

Cop atrocity on cab drivers

Is requisition of public vehicles supported by law?

THE police action on some of the taxicab drivers in Farmgate area on Thursday following requisitioning of their vehicles deserves to be condemned in the strongest of words. On the day, some policemen stopped taxicabs randomly on the road to requisition them, and beat the cab drivers when they resisted the move. What is most appalling is that the police personnel almost denuded one cab driver during the scuffle that followed. Eight drivers were arrested and sent to Tejgaon Police Station and the very act infuriated other cab drivers, who grew in number, and staged a demonstration before the police station on Friday for their release. Here again policemen used batons to disperse them when the cab drivers raised their voice against such 'illegal and whimsical' requisition, which caused them financial loss and harassment.

Requisition of vehicles is an executive power that is used during emergency periods only, for instance, in times of war or civil disorder. In no civilised country, during peace time, police or any law-enforcing agency seizes vehicles on the roads in the name of requisition for official use, without giving any prior notice or proper explanation, as it is not permitted by law. Therefore, we wonder, under what authority or law Tejgaon police stopped taxicabs on Thursday and took them to the police station by force. They did not care to think that cab drivers suffer financial loss when their vehicles are requisitioned as the owners of the vehicles demand the day's rent from them no matter what.

We feel the whole practice and policy of requisition of vehicles by the police or any other government agency needs to be reviewed and formed anew keeping in mind the suffering and financial loss of the drivers and owners. If necessity forces the police to use public vehicles then civility demands that the owners must be paid compensation as deemed acceptable by them. In case of an emergency assignment, police force may always ask for vehicles from the government pool and /or can hire them on payment from a rent-a-car office. But, under no circumstances, must they go about the roads stopping cars or taxicabs and forcing the drivers out and towing them to police stations, all in the name of official use. It has to stop right away.

Government's plans for free education

Good thought, but don't ignore the practicalities

THE government is planning to make education free for all, right from primary school and all the way up to the university. There is little doubt that the move is a good one and will resonate with public expectations. We appreciate the thought behind the policy which, we understand, is yet in the process of being shaped. However, we also feel that there are some practicalities which must be considered before such a policy is put in place. From such a perspective, we need to raise the question of why the necessity for free education must arise at all, especially at the public university level. More to the point, there should be a fundamental delineation of the education process that will enable the country to produce not only scholars but also experts and technical hands at the practical level of society. In today's world, where practicalities are as much significant as idealism, it is important that besides promoting university education steps also are taken for the provision of well-defined technical education to those who may not be drawn to higher education.

Which brings us to the question of free education once again. We believe that university education ought to be based on a system of fees because of the scholarly nature of education provided by the universities. However, it is in the areas of technical education --- and we include here all areas of vocational education such as IT, paramedical training, nursing, et cetera --- that fees can be dispensed with as an encouragement to those interested in acquiring such education. But let no one misunderstand the point here. By emphasizing technical education we are not in any way undermining those who go for it. Indeed, we note the trend in advanced societies, where technical or vocational education is as much a priority as higher scholastic education at the universities. Let education be made free from the primary level up to the intermediate level. Beyond that, let university education be acquired through a payment of fees. But where technical education is concerned, let that be made absolutely cost-free on the part of students for the particular reason that the nation is in dire need of skilled individuals.

We must also point out here that education, as broad policy, must take into account the crucial factor of quality. Anyone who has closely observed the education scene in the past many years will understand that quality is of the essence in such vital areas as teachers' training, provision of classroom materials, well-stocked libraries, et cetera. Education that is not complemented by quality in the end amounts to pointlessness, if not actual disaster. That is one powerful reason why, as it mulls free education for all, the government must get its priorities straight in the sector. It is the long-term approach that matters. Populism in education can only lead to newer complexities.

Who is the *malik* of upazilla?

The recent tug-of-war between the MP, UNO and chairman has disrupted the relations among them, resulting in unprofessional conduct. What is this squabble about? Is it for empowerment of local government in any way?

ERSHADUL ALAM

THE question of ownership of upazilla was raised by an agitated upazilla chairman in a wrangle with the UNO of an upazilla. It seems that all the three heads -- MP, UNO and chairman -- of the upazilla are very concerned about ownership of the upazilla.

The sense of ownership of something is positive when there is a sense of responsibility. But the latter, in this case, is missing; rather the sense of possession is omnipresent so far exercising of powers is concerned. The term possession is linked to authority while the ownership is linked to responsibility. However, this is all about tangible property. But the upazilla is an institution for empowering people and strengthening democracy.

The recent row over powers or hierarchy in the upazilla will weaken this institution. If this conflict of interest is not ended, the whole institution of local government could collapse. Establishing representation in every level of the country is the basis of democracy. It is not a one-day match held once in every five years.

The issue of empowering local government is one of those ill-fated political agenda/promises always made before election and treated with disregard afterwards.

