

Human Rights Commission and enforcement sensitisation

Goodbye 2007

Happy New Year

As we look back to 2007 we do so with a mixed feeling. The pessimists perhaps might say that it could have been better. We would like to suggest that as things turned out for us in Bangladesh, it could have been worse.

We weathered several calamities of different definitions and magnitude. We had to endure the worst type of a political storm at the very beginning of the year 2007 with grave political uncertainty stalking our door.

It was a great pity that the democratic dispensation and political continuity had to be abridged. And it all stemmed from the loss of credibility of the first caretaker government headed by the president himself, who belonged to one of the constituent elements of the 4-party coalition government. The non-neutral character of the first caretaker government was thus diluted, dashing all hopes of a free and fair election.

It was to the great relief of the people that the political animosity played out on the streets was ended with the cancellation of the January election and formation of an interim government; the military having played very timely and important role in that development. And it was a change that had by and large the support of the people that was engendered by the hope of seeing a new tenor in the politics of Bangladesh, and a free and fair election, the only demand of the people. The drive against corruption was highly appreciated by all.

However, it appears that the caretaker government had perhaps bitten more than it could chew. Its handling of the reforms issue left much to be desired. We seem to have reached a cul de sac insofar as political reform is concerned, with the apparent bid to disassociate the two leaders from politics becoming an act bordering on the ridiculous.

The past year has been a gruesome experience for the poor and the middle income groups struggling to keep their body and soul together with the unbridled spiraling of prices of essential consumer goods. The overall economic picture was bleak at the very best.

And we had the misfortune of being battered by one of the most disastrous cyclones in recent times that hit the coastal area at the very end of the year that added to our woes. In between the times we were visited twice by floods. We take pride in the fact that the resilient nation that we are, we have tackled the natural calamities fairly well.

A redeeming feature of the 2007 has been the arrest trial and execution of the terrorists whose fall had been as quick as their rise. But that should not make us complacent, because, from all that we can assess, they are not done with their job yet.

We would like to welcome the New Year with optimism. The country is waiting eagerly for a free and fair election well before the end of 2008 after incorporating the political reforms that would prevent the country from the political degeneration that we witnessed in the recent past. And that is what we expect the caretaker government to employ all its energy in.

Happy new year to our readers.

Shocking succession to Benazir

Dynastic politics undermines the cause of democracy

THE sadness that has weighed upon people's minds following the assassination of Benazir Bhutto can only deepen with the way her Pakistan People's Party has decided to elect its new leadership. The bigger truth, though, is that there is really nothing new or inspiring about the new men now in charge of the party. With Bilawal Bhutto Zardari and Asif Ali Zardari taking over as the chairman and co-chairman of the party respectively, it is once more a dominance of dynastic politics rather than democracy that manifests itself. At the same time and in a very regrettable way, it shows up once again the power and influence that Pakistan's traditionally feudal society still exercises over the masses. By doing what it has done, the PPP has done little to convince anyone that democracy in Pakistan will benefit from the move.

No one can deny that the growth and perpetuation of dynastic politics in South Asia --- in India, Pakistan, Bangladesh, Sri Lanka --- have prevented the development of a full-fledged, vibrant democratic culture in the region. Indeed, when politicians have chosen to promote their families in the matter of succession at the top of the party or state leadership, they have clearly left the cause of pluralistic governance badly mauled. Much of the trauma that we associate with democracy in South Asia today is directly related to the inability or unwillingness of pre-eminent political leaders and their followers to understand that their constant emphases on democracy lose all meaning when they ignore or push aside that very democratic factor within their parties and instead choose to promote their kith and kin unabashedly for the future.

That chance has now sadly been lost. Zardari, who will now rule the roost seeing that his son is young and needs to finish his education, and whose reputation is badly tainted, is not the man who can inaugurate democracy in Pakistan. Indeed, we will go further and say that dynastic politics runs contrary to the ideal of democracy. In the long run, the PPP has chosen a path that will neither serve Pakistan, and definitely not democracy.

