

New move to debar trial court convicts from polls

It will fill a major legal lacuna in present conditions

THE new move by the caretaker government towards ensuring that individuals convicted of criminal offences by a trial court are barred from taking part in elections sounds reasonable and acceptable. And it is so because it fills a major lacuna in the legal process. The lacuna is that individuals sentenced by a trial court are free to take part in elections as long as their appeals before a higher court go on. We realise, of course, that there is a standard legalistic approach in such situations, where an individual is free to engage in political or other activity as long as all his means of legal appeal are not exhausted. With due respect to such legalities or interpretations of legality, we also notice that the realities in Bangladesh since the restoration of democracy in 1991 have been quite beyond the ordinary. During that period many corrupt individuals got elected because of the lengthy appeals process. Indeed, over the past few weeks, with elections to the city corporations and municipalities approaching, reports have appeared of a number of people charged with corruption filing nomination papers for the polls. The resultant concern among broad sections of people can only be imagined.

The point, therefore, is that for all the questions that may be raised about the projected new provisions in the Representation of People Order Ordinance 2008, it is the worries or fears of the nation about a return of criminal elements into the political process that need to be addressed. The move to keep individuals convicted by trial courts out of the electoral process relating to the parliamentary polls should therefore be seen as a way of preventing such misuse of the legal process. The immense public need to ensure a clean democratic political system surely outweighs every other consideration here. We would like to make it clear here that keeping people convicted by the trial court, even as their appeals are being heard by a higher court, out of political participation is well worth the effort, given that the national goal in these many months has been the creation of a society ready to turn its back on a system made sordid by criminality and corruption.

That said, we unequivocally agree (we cannot do otherwise, obviously) with the principle of the appeals process going on in the higher courts. If eventually convictions by the lower courts are overturned at the highest levels of the judiciary, let those initially barred from taking part in politics by such convictions be free to return to playing their due role in society. At this particular point, however, it is critically important that those convicted of corruption and other criminal offences by the lower courts do not find legal loopholes to make their way back into the centre of things. If they do, the entire effort to clean up the system will fall flat on its face.

Crossfire deaths must stop

Such incidents spoil image of the country

AFTER a period of relative lull we notice a recurrence of encounter deaths of alleged criminals in RAB custody. We had condemned such killings before and we are constrained to express our repugnance once again.

According to various accounts there have been a few hundred such deaths since the inception of RAB - a phenomenon that would be unacceptable in any country with a modicum of respect for rule of law and concern for justice and fair play. This will certainly call into question the modus operandi of the elite force in such cases, apart from tarnishing its image.

There cannot be two opinions about the many commendable achievements of RAB since the elite force was launched. It had successfully tracked down the top terrorists and helped in having them convicted and punished. It has preempted terrorist activities by capturing some of the second string leaders and workers of this group, as well as unearthing their arms and weapons cache. A good deal of hard work has been done in respect of the problem of drugs and narcotics, and by and large many well-known and hardened criminals have been put behind bars because of RAB activity. It had succeeded in inculcating a degree of confidence in the common man.

But the achievements, regrettably, stand in stark contrast to the dismal record of crossfire deaths. This is indicative of the lack of respect for the judiciary and brings seriously into question the role of the higher authorities entrusted with law and order duties.

What we find rather patently unconvincing is the description of the events leading up to the crossfire death. The pattern is similar in almost every case, which raises the question in public perception whether some of these are not stage-managed in the first place? The explanations appear absurd and cannot be acceptable.

Let us restate the fact that the law must be applied to everyone including those taken into custody by the authorities. No one can act as the adjudicator of guilt or innocence except the courts of justice, and no one can abridge the course of justice in a society that claims to follow civilised norms of behaviour. They raise serious human rights concern, and allowing such killings with impunity can only sully our national image.

Justice must be allowed to take its own course. No matter what the record of an alleged criminal may be, by resorting to extrajudicial killings -- which these crossfire deaths are construed as -- such law enforcers are not behaving as custodians of law.

Law enforcement imperatives



MUHAMMAD NURUL HUDA

WELL-meaning Bangladeshi citizens can hope that the elected government of the not-too-distant future will ensure that power and hunger for more resources shall not become ends in themselves. Protecting the status quo from all challenges shall not become the prime activity of the government.

Devoting the energy and resources of the establishment for solving people's problems and maintenance of order in the society should be the main focus of rulers, as against the use of government machinery to keep the rival claimants to power in check.

