

## Contempt of court and free press

*The verdict's full repercussion should be thoroughly analysed*

WHEN a six-member appellate bench of the highest court headed by the chief justice delivers a verdict in a contempt of court case it is a serious matter. More so, when conviction has been handed to individuals involved with a newspaper, one being the editor.

A verdict coming from such an exalted level of judiciary is almost a law unto itself. Although certain individuals have been punished, penalised and criticised, it's the implications that the verdict holds for the institution of the press that have to be analysed. The cardinal principle of free press rests on two co-related fundamentals: first, it is a medium through which people's inalienable rights to freedom of expression and freedom of information find fulfilment; and second, such rights would be best guaranteed from exposing abuse of authority and power by any institution and its opaque exploitation by the power that be. At the same time, independence and integrity of the judiciary are also an important guarantor of the people's inalienable rights grouped as fundamental rights together with a stout defence of fair-play and justice in a society.

In a constitutional democracy and modern society that have evolved through a process of trial and error there shouldn't be any room for conflict between the sanctity and dignity of an independent judiciary and unfettered but responsible press. In fact, one cannot exist and function effectively without the other; they are, for all practical purposes, mutually reinforcing institutions with so much to share and draw upon each other. If judiciary is the fountainhead of justice, free press is the vehicle of freedom of expression of all citizens and as such an essential pillar of democracy.

A fine balance need to be struck between the sanctity of the judiciary exalted in its own right, and a flourishing free press upholding the people's right to free expression and information. True, the judiciary is more organised with its statutes and constitutional covenants but independent press has its moorings in journalistic ethics which if flouted will not only draw scrutiny from authorised body but also public criticism.

The big challenge, therefore, is to realise and internalise the fact that not only the two must coexist in an ambience of mutual respect but also draw on each other to flourish and serve the ends of public good and good governance.

In the light of what we have stated above, the question does arise as to whether punishing editors and journalists under contempt law protects and enhances the dignity of the judiciary. We feel that the verdict pronounced on Thursday does not serve that purpose. What we need now is a wise leadership of the Supreme judiciary towards strengthening all institutions that bring more freedom to individuals and accountability of all institutions, including the judiciary.

## BSTI reform issue

*A new approach is need of the time*

ONE of the major non-tariff barriers facing Bangladesh's export to India centres on BSTI's product testing and certification which the latter has questions about. Actually, US\$ 1 billion credit offered by India to Bangladesh does contain a provision for upgrading the BSTI facility. The central focus of the Indian loan being on infrastructure building and connectivity, the issue of modernising product testing and standardisation procedures calls for a specific, focused approach. Basically, for the good of our own consumer market and to meet international standards we have to do whatever we must in order to strengthen and re-equip the fragile Bangladesh Standards and Testing Institution (BSTI).

Our immediate concern is, of course, a rapid reduction in the trade imbalance with India. But even as a national standards body we should by now have had a fully-fledged and reputable testing and standards institution. After all, we have been no small an export performer in the world trade stage.

Over the decades since independence, there have been on-again, off-again efforts by the government to overcome the known shortcomings of BSTI. The level of government funding supplemented by development partners and International Trade Centre notwithstanding, the BSTI has yet to reach the level of competence required in a furiously competitive business world. Even local business shows lack of confidence in the institution.

In this context, we endorse an idea elaborated by a Business Star columnist lately. He advocates Public-Private-Partnership (PPP) in what he regards the underpinnings of product testing and certification as a 'revenue generator'. PPP could be forged with BSTI with all the technical and financial resources at the private sector's disposal with the diaspora participating in the act of providing world class testing and certification facility in the country.

## Eradicating militancy

Of prime importance is an inclusive policy agenda where the stake of the deprived classes is institutionalised and thus does not wait for the whims of policy makers. The risks of militancy will reduce in large measure when restoration of rule of law and distributive justice will be effectively manifest.

MUHAMMAD NURUL HUDA

On 17th August last Prime Minister Sheikh Hasina had impressed upon the paramountcy of eradicating militancy from our body-politic for good. The same day the Director General of Rapid Action Battalion (RAB), the prime unit engaged in fighting militancy, informs us that the so-called religious extremists in Bangladesh are not a spent force and that we must exercise constant vigil so that the enemy does not catch us unaware as on previous occasions.

While public leaders would always point out the ideal situation that the nation must strive for, the experience-weary professionals would prefer to be guarded and circumspect for obvious reasons, particularly when speaking on a sensitive issue of utmost concern. That brings us to the core issue of the rationale of the militant or extreme actions or the lack of it.

The reality is that while the State rejects all forms of extremism the extremists consider themselves as purposive actors with well-defined goals that, in their views, are just and desirable. Extremism, therefore, does not arise in vacuum. In fact, a set of condition exist to create it though they can be objective or subjective, depending upon who interpret them.

