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One-off measures cannot reduce road accidents

Formulate and implement comprehensive plan

THE parliamentary standing committee on communication ministry has recently made a specific recommendation to change the current law to enhance the scope of punishments for the guilty drivers, as a way of reducing road fatalities But we feel that there is more to mere punishing the drivers for ensuring that the roads become less hazardous, although it is primarily due to drivers' recklessness and lack of skill that account for the majority of accidents.

Hazardous highways have become a matter of major concern for us. And this space has been used many times to highlight the danger that commuters on the city roads and national highways are faced with everyday. And given that the two-year road safety action plan is coming to an end by the year end, it would not be wrong to suggest that there is no plan at all and very little action worth the name in this regard.

Road safety record in Bangladesh is indeed very dismal. If we go by the report presented to the said committee recently by the BRTA, 6723 people have been killed in nearly 8000 road accidents between 2008 and 2009, and similar number have sustained injuries. The figure has doubled from that of 2004. The fatality rate in Bangladesh is 50 percent higher than the West as a serialized report in The Daily Star in 2006 had revealed. We suggest that the actual figure may be higher since many accidents don't get reported at all. And the loss in terms of money is staggering. Just to put the matter in perspective the loss in terms of lives and money is more than that exacted by natural disasters.

That being the case, we feel that the directive of the standing committee in respect of punishment to errant drivers only partly addresses the problem. In fact the said BRTA report has brought out all the areas of concern, for example drivers and vehicles and roads and pedestrians, and all of these must be addressed in a composite and comprehensive manner.

And the roles of the different government agencies can not be overemphasized where road safety is concerned. For example a major area of concern identified in the report ----incompetent drivers and unfit vehicles, exist because of the omission and commission of the road transport authority itself, and also because of the unholy nexus between the police and the drivers / bus owners. We would like to ask why and how does an unfit vehicle get on the road or for that matter an unqualified driver gets to hold the steering of a passenger bus or a truck without having a valid driver's license?

We feel that the government should come out with concrete steps by taking into consideration the suggestions of the road safety committee, and more importantly, work out a course of action to implement the plan on an urgent basis.

Stealing from the poor with impunity

Crack down on corruption at UPs

THE grasping hands of corruption do not spare even the ultra-poor in this country. What has been happening in Rampur union of Chandpur district is but a small hint of how things have been going where the Vulnerable Group Development (VGD) and Vulnerable Group Feeding (VGF) programmes are concerned. The poor rickshaw puller Sirajul Islam is not the only victim of corruption here. He has had to cough up Tk. 1,500 for the UP (it had earlier demanded Tk.3,000 but then decided to be 'merciful' to him by agreeing to half the amount) in order to come by a VGF card. If the record is anything to go by, such sinister dealings on the part of union parishad chairmen and members are rampant --- and not just in Rampur.

The Health, Education and Economic Development Organisation (HEEDO) has done a most creditable job of bringing VGD and VGF-related corruption to light in Rampur. We believe the findings of the HEEDO survey ought to be a spur to vigorous action on the part of the authorities against corrupt elements not just in Rampur Union but elsewhere in the country as well. Sirajul Islam and others like him have been getting no more than 25 or 26 kilograms of rice or wheat in place of the mandatory 30 kilograms. The survey reveals it all: as many as 30 individuals out of 32 have alleged that they have been getting between 22 and 26 kilograms of rice. It is not hard to see where the missing portions go. Add to that the money-spinning machine the VGD programme has turned into at the hands of the Rampur union parishad. As many as 22 of 93 individuals surveyed have said they could not get VGF cards because they could not come up with the bribe money demanded of them. The chairman of the UP has, of course, in typical fashion denied the allegations. There is no reason to believe him because of one simple reason: the poor do not lie.

The last caretaker government went for some meaningful action against corrupt union parishads. It is time to take a fresh, hard look at how UPs all over the country are functioning, particularly in the matter of VGF cards. There are project implementation officers attached to the VGD and VGF programmes. To what extent they can supervise these programmes effectively and how much manpower they have to oversee a proper distribution of rice and wheat to the poor is a matter which calls for immediate and purposeful handling. The suggestion has been made that the required quantities of rice and wheat be given to the poor in packets so that no underhand tricks can be employed by anyone. It is a good suggestion and the authorities should be working on it.

Meanwhile, let an inquiry be initiated into the allegations against the Rampur union parishad. The guilty ones and their henchmen must face the music for the scandal they have caused.

Of Taher, of self-esteem re-asserted

The responsibility of the state of Bangladesh today is obvious; locate all those men, dead or alive, who caused that darkness of July 1976 in our lives. The laws by which decent men live must catch up with them.

SYED BADRUL AHSAN

OUR old confidence in our country seems to be reasserting itself, for good reason. That we have a judiciary ready to steer the country back to self-esteem, to the values which led us to war against Pakistan in 1971, is a happenstance which cheers us to no end. As a people, we have consistently believed that everything that has struck at our moral underpinnings as a nation, every predatory act against Bengali secular nationhood since August 1975, would in time be rolled back.

