

## Process of war crimes trial set in motion

*Let it be a means of vindication not vengeance*

WITH the announcement of the tribunal, investigation agency and the prosecution team, the process of the trial of those involved in committing crimes against humanity during the War of Liberation has been set in motion. Through this the government has completed the initial steps to fulfil its pledge to bring to justice the war criminals of 1971.

The people of Bangladesh in 1971 were the victims of one of the worst genocides, and other forms of war crimes in history. And it is a travesty that the perpetrators, for some reason or the other, have eluded justice till now. We feel that more than the fulfilment of AL's electoral pledge, the initiation of the judicial process has met the wish of all Bangalees to see that the criminals are brought to book.

But while the process of justice will move in its own definite way let not the spirit behind the idea of bringing to trial the war criminals be lost on us. The underlying motive for the trial we feel is not to exact vengeance but to establish a moral position that the rule of law must always prevail and that justice must be done for crimes against humanity.

The trial we are certain will also help to establish and assert the universal truth once again that crime never pays, that killing of innocent women, children and men, and crimes like rape and arson will not go unpunished, and that the guilty will have to face the law and answer for their actions, eventually. But most importantly, putting the offenders on trial will help vindicate the War of Liberation and the sacrifices of the martyrs and of our mothers and sisters and the valiant freedom fighters. And, in as much as the process will be under the watch of the international community as well as the people of Bangladesh, it will help to expose to all the sheer magnitude of one of the world's worst massacres and the gruesome wickedness with which the killings and the other crimes were committed against the people of Bangladesh, something that not many outside the country are aware of.

We want to underscore that the process must not only be transparent it must also live up to the highest standards of judicial process. All those that are involved in the process should bear in mind that any deficiency in the conduct or lacuna in the process may call into question the trial itself. Let not the dignity of the Liberation War and the sacrifice of the martyrs be mired by any shortcoming in the process of the trial. Towards this end we urge upon the government to spare no efforts.

## Alternative dispute resolution

*Bid to recover large amount of money from loan defaulters*

PARLIAMENT has passed the alternative dispute resolution (ADR) bill to introduce a system to resolve many cases out of court. Under the system, the court will ask both parties to settle disputes through ADR within 60 days after the order has been issued. However, the court may extend the time by another 30 days, if both parties request. It is expected that the system would help recover thousands of crores of taka now stuck in lengthy court process since 1989.

According to information provided by the parliamentary standing committee on the law ministry, a total of 37,496 cases worth Tk. 25,254 crore are pending with the Artha Rin Adalat. The parliamentary standing committee's report said a total of 104,832 cases were filed with the money loan court between 1989 and 2009, while the amount claimed by different banks was Tk 29,454 crore. But it is not so encouraging to learn that so far, 67,336 cases have been settled but the amount of money recovered was only Tk 4,200 crore.

We understand that the recommendations for ADR came following careful inspection of the money loan court amendment bill placed in parliament on February 24 last year, which got a quick nod from the Ministry of Law, Justice and Parliamentary Affairs. It has been passed by Parliament on 23 March this year. But it remains to be said that passing a bill is not enough, that again to recover money, because it has to do with the culture of defaulting loans in this country. It would therefore require proper enforcement of law and a transparent mechanism to make the recovery process effective and at the same time unquestionable.

The amount of unrecovered money as given in the report in this daily is undoubtedly staggering. The money belongs to the public, therefore, it should be recovered as soon as possible so that it can be used to undertake public welfare projects. Banks should also introduce revised rules and regulations to discourage loan default culture among the future borrowers.

## Our appointment with history

We have several problems -- energy, environment, transportation, water management, food security, diversification of trade, providing universal education and healthcare. The resolution of these hindrances will require national priority and can only be achieved through the entire nation coming together, as we did during our War of Liberation.

MUHAMMAD ZAMIR

NEXT year we shall celebrate the 40th anniversary of our independence. Like many others I am hoping that this commemoration will be undertaken through the expression of our commitment towards our Bangalee ethos and the values and principles that they represent. We also hope that by then, Bangladesh would have taken the necessary steps that could earn for itself the distinction of being known as a country which symbolises innovation, sustainability and connectivity.

The creation of the above paradigm will, however, be practically difficult to achieve without balance and harmony. We may have a fascinating culture, but we will not be able to project ourselves as a country with much to offer unless we can show that we are willing to cross the boundaries of our mind-set with the help of inspiration.

I am referring to these elements because March always symbolises for me sacrifice, selfless dedication, unity and courage when faced with adversity.

