

Towards trial of war criminals

It should be victory of law and justice

THE resolution passed in Jatiya Sangsad on Thursday calling upon the government to immediately institute trial of war criminals of 1971 is both momentous and long overdue.

The process being set in motion is by itself a historic development; for, it goes to heal a major national wound we have carried on our collective conscience and the body-politic for nearly four decades. Through it, the nation will come to terms with itself by setting a deep-seated moral wrong right. In the process, rule of law and justice will be upheld.

We owed it to the countless martyrs and millions of murder, rape, arson, plunder and torture victims -- in one word, those millions who fell prey to genocide -- to bring the perpetrators to justice. It is a debt that we are only trying to repay, knowing full well which we can never truly do; but at least, it will be a tangible improvement on mere expressions of homage to their memory.

However, by way of absorbing lessons from history can we forget that it has taken 38 years for this moment to arrive? That is a shame we bear, and cannot truly live down. Murderers were patronised, appointed to high government positions without a blink of an eye. The rule of law was mocked at and its decline had taken the lowest dip as the assassins of Bangabandhu were indemnified. Not only that, they were rehabilitated through diplomatic assignments, with another affront to rule of law. Begum Khaleda Zia even made ministers of people whose involvement in actions against our independence struggle is well known.

Insofar as the trial goes, we must approach it from a high moral ground and not with any sense of reprisal or vengeance whatsoever. We should draw a line between those who politically opposed, out of self-belief, the creation of Bangladesh but didn't take up arms against it or commit criminal acts and those who perpetrated murder, arson, rape, torture and such crimes against humanity. No witch-hunting and revenge exaction should be allowed, even unwittingly.

Bangladesh must fulfil all internationally laid down rules and norms in undertaking the trial process. We ought to hold it in such a manner that the whole world sees in it the triumph of law and justice.

Environment offenders having a field-day

Time to show zero tolerance

B RICK kilns, a necessary source of building material in our context of underdeveloped prefabs, are obviously not without air pollution risks. Coal-burned furnace, or for that matter, any furnace would emit carbon monoxide overhanging the immediate surrounding of brick factories. That is why they are required under the law to be set up outside city limits, preferably in empty spaces to keep the habitats breathing free of pollution.

Even so, if we should take a fresh count of where they are mostly located, we are sure to be perturbed by their forming concentric circles over certain areas by contrast to their sparse location elsewhere. What we are trying to build up to is the impelling need to recognise the level of risk involved in operating brick kilns as such; and indeed how much more the hazard would be exacerbated by the use of fire wood to burn clay slabs in furnaces. Actually, our front-page photograph last Monday showed a vast pile of fire wood lying around a kiln at Amin Bazar on the city outskirts.

This is a brazenly defined violation of the Brick Burning Control Ordinance, 2001. It prohibits use of fire wood making it a punishable offence. The reason for tabooing it is very strong: for, it means a double environmental degradation. For one thing, it entails felling of trees deforesting an otherwise wooded expanse; and secondly, it belches carbon monoxide into the environment.

This blowing of the whistle, we would like to believe, should not be in vain; instead it must be cashed in on by the Department of Environment and the industrial authority for licensing to apply the law strictly, and in the process, bring the recalcitrant, including those who abetted in the crime, to book.

Clearly, the photograph is an eye-opener to the old environmental offences returning with vengeance; only because we allowed the culture of impunity to strike deeper roots.

Behind the bankruptcy of law-enforcement

We will definitely put ourselves and our future generation in peril by our inability to let a truly professional investigating agency grow in accordance with the dictates of the law. Viewing criminal occurrences from a political angle only will be ruinous because that would not only be a damper to the growth of professionalism but also in the process shatter the remaining confidence reposed in the vital institution of the State.

MUHAMMAD NURUL HUDA

ON the fourth anniversary of the tragic assassination of S.A.M.S. Kibria, an outstanding diplomat and former finance minister of Bangladesh, 'The Daily Star' report came very heavily on the performance or lack of it of our investigative agency. The report commented that contradictory probe findings are indicative of the bankruptcy of our law-enforcement agencies. Without doubt this is an extremely saddening spectacle. The all important question, however, is how and why we have reached this unsettling scenario?

To recapitulate, our political scenario turned for the worse with the tragic murder of the father of the nation and four national leaders. For many years these offences were not legally and appropriately treated by the establishment till a favourable political scene unfolded. Such realities do have substantial impact on the enforcement and adjudication temperament and culture. Between 1976 - 1979 many heinous criminal cases involving murder, abduction, grievous hurt, amongst others, were allegedly withdrawn as part of a deal struck with some political parties by the then establishment. The so-called cadres of these parties created havoc in the south-western and north-western parts of the country.

From the above it is seen that quite a few desperate criminals acquired respectability as politicos whom the hapless police were unsuccessfully chasing for a long time. Matters like this send very confusing signals to the enforcement units primarily and also significantly affect the judicial authorities. Without doubt they have had demoralizing effect on the conscientious officials who fail to understand the propriety of the so-called dynamics of electoral adjustment and understanding.