Generally speaking, the denial of identity, security, development and power tends to give rise to extremism in any context. However, in many cases extremists' agenda or goals centre on denying them to the 'other'. In Bangladesh the so-called religious extremists would like to establish their polices and beliefs through violent

means and in their scheme of things the 'other' side has no locus standi in public affairs.

The question is, is militancy or extremism symptomatic of breakdown of normal politics? Is it also a cause and a consequence of the same phenomena? Extremism has often contributed to undermining the political order and straining the polity where the language of politics has tended to be hard. It is about 'defeat', 'eradication', 'isolation' etc.

Being power-seekers the militants use both electoral politics and violence together as a means to promote their cause. The tragedy in Bangladesh is that some mainstream political parties, in their desperation to weaken or defeat each other, have allegedly used the extremist groups for their victory in elections or continuation in power.

The outcomes of militancy have been serious. It has caused dehumanization, human insecurity and militarisation of the society. It has threatened national and regional peace. The government has employed different counter-extremism approaches that have yielded mixed results.

We have the law and order approach that included cracking down in the form of arrest and detention and banning outfits. Legislation has been enacted to provide legal base for counter-extremism activities. This, till date, is the most dominant strategy.

A large-scale deployment of elite law enforcement unit against extremist groups has been another approach. At times, the operations of such force have brought to the fore the issue of human rights viola-

tions about which local, national and international communities have been seriously concerned.

The political and developmental approach has not been seriously examined in our parlance. This is not to ignore that political negotiations are very hard to initiate and successfully conclude with extremists. It is indeed very difficult to develop a culture of preventing violent extremism. Examples of moderating extremism through political means are poor.

Our government claims to stand for enlightened moderation. However, we must not lose sight of the reality that some sections of the society have experienced the so-called radicalization of Islamic thought and action. The popularity of some supranational causes that lay in the world of Islam perspective and is shared by some articulate sections of the public cannot be lost sight of in the campaign against extremism/militancy for cultural and historical factors.

The militant's focus is on the use of power in pursuit of policy. Some sections of the public have been converted to this approach. Incidentally, the liberal current of opinion was significantly de-legitimised. The goal, therefore, should be denial of space for radicalised Islam and the militant tendency at its core. The extremists shall not be allowed to develop vital stakes in the political system for starting a radical movement in the long run.

While eradicating or controlling militancy it should occur to us that in Bangladesh the advocates of extreme path are more determined than liberals. Liberal forces hardly work with intense dedication, much less with a sense of mission. One has to remember that in Bangladesh secularism as State ideology finds it difficult to compete with a language of belonging saturated with religion.

One has to recognise the socio-economic reality of Bangladesh where gross poverty co-exists with democracy, a liberal constitution and disorder with

functioning polity; the religious and traditional beliefs are far more tenacious than the liberals imagine. The State has, at times, been involved in the business of defining religion. Significantly, the compulsions of the traditional obligations of the ruler to protect State religion have to be kept in view.

The militant's strategy consists of efforts to win the trust and confidence of the majority population based on the role of extremists serving as arbitrators of individual and community disputes and financiers of education and livelihoods. Therefore, specific economic issues should be addressed on an urgent basis.

There is a need to reassert the innate pluralism of our politics which has not favoured strong ideological parties. This is significant because the liberal front faces an uphill task in recapturing the political as well as the psychological ground already lost to the so-called extremist quarter. The liberals must be ready to face preparations of extremists for further round of aggressive social mobilisation with plans to embark upon politics of confrontation with a view to deriving political capital.

The area of action to counter militancy is a battle of ideas, challenging the ideological motivations that extremists believe justify the use of violence. Successful prosecution in the courts, based on gathering of necessary evidence and apprehending those involved in planning acts of terrorism before committing of mischief should be one of the principal approaches of counter-militant activity.

Last but not the least, we must avoid stereotyping all religious leaders and institutions as militant fundamentalists. Of prime importance is an inclusive policy agenda where the stake of the deprived classes is institutionalised and thus does not wait for the whims of policy makers. The risks of militancy will reduce in large measure when restoration of rule of law and distributive justice will be effectively manifest.

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New sound across Kashmir valley: Anger against the establishment.

## Angry radical youth

As Omar Abdullah has admitted, protests led to the firing and firing led to more protests. One incident ignited the other, and in no time young protesters engulfed the entire valley. No separatist party took part in organising the agitation. They jumped into the arena after the event, not before.

KULDIP NAYAR

PUT your ears on the ground and listen carefully. You may hear a new sound across the Kashmir valley. This is a different voice from the usual Hurriyat call for an immediate solution or from the rhetoric by People's Democratic Party of Mehbooba Mufti.

