

Judicial power debate

Fundamental need is to place lower judiciary firmly under SC control

GOVERNMENT appears to be considering retention of some judicial powers in the hands of executive magistrates, albeit with the consultation of the Supreme Court. It could be ensured through an administrative decree for the time being or involve another amendment to the CrPC. To our mind, it is reopening of the issue that ought to have been settled with the amendment of the CrPC carried out earlier on. This should have delineated the powers and responsibilities between officers of executive cadre who acted as magistrates and the judicial magistrates. The amendment was thought to have cleared the course for the separation of the judiciary from the executive to commence on November 1.

Political governments dragged their feet for 8-9 years on the vital agenda of separation of judiciary from the executive and it fell on the non-political interim government much to the formers' shame to try and deliver on it. After nine months of earnest efforts of the present government we come to realise that independence of judiciary is a process, and not an event that has taken up much of our nation's time to brook any further delay.

As administrators, executive magistrates wielded wide range of powers: they could hold mobile court and summary trial taking instant cognizance of an offence, depute magistrate at electricity and Desa offices, impose section 144 to maintain law and order, issue instructions to law enforcement authorities and give punishment to an offender. What of these judicial powers would be retained by them even for the transition period till the emergence of full complement of judicial officers cadres have to be decided by the highest court.

Our experience has been that the process of law was often subverted by a political government or its executive authority dictating to the magistrates who should be given bail and who not. If the judges can act within the bounds of law without interference from any quarters that constitutes independence of judiciary. The fundamental issue here is placing the entire lower judiciary under the control of the Supreme Court. As far as we understand for the time being things would be processed through the law ministry which is part of the executive government. For an effective separation of judiciary from the executive it is of pivotal importance that the Supreme Court has an independent and self-contained secretariat. Towards providing that, we should move expeditiously.

Hazardous chemical in sugar

A serious threat to public health

SO-CALLED "condensed sugar" with sodium cyclamate is being sold in the market, according to reports. Formerly known as D-sugar, it is selling under a brand name called "gold". The product is currently available at drug stores and grocery shops. The so-called sugar highly injurious to health is now being consumed among others by people suffering from diabetes and high blood pressure. Cyclamate being 50 percent sweeter than regular sugar, is used in a number of bakery products and ice creams.

No less than the Head of the Department of Pharmacy at the University of Dhaka has confirmed that intake of sodium cyclamate may even cause such deadly disease like cancer of the lungs, liver and the kidney.

Therefore, the US Food and Drug Administration (FDA) had permanently banned the use of sodium cyclamate as early as in 1983. Sale of D-sugar had also been banned by the Drug Administration of the country in 1982, but to little avail.

Although from time to time due to periodic raids conducted by law enforcing agencies against adulterated foods there was a lull in the sale of the product; but for all practical purposes, its import continue unabated.

Against this backdrop, we urge the administration to investigate the matter fully in the light of newspaper reports and take stern action to eradicate sale and import of the product in any form. Clearly, the periodic campaigns against food adulteration have not been able to produce the desired result here.

It is our belief that this matter can be best dealt with through well coordinated efforts of the Drug Administration, the Ministry of Commerce and the Departments of Customs.

We are concerned and urge the government to take necessary measures.

ZULFIKUR AHMED AMIN

PERSISTENCE of poverty is a moral indictment of our times. Never have we seen so much wealth while so many continue to live in abject poverty. For individuals, poverty is a nightmare. It is a vicious cycle of poor health, reduced working capacity, low productivity and shortened life expectancy.

For families, poverty is a trap. It leads to inadequate schooling, low skills, insecure income, early parenthood, ill-health and an early death. For societies, poverty is a curse. It hinders growth, fuels instability, and keeps poor countries from advancing on the path to sustainable development. For all of us -- and for all these reasons -- the cost of poverty is far too high.

Tr-lav, more than one billion

people in the world live on less than one dollar a day, another 2.7 billion struggle to survive on less than two dollars a day. More than 800 million people go to bed hungry every day. Every 3.6 seconds another person dies of starvation. In Bangladesh, 25 to 30 million are chronically poor and about 24% of the total population currently lives in extreme poverty.

Poverty eradication in developing countries relying on external aid is a growing contentious issue. Some think-tanks have argued that monetary aid often only serves to increase poverty and social inequality, either because it is conditioned with the implementation of harmful economic policies in the recipient countries, or because it's tied with the importing of products from the donor country over cheaper alternatives, or because foreign aid is

seen to be serving the interests of the donor more than the recipient. Critics also argue that much of the foreign aid is stolen by corrupt governments and officials and that higher aid levels erode the quality of governance. Policy becomes much more oriented toward what will get more aid money than it does towards meeting the needs of the people.

