

Seeking more power for JS committees

Clear-cut criteria of functions should be the principle here

THE parliamentary standing committee on the law, justice and parliamentary affairs ministry has put forward a legislative proposal aimed at compelling individuals summoned by it or any other such committee to appear before it. The proposal also stipulates that the committees must be provided with any documents they ask for at any time. On balance, we at this newspaper feel that the proposal has much merit about it. And we feel that way because we think powerful, purposeful and functional parliamentary committees are one of the factors which strengthen the democratic process in a country. That is ensured through such committees stressing the need to study various issues in detail and clarifying the various aspects of a given situation through seeking information from relevant individuals. We have had occasion to observe the workings of parliamentary committees in the West, especially Britain and the United States. The precedents established by these committees abroad could serve as the foundations our parliamentary committees are based on.

On the face of it, the move is a good and well-intentioned one. And since lawmakers are empowered by the rules to make or amend any law they consider to be in the national interest, they are well within their rights to go ahead with the proposal in question. However, there should also be a caveat here. If the parliamentary committees give themselves the authority to summon individuals before them and make sure that those individuals do appear before them, they should take care to see to it that such authority is not misused. In other words, the summons issued by a parliamentary committee must not hang over people's heads as a sword of Damocles. The entire purpose behind summoning individuals and asking for documents must not dwindle into being or be looked upon by people as an exercise in inducing fear among functionaries. The criteria on which the committees will work must be those that are specifically concerned with the public interest and under no circumstances must there be even the slightest hint of individuals' right to privacy being threatened by the summons served by the committees.

Unless there are reassurances on this score, the entire reasoning behind seeking such powers for the parliamentary committees will lose meaning. We believe that before the committees go for such an enhancement of their powers, our lawmakers would do well to study established parliamentary procedures in other countries and share the information gleaned thus with the people. No loopholes must be there that can bring the committees' methods into question. We have seen the recent unhealthy tussle between a parliamentary standing committee and the Anti-Corruption Commission. The lesson coming from that experience is that neither parliament nor democracy is served when individual emotions get the upper hand in the working of a committee. We are not convinced that the conflict we spoke of served the public interest.

There are patent risks to having over-empowered parliamentary committees. They just might end up being Frankensteins that may well intrude into areas where they should not. Such risks must be borne in mind if the work of the standing committees is to be a promising, not to say enlightening, experience for the country.

End of a long wait

Now the trial should deliver justice

WE note with a sense of relief, as most people in the country, we believe, do that after about nine months since the BDR carnage, the government is finally able to hold a trial on it. After a long period of animated suspense, the public are in a position to feel that a headway has been made in responding to the demand for trial and that it should be taken to its logical and purposeful end.

The interregnum between that most heinous crime perpetrated by members of a statutory force on army officers in their command and their near and dear ones, admittedly, was something of a roller-coaster ride for the nation much as the carnage itself was a blot to the nation's conscience. To put things in perspective, the intervening period was marked by long-drawn-out investigations and seeking of opinion from the highest judiciary on whether the trial should be conducted under the Army Act or the BDR Act or the civil law.

The government finally settling for the mutiny part to be tried under the BDR Act and the murder, arson and looting under the civil law, the process of trial has commenced. It is for the first part that the trial is being held now in special courts. As for the killings, arson and looting to be tried under civil law, investigations are still going on.

Now the nation expects that justice will be done to those murdered in the despicable carnage and their aggrieved near and dear ones, and speedily too. Their losses are beyond consolation and redemption, but at least they will know that the perpetrators have been brought to justice. The second point we would like to make and this is an overarching imperative that the trial be held fairly, transparently and impartially, so that it meets the standards of due process of law. Not only the nation but outside world too would be looking at the trial and the manner in which the process is conducted. That much is in stake here.

Of widows, tears and murdered soldiers

These were women whose tears flooded our rooms, our homes, in February as we heard their hearts crack because their husbands' hearts had been forced to a stop by the murderers.

