LATE S. M. ALI

DHAKA FRIDAY MARCH 4, 2011

Prof. Yunus' status before court

Manner of his removal demeans us all

THE move by the Bangladesh Bank to strip Professor Muhammad Yunus of his position at Grameen Bank is now a matter for the judiciary to decide. The Nobel laureate has already filed a petition challenging his removal. We will await, along with the rest of the nation, the judgement the High Court means to deliver on the petition on March 6.

But while we wait to see the eventual outcome of a situation that has left people baffled in Bangladesh and outside, we are constrained to say that the manner in which Yunus was removed smacked of a lack of decency and therefore was in bad taste. The finance minister has informed us that there was no alternative to the move. The question, though, is whether the authorities should have given such short shrift to an individual whose contributions to the country, to a building of its image abroad have made all of us proud. Indeed, we are extremely surprised that when the government itself spoke earlier of the Yunus case being reviewed by a committee, it went ahead with axing the Grameen Bank founder on the ground that his reappointment had been flawed. Now, if the authorities did not act in these ten years, could they not have waited ten more weeks or months to enable Prof. Yunus to quit gracefully? Besides, rather than summarily serving a letter of dismissal on him, should the Bangladesh Bank not have served a show cause notice on him first, asking him to explain his position?

As a nation, we have simply damaged our self-esteem by going out on a limb to hurl indignities on our Nobel laureate. The attacks on him have been of a vindictive nature and were politically directed. The entire ugly situation now naturally raises the question of the future of Grameen Bank. The prime minister's negative opinion of micro-credit notwithstanding, the fact remains that it is Bangladesh's unique contribution to the world thanks to Dr. Yunus. It is our innovation, one that may not be perfect, that can be developed through trial and error and experience. Should our own political leadership have denigrated it? To our mind, to be dismissive of the micro-credit concept is basically to throw the baby out with the bath water. Such an attitude is folly at best and political opportunism at worst. That, at least, is what has emerged from the action against the Nobel laureate. And judging by the initial reaction of the diplomatic community in Dhaka, the move against Yunus comes through as a misstep that surely could have been avoided.

Killing of Pak minority minister

Voice of reason under grave threat

WO months after the killing of Punjab governor Salman Taseer for his stance against the blasphemy law by his own bodyguard, assailants have shot dead another vocal critique of the law, the federal minority affairs minister of Pakistan, Shahbaz Bhatti. And accusing fingers are being pointed at the militants of Pakistani Taleban. In both the cases, the murder of two important secular voices of the country have drawn widespread condemnation as well as sympathy from well meaning quarters from home and abroad.

We also condemn the dastardly killing of Shabaz Bhatti and express our deep sympathy to the members of the bereaved family and the community.

Though use of suicide bombs in public places, police or military installations or even mosques including religious institutions to kill scores of people is nothing new in Pakistan these days, the killing that took place at Pakistan's Islamabad on Wednesday has shaken the country to its core. Because the victim was not only a minister, he was also a representative of the nation's small Christian minority. Last year, a member of the community, Asiya Bibi was sentenced to death allegedly for uttering words that contravened the blasphemy law.

It is hardly surprising that saner and secular voices in Pakistan as elsewhere in the world have expressed their concern about the draconian blasphemy law as it is being used arbitrarily to persecute members of the minority community. But the fanatic elements of that society are not willing to stand any dissenting voice. So, like Salman Taseer, Shabaz Bhatti, too, had to meet with his predecessor's fate.

We share our concern with the saner and sensible section of Pakistani people, who are still trying to raise their courageous voice against the spectre of rising religious obscurantism in Pakistan. It is hoped that the Pakistan government will show no mercy to the killers and deal will be able to deal with the spectre

THIS DAY IN HISTORY 👺

March 4

1797

In the first ever peaceful transfer of power between elected leaders in modern times, John Adams is sworn in as President of the United States, succeeding George Washington.

1861

Abraham Lincoln is inaugurated for his first term as President of the United States.

1882

Britain's first electric trams run in east London

1904 Russo-Japanese War: Russian troops in Korea retreat toward

Manchuria followed by 100,000 Japanese troops.

Frederick Lindley Wood and Gandhi sign an agreement envis-

aging the release of political prisoners and allowing salt to be

freely used by the poorest members of the population

1931 The British Viceroy of India, Governor-General Edward

1971 The administration in Dhaka was under the direct control of Bangabandhu with the Pakistan govt nowhere to be seen. Air

Marshal Asghar Khan demanded that President Yahya Khan transfer power to Shaikh Mujibur Rahmnan. His views were echoed by other West Pakistan politicians.

EDITORIAL

When the target is Prof Yunus

ASIF NAZRUL

HE Indian Lok Sabha and Rajya Sabha met jointly on December 9, 2009 to attend a lecture by Dr. Yunus. On the occasion, Indian Prime Minster Manmohan Singh addressed Dr.Yunus as a respected friend and said that to be in his company was a privilege. At one point in his emotion packed speech, he said: "We have a lot to learn from the winner of Nobel Peace prize in 2006. And I again salute his work and his presence amongst us."

