

## HC's dissolution of 7th Amendment

*Constitution's sanctity restored, people's will made supreme*

**A**FTER the momentous Supreme Court verdict that cancelled the Fifth Amendment to the constitution, the nation has got another occasion to rejoice over the historic High Court judgement that has nullified the Seventh Amendment to the constitution introduced during the military rule by General H. M. Ershad.

By these two epoch-making verdicts the apex court of the country has invalidated all the ordinances and rules issued by the past military rulers to justify their usurpation of state power through extra-constitutional means.

We welcome and celebrate the verdict of the High Court as it has only reiterated the inviolability of the constitution and restored its supremacy. And by these verdicts of the highest court, it has also been re-established that it is the people's will that is ultimate, and not the whims and caprice of the so-called strongmen and dictators.

The former military ruler Ershad usurped state power and suspended the constitution by deposing the then elected president Justice Abdus Sattar on March 24, 1982 through a military putsch. And on November 10, 1986 he used his subservient parliament to pass the seventh amendment to the constitution to put a seal of legality on his illegal capture of power and other unconstitutional activities that he had carried out during the intervening period.

But in spite of the military dictator's attempt to perpetuate his power and cover up his misdeeds by abusing the constitution, he could never bludgeon the people into submitting to his will. On the contrary, the people continued their struggle against his autocratic rule and finally unseated him at the peak of a mass democratic and anti-autocracy movement in December 1991. The High Court's judgement against the seventh amendment to the constitution has therefore provided the legal sanction to what the people had achieved through the exercises of the democratic struggle on the street.

And through this landmark judgement, the highest court has also paved the way for discarding the destructive political culture that was introduced in the country through the murder of Bangabandhu Sheikh Mujibur Rahman along with his family members on August 15, 1975.

This national tragedy marked the rise of the era of unforeseen politics of killing and military rule. But Ershad's grabbing of state power following in the footsteps of his military predecessors put, as it were, an added dimension to it all by opening up the floodgate of corruption in the country.

But the mass movement that rejected him along with his wrongdoings and the apex court's judgement that condemned his unconstitutional acts to the garbage bin of history have again proved that forcible seizure of power through extra-constitutional means is temporary. On the other hand, the People's Will is final and supreme.

## Removing overhead cables

*Service providers need more time to do the job*

**T**HE report titled 'Removal order runs into snag' with accompanying photograph on the back page of The Daily Star on Thursday says a lot about the authorities concerned not being aware of the maxim 'a stitch in time saves nine.' They usually wake up quite late in the day to find a small problem already blown out of proportion and then begin to run in every direction for a solution. The messy situation, with cable TV lines dangling precariously inches above heads of the pedestrians, is another classic example.

The problem has been created over a long period of time as there was no alternative way for the operators to install their lines. As the bosses 'chose' to overlook the developments, about 600 cable TV operators and 92 ISPs today use the DESA electric posts to provide services to nearly 1 million internet users and 3.5 lakh TV viewers in the city. We understand the number of consumers is increasing at a fast rate on a daily basis.

Everything was going fine until the day some government officials suddenly realised that something was inappropriate with those dangling wires. Within no time order from the government reached the doorsteps of the service providers -- those overhead lines have to be removed within 31 October, 2010 and taken through underground transmission system.

The service providers, on their part, expressed their inability to meet the deadline as they lacked necessary logistic support and technical expertise to do the work at such a short notice. To be candid, even to a layman it looks like a task that would take months. To our knowledge, so far only 5 cable operators have signed an agreement with a telecommunication company to use its underground transmission system.

It appears the cable operators and ISPs would need more time to remove tons of wire and connect them through the underground system. Unless they are given the required time it is the ever growing consumers who would suffer most. We therefore would like to suggest the authorities concerned to sit with the service providers and fix a deadline they would be able to meet.

## Whither the new Police Act?

The reality is that an inefficient and outmoded administrative legacy is undermining well-meaning reform supported by national and international resource persons. What is needed is to make improving the quality of law enforcement a permanent and integral part of the national agenda, regardless of which party is in power.

MUHAMMAD NURUL HUDA

**T**HE Daily Star in its editorial and the mass-circulated Bangali daily Prothom Alo in the lead news have once again reminded us about the urgency of enacting a new Police Act. The issue has been deliberated upon in such comprehensive manner in the last couple of years that according to newspaper reports, the Inspector General of Police has said that he is tired of any further speaking on the subject.

The question is, the chief of national police frustrated in not being able to draw appropriate attention to a subject that, according to many, should, without any further delay, engage the serious thoughts of policy makers? In any case the Police Chief's suspected frustration needs to be looked into, particularly when the government in its earnest efforts to ensure good governance is seriously engaged to enact a 'Civil Service Act' in the immediate future.