It may be pertinent to remember that our system of general criminal administration consists of a further network, i.e. the judiciary, administration, police, and representative democratic institutions. It is important that these institutions should not act at cross-purposes. A coordinated, intertwined and integrated set-up for their smooth working needs to be evolved. This is because crime is a complex phenomenon and requires the whole-hearted involvement of the community as a

STRAIGHT LINE

It may be pertinent to remember that our system of general criminal administration consists of a four-tier network, i.e. the judiciary, administration, police, and representative democratic institutions. It is important that these institutions should not act at cross-purposes. A coordinated, intertwined and integrated set-up for their smooth working needs to be evolved. This is because crime is a complex phenomenon and requires the whole-hearted involvement of the community as a whole.

In the short-term solution, no basic structural changes in the existing system of criminal administration are proposed. The thrust is on strengthening the existing system and bringing about a harmonious working relationship among the judiciary, administration, police, and representative democratic institutions.

Successive governments, in their eagerness to project themselves as proponents of development, kept eroding their own authority. Development plans categorised maintenance of order and administration of criminal justice as non-developmental functions with low priority.

Activities like family planning and management of nationalised banking and industrial units consumed significant administrative energy and financial resources. Courtrooms, police stations and jails remained neglected. There was occasional increase in police manpower and equipment. These measures were, however, ad hoc in nature and failed to correspond to the magnitude of the problem. Resource allocation and resource-content did not take into account

the proper requirements of the police and crime increase.

Urbanisation, hi-tech gadgetry available to criminals, organised crime, gun-running, drug mafia, foreign funded terrorism, and exposure to foreign media and its impact have compounded the crime control problem. What is required is a massive effort on part of the government and society to cope with the challenge. The challenge is not yet insurmountable, and the will of the government to act promptly and resolutely will salvage the situation.

Policing in Bangladesh is conducted in a paramilitary fashion. Police officers are expected to perform some of the duties of a soldier, and some aspects of the role of a police officer inevitably fall between the two roles. It is, therefore, imperative to adopt a proper policing style. It will include the following:

- Institutionalisation of community policing.
- A sound police-media policy.
- Crime prevention cell.
- Introduction of alternative dispute resolution and village court.

It is commonly known that there

are neither enough policemen nor judges to deal with all cases speedily. The government cannot meet the requirement because of its limited resources and the great demand for development works. Therefore, it will be easier to meet the deficiency by reducing the workload rather than increasing the number of policemen and judges.

The handing over of less important cases to alternative dispute resolution and village court will allow more time and resources to the police to deal with serious crimes. Their efficiency will naturally improve when they have to deal with only about one-tenth of the cases. Consequently, crime control will be ensured, particularly in rural society, which is very conscious of its rather exaggerated sense of self-respect.

Often, clashes in rural areas are due to temporary bursts of emotions, and both sides are quite ready to patch up once they have cooled down. While the heat generated by emotions does not take long to dissipate, the case with the police does. It is after a great deal of loss of time, money and energy that the parties are able to get such a

case settled at the investigation stage or during the court proceedings. However, a settlement will be a matter of a day or two if the matter goes to alternative dispute resolution and village court, with the guilty party getting suitable punishment at the same time.

The thrust of the traditional approach is an incessant rhetoric of police-magistracy co-operation and an amplification of the thesis of police excesses, inefficiency and corruption without considering the limitations imposed on policing by a retrogressive criminal administration system as a whole. The developmental approach, wherein lies the hope for improving police effectiveness, has remained unarticulated, because it was rarely, if ever, considered in policy terms.

The basic propositions underlying the development approach are: The police function is distinguished from all others in the field of public protection and public safety by its reliance upon the minimum and not the maximum use of force, its necessary subordination to the decrees of the courts, its strict adherence to the essential rule of law, and its attachment to the concept of human rights.

The discretionary police use of power for crime control and imposing reasonable order involves the art of compulsion by personal persuasion, through which the police endeavour to reflect the will of the people. They prevent crime, detect offences, maintain order and keep the peace. They do not administer justice, deny civil liberties, engage in reprisals or terrorise communities. They should not be used as sticks to

thrash opponents of the well-to-do and the influential into submission.

The above-mentioned functions can be performed by a police force having a self-contained organisational structure where there is no distortion of command and no dilution of accountability. For the achievement of the above goals, formal intervention is required in the shape of an overhauling of laws and procedures relating to the system of criminal administration.

The intervention must be bold and decisive. It should give the democratic national interest a definite preference over the minority group interests of any class of civil servants, howsoever strong the lobby may be.

The fundamental reality has to be absolutely clear that the law and order situation is the primary cause of macro-economic instability, which is reflected in fluctuation and variations in prices, production of goods and services, and other related economic variables. On the contrary, a country having no law and order crisis gets the benefits of macro-economic stability and sustainable economic growth.

Simultaneously, one has to remember that strategies of economic development pertaining to urbanisation and social sectors like health, housing and education, or even growth-rate oriented policies with a perception of inequality in the distribution of income, adversely affect crime prevention and criminal justice issues.