Cutbacks in health, education and other vital social services around the world have resulted from International Monetary Fund (IMF) and World Bank prescribed structural adjustment policies as condition for loans and repayment. In addition, developing nations governments are required to open their economies to compete with each other and with more powerful and established industrialised nations.

To attract investment, poor

Emphasis on informal economic sector for poverty alleviation

With so many demerits, is a mere 7% external aid in our current budget too difficult to reject? Work is the best route out of poverty and external dependence. With due emphasis to our informal economic sector, we can bring a dramatic change to individual poverty level and add to our economy the needed fuel for self-reliance and sustainable development.

countries enter a spiraling race to the bottom to see who can provide lower standards, reduced wages and cheaper resources. This has increased poverty, inequality, and the historic unequal rules of trade.

No one deliberately opts to be a beggar by sacrificing self-dignity, honour and freedom, until forced by extreme disability. Thus, we see a rapidly growing informal economic sector globally, which deters living on others' mercy and encourages earning a livelihood, though meager, with pride. Apparently, this is the sector, which accommodates the poorest of the poor looking for self-reliance, and can be the best model for any resource-starved nation to gear up the economy and add to poverty alleviation without getting tied to external aid.

Street vendors and rickshaw pullers in Dhaka; jeepney drivers in Manila; garbage collectors in Bogota; and roadside barbers in Calcutta -- those who work on the streets or in the open air -- are the more visible occupational groups in the informal economy. The streets of cities, towns, and villages

in most developing countries are lined with cobblers, garbage collectors, and vendors of vegetables, fruit, meat, fish, snack foods, and a myriad of non-perishable items ranging from locks and keys to soaps and detergents and clothing.

Less visible informal workers work in small shops and workshops. Down the crowded lanes of most cities, towns, or villages are small workshops that repair bicycles and motorcycles; recycle scrap metal; make furniture and metal parts; tan leather and stitch shoes; weave, dye, and print cloth; polish gems; sort and sell cloth, paper, and metal waste -- and more. The least visible informal workers, most of them women, sell or produce goods from their homes: embroiderers; incense-stick rollers; cigarette rollers; paper bag makers; kite makers; hair band makers; and food processors.

The ILO estimates that around 74 million young women and men are unemployed throughout the world, accounting for 41 percent of all the 180 million unemployed globally. The cost of youth unem-

ployment in economic and social development is extremely high. It perpetuates the inter-generational cycle of poverty and is associated with high levels of crime, violence, substance abuse and the rise of political extremism. In some countries, virtually the only paid occupation open to many young men is joining the various armed groups involved in civil conflict. For young women, the dangers of entrapment in the sex industry are rife.

We need a planned drive to elevate the informal working group within the formal economy. It is a long and complex process that requires all elements of society to work together. Informality is principally a governance issue. The absence of an appropriate framework for the governance of markets in general, and labour markets in particular, creates an environment of insecurity which prevents the accumulation of physical, financial, human and social capital. Without a strategy for the gradual extension of formal regulations to meet the needs of informal workers and enterprises in the developing world, the pro-

ductive potential of the world's working poor will remain untapped, acting as a brake on growth and a source of increasing poverty and social tension.

Breaking the cycle of poverty is really about creating a new cycle of opportunity and local wealth. Skills are essential for improving productivity, incomes, and access to employment opportunities. Yet, a striking feature of most poverty reduction strategies is the absence of vocational education and training -- even though the vast majority of working people living in poverty cannot afford, and have no access to, training opportunities.

To bridge the gap, public-private partnerships are key to understanding the changing patterns of skills demands. It is impossible to build an enterprise without access to credit. Poor people all over the world have little access to formal financial services. Microfinance activities go hand in hand with entrepreneurship, enabling the poor to borrow for productive purposes, saving, and building their assets.

People living in conditions of

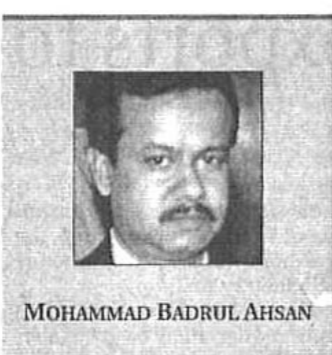
material deprivation draw on enormous reserves of courage, ingenuity, persistence and mutual support to keep on the treadmill of survival. Many have improved their lives through their personal agency and struggles, but the progress on this front has been too slow.

With greater resource mobilisation, prioritisation of the needs of the poorest, ensuring of protection, rights and representation, appropriate education and vocational training by the government and, above all, good governance, an assault on chronic and extreme poverty is feasible today.