SYED BADRUL AHSEN

HERE are the many spells of sadness we have gone through in this country. There have been the sepulchral silences we have enveloped ourselves in. There are the tears we have shed for those we have lost, through the laws of mortality or the predatory instincts of men. But nothing, absolutely nothing, compares with the vacuity you spot in the eyes of the widows and children of the military officers murdered in such insanity at Peekhkhana earlier this year. A silence, one you cannot quite put into words, has come over Nehreen Ferdousi. She is not the Nehreen you knew only months ago, regaling people with her conversation, making her way to places where she knew people would sing good songs. And, yes, she and her husband, Colonel Mojibul Haq, always made sure that at the end of the day the soul would give of itself to melody, to poetry.

Suddenly, Nehreen is the symbol of huge sadness. And she is more. Through her,

through her quivering lips -- and they quiver as they whisper a "thank you" to you for being there -- you understand once again the futility of existence. There is nothing you can say to her. Her loneliness is vast. It is so thick you could slice through it with a knife and yet not be able to plumb the depths of it. She loved, and loves, her husband. And these days she strives to keep his memory, his legacy and that of his murdered colleagues as it were, alive through the Colonel Mujib Trust. It is a cause she has dedicated herself to. And she has brought with her, indeed has caused to gather around her all those young women, for they are all young and all alone, who have not forgotten the good men their husbands were, who have not forgotten the beastly in all those other men who felt no shame, no sense of sin, as they went hunting those good men to kill on a February day.

And all these women and their children came together on a droopy evening this week to remember their husbands and their fathers. Some of these children, babies really, will not know their fathers --

for their fathers saw their lives end even as they found theirs taking form in their mothers' wombs. There were the other children. In their eyes, there was a strange gleam that comes of a recalling of tragedy.

If you have read of the deaths of the Greek heroes of old and of the pains of the women and families they left behind, you will have a fairly rough idea of the desolation that cast a thick shadow on everyone that evening. The young son of a murdered officer put it all in perspective. It did not really matter, he said in that tone of voice which hovers between anger and grief, if his father's killers were or were not brought to justice. All that he knew, that other children like him knew, was that all the fathers were gone, all the joy of life was gone and there was certainly nothing to look forward to any more. All fathers are the best of friends to their children. It was a truth reinforced once more by that young man. He looked into nowhere in particular. Or maybe he went reconstructing his father's image as he had known it. In the death of his father, he had lost his best friend. Not one eye was in the room that did not fill to the brim with tears.

A sense of the eerie pervaded the room. The dead men were there, in all their mortal spirit and in all the agony of sudden, swift death. You could feel it in your bones. You could recreate their images, the con-

tours of their smiles, the sounds of their laughter, the elegy in their dying eyes, as you looked around and glanced at the women they loved in life. These were women whose tears flooded our rooms, our homes, in February as we heard their hearts crack because their husbands' hearts had been forced to a stop by the murderers.

And then there were the mothers too, a couple of them. Enshad Ibne Amin's mother, in the fullness of dignity, was unwilling to be pitied. She is a writer, a poet. On that darkening evening, that reputation did not matter to her. But that she was a martyr's mother, that indeed she spoke for the mothers of all the other martyrs, did. And in the voice of the brother of a martyr, the brother who enlightened that sad gathering on the principles and purposes of the Colonel Mujib Trust, was a raw wound that nevertheless was reflective of pride in the heroism of the dead.

At a point after the fall of twilight, those mothers and widows and children went back home, sadder than ever. You saw, in the gathering ghostly dark, a world destroyed. You said goodbye to Nehreen. Again those lips quivered, to say "thank you." She was holding back tears.

SYED BADRUL AHSEN is Editor, Current Affairs, The Daily Star. Email: bashantareq@yahoo.co.uk

Commonwealth Summit in Trinidad and Tobago

The Commonwealth is a unique organisation. Its membership includes countries of all continents. Almost one-third of the world's population lives in the Commonwealth countries. Countries of all races and religions are its members, including the richest and the poorest.

HARUN UR RASHID

THE heads of government of 53 member states of the Commonwealth will meet in Port of Spain, capital of Trinidad and Tobago, from November 27 to 29.