Muhammad Nurul Huda is a columnist for The Daily Star.

Four hundred years of solitude



MOHAMMAD BADRUL AHSAN

OLIVER Wendell Holmes, Sr., one of the best regarded American poets of the 19th century, once observed that the axis of the earth sticks out visibly through the centre of each and every town or city. Dhaka had already seen that axis when the first urban settlements started in the 7th century. For many centuries since then the city remained eclipsed under the Buddhist and Hindu kings until it proved its mettle in 1608. The Mughals arrived and made it the capital of Bengal.

This year is a significant milestone, when Dhaka enters 400 years as a capital city. The fortune of the city has waxed and waned many times in these 400 years. It lost its place first to Murshidabad in 1717 and then to Calcutta in 1772 as a principal city. Then its stars rose again through a series of partitions.

The partition of Bengal briefly made it the capital of the newly formed province of East Bengal and Assam. The partition of India made it the capital of the eastern wing of Pakistan. Finally, the partition of Pakistan shot her to fame as the national capital of an independent country.

So what do we celebrate after 400 years? Speaking of London, American writer Henry James said that a great city isn't necessarily a pleasant place. It's not agreeable or cheerful or easy, or exempt from reproach. It's only magnificent.

How much of that magnificence can we celebrate in Dhaka? The city, which measured 12 miles in length and 8 miles in breadth, was inhabited by nearly one million people in 1608. Today it's a much more sprawling city of over 10 million people packed like sardines in an area of 360 kilometres.

Obviously, Dhaka is now more densely populated. Power shortage, contaminated water supply, inadequate drainage, crime, traffic congestion and deplorable sanitary condition make it an unbearable city. On the other hand, tall buildings, spanking new shopping arcades, growing number of cars, mobile phones, restaurants, etc. give it the flavour of a thriving metropolis. What do we celebrate and what do we regret on the 400th anniversary?

Babylon was the first great city of the ancient world, but as the Bible says, it was "the mother of harlots and abominations on earth." Ancient Athens, for all its architectural and intellectual glory, was scarcely more than an overgrown slum. The grandeur of Rome was overshadowed by its ramshackle ghettos, crime rate and traffic jams. Roman poet Juvenal complained that he was hampered by the crowd of Rome, so much so that they almost crushed his ribs from front and back. Sanitation was so bad in the Paris of Louis XIV that one could smell the odour of its gutters two miles from the city.

Where does it place Dhaka? Is it a modern city? Or, is it still a backward urban settlement struggling

CROSS TALK

Four hundred years of Dhaka have been eventful. The conquerors and plunderers came in equal strides, the Kamarupa kings, the Sena dynasty, the Turkish and Afghan invaders, the Mughals, the Portugese, the Marathis, the English and the Pakistanis. But they pushed us into evermore solitude as the fate of people always slipped into the hands of outsiders who interpreted our reality through their patterns.

to cope with the pressures of modernisation for four centuries? It's definitely not a comfortable city like Stockholm, Geneva or Johannesburg. It's not a beautiful city like Venice or Florence. It's not a commercial, financial and cultural capital like New York. It can't be compared to Moscow, Shanghai or Peking in terms of culture, history and size. It's not the axis of world politics like Washington DC, Moscow or Peking.

As the French proverb has it, Rome wasn't built in a day. It took London three hundred years to build its first city wall and three hundred years more to acquire a bishop. Rome laboured in a gloom of uncertainty for twenty centuries, until an Etruscan King anchored it in history. The upshot is that it takes time to build a city, both physically and reputationally.

Dhaka has reasonably advanced as a physical city, but has lagged behind in reputation. It started as the capital of "a bottomless basket" as the country was once described by an insensitive western bureaucrat. It's now the capital of one of the most corrupt countries in the world. Rightly or wrongly, it's also known for growing religious fundamentalism, which makes it the center of an alleged breeding ground for religious intolerance and terrorism.

Four hundred years ago, there was no sign of communal tension in Dhaka as people of all religions lived in peace and harmony. Dhaka attracted many foreign traders from Arabia, Persia, Armenia,

China, Malaya, Java and Sumatra, who enriched its commercial and cultural fabrics. Then the Marwari bankers, and the Portugese, Dutch, English, French and Greek investors came and turned Dhaka into a manufacturing station.

It's said that the most important element of a great city is the spontaneity of free human exchange. In other words, a city doesn't classify as great if that limits human contacts either through repression, distance or other impediments. Dhaka, like Calcutta and Mumbai, has enough people, but gives the impression of a dysfunctional city because too many of them are living in misery.