The High Court move towards righting the wrong done to Colonel Abu Taher in July 1976 is a potent instance of how untruth cannot cast a permanent shadow on the life of a nation. Taher, in plain and blunt terms, was murdered by a court that had no legal sanction. To say that he was executed would be wrong. To assert that in doing away with him, the Zia military regime committed a manifest crime would be a true presentation of reality.

We will wait for the truth to emerge in the Taher case. He was tried for sedition by a martial law court. That was a joke perpetrated on this country, for two reasons. The first is that martial law is, at best, no law and, at worst, a barbaric law. The second is that anyone who has the gall to describe Taher, and men like Taher, as traitors is an individual guilty of committing the gravest of crimes against this country.

The crime of sedition in 1976 was not Taher's. It must be laid squarely at the door of those who put him and his co-defendants on secret trial, mistreated them, gave them no right of defence and then pushed them to their doom. The responsibility of the state of Bangladesh today is obvious; locate all those men, dead or alive, who caused that darkness of July 1976 in our lives. The laws by which decent men live must catch up with them.

Conspiracy does not gain anything beyond pyrrhic victories. Which is why today we tell ourselves with pride that we have been able to bring at least some of the assassins of Bangabandhu Sheikh Mujibur Rahman to justice. Five of them have been dealt with by the law. It now remains for the state to hunt down the remaining killers and bring them home to answer for their crime. And yet there will be more that will need to be done.

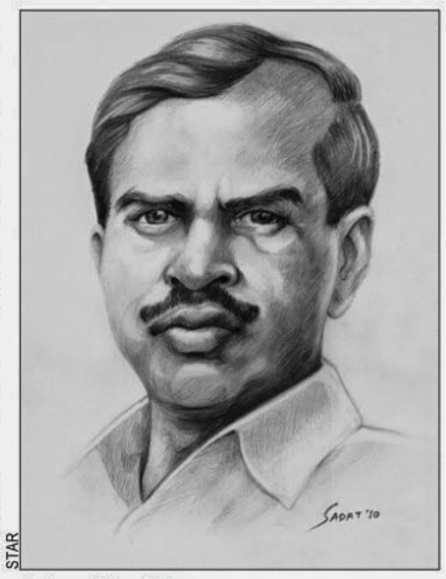
An entire re-investigation of the circumstances leading to the murder of the four national leaders -- Syed Nazrul Islam, Tajuddin Ahmed, M. Mansoor Ali and A.H.M. Quamruzzaman -- in Dhaka Central Jail in November 1975 is called for. Those who shot and bayoneted them to death and those who politically egged them on must be brought into the wider net of justice. It matters little that some of the assassins and their political gurus might have died in the passage of time. Justice demands that criminals be prosecuted even in posthumous manner.

The trial of the local collaborators of Pakistan in 1971 ought to have commenced and concluded decades ago. It is our collective shame that these men have not only escaped justice but have also been allowed to climb high political perches in the years after 1975. Those who took up arms against their own people through killing and pillaging and raping on behalf of the Pakistan occupation army have a good deal of explaining to do. Let the law of the land ensure that they do that.

Meanwhile, let the state of Bangladesh also explore the ways and means of bringing the aging officers and jawans of the Pakistan army to trial for offences committed in Bangladesh in 1971. Pakistan will not hand those men over to us, but we can certainly try them in absentia, in symbolic manner, and shame them before the world.

The common Bengali objective in 1971 was the creation of a democratic, secular polity in a Bangladesh free of Pakistan. The murder of Major General Khaled Musharraf and his fellow officers in November 1975 militated against that goal. It, therefore, ought to be our aim today to inquire into the whole matter of who ordered their killing and who carried out those orders. Many, if not all, of the military officers and soldiers involved in that macabre act are yet around. Let them be rounded up and hauled up for trial.

In similar manner, track down those who killed Major General M.A. Manzoor in cold blood in June 1981. These men will spill the beans; and we will then have the truth reveal itself. The truth is again



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Colonel Abu Taher

what we must retrieve from the records of the trial and execution of the thirteen military officers in the aftermath of the Zia assassination in May 1981. The truth, be it known, is also what we strive for as we inquire into the mayhem and murder of August 21, 2004.

The annulment of the Fifth Amendment to the Constitution vis-à-vis the period between August 1975 and April 1979 is light at the end of the tunnel. The High Court action on the Taher case is one more purposeful step through the tunnel and towards that light. There are then all those other steps we must take if Bangladesh is to become, once again, the secular and democratic people's republic it was for three and a half years before men of sinister intent laid it low in the mid-1970s.

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Gagging free speech or protecting judicial integrity?

MARCUS CARLSSON

A fine line between freedom and contempt.

