

5th amendment

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Taher not only termed it illegal when she was talking to The Daily Star over the telephone, she also sees it as "the killing of Taher in the name of a secret trial".

Lutfia wanted to seek justice for the last 34 years but she could not as she did not get even a single document of the sedition case against Taher or the proceedings of the trial in the tribunal. The tribunal had awarded Taher, former army officer and, also a sector commander during the Liberation War, death penalty and imprisoned 16 others on different terms.

"As I am sure injustice was done to Taher, I was trying to file a case against this trial but I did not even get a single document from the administration in the last 34 years...that is why I could not challenge it," Lutfia said, adding that cancellation of the fifth amendment has created an opportunity for her to challenge the secret trial and ask for documents of the trial through the court.

Lutfia, Prof Anwar and Fatema Yusuf, wife of Taher's brother Abu Yusuf Khan Bir Bikram who was also sentenced to life imprisonment in the hush-hush trial, are the petitioners of the case filed with the High Court Monday.

Taher was arrested on November 24, 1975. The sedition case was filed with Mohammadpur Police Station on June 4, 1976.

On June 14, 1976, the then president Justice Abu Sadat Mohammad Sayem constituted a Martial Law Tribunal and published a gazette notification.

According to the gazette, the chairman of the tribunal was Col Yusuf Haider from the Army and four other members were Wing Commander Mohammad Abdul Rashid from the Air Force, Acting Commander Siddique Ahmed from the Navy, Mohd Abdul Ali, first-class magistrate (Sadar South), Dhaka and Hasan Morshed, first-class magistrate (Sadar North), Dhaka.

The trial was held inside Dhaka Central Jail.

The tribunal took less than a month to complete the camera trial of the sedition case and delivered the verdict on July 17, 1976. In the week hours of July 21, 1976, Taher was executed within 72 hours of the verdict delivery.

Since Taher's arrest, Lutfia was not allowed to see her husband for even a moment until a few hours before his execution.

Prof Anwar was one of the 16 convicted by this tribunal and sentenced to 10 years' rigorous imprisonment. He said they were produced before the tribunal on June 21, 1976, a week after constitution of the tribunal.

After the first appearance before the tribunal, it adjourned proceedings for a week and resumed on June 28.

"The hearing on the case against Taher and others were completed on July 14 and the tribunal gave its verdict on July 17," Anwar said.

Taher refused to beg mercy from the people in the administration, said Anwar.

Soon after knowing about the verdict, Lutfia through Taher's lawyers had sent a petition to the then president and chief martial law administrator (CMLA) Abu Sadaat Mohammad Sayem, army chief and deputy chief martial law administrator (later CMLA) Maj Gen Ziaur Rahman, and secretaries to home and law ministries with a prayer to reconsider the death penalty.

A day after Lutfia's prayer on July 19, a section officer of the Ministry of Home Affairs sent a letter to Lutfia Taher saying, "The president has not been able to accept your prayer."

Lutfia had also written a letter to the home ministry seeking permission to see Taher as she was not aware of her husband's whereabouts after the arrest.

"But I did not get any reply from the administration," Lutfia said.

"I got a few censored letters from Taher when he was detained and at that time I could not know in which prison Taher was in. And then I rushed to that jail but heard that the authorities had moved him to another jail and they declined to tell me the name of that prison," said Lutfia.

She said many illegal things had been legitimised by the fifth amendment.

Leading jurist Shadeen Malik, counsel for the petitioners, told The Daily Star, "All the martial law regulations were protected by the fifth amendment. As now the Supreme Court has cancelled the legality of the fifth amendment, the martial law regulations are no longer protected by the constitution, and it can be challenged like any other law."

The tribunal that tried Taher and others was constituted under the Martial Law Regulation-16 of 1976.

Shadeen said they have challenged a few provisions of

the Martial Law Regulation-16 which contradict with the constitution. Like having a trial in secret, getting people involved with it to take oath of secrecy and having no provision for appeal against the verdict of the tribunal.

"Any provision introduced by any martial law regulation that contradicts with the constitution can be challenged and the cancellation of the fifth amendment opened avenues for challenging all such things," he said.

He also said the cancellation of the fifth amendment paved the way to challenge the legality of the trial of Taher. Otherwise, they had to challenge the fifth amendment first and then the secret trial.

Shadeen said, "It would be interesting if anyone now claim compensation for their conviction and imprisonment under an unconstitutional law."

The three petitioners, including Taher's wife and brother, did not pray for compensation.