We believe a party which should have called for a postponement of the election date for the things to settle down after the tragedy has actually insisted on not shifting the date. We sense that it wants to hurry through the election to allow little time for the people to think about the succession or raise question about it as the party cashed in on sympathy votes. This is placing political expediency over national interest.



MUHAMMAD NURUL HUDA

STRAIGHT LINE

While there is no doubt that the human rights commission will act as a watchdog body, it needs to be emphasised that the said body should also concentrate in a large measure on the aspect of educating and sensitising the state actors as well as the members of public.

individually and collectively, have a fundamental role in securing the high ideals.

All police officials can help their governments to secure the aims of the human rights legislation and practice. And, in doing so, they can also express "their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world, and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend."

Free people expect much from the police. In such societies the police stand at the point of balance, on the one hand securing human rights and, on the other, exercising their lawful powers given to them by governments in the name of the people to protect the people and their institutions. Police authority can be abused even in democracies. The main problem lies in control.

The government of Bangladesh has to ensure that those who are chosen to exercise the power and authority of police officials are carefully selected for their human qualities, are properly trained to perform their difficult duties in an ethically correct manner, and, very importantly, are led and directed by persons with high qualities of

human excellence.

Anything less than this will not help secure the balance of human rights with adequate control of excessive human misbehaviour. Measures have to be available to maintain correct standards through the imposition of disciplinary regulations, having regard to the human rights of the malefactors.

It is in the control of power, by one person or group over another person or group, that laws play a vital role. To leave human affairs to the caprice of an arbitrary power, of course, untenable, but to use laws to diminish the reasonable exercise of freedom and to give excessive power to individuals or groups, such as police, over others, is equally so.

It is both possible and desirable for power to be mixed with discretion, particularly in police activity. Thus, for example, where police have power to arrest people and bring them before the courts of law, it may not always be necessary to use it, since arrest and detention before proof of guilt is an administrative convenience and not a punishment.

Authority is usually the offspring of power of one kind or another. Authority, when given by laws democratically enacted and given the respect of people generally, can be said to be true and legitimate. Authority based on power or arbitrary

travelling, such as naked power or pure strength, lacks the virtues of the former and is authoritarianism. Such authority, requiring blind obedience, is generally offensive to the concept of human rights.

Power for the police is not to be seen as an end in itself, but as a means towards a free social order. It is, therefore, in the proper use of their considerable powers that a test for police at the service of human rights will be made.

Where the police are seen to be at the service of human rights in particular and humanitarian acts in general, it might be expected that public support will be forthcoming to a greater or lesser degree. It is important, therefore, that police officials under training should be enabled to address their minds to this phenomenon.

It is important, therefore, that through an understanding of the subject of human rights, police officials see their relationships with the many differing sections of the public as positive.

In all societies, most social control, including control of criminal behaviour, stems from informal controls. Superstition, taboos, religions, customs, shared values and moral standards have preceded or given rise to laws upon which the more advanced formal policing arrangements have been developed.

In their preventive role against crime, police have an interest in encouraging the retention of the development of informal controls. The role of family, school, institutions of innumerable kinds, as well as public opinion itself, can all help or hinder the police function. It accords with the best principles of human rights that the dignity and freedom of the individual is reconciled with the dignity and social purpose of legitimate informal controls.

Punitive policing, if carried to extremes, may be described as control through suspended terror. It works on the assumption that, provided the penalties for crimes or police severity are sufficiently horrible, people will be deterred. Although this philosophy of social control has existed from time to time and in many places, it runs counter to the provisions of the Universal Declaration of Human Rights (Article 5).

Politicians and enforcement officials have to realise that preventive police activity when carried out properly and effectively is superior activity, since it not only prevents victimisation of citizens and their own lawful human rights but also reduces the stigma and moral obloquy associated with the criminal offender. It marks the concern of society to reduce the suffering of crime and the problems of criminality.

Preventive policing may operate at primary, secondary, and tertiary levels in the control of crime, and at each level the principles of human rights should be observed.