Bangladesh joined the Commonwealth in 1973 and since then has always participated actively in all the Summits. Bangladesh has pursued vigorously the interests of the Least-Developed Countries and emphasised the need for the donors to meet the specified target of development aid to the LDCs. It also highlighted the reduction of poverty and hunger in the poorer Commonwealth nations.

Climate change appears to be high on the agenda at the Summit. The leaders are expected to discuss how much financial assistance would be provided to poorer countries at the Copenhagen UN Conference for adaptation and mitigation of adverse effects of climate.

Another subject is likely to be re-starting of the stalled dialogue for the global trade agreement under the Doha Round (it started in Doha in 2001 under the WTO).

Furthermore, one day will be devoted to informal discussions among leaders known as "retreat." It is a one-to-one meeting and leaders may raise any issue. Often, informal talks between leaders in the past

had led to resolution of many prickly bilateral or regional issues.

Commonwealth member-states with diverse social, political, and economic backgrounds co-operate within a framework of common values and goals.

The goals include the promotion of democracy, human rights, good governance, the rule of law, individual liberty, social justice, fair trade, multilateralism, regional and global peace.

Its mandate is to strengthen civil society and gender equality, and the priorities include poverty reduction, sustainable people-centred development, and promotion of arts and culture.

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Within the Commonwealth, there are the Commonwealth Foundation, Commonwealth Games, Commonwealth Business Council and Commonwealth Fund for Technical Cooperation. They all are based on cooperation characterised by Commonwealth values.

Two Commonwealth Declarations are important -- one is the Harare Declaration of 1991 on democracy and the other is the

Edinburgh Declaration of 1997 regarding trade and economic cooperation. The Harare Declaration affirmed that the Commonwealth countries must abide by democratic pluralism and free media.

Whenever any country strays from these ideals, it is either suspended or expelled. Zimbabwe pre-empted its expulsion by withdrawing from it in 2003 because of its undemocratic practices. Pakistan was twice suspended (1999 and 2007) for its military rule.

The conference meets every two years in capitals of member-states. Normally, the heads of states/governments meet to discuss global and regional issues affecting them. Bilateral issues are also discussed on the sidelines.

In recent years, the Commonwealth has carved out a role in reducing political tension within member-states and dispatches special envoys to iron out differences among political leaders. The Commonwealth also monitors parliamentary elections within the member-countries to ensure that elections are free, fair and credible. A statement from the monitors of the Commonwealth often determines the legitimacy of the outcome of elections.

Critics say that the Commonwealth has nothing in common nor has wealth. It is a relic of the British Empire. It can bark but not bite. It is a toothless tiger.

Another fact is that the facilities of nationals of the Commonwealth have gradually diminished in Britain, a member of the European Union. A national of Spain will enjoy much more facilities and privileges (such as visa-free entry and right to work) than a national of a Commonwealth member in Britain enjoys.

The world is much more complicated than before and the pattern of alliance has

changed. Many Commonwealth members look increasingly to regional or distant partners, not necessarily a Commonwealth member-state, to form their most important alliances.

The Commonwealth needs modernisation and incorporation of innovative ideas to be more dynamic. A committee may be constituted by the leaders of the Commonwealth to review the goals of the organisation and suggest recommendations for revitalising the institution in the light of the needs of the 21st century.

Many suggest that a program of Commonwealth peace volunteers be introduced, offering services to Commonwealth countries. The interaction between young people will enrich the vigour and strength of the organisation.

The organisation needs adequate resources, and many well-wishers suggest that the Commonwealth leaders may seriously consider asking for donations from philanthropists such as Bill Gates or Ted Turner. (Ted Turner donated money for the UN)

Despite its difficulties, the Commonwealth could be a valued organisation if its member states make it so. It is an organisation with "a heart of gold but limbs of clay" as some journalist put it years ago.

The Commonwealth is a valued piece of political architecture because of its diversity and its ideals. Let me end by quoting Prince Charles, the future head of the Commonwealth, who said: "The Commonwealth is a wonderful resource that embodies a particular kind of decency and humanity."