That resonates the question, which Sicius asked in William Shakespeare's *The Tragedy of Coriolanus*: "What is the city but the people?" If we celebrate 400 years of Dhaka, what do we celebrate: the splendour of the city or the grandeur of its people? If we look at a couple of instances, they give us hints about certain immutability.

Lower class women worked as hard as men, including carrying bricks and other heavy things on their heads, four hundred years ago. During the Mughal days, corruption was rampant amongst the government officials. One official named Syed Raja Khan used to give lashes and even kill those who failed to provide him bribe on demand.

In his Nobel lecture, Gabriel Garcia Marquez elaborates on the solitude of Latin America. "The interpretation of our reality through patterns not our own, serves only to make us ever more unknown, ever less free, ever more solitary," he suggested. "A new and sweeping utopia of life, where no one will be able to decide for others

how they die, where love will prove true and happiness be possible, and where the races condemned to one hundred years of solitude will have, at last and forever, a second opportunity on earth," he concluded.

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With depleting water level, growing population, failing infrastructure, and bickering national politics, we don't know what will happen to Dhaka in future. So far, the shell has changed but not the core. That alone looms the solitude which could haunt us for the next 400 years.

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Changing the channel

Obama smiled wryly, but the occasion for the speech was no joke. Buffeted by GOP charges that he's flip-flopped on the Iraq war, and facing down a bump in the polls for his Republican foe John McCain, Obama knew he needed a strong showing to help stem the criticism on the eve of a major trip abroad -- set to encompass not only Iraq and Afghanistan, but the Middle East and Western Europe as well.

RICHARD WOLFFE

IT was Lee Hamilton, the Democrats' wise old man of national security, who let slip the real reason for Barack Obama's big foreign policy speech in Washington on Tuesday. Hamilton was introducing the party's presumptive nominee in front of an audience of foreign policy wonks and Obama fans

hosted by the Woodrow Wilson International Center.

Hamilton said he normally brushed off such moments by saying that the distinguished speaker needed no introduction. But then he heard how Obama had recently tried to walk into a local gym but was challenged for some proof of identity. "So I said to myself, whoa," Hamilton told the

audience. "Maybe we better get back to the basics here. Our speaker today is Barack Obama. B-A-R-A-C-K-O-B-A-M-A."

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showing to help stem the criticism on the eve of a major trip abroad -- set to encompass not only Iraq and Afghanistan, but the Middle East and Western Europe as well.

According to the latest Washington Post/ABC News poll, 72 per cent say McCain would be a good commander-in-chief; 48 per cent say Obama would be good. Of course, McCain's military service may account for a good chunk of the gap between the two. But that gap is unsettling for Democrats -- especially since the same survey showed that 63 per cent believe the war in Iraq was not worth fighting, and 51 per cent believe the U.S. has been unsuccessful in taking on the Taliban

and Al Qaeda in Afghanistan.

Obama began his speech by invoking the familiar model of the Marshall Plan -- the diplomatic and economic initiatives that helped pave the way for the reconstruction of Europe after World War II. But he quickly cut to the chase, outlining a strategy for coping with the fallout from the Iraq war in the years to come. "What's missing in our debate about Iraq -- what has been missing since before the war began -- is a discussion of the strategic consequences of Iraq and its dominance of our foreign policy," he said in front of no less than eight Stars and Stripes.

"This war distracts us from

every threat that we face and so many opportunities we could seize," Obama argued. "This war diminishes our security, our standing in the world, our military, our economy, and the resources that we need to confront the challenges of the 21st century. By any measure, our single-minded and open-ended focus on Iraq is not a sound strategy for keeping Americasafe."

Obama went straight at McCain's record on Iraq, hoping to chip away at his rival's perceived strength as a military leader in the latest polls. "I opposed going to war in Iraq; Senator McCain was one of Washington's biggest supporters

for war," he said. "I warned that the invasion of a country posing no imminent threat would fan the flames of extremism, and distract us from the fight against Al Qaeda and the Taliban; Senator McCain claimed that we would be greeted as liberators, and that democracy would spread across the Middle East. Those were the judgments we made on the most important strategic question since the end of the Cold War."

But the politics of Iraq are complex. President Bush has called for a return of some soldiers deployed there. And McCain has succeeded in shifting the debate from the origins of the war to the successes of the recent surge. Even Obama's

aides acknowledge that a debate about the history of the war is of limited use: it can raise doubts about the other side, but doesn't answer questions about the future.

And they have long wanted to press McCain on what "victory" in Iraq would look like. What conditions would allow him to bring the troops home? Tuesday's speech was yet another attempt to exploit the definition that McCain has previously used -- of a peaceful, stable Iraq that is allied to U.S. interests and blocks Iran's regional goals. It remains to be seen how effective the speech was in shifting the terms of the debate. On to Baghdad.

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