Mention may be made about the cases of withdrawal from criminal prosecution on political grounds that became quite large with the passage of each political regime. Newspaper reports indicate that the volume of such withdrawals have registered sharp increase in recent years. Whether such increase is directly correlated to the heightened criminalisation of our politics may be examined by those interested to see a cleaner polity.

One needs to know if the executive organ of the state is rendering desired assistance in furthering the administration of justice and more specifically whether it is making serious efforts to prosecute the major offenders. It also needs to be examined by competent authority whether in consenting to withdrawal from criminal prosecution the Courts have taken sufficient precaution to prevent executive abuse and misuse and undesirable political favours from taking place.

Properly investigating a criminal offence particularly those relating to deaths of persons, mostly political, has become an extremely disconcerting assignment. We have allowed a situation to develop wherein there is open distrust of the capability and neutrality of the state investigative apparatus by the victims of the explosion and their near relations. The commonly leveled allegations are inaction and waiting for instructions from higher authority. Somehow these allegations cannot be brushed aside readily as informed observers will perhaps find some substance in such accusations.

The painful reality is that, as of now, incidents relating to explosions and bomb blasts have to be investigated by the institutions branded as ineffective, untrustworthy and partial until the legislature has found an alternative agency to do the onerous job or the existing arrangements have demonstrated sufficient credibility to

let the institutions go ahead with their assigned job.

In the fitness of things every criminal case should be disposed of on its own merit. That is the ideal. There are, however, objective conditions in Bangladesh to doubt that the fate of some cases, if not many, did not have the benefit of such ideal standard. The inordinate delay in the holding of trial of the 'Udichi' incident should not escape the attention of concerned commentators. Some cynics say that the expeditious holding of this trial may have produced different findings. This writer is not sure but would like to dwell upon certain facts and circumstances of our socio-political existence and in particular the perilous political polarization of our society that has a definite bearing upon the basic regulatory function of investigation by the state agency, the police.

If the investigating agency stands accused of being dictated by the wishes of successive political regimes as has been commented upon, then we need to find out why this has happened. In the same vein one needs to know why some very high-profile politically sensitive accused did not have the benefit of obtaining bail in any one of the multiple cases lodged against him at a particular point of time but subsequently got it in all the cases with the ushering in of another political regime.

It is not for this writer to ascertain the varying judicial wisdom but the concerned members of public get upset when they see the same accused being sought after by the powers that be. Does not such a scenario send disconcerting and conflicting signals to the investigating agency whose operatives have learnt to live with the reality? The cynics might say that consistency is the hobgoblin of little minds and as such our investigative agencies must be able to appreciate the dynamics (!) of emerging political reality.

The pernicious culture of playing to the tune of unscrupulous political masters or pandering to their unholy wishes by the investigating agencies and other sensitive State agencies has not occurred all on a sudden. Spells of unconstitutional rule, particularly during 1982-90, have substantially damaged the ethos of our public service including the investigating agencies. While leadership deficits account for some malfeasance, the real damage has been done by an insensitive and myopic dictatorial establishment that was hell-

bent to screw all regulatory and corrective institutions. The unwholesome effect of such institution-bashing is now being felt by a concerned citizenry.

One is, however, not oblivious of the fact that the democratically elected but temperamentally dictatorial regimes since 1991 have been any better in realizing the damage done to the professionalism of the services. The halo and élan of public service has meant little to the political leaderships who have spent more time and energy in fostering the growth of pliable and time-serving personnel for achieving their selfish goals.

In a perilously polarized polity where criminals enjoy political patronage, criminal activities are accorded respectability for so-called political compulsions and a loathsome all-pervasive distrust between different social and political groups prevail, the predicament of police investigators who have the double jeopardy of being less-than-credible in the eyes of the law of the land and the members of public, can only be appreciated by a reasoned observer.

Our investigators definitely suffer from inadequate scientific support but even under the present circumstances they can achieve commendable success. Our investigators for reasons known, do not operate in a favourable environment where helpful information comes voluntarily from members of public but still like our physicians they do good clinical investigation without laboratory support by virtue of their intuition, gut reaction and the limited information network.

We will definitely put ourselves and our future generation in peril by our inability to let a truly professional investigating agency grow in accordance with the dictates of the law. Viewing criminal occurrences from a political angle only will be ruinous because that would not only be a damper to the growth of professionalism but also in the process shatter the remaining confidence reposed in the vital institution of the State. We still have pockets of excellence in our investigative outfits and it shall be in the fitness of things to allow such outfits to attain professional excellence without being tainted by any direction. Let the actual facts and circumstances of the incident be ascertained as is the job of the investigator and let that be placed before the court for adjudging the guilt.