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Mutiny of the magistrates



MOHAMMAD BADRUL AHSAN

Power, however it has evolved, whatever its origins, will not be given up without a struggle.
-- Shulamith Firestone, Canadian-born feminist

THE administrative cadre was upset last week because the government was going ahead with the separation of judiciary. Why? Well, it is common knowledge that when that happens, these people are going to lose their judicial power, some of them some of it, now that there has been a compromise with the government. They will still be able to conduct mobile courts, and do the likes of taking actions against public nuisance. Yet they are sad like the Wizard of Oz bereft of his wonder machine. They are worried that the magistracy may not remain the same.

But why are they giving their reactions so late in the day? It is

There is a Japanese proverb, which comes to haunt us. It says that the nail that sticks out gets hammered down. It applies to the row between the administrative cadre and the judiciary as the former wants to hammer down the latter. Looked from another angle, it also applies to those who stick out amongst us. They prick and scratch us until we bleed instead of using their talents to serve us.

like trying to abort a bomb after the fuse has burned out. Then again you never know. The bureaucracy has the power to do miracles. They might reverse the whole thing. Still the question remains why now, why not before when it was still cooking? I know the answer. They never believed it was going to happen. They thought it was one of those things which would be easier said than done.

When that optimism looked vulnerable, the administrative guys were in a state of denial, and I was not surprised that in their last ditch effort, they got together to make some noise. Some of the names have shocked me. I thought they were to know better. But in their tribal passion for solidarity, they couldn't see beyond their noses.

Mind it, nobody is going to lose their jobs here. The perks will not be affected, neither the size of their office nor the scope of their

jurisdictions. It is only the power, that also not all of it but a portion which belonged to the judicial service and should not have gone to them in the first place. But this power must have meant a lot to them. It decorated them with authority and gave them a sense of fulfillment.

So, the inordinate reaction last week from the administrative cadre was a natural outburst of their deepening frustration. They had taken it for granted and wanted to cling to the power which never belonged to them. One of the magistrates, who launched drives against food adulteration, tried to abuse his newfound fame. He called for a boycott of the government from November 1, which should continue even after he was taken to jail. Gee!

If we were to believe in what he said, then we also need to ask why he didn't show that courage at the beginning. And then the same

thing goes for others who showed concern that the separation of judiciary was being implemented before the country was ready. In fact, we the human beings are immensely imaginative when it comes to being jealous. We find excuses to hide the fact that we don't want others to be better than us.

And that fact is as old as the human race. In the Roman days, Sextus had become all powerful in Gabii and sent a messenger to his father, the tyrannical king named Lucius Tarquinius the Arrogant, asking what he should do next. The king said nothing to the messenger, but swept a stick across his garden and cut off the heads of the tallest poppies. The messenger returned to Sextus who got the hint. He put to death the most eminent people of Gabii.

This went in history as the Tall Poppy Syndrome, which simply means intolerance for others when they begin to outgrow us.

Take, for example, the service condition, which has been cited as one of the reasons. The administrative guys require satisfactory service records of 8, 12 and 15 years, while judicial officers require shorter service records for absorption.

That means under the calm sheet of noble intentions, there was a churning sea of envy. I am going to repeat it again that I was shocked to read some of the names who had gathered on that day to protest against the separation of judiciary. I always believed that at any rate they would put the country above self-interest. Needless to say, I was wrong. For the first time they were put to test, which they failed.

It is interesting that when the enlightened minds are benighted, there is no light to dispel that darkness. One can get into politics without much education. One can get into business without being learned. But who can get into administrative service without scaling a few competitive heights?

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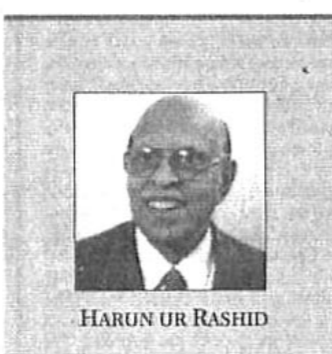
One of the stalwarts of our bureaucracy said on TV that magistrates, deprived of their judicial power, are reduced to minions to their superiors. But what about the judiciary whose power they had misappropriated? Year after year, they have been deprived of their rightful place and treated like junior partners in the government. While I know the bureaucracy suffered from excess of power, the judiciary was anemic.

No doubt it was a showdown last week, a mutiny of the magistrates who wanted to flex their muscles in a desperate bid to maintain their stranglehold on the slipping powers. But it was also something more, a symbolic illustration of a larger truth. The sun, which went down on the British Empire still shines over its splinters which reign over the hidden recesses inside our minds!

There is also a smack of class struggle, which bothers me most. If it's so tough to wrestle out one educated class from the grip of another, how long will it take before the millions of illiterate people in this country are saved from exploitation and liberated from oppression?

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Will the Israel-Palestine peace talks succeed?