"We are not thinking about compensation, we want justice to free ourselves of the stigma which had been imposed on us through a farcical trial based on a false sedition charges," Anwar said, adding, "Due to the constitutional protection of such wrong actions, the history of that period has not come into the light...now the time has come to tell the new generation the true history."

Anwar's 25-year-old son Sanjeeb Hossain recently completed graduation from law school where Shadeen was his teacher.

Sanjeeb told The Daily Star, "I studied law with an aim to have justice for my uncle Col Taher who lost his life through a conspiratorial trial by a Martial Law Tribunal."

Sanjeeb, who helped Shadeen prepare the writ petition, said the penal code under which Taher was punished has the provision for life-term imprisonment maximum but he was awarded the death sentence.

LIST OF OTHER CONVICTS AND ACQUITTED PERSONS Apart from awarding death sentence to Lt Col Abu Taher, the tribunal sentenced 16 others in different terms of imprisonment. They are: Major (ret'd) MA Jalil, Major Abu Yusuf Khan, Major Ziauddin Ahmad, Jatiya Samajtantrik Dal (JSD) leader ASM Abdur Rab, Prof Anwar Hossain, JSD leader and now lawmaker Hasanul Hoque Inu, JSD leader Serajul Alam Khan, CPL Altaf Hossain, CPL Shamsul Haque, Nayek subedar Md Jalaluddin, Havildar MA Berek, Rabul Alam, Saleha Begum, Nayek Siddiqur Rahman, Havildar Abdul Hye Mazumder and CPL JMajeed.

Those acquitted: Dr Akhlaqur Rahman, Anwar Shidique, Mohiuddin, Nayek subedar Bazul Rahman, Mahbubur Rahman Manna, Warasat Hossain Belal, Md Shahjahan, KBM Mahmood, Sharif Nurul Ambia, Havildar Sultan Ahmed, Nayek A Bari, Sgt Kazi A Kader, Kazi Rakunuddin, Nayek subedar A Latif Akhand, Nayek Shamsuddin and Sgt Syed Rafiqul Islam.

Govt asked

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Intelligence (DGFI) collected Tk 237 crore from Catheli Dated Tea and Land Bangladesh Limited and Tk 60 crore from S Alam Steels by detaining and threatening their officials, petitioners' lawyer advocate Abdul Baset Majumdar told reporters.

Baset added his clients deposited the money through at least 54 payment orders to the Bangladesh Bank on different days in 2007 and 2008.

The money is now deposited in the suspense account of the central bank and the government authorities will return it to his clients within three months, he said.

The DGFI has submitted a statement to the HC saying they had no power to realise money and only discharged their prescribed duties, Baset continued.

In the verdict, the two-justice panel observed that the government cannot realise money without any legal authority and thus collected the amount beyond its constitutional and legal jurisdiction.

The court also said the caretaker government was empowered to discharge only the routine functions as per the article 58 of the Constitution and cannot realise money in such ways.

The HC on April 13 issued separate rules upon the government to explain as to why it should not be directed to return the money to the petitioners.

The secretaries to the ministries of finance, defence, home affairs and law, director general of DGFI and governor of Bangladesh Bank have been made respondents to the verdict.

Assistant Attorney General Rashed S Jahangir represented the government.

US troop figures in Iraq below 50,000

AFP, Baghdad

The number of US troops in Iraq fell below 50,000 yesterday ahead of a declaration of an end to combat operations next week, a key milestone seven years on from the invasion that ousted Saddam Hussein.

The news comes as a spike in unrest in the past two months has sparked concern that Iraqi forces are not yet ready to handle the country's security on their own, and with no new government formed in Baghdad since polls in March.

"Today, in line with President (Barack) Obama's direction and as part of the responsible drawdown of forces, US military force levels in Iraq are below 50,000," the US military said in a statement.

"US military forces will transition to Operation New Dawn effective September 1, 2010."

Shortly after coming into office in 2009, Obama pledged that the US would end combat operations in Iraq by the end of August, bringing "Operation Iraqi Freedom" to an end, at which point troop figures would drop below 50,000.

The current US troop level here is now less than a third of the peak figure of around 170,000 during "the surge" of 2007, when Iraq was in the midst of a brutal sectarian war in which thousands of Iraqis were killed.

The US military has withdrawn tens of thousands of soldiers from the country in recent months, and the last American unit designated as a "combat brigade" left Iraq and crossed into Kuwait on Thursday.

2 construction

FROM PAGE 16

he providing with the paint," he said.

