

BNP in breach of RPO provisions

JCD's delinking with national party seems a far cry

THE Bangladesh Nationalist Party, like other political parties registered with the Election Commission as a political party to take part in the 29th December parliamentary polls on the stated commitment towards fulfilling the provisions of Representation of People's Order as amended by the immediate past caretaker government. Some of these provisions specifically related to effectively delinking the national political parties from their pre-existing student wings. In terms of these all registered political parties are forbidden from having any front or affiliate or associate body among the students, teachers and the labour.

The students can have their own bodies but these would have their own constitution and work completely independently of the national political party and in separation from it. And only genuine and regular students can be its members. A member of a student group is, however, allowed to be a primary member of a national political party, if he/she so chooses. Which means that they can take interest and part in politics as citizens and future leaders of the country but totally delinked from his membership in a student organisation.

Furthermore, that the national political parties will have no affiliate body among students, teachers and labour will have to be incorporated in the party constitution as amended in the light of RPO and submitted to the EC by 25 July, 2009. It is upon this undertaking itself that the political party concerned was registered with the EC ahead of the election to be able to participate in the election and function as a political party.

The spirit and letter of the RPO provisions in question stand violated by the BNP's move announcing a 101-member new central committee of JCD with the party chief Begum Khaleda Zia having approved five office bearers of the same. The party chief has obviously violated the registration laws by announcing the new central committee and approving the names of the office bearers. She is in further breach of the provisions because the new leaders of the committee are not even students and none but students are eligible to be in a student body.

Her direct intervention in the student party often dissolving and recasting student committees has been a historical phenomenon. This time the expelled members of JCD themselves have criticised her of violating the RPO provisions. There is a message for her to heed.

Recovering all those city canals

Proper, quick demarcation is a must

IT does not surprise anyone that the nearly fifty canals which once used to flow through the nation's capital are today in a dying state. The absence of surprise stems from the fact that over the past several years these canals have stealthily and gradually been encroached upon, to a point where most of them are in very real danger of dying out. And yet, given the serious steps that were taken in 2004 to recover the canals, things ought to have been looking up at this point. WASA undertook a move to recover no fewer than 26 of the 43 canals that had been identified as being in the grip of encroachers; and as a matter of fact quite a spurt of activity was noticed at the time about a recovery of the canals.

Over the past many months, however, matters have clearly come to a standstill. With little follow-up action by the authorities once the recovery is done, the canals revert to encroachment and so are subjected to a fresh spate of unlawful occupation. It is here that the government's efforts to reclaim the canals have regularly fallen flat. No excavation of the canals is undertaken once they are recovered. At the same time, no concrete and focused moves have been made for a demarcation of the canals, which in turn has meant that monitoring of them has been conspicuous by its absence. In other words, governmental activity around the canals has been defined more by half-heartedness than any serious attention to public welfare. Obviously, the repercussions are noticeable; and because they are, it now becomes necessary for some purposeful steps to be taken about getting back control of the canals in the public interest. Happily for citizens, the move made by a parliamentary committee in this regard comes none too soon. The body has asked the land ministry to go into the job of demarcating 43 canals in the capital as a first step towards recovering them from encroachers. It is a job which, therefore, should now be taken up in earnest.

That essentially means that not only should the demarcation be done but also that it should be done in a swift, sustained manner. Once that is over, follow-up steps such as keeping the canals from falling back into the hands of encroachers will become necessary. The chairman of the parliamentary committee has spoken of asking the authorities to secure the banks of the canals with concrete. We think it is a constructive suggestion which must be worked on. And then comes the matter of prosecuting those (and in this category come the city corporation and government departments themselves as well as individuals) who have been grabbing the canals with impunity over the years. Unless there is penalisation, the danger of the canals again being targeted by encroachers will remain.

This time round, let there be evidence that the authorities are serious about the canals, unless of course they have somehow given up on the idea as a lost cause.

1973 War Crimes Act: Getting it right

For those of us deeply committed to successful war crimes trials, we believe it is absolutely essential that the trials are rigorous and conform to international standards, so that the verdicts can be internationally recognised and respected.

JYOTI RAHMAN & NAEEM MOHAJEMEN

THE Law Minister Shafiq Ahmed presented the International Crimes (Tribunals) (Amendment) Act 2009 in parliament this week, with the Speaker urging quick passage before the end of the current parliamentary session. The 2009 act presents some amendments to the original 1973 act to make it "contemporary" (*jugupojogi*), "fair and neutral," and "globally acceptable."

Newspaper reports suggest amendments have been made to: provision to try individuals and groups of individuals; provision for appeal; and English being the official language of the trial along with Bangla.

While we applaud the steps to amend the act, we are, nonetheless, concerned that the amendments were not rigorous enough. In a rush to pass the amendments, insufficient attention has been given to major developments in last three decades in international law, especially as per International Criminal Court (ICC), International Criminal Tribunal for Rwanda (ICTR), and International Criminal Tribunal for former Yugoslavia (ICTY).

Let us consider some key issues that were not addressed in the 2009 amendments, but are crucial for a durable prosecution of war criminals.