HARUN UR RASHID

BOTTOM LINE

The Bush administration simply wants the conference to succeed, without discussing tough prickly issues. The best outcome for the US is a skeleton of general principles without any flesh, which may mean different things to different people. This attitude won't satisfy the Palestinians because the Quartet in its roadmap declared that the conflict would end by 2005. It is almost end of 2007, and it seems that it is a long way to ending the conflict, not to mention setting up of a Palestinian state.

State Solution to the Israeli-Palestinian Crisis.

The roadmap outlines a three-stage program leading to an independent Palestinian state, and a "final and comprehensive settlement of the Israel-Palestine conflict" by 2005. But as a "performance-driven" process with no enforcement mechanism, the roadmap depended on the good faith of all sides, and their voluntary compliance with obligations under the plan.

Israel has not demonstrated such compliance. The roadmap requires that Israel "freeze all settlement activity." Yet, Israel continues to build settlements and construct its illegal separation wall in the West Bank.

Israeli aggression, particularly in the form of assassination attempts, continues unabated. Violence has continued, and the Quartet has shown no capacity for imposing requirements on the parties, and the roadmap has steadily lost credibility.

So much injustice and oppression are being inflicted on Palestinians by Israel day after day with the support of the Bush

administration that the conflict has severe impact on the region. It acts like a magnet for Islamic militants to fight against the oppressors.

This conflict has a direct impact on Iraq because many young Arabs feel that the injustice perpetrated on the Palestinians would continue unless they defeated the US in Iraq.

In the 80s, the Mujahideen successfully defeated the Russian troops in Afghanistan, and they can also be successful in Iraq against the US troops. The Iraqi chaos is considered by many Arabs as an extension of the unresolved issue of Israel-Palestinian peace settlement. Once the Palestinians get their due rights, one of the important factors leading to instability in Iraq will be gone.

Against this background, President Bush sent his Secretary of State Dr. Condoleezza Rice to the region several times to explore the possibility of a peace conference among the stakeholders in November in Annapolis, Maryland, US. The US is expected to invite Arab states of

the region. Syria has refused to attend the conference unless the issue of occupation of the Golan Heights is included in the agenda of the conference. The conflict between Syria and Israel is over territorial possession.

At heart is control of the Golan Heights, 1250 kilometres of mountain and farmland, and a strategic place that gives a sweeping view of Syria. Israeli artillery forces on the Golan Heights could shell Syrian positions and villages in Syria from the top of the Golan Heights.

Control of the Golan Heights gives Israeli armoured forces a bridgehead on the eastern side of Syria Rift valley, poised north to Damascus. Amid rumours of war, Israeli tank brigades have staged large-scale manoeuvres on the Golan Heights in preparation of military operations.

Furthermore, the Golan Heights gives access to water resources that Israel now exploits fully for half of its needs. It produces most of its wine grapes and has the country's only ski resort. Cattle ranchers and hikers can roam in the rela-

tively wide open spaces of the upland plateau.

There seem to be a few difficulties ahead for success of the conference.

First, both Prime Minister Olmert and President Abbas of the Palestine Authority are weak politically and, at this stage, it is difficult for them to make decisions. Police investigations are going on against Olmert on suspicion of corruption while he was finance minister.

Abbas's authority in the Gaza Strip has been replaced by Hamas's, which governs the Gaza Strip. Hamas has been mounting a strong rear-guard campaign, warning Abbas not to sell out on ideals and insisting that he does not speak for all Palestinians.

Second, exchange of land, including East Jerusalem by Israel, for peace is objected to by Israel's orthodox Jews and the right wing opposition Likud party led by Netanyahu. The orthodox parties are in the coalition government of Olmert, and they have warned that they might bolt from his shaky coalition if East Jerusalem is given to the Palestinians.

Third, while Palestinians want a detailed document to be approved at the conference, including the status of Jerusalem and the issue of Palestinian refugees to Israel, Israel wants general principles of settlement enumerated in the document.

The secretary of state arrived in Jerusalem on October 15 on her latest round of shuttle diplomacy ahead of the much anti-

pated White House-sponsored peace conference.

Dr. Rice is reportedly concerned about Abbas's insistence on tabling a resolution on "red-line issues," including secure borders for a Palestinian state, and the gap between the two sides is too wide to be patched up by the US.

Officials of the State Department are reportedly aiming for a declaration from the conference to present the principles for a permanent agreement, and to leave details for later talks.

Observers believe that the US does not wish to discuss the establishment of East Jerusalem as the capital of a future Palestinian state, and the right of return of refugees to Israel, as any discussion would annoy Israel. Since 1967, Israel, irrespective of political affiliation, has consistently refused to discuss these issues.

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Barister Harun ur Rashid is a former Bangladesh Ambassador to the UN, Geneva.