However, several workers denied this and said the old platform belonged to the building authorities and was lying on the rooftop for the last four years.

Shahjahan, a worker, said, "The platform was used during construction of the building, a fact which the authorities are well aware of."

Officer-in-Charge Tofazzal Hossain of Motijheel Police Station said they were investigating to detect the cause behind the accident.

Kaiyum, cousin of the deceased, filed an unnatural death case in this connection yesterday, the OCSaid.

Sekandar Ali Mina, programme director of Safety and Right Society, an NGO working to ensure safety and workers' rights, told The Daily Star that a third of the total workers who die in workplace-related accidents are construction workers.

He said 70 out of 175 workers who died in workplace-related accidents this year are construction workers. Last year, 100 construction workers died while the total death toll in workplace-related accidents is 272.

Khaleda

FROM PAGE 1

protect the country and its people from the "existing intolerable situation".

Dhaka city unit BNP organised the lift party at Jatiya Sangsad LD Hall at Sher-e-Bangla Nagar.

"Ruling party men are engaged in extortion, tender manipulation and criminal activities. Even the government remains silent when its officials are being attacked by them," she said adding that the government proved itself to be a failure in last 19 months.

Prime minister said none would be spared if found responsible for committing crimes but no action is being taken against the ruling party men who are responsible for the deterioration of law and order situation, Khaleda observed.

Terming the government autocratic, undemocratic and a failure, the former premier said the government has turned the country into a jail and people are passing their days amid insecurity.

Khaleda Zia said the government shut down the educational institutions as it failed to resolve water, gas and electricity crises.

"Many other things will face the closure if this government continues to remain in power," she added.

BNP leaders Khandaker Delwar Hossain, RA Gani, Brig Gen (ret'd) Hannan Shah, Jamiruddin Sircar, among others, were present with city Mayor Sadeque Hossain Khokha in the chair.

Man's battle

FROM PAGE 1

In the last week of December 1971 some people, taking advantage of the poor law and order situation in the just liberated country, forcible took over possession of the cinema hall from the staff of the company.

Just a few days later on December 31 the industries ministry took over the management of the cinema hall, declaring the property abandoned.

At the end of 1972 the property was awarded to Bangladesh Freedom Fighters Welfare Trust by the then government.

But before that, on April 28, 1972, Maqsud, the managing director of the marble company, filed an application with the sub-divisional officer (south) of Dhaka for return of his family property.

The officer on December 1 that year ordered an enquiry, the report of which came in two years later in 1974, concluding that Moon Cinema Hall was not an abandoned property.

Then the sub-divisional officer placed the matter to the Dhaka deputy commissioner's office on December 18 that year.

The deputy commissioner's office on January 6, 1975 recommended return of the property to Maqsud's family.

But the industries ministry informed Maqsud in June 1975 that the cinema hall was still an abandoned property, and could not be returned to him.

So he submitted another application to the then ministry of planning and industries in December that year, praying once again for the return of his property, but in vain.

He then filed a petition with the High Court in 1976 challenging the government notification that had declared the cinema hall an abandoned property.

The HC in June 1977 declared the notification illegal, and directed the authorities to hand over the possession of the cinema hall to Maqsud at once.

In compliance with the judgment, the industries ministry in August the same year deleted Moon Cinema Hall from the list of abandoned properties, and ordered Bangladesh Freedom Fighters Welfare Trust to hand over the physical possession of the property to Maqsud.

But the trust refused to give up the possession, and filed a civil petition for a special leave to appeal with the Appellate Division of the Supreme Court against the HC order, and obtained a stay.

Meanwhile, since August 15, 1975 the country had been under the first martial law regime which promulgated Abandoned Properties (Supplementary Provisions) Regulation on October 10, 1977, nullifying all abandoned property related court judgments and pending cases against the government.

Tangail Ahmadiyyas

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iman [faith]. They are infidel. No rickshaw puller should carry them and no shopkeeper should sell any items to them."

Abu Taher, an Ahmadiyya member, said, "All male members except those who are elderly and sick are afraid to return home since the August 7 attack as they are facing continuous threats from the religious fanatics."

Lutfar Rahman Akanda, another Ahmadiyya member, said among the male members of his community, only one seriously ill Hasem is now staying in his house while the rest are out.

Hasina Begum, wife of Mohir Uddin Akanda, said she is facing an acute food crisis as the supply of food given by the district administration after the August 8 incident has already run out.

"They [attackers] are giving us threats on phone that they will abduct us," she said, adding, "We are also passing sleepless nights because of fear."