A year later, a number of Bangladeshi dailies carried a completely different report. It stated that the Indian premier had made a scathing criticism of Dr. Yunus and his micro- credit project. The Indian High Commission in Dhaka immediately protested this news, terming it baseless. Surprisingly, none of the newspapers felt the need to publish the protest letter from the Indian High Commission.

Propaganda against Dr.Yunus took a severe turn. A documentary by a Norwegian TV alleged that the founder of Grameen Bank had violated the condition of grant by transferring fund from Grameen Bank account to a sister concern without permission from the donor. But the said documentary never complained of corruption, embezzlement or misappropriation of fund by Dr. Yunus. Nonetheless, some newspapers with reference to this documentary raised such allegations. Afterwards, the Norwegian government conducted a fresh investigation of the matter and said that the issue has been settled decently. And it did not include anything about corruption and misappropriation of fund.

Unfortunately, the matter has not been settled decently in Bangladesh. The Bangladesh Premier termed Dr.Yunus a 'blood sucker of the poor' and commented that the issue of micro-credit should undergo massive scrutiny. Then followed criticisms by various policy makers of the government. Malicious reports and commentaries were published against Dr. Yunus in different news media known to be pro-government. Cases were filed against Dr.Yunus in different parts of the country the way it is done against opposition political leaders. When in February 2011 a foreign Nobel laureate Amartya Sen was being honored by the government, our lone Nobel winner was found running for bail in different courts of the country.

The final blow came on March 3, 2011. Dr. Yunus was removed from the post of managing director of Grameen Bank through a letter from the Bangladesh Bank. In TV talk shows that evening, I saw people, not even distantly related to the law profession remarking that the removal was done lawfully. A teacher of history department of Dhaka University asked if there was any success story at all of Grameen Bank in poverty alleviation. Before that, another teacher of Dhaka University, who is placed in a reputed organisation of the country, commented that through the Social Business programme Dr. Yunus is only cheating the poor.

It was after the PM's criticism of Dr. Yunus that many individuals in responsible positions have joined the chorus without information, evidence or reason. Government investigation against

Dr. Yunus is currently in progress. Cases are in the court. Simultaneously, Dr Yunus is on trial by a section of the media. He has brought laurels for the country by

Director of Grameen Bank. Firstly, prior approval of Bangladesh Bank had not been obtained before his appointment. Secondly, he passed the retirement age of 60 a long time ago. To my mind none of the two reasons is applicable in the case of Dr. Yunus. Grameen Bank is run by Grameen Bank Ordinance – 1983. As per Article 36 of this Ordinance, the board of directors of the bank is empowered to formulate necessary rules for efficient functioning of the Bank. According to Article 14 of the 1990 Grameen Bank (Amended) Ordinance, the rules do not need prior approval of the government. Basing on that, the Bank had formulated a rule on November 19, 2001 which stipulated that there would be no age limit for the tenure of service of the Managing Director, and that the service rule of the Bank would not be applicable in his case. If these rules are not invalid, then the Bangladesh Bank cannot remove him on grounds of prior approval or age. Grameen Bank has been operating according to these rules for the last ten years and the Bangladesh Bank

We need to understand that, the way he is being removed is not acceptable under any circumstances. Hossain Zillur Rahman has said, this is not in public interest and it is devoid of any sign of good governance.

founding an organization, a concept and a modality. We should have shown more restraint, patriotism and responsibility while criticising him. Before standing against him, we should have shown more maturity considering the interest of the people and the image of the country.

But does it mean Dr. Yunus is above criticism? Certainly not. He is not beyond criticism, and definitely not above the law. Mr. Badruddin Umar has been criticizing Dr. Yunus for a long time. He is not concerned with which government is in power or when the PM is displeased with him. When the best universities of the world have opened Yunus Center and micro-credit departments and are studying his thoughts, some people in Bangladesh have indulged in vilifying him without valid evidence.

Attacks by state institutions have become more dangerous than personal criticism. That is so also in the letter of Bangladesh Bank that removed him. I have seen in the media two reasons proffered as grounds for his removal as Managing has been conducting business with Grameen Bank without declaring these rules illegal or taking any legal measures in this regard. If Dr. Yunus had to be removed legally, then it was necessary to have these rules declared illegal by the court or have those annulled by the board of direc-

Questions can be raised on the legal authority of Bangladesh Bank to remove Dr. Yunus. According to General Clauses Act, only the appointing authority can terminate an appointee. It is the board of directors that appoints the Managing Director, Bangladesh Bank may either approve or reject the appointment. We ask why the Bangladesh Bank has accepted his appointment for the last 10 years if the conditions of his appointment, laid down by Bangladesh Bank in 1990, were violated in 2001. According to the Principle of Estoppels the central bank cannot take a different position after 10 years.

It would have been appropriate for Bangladesh Bank to convey its opinion to Grameen Bank and advise action accordingly. The Bangladesh Bank could have gone to the court if the board of directors did not relieve Dr. Yunus from his post. Bangladesh Bank does not have the authority to directly terminate him. The central bank has not been given any such powers by the ordinance under which Grameen Bank functions. The fundamental principle of justice and fair play is that the person be given notice and be heard before he is terminated. In the case of Dr. Yunus, even this has not been followed.

