed words of wisdom to the young leader of the Awami League.

At around the same time, when a popular Rabindrasangeet artiste came up to him and asked him if he watched her perform on television, he curtly told her that the goal of Tagore music was not the creation of celebrities. And that was that.

There was this fastidiousness about him when it came to music and to journalistic writing. It was he who inspired me into listening to Subinoy Roy when he learned that Sagar Sen was all I knew about Rabindrasangeet.

The leftist that he was, he hardly ever agreed with the opinions of The Economist. But he did enlighten me on the superior quality of the editorials produced by the journal. I have never missed

reading The Economist since.

Waheedul Haque was a troubadour who went discovering music, and disseminating it, in the hamlets and villages of Bengal. Along the way, he came across the various manifestations of heritage. The question of roots was a cardinal point of his social beliefs. His knowledge of herbs and plants and trees was prodigious. He once gave me a book which detailed nearly every kind of medicinal herb and plant found in Bangladesh.

On a walk through Ramna Park and Suhrawardy Udyan, he named all the trees, before pointing out their scientific terms, and then proceeded to tell me about their historical background.

He was always the teacher, forever the guru from whom flowed an eternity of knowledge. At home, in Asadgate, I discovered the meek child that he was before his mother. He was close to being sixty, but that was no reason for his waiting, worried mother not to reprimand him for coming back home late. He stayed quiet, head bowed in contrition.

Our paths diverged after that seven-year association at the



New Nation. I met him quite a few times at the old office of The Daily Star, usually when I came home from London (where I was serving a stint at the Bangladesh High Commission). We swapped stories. He was amused at the tales I related. Come back soon, he said, and we will have the good old days again.

Now he is gone, for good. The

good old days will never be, not for me, not for the thousands who learned about life, about the stars in the heavens, from him. He goes back into the womb of creation. The darkness he sang of is not about to lift any time soon.

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