On historic March 7, 1971, Bangabandhu Sheikh Mujibur Rahman initiated the long and arduous freedom struggle against tyranny and oppression. His decision later found full expression on the night of March 25 through the declaration of independence. Bangabandhu conveyed this to the entire Bangalee nation through the wireless of then East Pakistan Rifles and also through telegram and teleprinter. He did this to re-affirm the sovereign rights of the people and to enable them to take up the armed struggle that was necessary to gain our independence. The genocide and tribulations that followed helped to foster within us the determination and patriotism that was necessary to achieve our desired goal.

It is this spirit that encourages me today to refer to some of the unfortunate comments made recently by a few members of Parliament and the unruly scenes that took

place on the floor of the Jatiyo Sangshad. It reminded me of what had occurred in the then East Pakistan Provincial Assembly more than 50 years ago. Democracy was taken for a ride on that occasion.

Fortunately, this time round, our distinguished speaker of the Parliament, through late, had the good sense to remind our members of Parliament of the need for decorum and the necessity to conform to the principles of parliamentary dignity. He also urged with all the dry humour at his command that if it was "wrestling" that they wanted, such activity should take place outside the floor of the House, either in the adjacent fields or in the open arena of the Purana Paltan maidan.

It was important that the speaker pointed out that a debate should not degenerate into a "mudslinging" match and that the norms related to the "rules of engagement" needed to be adhered to. He has done this in his capacity as the protector of democracy. One hopes that he will exercise his authority in the future with greater resolve.

The prime minister has been a symbol of tolerance and patience despite many personal tragedies. She has, through practice, shown her belief in the rule of law and its due process without taking advantage of her position. One wishes that other members of the Parliament also complement her efforts in this direction. This will consolidate democracy rather than erode its foundation. Parliamentary privilege dictates that it will not be misused through free and uninhibited use of obscene language and objectionable gestures.

One needs to understand why I am stressing these factors. We have to conform to international expectations that have been evoked through our transition from a non-elected caretaker format of governance to a democratically elected government.

In our own way, we are trying to create trust and credibility within the democratic



A freedom fighter during the War of Liberation with the entire nation behind him.

process through some degree of transparency and accountability. This has been reflected in the resumption of the prime minister's question hour in the Jatiyo Sangshad. Measures have also been taken to make the parliamentary Standing Committees more effective as instruments of parliamentary oversight. We have also seen the resumption of participation of the opposition MPs within the House. These have been good steps. Let us not sully our efforts towards liberal democracy needlessly.

We have several issues ahead of us that need to be addressed with full attention. The two foremost among them are the war crimes trial and the completion of the judicial process pertaining to the adjudication initiated over the BDR mutiny. Both of them will keep our legal infrastructure preoccupied --- because justice need not only be meted out but should also be seen to be done. There will be efforts to undermine this process by different elements in various ways. We, however, have to stand firm in our belief that these trials will be completed.

I also consider the coming year to be important in the context of our focus towards achieving a poverty and corruption-free digitalised Bangladesh.

We have several problems -- energy, environment, transportation, water management, food security, diversification of trade, providing universal education (with emphasis on technology) and healthcare. All these have juxtaposed together to

restrict our progress towards achieving middle income status.

I have written about this separately and am now taking this opportunity to reiterate once again the need for national consensus in this regard. The resolution of these hindrances will require national priority and can only be achieved through the entire nation coming together, as we did during our War of Liberation.

The world is moving forward at its own pace. Each country has defined within its dynamics its own agenda. They are, in their own way, trying to inter-actively engage with the on going process of globalisation. They are adopting measures to ensure, within this competitive global stage, sufficient interest from the international community in their countries. In this context, they are using every opportunity to highlight facts which will show that they are implementing good governance and safeguarding investment through a functional non-politicised regulatory regime. They are attempting the branding of their potential so that others will be interested to participate in their future.

Bangladesh also has no other alternative. It has to take a similar course of action. I only hope that we can honour the legacy of our martyrs by acting more responsibly towards ourselves as well as towards the different national institutions. This will be possible through greater inclusiveness.

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## Emerging facets of Thai polity

The present round of protests has been organised and spearheaded by the "Red Shirts," who are Thailand's rural poor and have benefited from Thaksin's populist policies. They are pitted against the "Yellow Shirts," who are urbane and have elitist support. The latter accuse deposed Thaksin of corruption and irreverence to Thai traditions.

MUHAMMAD NURUL HUDA

OUR not-very-distant neighbour Thailand is once again passing through politically exciting times. The streets of Bangkok are witnessing significant movements of thousands of charged up people who, being ardent supporters of the deposed premier, are demanding the stepping down of the present premier and also the dissolution of the House. Such angry protestations have surprised many who are used to a projection of the Thais as being very placid and polite people.