The foundations of positive enforcement practices should be based on an understanding and acceptance of ethical principles of duty to the application of laws; not

as an end in themselves but as a means of securing fairness and justice to all manner of persons, irrespective of their race, creed, religion or social standing. The provisions of human rights law seek no lower standard of police behaviour and practice.

The use of force by police officials is generally governed by the principles of proportionality, and expressed in some national laws as the principle of the minimum use of force. Ideally, police should aim to achieve their objectives without the use of force at all. By striking the correct attitude, it is often possible to achieve these by persuasion. Where force has to be used, it should only be in proportion to the problem being encountered.

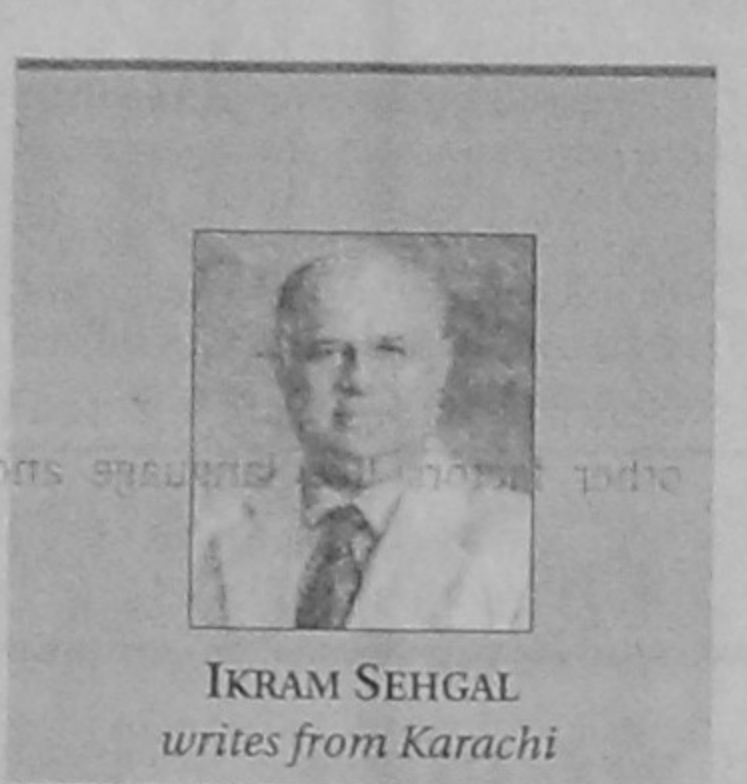
When it comes to the subject of human rights, there are principles and laws of universal applicability. Understanding this, one will go a long way towards grasping the intentions of the Universal Declaration of Human Rights.

It is desirable for police officials to acquire a general consciousness of the concepts of democracy, justice, fundamental freedoms and human rights. But, this in itself would be insufficient if police practice were not pervaded by, and directed in accordance with, this consciousness and knowledge.

In their day-to-day functions, police operate on those margins of society where liberties are at risk, and where freedoms and rights often have to be curtailed and infringed if police are to be effective. And yet, the police are not law unto themselves. They are the servants and agents of both their domestic laws and of the great body of international human rights law also.

Muhammad Nurul Huda is a columnist of The Daily Star.

The 2008 resolution



IKRUM SEHGAL
writes from Karachi

ONE more atrocity by terrorists and an irretrievable loss for Pakistan! The great promise that Ms. Benazir had to offer to this country now remains with us only as frustrated aspirations. Benazir's assassination was a tragedy waiting to happen, she knew it and all of us knew it. To carry on regardless in the face of such imminent and terminal danger requires special courage, for which no eulogy can be enough.

The demise of one of Pakistan's foremost political leaders force-multiplies the need for the correcting the fault-lines in our national psyche before they permanently scar the future of the country. On January 1, 2008, we are in deeper trouble than we were on January 4, 2007, when my article "Resolution for 2007" was published.

For those in power at every level of governance, dereliction of that responsibility will be catastrophic for the nation they govern.