Freedom of expression is a fundamental human right and essential for the existence of free media. The protector of that right (indeed, of all rights in a democratic state) is the court. Public scrutiny of the courts by the media helps safeguard the integrity of the courts. The symbiotic relationship of the judiciary and media is the bedrock for sustaining human rights and democracy.

IRENE KHAN

THE recent conviction of the *Amar Desh* acting editor, publisher and reporter for contempt of court has exposed the inherent tension between the need to preserve public confidence in judicial institutions and the right of the media to criticise them.

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But judges and journalists do not always see eye to eye on press criticism of the judiciary. In the case of *Amar Desh*, the appellate division concluded that its report undermined public confidence in the proper functioning of the courts and so amounted to contempt of court. The conviction -- the first of its kind in the judicial history of Bangladesh -- has unleashed a howl of protest from journalists in this country and abroad.

Journalists have the duty to inform the public. Like all citizens in a democratic state, they have the right to free speech. Freedom of expression is not an absolute right but there is a presumption in its favour under international law.

The International Covenant on Civil and Political Rights, to which Bangladesh is a party, upholds freedom of expression, "including the freedom to seek, receive and impart information and ideas of all kinds." The right can be restricted only on certain narrowly defined grounds, including "respect for the rights and reputation of others." Restrictions must be prescribed clearly by law, and be necessary and proportionate to the aims they seek to achieve.

Article 39 of the Bangladesh Constitution guarantees freedom of speech, expression and the press but permits restrictions on certain grounds. Contempt of court is recognised explicitly as a ground for restricting free speech.

The main legislation governing contempt of court in Bangladesh goes back to 1926. It contains no definition of contempt. The responsibility rests with the court to define what contempt is.

This gap in the law is a grave weakness because it creates uncertainty. Editors must self-censor -- and possibly end up over-censoring themselves -- or risk falling foul of the law. The fact that editors of almost all the major newspapers in Bangladesh have been hauled into court for contempt proceedings at one time or another in the last five years is evidence of the prevailing ambiguity on what might or might not constitute contempt.

The doctrine of contempt of court aims to preserve the integrity and administration of justice. It can be invoked for a diverse range of circumstances. The *Amar Desh* case fell into a category of contempt offence called "scandalising the court." It can be described as criticism of the court or imputation of bias or partiality that could erode public confidence and undermine judicial authority.

It is different from other forms of contempt in that it is not related to any particular legal proceeding and can be asserted at any time. Traversing a fine line between fair comment and defamation, it is possibly the most controversial offence of contempt.

From the perspective of the judiciary, when the court is criticised publicly and accused of bias or political influence, what is at stake is not just the individual reputation of a particular judge but the collective reputation of the judiciary as an institution.

Unlike other public authorities the court cannot respond to criticism publicly without endangering its impartiality. As custodian of the law, it cannot sue for libel or defamation. Its only protection lies in the power of contempt.

From the perspective of human rights groups and media organisations, there is no room -- or only very limited room -- in the 21st century governance landscape for an offence developed in the political and legal environment of the 19th century.

As support for democracy, respect for human rights and media freedom grow, the use of contempt proceeding to curtail judicial criticism is lessening.

There has been no successful contempt proceeding for criticism of the judiciary in the United Kingdom in the past seventy years. Australia, New Zealand, UK, Hong Kong and South Africa have all raised the bar for the offence, demanding proof of a real risk, not just a possibility that public confidence might be eroded. The United States and Canada go further in requiring the existence of "a clear and present danger" to the administration of justice.

Increasingly, in many jurisdictions, North and South, fair criticism of the judiciary is accepted. For instance, India's 1971 Contempt of Court Act allows fair comment and bona fide reporting. It was further amended in 2006 to allow truth as a defense against contempt.

So what lesson do these global trends hold for Bangladesh?

The existing law and procedures on contempt of court need urgent reform. The current Act was promulgated in 1926 when contempt of court was primarily a means for compelling a recalcitrant populace to respect the judicial authority of the colonial power. Realities are very different today.

Around the world, including in south Asia, laws, policies and practice are evolving in line with popular demands for greater transparency and accountability from all state institutions, including the judiciary. Bangladesh too must adopt a new law on contempt that acknowledges its human rights obligations and commitment to good governance, free media and democracy.

The law should provide a clear definition of contempt and procedural safeguards in keeping with modern best practice. It should set out criteria in line with international human rights standards to resolve tensions between media freedom and judicial integrity. Its adoption should be preceded by a public debate on the proposed contents.

The responsibility does not only lie with the judiciary. The symbiotic relationship between the media and the judiciary places an obligation on the media to acknowledge that along with its freedom comes responsibility -- the responsibility of fair reporting. More tolerance by the judiciary for debate, comment and criticism of its actions and more respect by the media to ensure that they are conducted fairly will enhance public respect for both.

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