Definition of War Crimes, Crimes Against Humanity, and/or Genocide: Our definitions need to be synchronised with Article 147 of the Fourth Geneva Convention and other international definitions. Such a

definition should include the following:

- Persecution against any identifiable group on racial, ethnic, religious grounds.
- Torture or inhuman treatment.
- Committing rape, sexual slavery, enforced prostitution, etc.
- Unlawful deportation or transfer or unlawful confinement.
- Taking of hostages and enforced disappearance of persons.
- Intentionally directing attacks against buildings, material, etc.
- Extensive destruction and appropriation of property.

Definition of sexual violence: Definition of genocide in the 1973 act does not identify rape as an instrument of genocide. Genocidal rape in legal discourse has come particularly from ICTR and ICTY. We note the Akayesu trial for Rwanda, where ICTR found him guilty of nine counts of genocide and crimes against humanity including ordering genocidal rape. It is important to note that "genocidal rape" is distinct from "war rape." The former is rape with the purpose of destroying another group. Rwanda and Bosnia provide some of the best-documented examples of genocidal rape, which include statements made by perpetrators during commission of the acts of sexual violence.

Definition of those under Military Command: A rigorous definition should include the following:

- Person acting as a military commander shall be criminally responsible for crimes committed by forces under his



Let justice be done.

effective authority and control

- That person either knew or should have known that the forces were committing or about to commit such crimes.

Independence of judiciary: We believe that persons appointed to the tribunal should have the following:

- Established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings.

Independence of prosecutors: We believe that the prosecutors' independence should be guaranteed by the following:

- The Office of the Prosecutor shall act independently as a separate organ of the tribunal.
- Neither the prosecutor nor a deputy prosecutor shall engage in any activity which is likely to interfere with his or her prosecutorial functions

• The prosecutor can appoint advisers with legal expertise on specific issues. **Witnesses:** There are no provisions made for protection of witnesses. The ICC statute provides that the court will take appropriate measures to protect the safety and physical well-being of the victims. The court is directed to take factors such as gender and the nature of the crime (including whether it was a sexual crime) into account in deciding to grant special protections.

Sentencing: It should be stressed that death sentences are not allowed under international law, even for genocide, crimes against humanity, war crimes and crimes against peace. Death sentences would hinder Bangladesh receiving and sustaining international support on this issue.

Reparations: Reparations to victims should be considered for inclusion, even if they are not defined in detail at this stage. We should consider whether individual compensation or community-based reparations are more appropriate. For comparative purposes, Rwanda created a graduated scale of specific losses to amount of reparations received.

The above and other issues should be considered during thorough legal review. The primary purpose of doing a review of the 1973 act is to ensure a robust legal structure, so that cases filed under this act are strong and transparent, and do not get rejected in a future appeals court. For those of us deeply committed to successful war crimes trials, we believe it is absolutely essential that the trials are rigorous and conform to international standards, so that the verdicts can be internationally recognised and respected.

The authors are members of Driahitap.org, a global network of Bangladeshi human rights activists.

Two suns in one sky

True for our politics as well, where heat is rising and light is growing feeble. Two suns in one sky. In our wake, we are looking up to them, while the ground beneath our feet is drifting apart.

MOHAMMAD BADRUL AHSAN

RECORDED history has it that when General Gabriel García Moreno, the absolute monarch of Ecuador, died after sixteen years of rule, a bizarre wake was held for him. His corpse was seated on the presidential chair, decked out in full-dress uniform and a layer of medals. In this country, a similar history has been repeating itself for oodles of years. We have two beloved leaders instead of one, and the end of wake isn't in sight.

I am talking about how this country is divided over its memory of two great leaders. I can already hear the heckles from both sides, the supporters of one side claiming that their leader is much more superior to the leader of the other side.

We are fortunate that those two leaders didn't think like their followers. One of them spearheaded the political struggle, and another spearheaded the military struggle, but both had put their lives on the line so that we could have our inde-

pendence. They must have occasionally thought of how history was going to judge them. All great men do. It keeps them on track, like a compass does a navigator.

But in their wildest imagination they couldn't have anticipated that instead of being rallying forces for their people, they were going to create a rift amongst them. They wanted people to enjoy freedom. Instead, people have their minds slavishly shackled to them.

Thus, our politics still revolves around these two leaders. We are still fighting over which of them had declared independence. And the seething hatred on the surface is ignited by the blind fury of personality cult. By all means, politics in this country is the secular form of idol worship.

The dream of independence has an underlying premise, which is to give every citizen the independence of dream. It means everyone in a free country should have his own dream that he must be able to see on his own. This is what both leaders had in mind, not the collective nightmare

that puts us on the collision path.

The fact is that they didn't fight for our freedom so that we could have the freedom to fight amongst ourselves. Yet we are fighting in their names, taking them out of context in a Freudian twist. In our inordinate love for them, we are sowing contempt for each other. Neither leader could have wished that hidebound to the past, we should be hellbound in the future.