This is the cry of post-insurgency youth, born after 1989 when militancy crept into an otherwise quiet scene. This is violent in the sense that they pelt stones, but different because they have not taken arms from Pakistan as the militants did. Nor have they any 'top contacts' which even the political leadership in the opposition maintains with Delhi.

This angry, amorphous force has no defined leadership. The different places in the valley have different hands to guide. The baton of the movement is in the hands of the new generation. What strings them together is the anger against the establishment at Srinagar and at Delhi.

It is not correct to say that hardliner Syed Gillani is their leader. He sees it that he is not out of step with them. His fundamentalism carries weight. Yet, when he tried to convert them into yet-violent protesters he failed. The pelting of stones is their way of saying that they do not agree to the various formulas which have been presented for the solution of Kashmir.

Both Prime Minister Manmohan Singh and Jammu and Kashmir Chief Minister

Omar Abdullah have failed to understand the ethos of the movement. They do not realise that their intelligence agencies over the years have become part of the establishment.

The prime minister's willingness to talk to all sections or individuals in Kashmir, as he said in his speech, is a shot in the dark. He has no machinery to reach them. His dependence on the same old apparatus and individuals will yield no results. They are not relevant in the present situation. His thinking has to be out of the box.

In the same manner, Omar Abdullah's offer to create 50,000 jobs to engage the youth is too late. He should have done so when he came to power after free elections in which the voters polled 62%. The youth movement has no economic agenda. It is a revolt against the entire system. Moreover, the economic package has become a joke in J and K because very little is delivered after making tall promises.

To understand the situation, two things should be kept in mind. One, there is no hand of Pakistan. Two, the movement has nothing to do with the militants who, for example, had a four-day encounter at Rajouri early this week. The movement is not pre-planned. Had it been so, it would not have taken a dangerous shape during the current tourist season, which yields income to Kashmir for full one year.

It is a spontaneous movement. It started with the killing of 17-year-old Tufail Ahmed Matto on June 11. He was a class XII

student, not part of the procession, which was throwing stones on the Central Reserve Police Force (CRPF). A tear gas shell killed Matto. Everything else followed.

As Omar Abdullah has admitted, protests led to the firing and firing led to more protests. One incident ignited the other, and in no time young protesters engulfed the entire valley. No separatist party took part in organising the agitation. They jumped into the arena after the event, not before. The youth are listening to them but keep their own counsel.

Anger against Omar Abdullah was the focus of their helplessness. The shoe-throwing incident at the flag hoisting ceremony on the Independence Day was a form of protest. The policeman's confession before the authorities was: "I did it because of my affection for my people who are being killed every day. I was beaten in up in custody and won't accept anything under duress. They (the police) want me to name PDP or Hurriyat leaders for that." This speaks volumes about the repressive methods of the police. What is disconcerting is that the shoe was thrown from a seat in the VIP row, putting a question mark against the sympathy of even high officials and civil society members.

Mehbooba's PDP is a supporter of the movement. She is a problem, not the solution. Her ambition is power. She wants to step in if and when the Congress Party parts company with Omar Abdullah's National Conference and picks PDP to run the state. The prime minister should know this.

However, such mechanisation on the part of politicians has been the bane of the state. By and large, the politicians and their furtive ways are responsible for all that is happening in the state. Today, all political formations, including the Hurriyat, are irrelevant because the angry youth does not have any faith in them or their methods.

The vague, undefined leadership that

has surfaced is radical, Islamist and ultra-fundamentalist. It is Naxalism of sorts, with pronounced religious slant. The Taliban have come into the picture now but they were not there when the movement got ignited. Yasin Malik, who is in jail, is respected, but how far he can influence the movement is yet to be seen because he is against fundamentalism.

A woman journalist, a Muslim, told me from Srinagar that what was emerging was going to throttle the gasping Kashmiryat, a secular way of life which has distinguished the Kashmir valley from the rest of the country. According to her, the youth, if not retrieved, would outdo what the Taliban did when they briefly occupied the Swat valley in Pakistan. Women would be the worst sufferers.

Both India and Pakistan have not calculated the fallout the movement can have in their countries. India is too overwhelmed and is clueless. Pakistan feels happy that "the enemy" is in the midst of real trouble. But the movement is something which should force the two to sit together and have a sober assessment. True, this only underlines the urgency of a solution in Kashmir. Manmohan Singh has said that he is ready for it. So has been the view of the Pakistani leadership. But the outcome has to be such which does not tell upon the secular ethos in India.

I know that the talks are going on between New Delhi and Srinagar through the back channel. But the main party after the 1989 insurgency is the Kashmiris. The sooner they are involved the better it would be for peace in the valley. The Kashmiri youth, however justified in ventilating its anger, does not realise that none in India -- and probably in Pakistan -- would agree to a fundamentalist, sovereign state on its border.

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