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AS I SEE IT

The prime resolution for 2008 must be to hold free and fair elections, January 8, 2008 needs to be delayed, probably till March (and maybe even later). On January 4, 2007, I quoted Musharraf, "elections will decide Pakistan's destiny." I had said then: "One believes that it is the way the elections are conducted that will decide the country's destiny." A year later, that has not changed.

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A year later, that has not changed. The events of the past year have shaken the confidence I had in the beginning of 2007 that Musharraf still had both the vision and courage to fulfill this destiny. He has become isolated from those who could bring to his attention unpalatable facts, which, once upon a time he had welcomed.

I have only just realised that I did not meet him once throughout 2007. Musharraf's earlier successes are now increasingly being overcome by his failures. Every day that goes by puts us deeper into a mess.

As someone who values his friendship, one now acknowledges with a heavy heart that he must seriously re-evaluate his own position. While conceding it could well be otherwise, almost everybody believes that free and fair elections cannot be held while he remains president. That is not only the feeling of the intelligentsia, it is an overwhelming public

perception.

With Ms. Benazir's tragic assassination, the stakes have gone up exponentially for the country. For whatever reason this represents a watershed of sorts, a crossing over of the fail-safe line between the Musharraf who used to find solutions and the Musharraf who has now become part of the problem.

In 1999, he rode into town on a plank that wanted accountability of those who had looted the nation in 2008. Those he had named are now contending to form the government that he intends to preside over as president.

Bangladesh only avoided direct military intervention because the COAS Bangladesh Army, Gen Moen Ahmad, and his immediate colleagues are averse to imposing martial law, even on the "Chief Executive" pattern in a Pakistan.

A civilian caretaker government, supported by the army, is conducting accountability across the board to cleanse the democratic process. Because of its impartiality, it has the support of the masses.

In the "Bangladesh Model," the army is nowhere to be seen. Not one army officer is in any post tenable by a civilian. Pakistan desperately needs a genuinely

neutral caretaker set-up, and the country's future existence depends upon the set-up being credible.

The Chief Election Commissioner (CEC) must be appointed by consensus of the major political parties. What good is a democracy if the election machinery is politically tainted and the credibility of the elections are likely to be called into question? All candidates for offices must be screened by the National Accountability Bureau (NAB), as to whether they are persons of integrity and character, their assets (and those of their close relations) are correct as stated and acquired within the means of their livelihood, and also that they have been paying due taxes on their earnings. While this was done to an extent in Pakistan, it still has lot of loopholes.

The last National Assembly and the present Senate have a number of controversial and corrupt individuals; do we want this situation to persist? If any person gives a false statement about his (or her) assets, he (or she) must not only be disqualified, he (or she) should also be tried and convicted for perjury.

All aspiring candidates must also sign an affidavit re-affirming

his (or her) allegiance to the integrity and sovereignty of the Federation.

Our indirect Senate elections are an enduring disgrace, an insult to the name of democracy. And shame on us for closing our eyes to the open auction for Senate seats! This can be avoided only by having direct elections.

Majority vote and proportional representation are basic requisites of a democracy. Without a clear-cut majority of 50% plus one vote in any constituency, there should be "run-off elections" between the first two candidates. For countries beset with religious, sectarian, ethnic, etc. schisms, a run-off election is mandatory.

Even India's successful democracy is now showing signs of coming under stress; see the Hindu-Muslim divide in Gujarat that Chief Minister Modi exploited recently to get a major BJP victory.

On the first-past-the-post system, a powerful minority will always come to power, as is the case in more than 80% of the seats in our National and Provincial assemblies.

Over the years, as the majority of the people become frustrated about their choice ever coming to power, less and less people have tended to go out to vote. Because of this abstention, a powerful minority is eventually transformed by default into a majority.

The numbers involved, and the clear choice between two candidates in a "run-off vote," make an election difficult to rig and manipulate.