Delving into a much-discussed subject one needs to ask if our police can be turned into a symbol of human security without organizationally gearing it towards that end? Is it possible to ensure operational neutrality of police? How can the police be made effectively accountable? What steps are needed to insulate the police from partisan political control? What should be done to raise the integrity levels of police?

In order to achieve the above-mentioned objectives, the first order of business is the enactment of a new Police Act to replace the present archaic legislation enacted in 1861. This Act has made it easier for others to abuse and misuse the Police organisation. It has been possible for people in positions of power to do so because of the following reasons:

- The Act gives the government the authority to exercise superintendence

over the police, without defining the word superintendence or prescribing some guidelines to ensure that the use of power will be legitimate.

- The Act does not establish any institutional and other arrangements to insulate police from undesirable and illegitimate outside control, pressures and influences.
- The Act does not recognise the responsibility of the government to establish an efficient and effective police force.
- The Act does not make it necessary to set up independent mechanisms to monitor and inspect police performance.

The Police Act 1861 is antiquated in its charter of duties which is narrow and limited. It does not mandate the police to function as a professional and service-oriented organisation. The Act is not in consonance with the requirements of democratic policing.

The Police Act, 1861 which is the guiding legislation for our police does not insist upon an organisation that is subject to rule of law and not the whims of the party in power, a body that can intervene in the life of citizens only under limited and controlled circumstances, and is publicly accountable.

The much-discussed police reform of which enactment of legislation is a part is not just a facelift. It requires in-depth examination of the police organisation, its mandate and its functional dynamics. The entire process calls for a commitment and sense of purpose from the political executive since what is involved is basically a re-determination of the whole governance paradigm.

Organisations perform well when they are founded upon valid organizational principles. In the case of our police these principles were ruthlessly violated over the years, resulting in corrupt, inefficient



and biased police force. The police have been rendered to act as agents of the political executive rather than as instruments of democratic state.

Critics of police performance in Bangladesh have to appreciate that the selective application of law against opponents, whether political or personal, at the behest of persons of influence became the norm rather than the exception. Under such circumstances, it is no wonder that the people perceive police as agents of the party in power, not as members of an organisation publicly maintained to enforce rule of law.

It is only logical that since the ground conditions that made the 1861 arrangement expedient have long ceased to exist, our police needs to be urgently transformed from their colonial mould and organised on principles that govern modern police meant to police free societies and not natives. The issue is one of effectively bringing the police under democratic control without compromising its political neutrality.

One of the first tasks will be to ensure that the responsibility for maintenance of law and order rests unambiguously with the police. In other words, policing operations will no longer have to be subjected to general control and direction from outside the police department.

As the society expects the police to enforce the laws without fear or favour to

anybody, it is crucial to render it politically neutral. Such neutrality has been achieved in other countries by placing the police under apolitical control, thus create a cushion between political expediency and law enforcement. In the absence of such a cushion, the persons of influence will not let police do its mandated duty.

The Police Act 1861 was understandably silent on community consultation. Rather it focused on the responsibility of communities to ensure order and should any member step out of line the whole community would face vicarious punishment.

The reality is that an inefficient and outmoded administrative legacy is undermining well-meaning reform supported by national and international resource persons. What is needed is to make improving the quality of law enforcement a permanent and integral part of the national agenda, regardless of which party is in power.

Without focusing the debate on the organisational inadequacies, it seems pointless to spend time on the rhetoric of police reform. If the organisation designed to carry out reform is broken, the rhetoric alone will not take us anywhere. As of now, the core issue is not so much what police does but why it does what it does. It is time to make the police work for the people.

Muhammad Nurul Huda is a columnist for The Daily Star.

## Lengthening shadows of parochialism in the US

Muslims are the main suspects in both countries, and what they undergo is a slur on democratic liberty. I thought the permission by the New York City Council to build a Muslim cultural centre next to the 9/11 site was a gesture worth commending. But the manner in which even President Obama has gone back on his words of religious equality indicates the lengthening shadows of parochialism in America.

KULDIP NAYAR

**R**ECENTLY, I had the opportunity to travel through the UK and the US for almost one month. I want to share my assessment of the two countries. It is needless to say that Great Britain and America cannot be compared in economic or political prowess because the latter is literally dominating the world.

Yet one thing common I found was the loss of direction in the two countries. There was no vision. Both President Barack Obama and Prime Minister Cameron exuded confidence when they were talking either to the press or to the people. Nevertheless, I could see that the talks were predicated with many ifs and buts and most of their conclusions were generally made up of wishful thinking.