The framers of the constitution had given a shape to the concept of local government in Bangladesh.

The US has two levels of government above the local level; the governments of the fifty states and the federal national government. India also has two types of local government bodies. The division of local government based on geographical location is also practiced in some countries, especially in Asia. India and Bangladesh both have local government for their rural and urban areas. All the countries realise the importance of empowering the grassroots and ensuring true and effective representation of the people -- the basis of democracy.

Our Constitution, in Part II (Fundamental Principles of State Policy), vowed to encourage local government institutions composed of representatives of the areas concerned (Article 9). The provision of this Article is directive in nature. Following Article 9 of the Constitution, it includes some specific provisions on local government institution in Part IV, Chapter 3.

Article 59 (1) of this Chapter states that a local government would be formed in every administrative unit of the country, which shall be entrusted to bodies composed of

persons elected in accordance with law. This Article actually refers to Article 9 of the Constitution. Being a local government the Upazilla Parishad shall be entrusted to bodies, composed of persons elected in accordance with law.

Formation of local government by the elected representatives in every administrative unit of the county is the spirit of the constitution. Any deviation from it is the violation of this spirit. To promote that spirit, the constitution has wider scope for further enactment of laws not in contravention with the spirit of the constitution.

But the recent tug-of-war between the MP, UNO and chairman has disrupted the relations among them, resulting in unprofessional conduct. What is this squabble about? Is it for empowerment of local government in any way?

To be frank, the row is all about powers and benefits, not about the functions and responsibilities. How much power and amenities they will be entitled to is the question. It is quite a shock to see that no one is concerned about empowerment of this institution within the framework of the constitution.

The constitution lists three types of functions to be performed by the elected people of the concerned area. They are: (i) administration and the work of public officers; (ii) maintenance of public order and (iii) preparation and implementation of plans relating to public services and economic development of the parishad.

UNOs, chairmen, MPs in the local area are vocal about Article 60, which deals with the powers of the local government bodies. The provisions of Article 60 are not limited to any particular scope. The law can confer powers to the local government on any matter, including imposing of taxes for local purposes, preparing the budget and maintaining funds.

Local governments formed in British India were delegated to dispense justice and ensure social order. After the British rule, Zilla Parishad was operative during the Pakistani regime. After independence from Pakistan Upazilla Parishad was introduced during the Ershad regime, but was subsequently abolished in 1991 without considering its necessity and the repercussion on the people.

A positive initiative was taken by the last caretaker government to transfer the authority of holding upazilla election from the local government ministry to the Election Commission (EC). Following the amendment, an election was held under the EC.



Local development is the upzilla's domain.

Though this was one step towards achieving empowerment of local government, the holding of election under the EC is not the only method for keeping this institution out of the grip of the central government.

In fact, the allotment of Tk.15 crore to each MP and implementation of some projects by the UNO are schemes for empowering the central government. The provision of mandatory advisory role of the MP is another step to weaken the local government.

Empowerment to issue cheques and investing of some powers of the upazilla magistrate in the UNO will make the chairman inoperative in the upazilla.

Participation of the chairman in those activities is necessary as he, being a resident of the locality, is aware of the kind of development projects needed for the area within his jurisdiction. The chairman can also play an active role in establishing rule of law in his area. Curtailing the powers of the upazilla chairmen and empowering MPs and UNOs will not create local leaders; rather it will create a local base for strengthening central authority.

It is argued that the upazilla chairmen are not educated enough to administer as

desired and required of them. The same argument can be applied even to some MPs as well. The reformation in the political parties is linked to this fact. Until the political parties inspire, motivate and empower educated people in the parties, this crisis will continue.

More capacity building, adequate staffing and logistic support are required for local governments. Minimising bureaucratic process and boosting active coordination amongst MPs, chairmen and UNOs are needed to make the local government effective and meaningful for democracy and for the people at large.

The objective of the constitution is governing of the local areas by the local representatives, which was also observed in the case of Kudrat-E-Elahi Panir Vs. Bangladesh in the following terms: "It is meant for management of local affairs by locally elected persons. If government officers or their henchmen are brought to run the local bodies, there is no sense in retaining them as Local Government Bodies."

The sooner we understand the truth, the better we will practice democracy.

Ershadul Alam is an advocate and researcher.

Democracy means casteless society

The government does not seem to understand the repercussions of turning the country parochial. This was the British way, which followed the policy of divide and rule. The society has to be integrated, however strong the forces to stratify it may be.

KULDIP NAYAR

ALMOST the first task that Prime Minister Jawaharlal Nehru undertook after winning independence was to abolish caste. All government records, registers and application forms deleted the column of caste. A colonial practice was renounced and the pre-independence promise redeemed. It had taken the nation some 88 years to rub off the ignoble stigma of discrimination.