Yes, personality cult is inevitable in power politics. Lenin, the father of the Russian Revolution, himself was appalled by the tendency to turn him into a mythic hero and resisted it while alive. But after his death, veneration of him became an integral part of the Communist Party's quest for legitimacy. Every Soviet leader henceforth used Lenin's name to consolidate his power and create his own personality cult until glastnost came in the mid-'80s.

The Russians, of course, had an advantage over us. They handled one personality cult at a time, lasting as long as a particular leader lived, replaced by a new cult as soon as another leader took over. But we have two different personality cults going on at the same time. We have two versions of history surrounding them, two doctrines of national identity, and two countermanding ideologies, splitting the coun-

try roughly half-and-half.

Is that how those two leaders could have wanted it? Could they have wanted us to fight over them, failing to bury the hatchet amongst us all these years after we buried them? They loved this country and we love them. Then why should the grapes of wrath grow on this fertile soil of enduring adoration?

Have we ever thought that a divided nation is the ultimate desecration of their hallowed memories? Does it ever occur to us that in our runaway passion to worship them, we may have committed sacrilege? They left behind a country, and we turned it into a contention.

It's believed that some planets may have two suns. Alan Boss of Carnegie Institution conjectures such a planet would be a weird place to grow up in. Every day would be different, two suns rising and setting just minutes apart. It would affect the amount of light and heat on the planet's surface.

True for our politics as well, where heat is rising and light is growing feeble. Two suns in one sky. In our wake, we are looking up to them, while the ground beneath our feet is drifting apart.

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Gains and pains

The government has just spent six months in office, and there are five and half years to go. Its front-line political organisations must be honest in their activities. Only then, will their dream to build a poverty free Digital Bangladesh find its way towards reality.

PRANAB KUMAR PANDAY

THE AL led grand alliance government has just passed its first six months in power, which is 1/10th of its stipulated five-year term. Thus, we can weigh the functioning of the government in the first six months.

The first responsibility of the government was to reduce prices of daily commodities. The government was sincere and, as a result, prices of most commodities came down within a few weeks. Most importantly, the prices remained within the reach of the majority of the population in the first six months.

Another issue that brought credit for the government was the mature solution of the BDR incident. It was a wise decision on the part of the government not to carry out any army operation in the BDR headquarters.

The government has shown that it is sincerely trying to minimise the energy problems, and its daylight saving policy to save electricity is a welcome approach. However, proper implementation will have

to be ensured. We have seen that many of the shopping malls remained open even after 8 PM.

On June 20, Channel-I reported that most of the streetlights in the Sangshad Bhabhan area remained switched on even after 7 o'clock in the morning. If the policy is implemented in such a way, it will not help the energy saving program.

Another issue is the submission of a promising budget with a vision for ensuring sustainable development in the long term. The main challenge is implementation of the budget. If the government is able to implement it successfully, the welfare of the citizens will definitely be ensured.

Among the failures, one of the most important is the law and order situation. Although the government has said that it does not support extra judicial killings, incidents of cross fire are still taking place. Tender related violence is another issue that has had a negative impact on the performance of the government. In most cases, AL's own front line organisations are involved in such violence. To me, it seems

that AL as a political party has established itself as the main opponent of the government.

Another issue is the continuing clashes in the Bangladesh Chhatra League. Although the intensity has reduced, violent incidents are still taking place. Special thanks are due to the PM for resigning as organising head of the BCL in order to send a strong message that such activities will not be tolerated.

Although the PM formed the cabinet with honest people, there are some ministers who have failed to perform their duties properly. Moreover, a serious problem with coordination is evident within the different ministries. For instance, on the issue of Indian high commissioner's comments on the Tipaimukh Dam, the foreign minister in a press conference asserted that he might have broken the diplomatic code of conduct.

On the other hand, the LGRD&C minister said that the high commissioner did not break any diplomatic code of conduct. When two important ministers of the government express different views on the same issue, it clearly indicates lack of coordination among the ministries.

In the early days of the AL government, the PM warned the ministers that their performance in the first six months would be evaluated. As a continuation of her statement, there is a rumour about reshuffling of the cabinet. However, reshuffling will not be enough, low performing ministers should be eliminated from the cabinet.

I am also critical about the government's stand on the issue of the opposition's absence in the budget session. The stalemate arose because of one extra seat for the opposition in the front row. Of course, the whole nation is critical about what BNP has done on this issue, but the AL would have received much appreciation from the common voters if it had offered one extra seat in the front row. In that case, the BNP would not have a reason to remain absent from the parliament. From the strategic point of view, it would add extra credit to the ruling party since it would have been able to pass the budget in front of the opposition.

Another important issue is that the government has failed to offer any programs intended to build a Digital Bangladesh. Since the internet is one of the most important instruments for building a Digital Bangladesh, we were expecting that there would be some instruction to the internet providers about reduction of the cost of internet. However, we did not find any sort of instruction.

Finally, the government has just spent six months in office, and there are five and half years to go. Its front-line political organisations must be honest in their activities. Only then, will their dream to build a poverty free Digital Bangladesh find its way towards reality.

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