To avoid marginalising of smaller parties, and frustration

thereof, it is necessary to give them a voice in Parliament through "Proportional Representation," i.e. 50% of the available seats should go to the losing candidates of the political parties on the basis of the percentage of the total votes cast.

The institutions of the president and the chief justice must be balanced to prevent "winner-take-all" in a democracy from becoming a "camouflaged dictatorship." The president should not be a political entity, he or she being elected by exercise of adult franchise. The chief justice should administer a financially independent judiciary, with NAB under his authority.

Democracy envisages genuinely elected, "clean" representatives of the people eventually coming to power, "vital ground" for the unity and integrity of the country. If President Musharraf goes through with the electoral exercise on Tuesday January 8, 2008, to quote his words, "come hell or high water," that is exactly where this country will be, somewhere between hell and high water.

The tragedy is that, as predicted in January 2007, we could well get a "revolution" in 2008 as a mass protest kicks in. On December 27, 2007, the mobs got a glimpse of the "rewards" of widespread and mindless violence; having tasted blood once, how long before the mobs return to become man-eaters? Pakistan, as it was in 1947 became history in 1971; can we take chance of history repeating itself?

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The father and the son

Zardari said Bhutto's handwritten political will, dated Oct. 16, two days before the suicide bombings targeted a procession celebrating her homecoming to Pakistan from exile, had been endorsed by the party's executive committee but will not be made public. Zardari said Bhutto had instructed him to take over as the party chairman, and that he had decided to add Bilawal as co-chairman.

FASIH AHMED

BILAWAL Bhutto-Zardari, eldest child of Pakistan's assassinated opposition leader Benazir Bhutto was, on Sunday, named co-chairman of his mother's Pakistan Peoples Party alongside his father Asif Ali Zardari. "My mother always said, 'Democracy is the best revenge'," Bilawal said in a short statement at an emotionally-charged press conference on Sunday evening at the Bhuttos' ancestral home in Naudero, Sindh.

The 19-year-old Oxford freshman, who has a black belt in Tae Kwon Do and a fondness for

horse riding and cricket, is expected to return to his studies, leaving Zardari in charge as a kind of regent until Bilawal reaches 25, the minimum age for contesting elections in Pakistan. "The chairmanship of the party is often occupied by martyrs and I don't know how long my father will be able to keep this position," Bilawal said, in response to a reporter's question before his father cut in requesting that all questions be addressed to him.

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Zardari said the party will ask the British government and the UN to conduct a probe, along the lines of the commission that investigated the assassination of Lebanese Prime Minister Rafik Hariri, into Bhutto's death. "She told us who killed her," he said. "We find the local authorities guilty." Zardari said his wife died

from bullet wounds in the head and neck and rejected government claims that she died from hitting a lever on the sunroof of her vehicle. House Speaker Nancy Pelosi today also called for linking U.S. aid to Pakistan to such an international inquiry.

Appealing for calm, Zardari condemned the ongoing army action against protesters and said "our fight is not with the Pakistan Army, it is with the rulers." He said he was not a candidate for Prime Minister and was not seeking any office.

The choice of Bilawal was somewhat surprising but not entirely unexpected. The rank and file wanted a Bhutto to lead the party, and some party leaders had made an unsuccessful push to convince Benazir's non-political sister Sanam to take over.

Benazir herself was only 25 and preparing for a career in diplomacy when her father, former Prime Minister Zulfikar Ali

Bhutto, was hanged on the orders of military dictator Gen. Zia-ul-Haq. At the time, many among the party leadership refused to take commands from a young, inexperienced woman and left. Many of these same people were invited back into the party by Benazir when she became Prime Minister in 1988, and Zardari's new role may keep them in the fold.

Munizae Jahangir, a correspondent for New Delhi TV, spoke to Bhutto about her three children in an interview last July in London. "She told me she wanted them to be doctors," said Jahangir to NEWSWEEK. "She made sure never to pressure her son and daughters into following her into politics and believed there were other, less riskier ways of serving one's country. But politics is their heritage, and given what has happened Bilawal is the most natural choice."

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