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

The judiciary and extra-judicial indiscretion

In a scenario where the police have been unsuccessfully struggling to transform themselves and the political class of the country is apathetic towards the need to revamp the police, the concern of the judiciary to keep the law-enforcers on the democratic track is gratifying.

MUHAMMAD NURUL HUDA

IT is indeed heartening to note that the highest court in Bangladesh has directed the concerned executive organs to explain the reported continuance of extra-judicial killings. In a scenario where the police have been unsuccessfully struggling to transform themselves and the political class of the country is apathetic towards the need to revamp the police, the concern of the judiciary to keep the law-enforcers on the democratic track is gratifying.

A people whose consciousness of rights is poor, a land where legal services at the incipient stages are rare, and an investigative organ whose frequent resort to third-degree methods have firm roots -- these and a host of other realistic factors must come into the court's knowledge when ensuring the constitutional rights of the accused.

There are improved methods and refined processes in expert investigation, and use of brains as against brawn. This improvement has not, unfortunately, been consistent and torture tactics have regrettably been revealed. Therefore, the

court needs to be guided by principled pragmatism.

The apex court in Bangladesh through a number of observations and directions containing guidelines, has exhibited its dismay over the torture by law-enforcers and custodial deaths. It is, therefore, time to emphasise that exaggerated adherence to and insistence upon establishment of proof beyond reasonable doubt by the prosecution, ignoring ground realities, would actually amount to miscarriage of justice.

The administrative and enforcement inertia, leading to flagrant infringement of fundamental rights, can be corrected by the apex court by invoking the right to monetary compensation. The appropriate cases would be those where the infringement is patent and incontrovertible, the violation is gross and ex-facie glaring, and of shocking magnitude.

The assertive and often aggressive approach of the apex court in matters of physical excesses committed by enforcement personnel would strengthen the faith of common people in law enforcement and the rule of law. In fact, the Supreme Court, in our situation, should intervene heavily

with its activism. In reality, the manner of functioning of the police and the role of the Supreme Court vis-à-vis an individual's constitutional rights sharply interact with one another.

Demanding high standards of professionalism, the Supreme Court needs to ask the police to promote public confidence in it and expect the organisation to act as defenders of truth.

In recent times, when the awareness among the people about their democratic rights is growing and the philosophy of human rights has pervaded almost all spheres of democratic activities, the pattern of police functioning has acquired an added importance. The democratic and human rights of the people invariably interact with the process of criminal administration of justice with which the country's police is directly involved.

In progressive stages of any democracy and in the area of omnipresence of human rights, the traditional concept of police as a mere law-enforcing agency or a coercive instrument of the government is rendered obsolete. The entire focus of the role of the police shifts, and police needs to project itself not as a servant of those in power but as a guardian of citizens' values and as a monitor of democratic order.

In a democratic society, the police force has to confront a variety of situations even while functioning in the traditional area of crime prevention, investigation and detection. The offences which originate from social tensions call for a humane approach and selective treatment by the police. Family violence, sexual offences, offences

by and against the women and children, or the crimes traceable to factors like poverty and unemployment are not crimes, but are social ills and aberrations, which the police have to control. The police in a democracy have also to deal with class violence, clashes resulting from religious fanaticism and political violence, especially during the time of elections.

A developing democracy like ours has been experiencing the menace of violence by terrorist and insurgent groups or militant forces that operate with advanced techniques of warfare and latest weapons. Countering their activities often becomes an acid test for the country's police force on account of want of infrastructural facilities and training. Working on these several fronts, at times, call for the police to arrange priorities.

Law-enforcers are expected to observe great restraint, as excess on their part can result in direct violation of a citizen's fundamental and democratic rights. In modern democratic times, in fact, there is hardly any activity left where the police is not to be posted on duty. Be it a cricket stadium or cinema theatre, the presence of policemen becomes relevant. That is precisely why the police force has become an integral part and an intrinsic need in a socio-politico-democratic process.

While the role of the Supreme Court in the area of police torture and indiscretion, and of positive action through selective activism, is encouraging, much of the improvement has to come from within the police force only.

Muhammad Nurul Huda is a columnist for The Daily Star.