Both the countries are supposed to be coming out of recession. Yet, America primarily depends on China, and Great Britain, for strange reasons, has targeted

India. President Obama is coming to India in November to assess if New Delhi could fit in somewhere in Washington's efforts to avoid another recession.

Prime Minister Cameron was recently in India and the reports say that he has been able to persuade Prime Minister Manmohan Singh to use British technology and services more than India has done so far. It was interesting to note that more businessmen and industrialists accompanied Prime Minister Cameron to India than went with him to America.

Whether President Obama and Prime Minister Cameron are doing their best to stall another round of recession is difficult to say because their critics feel that they have been so reckless in the past -- having no supervision on any financial institution -- that the D-Day can be postponed but not avoided.

However, I saw America doing a bit better than it was a few months ago. More customers are visiting shops and the stores

are relatively full of goods (interestingly, made in China). But unemployment is more than 9% and the dole itself is a heavy burden on the exchequer. Prices of houses have generally come down by 50% to 60%.

The UK, looking every bit like a poor relation, has been able to save the pound from going down further (at present it is trading at about Rs.70 to one pound). Even this upsurge may have happened because of a successful tourist season. Customers in shops have not yet come back in the numbers they did a couple of years ago. Many industrial units have stopped because of lack of demand. Yet the impression is that the efforts that Prime Minister Cameron is making through visits abroad, particularly to India, will pay dividends sooner or later. India's growth at the rate of 8% is viewed with an expectation as if some advantage would come to the Great Britain.

London is still looking towards the European Union, hoping that countries like Spain and Portugal would be saved like Greece, which narrowly avoided bankruptcy earlier this year. But if this calculation does not come through Britain thinks that it may be the next country to face the same dangers. Germany is not liked because it has put a different foot forward and has preferred to go it alone, despite the distress calls from other European partners.

Suddenly, there is summer as far as India is concerned. It is being respected and wooed like never before. Prime Minister Cameron even went to the extent of condemning Pakistan from the Indian soil, saying that Islamabad must stop exporting terrorism. Even though President Asif Ali Zardari went on an official visit to London soon after Cameron's remarks, the latter did not offer any apology.

What London hopes for now is that in return New Delhi too opens up its markets for British exports. England has already responded with more lenient visa procedures for Indians wishing to visit the UK. However, America has not relaxed its visa policy to benefit India or the people from South Asia. In fact, Washington's security at airports is humiliating. I experienced it even with the diplomatic passport.

Obama's recognition of India is apparent from the number of people of Indian origin he has appointed to several jobs in the White House. They total more than any other ethnic community. Sadly, America is not willing to give up on the use of carbon. The world expected Washington to agree to cap greenhouse gases that cause global

warming. But it is clear from Senate Democrats that the policy has been changed. They are abandoning the effort to pass an energy/climate Bill that would have capped gases and opened a path for renewable energy.

It's a pity that the West, which has already consumed one-third of human resources in the world, has still not woken up to the devastations it has caused. The developing world will have to muster collective pressure on America, UK and European countries to stop plundering whatever is left of natural resources. India, Bangladesh, Pakistan and Sri Lanka have been badly hit by the climate change. The devastating floods in Pakistan are a recent example.

What I personally missed both in America and the UK was the liberal thought that once attracted intellectuals and others to look towards Washington and London. It is true that the 9/11 tragedy and the subsequent terrorist attacks in the UK have scared the people. Still I hoped that there would be some individual or organisations to raise their voice against the shrinking political space and personal freedom.

Muslims are the main suspects in both countries, and what they undergo is a slur on democratic liberty. I thought the permission by the New York City Council to build a Muslim cultural centre next to the 9/11 site was a gesture worth commending. But the manner in which even President Obama has gone back on his words of religious equality indicates the lengthening shadows of parochialism in America.

The reverence of liberal voices, both in the public and the media, can retrieve the situation to some extent. But the fact is that even those people who feel that democracy is being deformed and mutilated do not speak out. Protestors have become fewer, feeble and all too respectful to the establishment. Famous universities, which once raised the banner of defiance, are busy with meaningless curricula and ways to collect more and more money to satiate their ever-increasing hunger.

I am not looking for Professor Laski or John Kenneth Galbraith to rise from their graves. Yet I expect those who remember their sane, liberal and moderate voices to take a stand against the sense of narrowness and parochialism which is consuming whatever is left of freethinking. Who else will fight the encroaching darkness?

Kuldip Nayar is an eminent Indian columnist.



Ground Zero, NY.