

Targeting the corrupt in judiciary

CJ's positive approach to TIB report dispels confusion

CHIEF Justice ABM Khairul Haque has informed the nation that steps are being taken to look into corruption in the judiciary. To this effect, as he states, a five-member committee comprising senior High Court judges has been instituted, the fundamental purpose being a ferreting out of corrupt elements in the judicial branch. It is our understanding that the committee, formed against the backdrop of a recent TIB report on judicial corruption, has set before itself the task of cleansing the judicial branch of corrupt elements within it. We welcome the move and indeed the spirit in which it has been made. It is certainly encouraging to note that the highest court in the land has taken due and positive cognizance of the report and means to allay the fears and apprehensions which have crept into the public mind as a result of the report.

The recent exchange of views between the judges and officials of TIB on the subject, preceded earlier by the judiciary's directive to TIB for a submission of documents relating to its opinion survey, should be taken as a further sign of the judiciary's readiness to go after those involved in unethical activities within its corridors. It is essential that every effort be made in order to convince people that at the end of the day, it is the judiciary that will interpret their rights and uphold their individual and collective interests.

It ought to be clear to everyone that the CJ and his colleagues have adopted a forward-looking stance on the TIB report. In this instance, we would like to point out that the rather negative impression that was being given out earlier about the TIB by a section of the press was both misplaced and misleading. The hype created around the report appeared to convey the impression that TIB was being subjected to an inquisition. The fact was that TIB had merely conducted a survey in accordance with standard procedures followed all over the world and simply reported it. Unfortunately, what followed looked like a sense of satisfaction in certain circles that at long last TIB was having its comeuppance. It was nothing of the sort. Citizens will now breathe a sigh of relief at the proactive and positive manner in which the judiciary has responded to the report. Its action only reinforces the principle that it believes in transparency and surely means to look inward as a way of preserving its role intact as the guardian of the constitution and of people's fundamental rights.

Finally, we would like to make it known to the CJ in particular and the judiciary in general that in their efforts to investigate corruption in the courts, indeed in the legal field, they will have the full and unstinted support of this newspaper, and hopefully of the media as a whole as well as the civil society and people at large. We are in full agreement with the CJ that the judiciary like other organs of the state is accountable to the people. His comments have without question cleared the air of any misgivings that may have arisen.

The terrible accident

Yet another indictment on plummeting highway safety

THIS time it has taken the lives of nine police personnel on duty, with one more fighting for his life in the hospital. We condole the deaths and express our heartfelt sympathies to the bereaved families which may have lost their only earning members.

The van they were traveling on was rammed head-on by an onrushing truck. It was a massive collision going by the picture that appeared in the media, and the vehicle was damaged beyond recognition. It is hard to believe that such a collision could take place in broad daylight and with such damaging consequences. And this is what begs the question. Why do highway accidents continue to occur in such abominable regularity?

Why did this accident happen; could this have been avoided? It is ironic that in this instance the unfortunate victims of hazardous highways are those that are supposed to ensure the safety of the highways for the public. It could have been that the truck was over speeding, or that it was being driven by a novice, and perhaps too without a license, and if there was a license it, in all probability, was fake. There could have been a mechanical defect of the truck. A whole raft of things might have gone wrong and which, we feel, could have been prevented had timely oversight been exercised at various stages. It needs to be pointed out too that the intemperate behaviour of the drivers on the roads is due mostly to the lax supervision of the policemen.

It needs repeating that most of our highways are veritable death traps, with accidents waiting to happen. It is not surprising that accidents take place given the conditions of the highways. Their shoulders are often encroached upon at places exposing these to precarious driving, that too done by incompetent hands at the wheels, not to speak of the jalopies plying, often with fake licenses.

This is perhaps the umpteenth time that we have been constrained to comment on road accidents in Bangladesh. Regrettably, nothing palpable seems to be getting done in this regard. On the contrary, accidents like these continue to occur. And we shall continue to inveigh against the authorities' lack of action till such time the situation is reversed, and the roads made safer for the commuters.

We have hardly come across instances where errant drivers have been persecuted and punished. We hear of probe committees but never of the reports submitted. We hear of lack of resources of the police but nothing of what is being done to make up the shortcomings. Highway petrol police is hardly operational. We demand quick and substantive action on the part of the government to raise the standards of road travel safety.