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Yes, together we can

Terrorism is hard to fight. But if liberals in India and Pakistan were to join hands, they might be able to roll back the Talibanisation and religious bias spreading in both the countries. Pakistan has a bigger problem because part of its territory is already under the Taliban, who are using it to chastise women particularly. Ultimately, it is the liberals who will have to strive harder than before.

KULDIP NAYAR

M ANY years ago, there was an earthquake in Mexico. Hundreds of people died and a large number of houses were destroyed. It was a somber scenario. Yet, one peddler was shouting: "Buy anti-earthquake pill." Overwhelmed by the tragedy, some people began beating him up. In his defence he asked: "Tell me what was the alternative?"

Such was the feeling when peace-seekers from Pakistan met their counterparts in New Delhi a few days ago. When relations between India and Pakistan lay in ruins and when the talks between the two countries were not even in the horizon, it was indeed a brave effort to pick up the thread from where they had left it before the terrorist attack on Mumbai.

Peace makers had made substantial progress. People-to-people contact was increasing despite the rigours of visa restriction. The contact for the last two decades had developed enough strength not to evaporate with the carnage, although the Mumbai attack caused the maximum damage.

The Pakistani team was a bit jolted by the anger it found in India. They heard critics who said that Pakistan was merely going over the exercise and doing little to bring to justice the perpetrators of the Mumbai carnage. It was mistrust because India is not sure whether the steps taken were genuine. The critics said that the Pakistan government was converting the issue of terrorism into yet another dispute between the two countries.

The team justified India's rage and condemned unequivocally the terrorist attack. But it also said that the two

countries must not allow the terrorists to hijack the peace agenda and must resume the peace process. The peace-seekers wanted to impress on India that Pakistan civil society, however limited, was fighting for the same values: free society and good neighbourliness.

That they undertook the visit when the wounds of Mumbai were raw spoke volumes about their determination and doggedness. They heard harsh words but presented their case without rancour. What surprised them was that the people's understanding and affection had not been exhausted. Probably, left to themselves, unencumbered by bureaucratic machinations, the people will find that the destiny of the two is intertwined.

Yet the army will not allow normalisation because the people in Pakistan can demand a reduction in the force. There is, however, a possibility that the army will control the jihadis now that there is an outcry against them all over the world.

It is former President Musharraf who gave a bad name to Pakistan. He encouraged terrorists on one side and staged "action" against them on the other. Now he has admitted in Washington that terrorists operated from Pakistan. But his plea is that their camps were located in difficult terrain, which handicapped their dismantling. A person who could use all methods to curb the nationalists in Baluchistan should not be surprised if his word is not trusted.

The team promised to convey the feelings to the top. But does the civilian top have the clout? People in India do not generally buy the argument that the weak democracy in Pakistan should be helped at any cost. My firm belief after

following events for years is that the establishment on both sides has developed a vested interest in keeping the people apart.

Islamabad does it because the anti-India sentiment keeps the country united. As far as New Delhi is concerned, it has developed an enemy phobia. China is too big and powerful to be challenged. Hapless Pakistan comes in handy to feed the phobia.

I do not condone what Islamabad has done, from teaching hatred through textbooks to training and arming terrorists. But this is what happens in a country which loses the ballot box. Pakistan has had no democracy for nearly five decades. Most of the leaders who came on the plank of democracy built up their own assets and personal following, not the environment that would protect the people's right to say or the right to differ. The army cashed in on the lack of unity in the country.

How do we move forward in an atmosphere of mistrust that goes back to before the days of partition? But, first things first: Pakistan has to make sure that its soil is not used by terrorists. Therefore, their elimination is a must. America cannot preach on the subject and threaten to bomb the interior of Pakistan if need be. It is America which is responsible for the birth of terrorism. It constituted a force of fanatics and armed it to bleed the

Soviet Union.

True, America won the cold war but it lost most of Afghanistan to the fanatics called the Taliban. They are now a menace for the entire world. They cannot be defeated only by bombing. In fact, the indiscriminate bombing is evoking more sympathy for the Taliban in Pakistan.

India is having the worst fallout. A new tribe of Hindu Taliban has appeared on the scene. It attacked girls at a pub in Mangalore. It calls itself the Sri Ram Sena, a brigade to enforce standards of morality, as the Taliban are doing in the western parts of Pakistan. Another terrifying revelation is that of Hindu extremists who blasted bombs outside a mosque at Malegaon. They want to take over the country and establish a "Hindu Rashtra." This is also a goal of the Sangh Parivar, including the BJP.

Terrorism is hard to fight. But if liberals in India and Pakistan were to join hands, they might be able to roll back the Talibanisation and religious bias spreading in both the countries. Pakistan has a bigger problem because part of its territory is already under the Taliban, who are using it to chastise women particularly. Ultimately, it is the liberals who will have to strive harder than before. Timid souls do not know anything like victory or defeat.

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Pakistan launched anti-Taliban offensive in NWFP.