Little did freedom fighters suspect that the parliament of a sovereign Indian Republic would bring back the relic of British rule within 62 years of freedom. Ironically, the same Congress party, which was instrumental in throwing out the British, announced this week that the next census in 2011 would have the column to record caste. Indeed, the enumerators would ask who belonged to which zaat (caste).

The Manmohan Singh government was reluctant to introduce such a step because some cabinet members argued that caste was against the ethos of the freedom movement. But none of them seemed to have the conviction or commitment to a casteless society, a pre-requisite of a sound democratic system.

Political parties in the opposition had their way because the government, after putting up a brave front, caved in. True, the ruling Congress does not have a majority in the Lok Sabha. But it could have mustered a majority if it had stood firm on principles. It did not have to placate the leaders of the Other Backward Classes (OBC) for the sake of staying in office.

The government does not seem to understand the repercussions of turning the country parochial. This was the British way, which followed the policy of divide and rule. The society has to be integrated, however strong the forces to stratify it may be.

The government should have at least held consultations with the National Integration Council, which is meant to discuss such problems. Caste is something that will affect the nation on the whole. A parliament that does not represent more than 50 percent of the electorate cannot push the country back to the dark ages.

The electoral politics has blinded the three Yadav leaders -- Sharad Yadav of the Janata Dal's splinter group and the two former chief ministers, Mulayam Singh Yadav from UP and Lalu Prasad Yadav from Bihar. They have betrayed their mentors, socialist Dr. Ram Manohar Lohia and Gandhite Jayaprakash Narayan, who propagated a casteless society. But for the latter's successful movement after the emergency the two would not have made the chief ministership.

Yadav leaders have argued that their flock, the OBC, would be entitled to more reservations in employment and educational institutions after the census, which they expect will show their caste followers in larger proportion. They already enjoy a quota of 27 percent, 4 percent more than the Scheduled Castes and Tribes, which are the only ones to have got reservations through the constitution.

The Supreme Court has limited reservations to 50 percent. If OBC leaders want more, they have to appeal to the Supreme

Court. The census will not give them more reservations. Nor can parliament. The forum is the Supreme Court, which, in its judgment, thought that at least the 50 percent of jobs or admission to education institutions had to be on merit.

Where is the guarantee that the census would quantify the numbers accurately? There are risks of fudging. An enumerator goes to an ordinary person and asks him about his caste. The latter can say anything in reply. There is no authority or guidelines with the enumerator to check whether the answer given is correct. His job is merely to write what is told to him.

Traditions and customs have moulded India and the rest of the subcontinent in such a way that the caste system has also affected Muslims, Sikhs and Christians. Islam preaches equality, and this is the reason given by Hindus why caste barriers should not be recognised among Muslims for reservations. A Karachi labour leader, who met me at Delhi a few days ago, told me that even workers in Pakistan have come to be divided on the basis of caste.

In India, the Muslims belonging to OBC, for example carpenters, weavers and iron-smiths have been enjoying reservation like their Hindu counterparts. There is a demand for accommodating the Muslim dalits in the quota given to the Scheduled Castes. The Sachar Committee on the plight of Muslims too has recognised that there were dalits in the Muslim community.

My knowledge of law, however limited, tells me that the column of caste in the form that enumerators would fill violates the basic structure of the Constitution. The preamble says that the people resolve to constitute India into a "sovereign socialist democratic republic."

In the Keshvanand Bharti case, the Supreme Court said that objectives in the preamble contain the basic structure of the Constitution, which cannot be amended by the power that parliament exercises after the Constitution (Article 368).

Caste is an antithesis of democracy or socialist ideology. Any action to reintroduce caste identities, which the census will seek to do, is unconstitutional. Still, if the government wants to go ahead with caste categorisation, it should refer the matter to the Supreme Court for advice. Since, ultimately, the matter will be decided by the Supreme Court, why not go over the exercise now?

The BJP's agreement to caste identification is surprising. The party is all the time crying hoarse about the country's emotional unity. Its support for something divisive is because of electoral considerations. It wants to be seen with the Yadav leaders, who are trying to project the census of caste a step towards progress. The BJP, like other political parties, know that elections are increasingly contested on an appeal to sub-castes, not the caste alone.

Poverty is not confined to the OBC. In a country where 40 percent of the people earn less than a dollar, the concerted effort of political parties should be on how to extract people from the deplorable economic condition in which they are stuck. It is time to change the basis of reservations from caste to poverty. The criterion should neither be caste nor creed but how much a person earns.

Whatever the benefits of reservations, they have been primarily cornered by leaders belonging to the creamy layers of OBC and the Scheduled Castes and Tribes. The Supreme Court has said more than once that the creamy layer should be defined so that the benefits go to the next generation.

But the leaders of these communities, particularly the Yadavs, refused to do so because they want to appropriate the gains. How to end their monopoly is the real problem, not the census of caste. They have to be curbed if India has to remain a casteless society.

Kuldip Nayar is an eminent Indian columnist.