Other side of the municipal polls

SYED FATTAHUL ALIM

THE results of the initial round of municipal polls held in Rangpur, Rajshahi, Barisal and Khulna divisions are indicative of the overall trends of local government level polls in the country. However, the total picture will become clear after the results of the remaining divisions -- Dhaka, Chittagong and Sylhet -- come out after January 18. Even then, the dawn that cracked on January 12 has shown what is in store for the rest of the day.

As it has already been observed, calculations of the high commands of both the ruling and opposition political parties have gone wide of the mark as demonstrated through the polls result. Because in many cases, the candidates that came off with flying colours were not in the mind of the party high commands. Not only that. The choice of the local members of parliament (MPs) and top notches of both the parties had caused so much consternation among the grassroots level leaders that they ran for the mayoral and councillor posts in the respective municipalities by themselves.

It is hardly surprising then that a chaotic situation in terms of the choice of candidates and style of electioneering campaign dominated the scene everywhere. The electorate was also confused about whom to cast their electoral lot. In consequence, every municipality saw more than one candidate filed from the same political party, while others ran as independent ones. This was behind the divided house in every constituency and distribution of the voters among different candidates belonging to the identical political party.

That is why, the central commands of the two major political parties, the ruling Awami League and the Bangladesh Nationalist Party (BNP), are trying to explain away the gains of their opponents in their traditional bastions of power as the work of their own rebel candidates and, therefore, not indicative of any real failure or unpopularity of the dominant party in the respective constituencies. And



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neither are they willing to accept the fact that the relative gain evinced by their opponent in those constituencies are a manifestation of their rival's making inroads into their bastions of influence.

This in other words implies that if their own houses remained consolidated, then they could beat their opponents and thus sweep the board. The other argument to justify the reversals in the initial round of the polls is that municipal elections are not political ones and the candidates are not nominated by the political parties concerned. So in that case, the results of the polls should be looked upon purely as a local phenomenon without any national political consequence and as such have nothing to do with the popularity of the parties concerned either in the respective constituencies or at the national level.

But taking cover behind such armour of reasoning cannot hide the

fact that the local level polls are always taken very seriously by political parties as they reflect the people's political pulse at the very grassroots. In fact, we would hear different explanations from the same parties had the poll results come out according to the expectations of the respective party high commands.

There is every possibility that they would in that eventuality -- as they are known to have done so in the past -- gloat over their success and come down heavily on the rival political camps for what they might infer as their wrong politics having serious bearing on their popularity at the local levels. And if the opposition camp was on the winning side, they would blame it on the government's failure to deliver in those constituencies.

So, the ruling as well as the opposition parties have lessons to learn from the local elections such as the ongoing municipal polls. As a matter of fact,

whatever the grounds for the peculiarities of the municipal or other local level polls and their results, there is, in truth, little point in drawing a very wide line between the local government and the national polls when it comes to the perception of the people about the overall state of politics and governance. For it is the same people who are to elect their representatives to deliver the goods, whether from the local or from the national governments.

The ongoing municipal elections have also laid bare another interesting development of our politics. The propensity for rebellion among the rank and file leaders is something that cuts across the reigning political divide. The centre can no more exercise its full sway over the fringes.

The leaders at the grassroots are more and more getting disillusioned about the decisions of the hierarchy. And it is not only in the local government polls, similar drift could be observed even in the national elections, though in a very limited scale in the past. And the whole scenario is also reflective of the attitudes of the general voters about the central leadership.

Why are the central leaders slowly losing their grip on the leaders at the grassroots as well as among the common constituents? The simple explanation for this is that leaders at the centre, the MPs included, are increasingly getting more concerned about their personal gains and less about the welfare of the masses and the ideology of their parties. And to compensate for this omission, their language of politics is becoming rhetorical and devoid of real content. This is happening to the dismay of the people at large. Small wonder they are gradually shifting their attention from the centre and concentrating more on the local leaders to address their problems.

The leadership and politics at the centre need to mend their ways, if they are to remain at the helm of affairs and ready for the long haul.

Syed Fattahul Alim is a senior journalist.

To beg or not to beg

HEZZY SMITH

UNDOUBTEDLY, the abduction and maiming of children to engage in begging should not be tolerated. In this light, the High Court directives of January 2 to halt this practice are welcome.