The question is, are the roots of discontent in an apparently silky environment surfacing? Are the demonstrations pointing to the suspected class divide and the concomitant bitterness in a society where protest and defiance of authority was quite uncommon and certainly not socially appreciated?

It may, therefore, be interesting to try to understand why a country having a comparatively stable economy and constitutional mechanisms in place has not succeeded in stopping angry and intimidating protestations of large segments of the population.

The current protests surfaced two weeks after Thailand's apex court confiscated deposed premier Thaksin's assets worth \$1.4 billion. Thaksin was toppled in a 2006 coup. Prior to that he was accused of hiding most of his fortune as part of a dishonest scheme to conceal conflicts of interest, which were outlawed under the constitution. The National Counter-Corruption Commission (NCCC) duly conducted its investigation and passed an 8 -1 judgment against him.

Interestingly, the limitations of the NCCC's effectiveness became increasingly evident after the Constitutional Court failed to uphold the Commission's findings in 2001. The incident was of great national importance as it involved an investigation of claims that Thaksin Shinawatra, before becoming prime minister, had concealed most of his fortune as part of a dishonest

scheme to conceal conflicts of interest, which were outlawed under the constitution. It was found that his assets had been registered in the names of his housekeeper, chauffeur, driver, security guard, and business colleagues.

To recollect, the overwhelming win by Prime Minister Thaksin in the January 2005 election, in which he took 370 of the 500 seats in parliament, was equally unsatisfactory. It led to concerns over the further erosion of democracy. It was claimed that Thailand was on the path to turning into a one-party state. The collapse of support for the opposition Democratic Party was greatly assisted by Thaksin's control over a substantial section of the media and by blatant vote buying. It was estimated that some 10 billion baht (\$260 million) was spent in bribes to voters during the campaign.

Delving further back into Thai history, one would find that a number of diverse groupings, ranging from monk intellectuals to the Democrat Party in parliament, recognised that Thailand needed to strengthen its internal institutions if it was going to survive and prosper. A radically improved constitution offered a new way forward. The constitutional plan contained measures designed to guarantee democracy and human rights, exclude military influence in the political process, and eliminate corruption in public life. As one commentator put it: "The 1997 constitution represents a revolution in Thai politics. It was a bold attempt at conferring greater power to the Thai people than had ever been granted before."

It is interesting to observe that although Thailand remains a constitutional monarchy, with the king as head of state at the apogee of power (mainly symbolically but also with limited capacity to intervene in certain circumstances), the new constitution modified the electoral system, changed the composition of both houses of parliament, and reformed the structure of the courts. As well as recasting the shape of the main institutions, a prime objective was to provide a basis for stable government, tackle



Protesters parading Thai thoroughfares.

corruption, and protect basic human rights effectively.

It is pertinent to note that in Thailand patron-client relations come to embody a deeply ingrained set of complementary values. In part, these values establish a strong sense of social order in which every individual is ranked according to wealth, power, birth, and status. Each person is expected not only to know his/her place in the hierarchy, but also to adjust his/her behaviour accordingly.

In Thai consciousness, the king is at the very pinnacle of society (also at the peak of the constitution), and he has sometimes used his unquestioned authority to intervene on the political stage in times of crises or controversy with immediate impact. In an important sense, the stability of society relies on further questioning the authority of those further up the hierarchy. Once in a post, rather than insisting on performing statutory obligations to investigate and prosecute ministers and officials, the person in question might be naturally inclined to defer to superior authority, deriving from the patronage of the government or prime minister.

It is relevant to note that the failure to act decisively and punish the PM for manifest breach of the rules severely undermined the credibility of the constitutional watchdog and, therefore, of the constitution itself.

The 1997 Thai constitution, with its multiple watchdog bodies, has not been able to eliminate ubiquitous corruption and, as such, the abuse of power by the prime minis-

ter, ministers, politicians, and officials continued, and basic human rights were breached.

The constitution, which was set in place, resulted from a process of popular consultation and has many positive features. The administrative courts and the ombudsman scheme have established an independent and robust system of administrative remedies. However, it was a serious mistake to assume that a politically neutral senate without any party allegiances could be created, which could operate beyond normal politics. A great deal was constructed on what proved to be a very shaky foundation.

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Discerning observers are of the considered view that cleaning Thai politics is a daunting task because the constitutional mechanisms have not desirably succeeded in addressing the real basis for money politics in Thailand. Party groupings have tended to coalesce around powerful individuals. The democratic process, in such circumstances, has little to offer while optimists may have to wait for political parties with genuine commitment to structural reform.

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