Bilkis, wife of Abul Kasem Akanda, said Ahmadiyya women feel insecure as some of the attackers always move around and also peep into their houses at night despite the presence of police.

They alleged that a group of locals led by union parishad member Akbar Hossain attacked them, vandalised and looted their houses.

But Akbar denied this allegation saying, "Ahmadiyyas can say anything as they have no iman [faith] at all."

Meantime, a four-member Ahmadiyya delegation led by its Missionary-in-Charge Abdul Awal Khan Chowdhury has met Tangail deputy commissioner and acting superintendent of police at their offices.

They sought permanent security for the Ahmadiyya

Taking advantage of the martial law regulation, the trust refused Maqsud's repeated pleas for getting back his property.

Fifteen years after the martial law had been lifted in 1979, Maqsud again filed a petition with the HC in 1994 seeking restoration of his family's ownership of the cinema hall.

But the HC rejected the petition summarily, saying, since he had not challenged the legality of the 5th amendment which had ratified all martial law regulations, he was not allowed to claim the ownership of the cinema hall.

Three years later in 1997, he filed a civil appeal, but that was also dismissed by the HC after two more years in 1999.

The judgment, this time however, said the petitioner must challenge the legality of the 5th amendment to get redress.

Finally in 2000, he filed a petition against the 5th amendment with the HC, and the court delivered the landmark nullification of the amendment on August 29, 2005, which was upheld by the Appellate Division on February 2 this year with some modifications.

CURRENT SITUATION As Maqsud and his family are now set to take possession of the long lost property, the 72 decimal land is still there, but the talkie house is no more. Rather a five-storey shopping mall owned by the freedom fighters welfare trust is now occupying the land.

The trust is now preparing to hand over the property. It formed two committees to complete the process, its officials said.

"The law ministry and the Office of the Attorney General recently said the property must be handed over according to the court's order. We are taking necessary preparation to do so," Maj Gen (ret'd) AK Mohammad Ali Shikder, managing director of the trust, told The Daily Star early this month.

He said they sent letters to the counsels of Maqsud regarding the expected hand-over.

But Maqsud's counsels, in a legal notice to the trust, demanded that it must return the property as vacant, as many shop owners are currently occupying the building.

"But how is it possible to do so, as the shopping mall was built under an agreement with a developer in 2001, allowing them to sell some of the shops in the building. We requested him [Maqsud] through his counsels to reach a mutual understanding to resolve the difficulties," said the trust's managing director.

Asked to comment on the verdict and the lengthy legal battle, ABM Siddiqur Rahman Khan, one of the counsels of Maqsud, said it is a victory for the people's fundamental rights. It also proves that one should continue fighting to achieve something, without being frustrated, he added.

HC orders

males so that they can return home and live normal lives. Ahmadiyya chief Awal said the district administration has assured them that necessary security measures will be taken in this regard.

Tangail Deputy Commissioner M Bazul Karim Chowdhury said Ahmadiyyas could come back to their houses, as normalcy has returned to the village.

Stop war crime

FROM PAGE 16

at her ministry office. Sahara said Rohingya used to leave the country as Hajj pilgrims with Bangladeshi passports, overstayed there and engaged themselves in criminal activities, tarnishing the image of the country.

"We will strictly monitor any such tactic this time," said the minister adding, "The Hajj pilgrims will be allowed to leave the country only after the verification report is received."

She also warned the Hajj agencies of revoking licences and other forms of legal actions against them if any Hajj pilgrim in their books fails to return home in time. The minister asked them to remain alert about the government directives.

Replying to a query Sahara said both Tarique Rahman and Arafat Rahman Koko, sons of opposition leader Khaleda Zia, are not abiding by their parole conditions. She also added that parole of Koko has been cancelled through legal process.

State Minister for Home Shamsul Haque Tuku, Home Secretary Abdus Sobhan Sikder, Director General of the Immigration and Passport Abdur Rob Hawlader, and Additional Inspector General (Special Branch) Javed Patwari, among others, were present at the meeting.

Biman chair

FROM PAGE 1

"His [Biman's chairman] statement regarding the ministry to the print and electronic media on August 18 created confusion among the people," read a ministry letter addressed to the Biman chairman. The Daily Star has obtained a copy of the letter.

"By law, Biman Bangladesh Airlines Limited is accountable for its activities to the ministry of civil aviation and tourism," the letter read, adding, giving a "false and one-sided" statement by Biman authority is harmful for the image of the ministry as well as the government.