But they are also cause for concern. To combat begging, the court ordered for the application of the Dhaka Metropolitan Police Ordinance, 1976; however, the relevant section is patently unconstitutional. DMPO Section 81 provides for up to a month imprisonment for "whoever in any street or public place begs or applies for alms," regardless of whether one begs under duress or out of necessity. In so doing, Section 81 criminalises what is a last resort for a vulnerable population. Not only is such a restriction on its face unconscionable, it also contravenes constitutional guarantees, most prominent among these being the right to life.

More than a general begging prohibition, Section 81 specifically targets those who "expose or exhibit any sores, wounds, bodily ailment or deformity with the object of exciting charity or obtaining alms." The cruel irony is that people with disabilities are routinely barred from equal opportunities to work -- from micro-enterprises up to the public and judicial service commissions -- and in many cases left with few alternatives but to beg.

Thanks to Section 81 and identical provisions in Metropolitan Police Acts and Ordinances across the country, at least people with disabilities can enjoy equal opportunities to imprisonment not only in Dhaka, but in Chittagong, Rajshahi, Khulna, Sylhet, and Barisal, too.

But by no means are able-bodied beggars off the hook. In addition to Section 81, the existing Bengal Vagrancy Act, 1943 allows police to take into custody not only any person caught begging, but also any person who looks like he may earn his living by begging. (Apparently, in Bangladesh there is such a thing as a fashion police.) With little more pretext than

shabby dress, anyone may be detained indefinitely in a government-run vagrant home.

Stories of arbitrary detention abound. 13-year old Selim, who has a physical disability, was picked up while napping in the park after he had finished his morning shift at the restaurant where he worked. He spent more than 2 years in the Dhala, Mymensingh home.

cratic countries have ruled against similarly retrogressive anti-begging laws. In 2006, the Bombay High Court ruled that those who beg out of necessity cannot be arrested under the Bombay Prevention of Begging Act, 1959. The validity of this Act, which has spawned analogs in 20 Indian states, is being challenged in a petition pending before the Delhi High Court.

The Supreme Court of the United



Yes, the number of people who beg is alarming, and yes, efforts should be made to provide them with alternatives if possible and of course to punish abductors and maimers. But people who beg out of necessity should not be confused with people who beg under duress.

While, nominally, homes provide opportunities for training and skill development, detainees testify to underfeeding as well as physical, sexual and psychological violence. Although families are entitled to notification, years may pass without them knowing the whereabouts of detained relatives. Even then, familiesw invariably have to pay steep bribes in order to secure their loved ones' release. Selim literally had to sell his shirt for paper and postage when home authorities denied him.

Across the world, courts in demo-

States and that of Canada have struck down statutes that criminalise begging in 1972 and 2002, respectively, because of the "unfettered" powers given to police. In Ireland, the High Court found the Vagrancy Act, 1847 to be unconstitutional in 2007 because it "invidiously discriminates between those who are rich and those who are poor."

We believe that the cabinet-approved Vagrant and Shelterless People (Rehabilitation) Act, 2010 would not survive a legal challenge. The sections that impose harsh pun-

ishments on abductors and maimers are all well and good, but significant portions dole out equally harsh measures on any and all people who beg.

Despite the luxury of 67 years' hindsight, the draft Act makes no improvements on the ambiguous identification criteria for vagrants in the Bengal Vagrancy Act. Although the so-called "Rehabilitation" Act does contain expanded provisions regarding vocational training for detainees, those who do not comply with the rehabilitation authorities (such as those who wake up late!) may be punished with up to 3 months of hard labour.

The draft Act seems to be more an engine for liberty deprivations than a rehabilitation roadmap. In addition to the dubious efficacy of involuntary rehabilitation, individuals have no mechanism for challenging the circumstances of their detention and no mechanism for submitting complaints of abuse in the official rehabilitation centers (which could be more appropriately named detention centers).

Moreover, Section 25 of the draft Act conveniently provides an effective indemnity for all government employees tasked with implementing the law. Lastly, the draft Act says nothing of the fates of the families whose breadwinners may be detained for up to 3 years; for every one beggar detained, one can assume that two beggars, and possibly child beggars, will be created in his or her place as their family members struggle to survive.

Yes, the number of people who beg is alarming, and yes, efforts should be made to provide them with alternatives if possible and of course to punish abductors and maimers. But people who beg out of necessity should not be confused with people who beg under duress. Rulings and policies that generalise about the vast population of people who beg based on a section of that population will endanger the livelihood and threaten the rights of many Bangladesh's most vulnerable people who are most in need of protection.

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