Signed by Mohammad Aftabuddin Talukder, joint secretary (Biman and civil aviation) of the ministry, the letter did not give a timeline by which to offer the explanation.

Contacted, the Biman chief said he was yet to receive the letter. "After receiving the letter I'll read it and respond accordingly," he told The Daily Star.

Shafique Alam Mehdi, secretary of civil aviation and tourism ministry, declined to comment on the matter.

According to the letter, government's administrative decision was "under question" after such comment by the Biman chairman.

Jamal Uddin in the briefing at the Biman head office in Uttara had also said if GM Quader wanted Biman Bangladesh Airlines to be fully accountable to his ministry, the government should turn it back into its earlier position of a corporation.

Jamal commented as a counter of the civil aviation minister's recent statement that Biman should be accountable to the ministry.

BCL's RU unit

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Roton told The Daily Star over the phone that the expulsion of unit president Awal Kabir Joy and its general secretary Majedul Islam Opu was decided at a party meeting in Dhaka based on the allegation of their involvement in 30 factional clashes that left many injured.

The RU BCL committee was formed on January 28, this year. In the latest incident, Joy's men beat up Nasim, an activist of Opu group, and shoved him off the first floor of his dormitory. Nasim died on Monday.

Meanwhile, the activities of RU BCL was suspended immediately after the violence and showdown of arms at the campus that left 10 injured on August 8.

Teachers and students expressed their satisfaction over the step against the corrupted BCL leaders.

Abul Khair, Officer-in-Charge of Motihar Police Station said extra security measures have been taken on the campus.

Govt plans

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increased significantly by this time."

A tyre used to cost Tk 800 when the rate was introduced in 2007. Now it is Tk 1,700. Moreover, the price of lubricants went up to Tk 220 from Tk 120 let alone expenses for garage, renewal of papers, accident costs etc, said Nazmul Hasan.

"The revised fare would bring order in the sector," he said. He, however, failed to reply how they plan to resolve the existing practice of violating law and reduce public suffering.

About 13,700 four-stroke CNG-run three wheelers were introduced in Dhaka city in 2003. Since then passengers have been complaining of the drivers not complying with the official fare and frequently tampering with metres while the drivers of owners demanding too much daily deposit.

Stop war crime

FROM PAGE 16

at her ministry office. Sahara said Rohingya used to leave the country as Hajj pilgrims with Bangladeshi passports, overstayed there and engaged themselves in criminal activities, tarnishing the image of the country.

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6 MPs among 32 killed in Somalia hotel carnage

AFP, Mogadishu

Two Islamist militants shot dead 30 people, including six members of parliament, in a suicide attack on a Mogadishu hotel yesterday, Somalia's deputy prime minister said.

The militants from the Shebab insurgency disguised as government security forces then blew themselves up to avoid arrest after the indiscriminate attack on the hotel housing MPs and Somali civil servants.

The brazen attack just a stone's throw from the presidential palace marked a new escalation on the second day of clashes that had already left 29 civilians dead across the war-ravaged Somali capital.

The operation by the al-Qaeda-inspired Shebab group during the holy Muslim month of Ramadan drew strong condemnation from the Western-backed transitional government and its African Union backers.

"Thirty people died in this ambush. Six of them are members of the Somali parliament and four are Somali government civil servants," Deputy Prime Minister Abdurahman Haji Adan Ibbi told reporters.

"The 20 others are innocent civilians who died in this horrible incident," he added.

An AFP reporter who managed to enter the Hotel Mona compound said the doors of every single room and even the toilets had been smashed open by the two attackers.

Officials visiting the scene of the carnage held their noses because of the stench of burned flesh and smoke.

Witnesses and hotel staff said the attackers were wearing government security uniforms and shot dead security guards at the gate to the compound as they rushed into the three-storey building.

"They rained gunfire on everybody. Nobody stood a chance. I was lucky because they aimed at me but I jumped out of the window and survived," hotel employee Adan Mohamed told AFP.

"People were screaming, there was total panic. When they decided they had finished killing everybody, they climbed to the balcony and started opening fire on government forces outside the hotel," he added.

One government soldier who took part in the fighting and refused to give his name said one of the bombers detonated his suicide vest on the balcony when he saw they were surrounded.

JS body

FROM PAGE 1

changes. The decision came at a special committee meeting in Jatiya Sangsad Bhaban yesterday.

"The September 4 meeting will be exclusive and only the committee members will attend it, said Suranjit Sengupta, co-chair of the parliamentary special body, at