Some in the government are also saying that Dr. Yunus should leave because he has attained the age of 70, or that it is not proper to hold on to a post permanently. Some of them are older than Dr. Yunus or of the same age. This argument should be also applicable to those that have been appointed on contract after being recalled from retirement. We feel it is not age but, for the sake of public interest and interest of the institution, competence and leadership that are important. Has Dr. Yunus lost competence or is Grameen Bank's growth being hampered in any way due to his age?

On the contrary, the Grameen Bank's importance is growing all over the world with every passing day.

One of Dr. Yunus' failures is that he could not create any successor. But the same is also true of many other highly placed people of the country. Dr Yunus too could not make any unique exception to that, but it would be better if he could do so. It would be advisable if the government and the Grameen Bank could go for a legal reform in any other way, in order to effectively and permanently use his image, wisdom and experience in Grameen Bank or any of its affiliate organisations. It is possible even now to do that in a respectable manner.

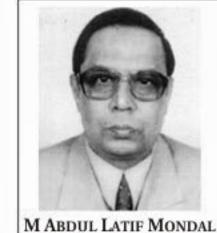
Different respectable organisations, institutions and individuals have condemned the action. The development partners have since long raised objection to the way Dr. Yunus is being attacked. It is only the government that stands to lose and not Dr. Yunus or the Grameen Bank. It is the image and interest of Bangladesh that are at stake. And hundreds of thousands of beneficiaries of poverty alleviation programme are now under threat. Our concerns lie there.

The writer is professor of Law, University of Dhaka

Translated from Bengali from Prothom Alo by The

BARE FACTS

Persistent quorum crisis



ting of Parliament had to be adjourned on February 24 due to a quorum crisis. Newspaper reports suggested

NCE

again,

the sit-

that presence of lawmakers was thin at the beginning of the day's sitting at 4.45 pm, 15 minutes behind schedule. Around 9.00 pm, it came down to 48, falling short by 12 to run the sitting.

Jatiya Party lawmaker Mujib-ul-Hoque drew the attention of the chair, pointing out that house lacked presence of the required 60 lawmakers. The chair had no other option but to adjourn the sitting for the day. This has happened when Awami League (AL)led grand alliance has 302 of 345 MPs.

Lack of a quorum in the house and /or late start of the sittings have been perennial problems. Available information suggests that quorum crisis took a serious turn during the 8th Parliament (2001-2006) when BNP-led alliance government was in power. In 2004, parliamentary proceedings had to be suspended a number of times due to lack of a quorum. By 2005, the quorum crisis had become chronic.

In 2005, a report of Transparency International Bangladesh (TIB) said that the four sessions (11th, 12th, 13th, and 14th sessions) of the 8th Parliament witnessed severe quorum crisis almost everyday. The TIB report said that there was a loss of 55 hours and 51 minutes in these four sessions, which led to a wastage of Tk.5 crores, as Tk.15,000 is spent per minute to run the House. There was no respite from quorum crisis in the subsequent sessions of the 8th parliament.

The then main opposition AL, with around 60 MPs, boycotted the sessions of the 8th Parliament almost continuously. But that did not absolve the ruling BNP-led alliance, which commanded more than two-thirds majority, from its responsibility to ensure

quorum in the House. It was expected that there would be no quorum crisis in the 9th Parliament because of the overwhelming majority of the ruling AL-led alliance. But that did was not to be. There was lack of quorum in the very first session. The Daily Star of March 5, 2009 reported that the sitting of the House was adjourned the night before because of quorum crisis for the first time since the new parliament sat in January.

Lawmakers were late in attending the sittings, as a result around Tk.5.42 crore was wasted during the first ses-

MPs have to remember that they are handsomely paid from the taxpayers' money to attend the business of the House.

sion of the 9th Parliament due to quorum crisis. This was revealed at a roundtable discussion on "Strengthening Effectiveness of Parliament" organised by the TIB on July 4, 2009.

Deputy Speaker Shawkat Ali, who was the chief guest, admitted that MPs did not attend parliament sessions on time, and added: "Giving executive power to the lawmakers will not be a wise decision but their recommendations should be followed by government's executive department for strengthening democratic process."

The BNP-led opposition, with about 40 MPs, has mostly remained absent from the sessions of the 9th Parliament. But that should not cause quorum crisis because the ruling ALled alliance has more than four-fifths majority in the house.

The quorum crises in parliament

may be attributed primarily to the following factors.

First, the two major political parties -- BNP and AL -- that have been ruling the country in succession since reintroduction of parliamentary democracy in early nineties largely lack tolerance, respect for the people's verdict and other norms necessary for successful functioning of parliamentary form of government.

Throughout the last 18 years or so of the parliamentary system of government, these two political parties, whenever in opposition, have resorted to boycott of sittings to make parliament ineffective and thereby unseat the party in power.

Second, available information suggests that MPs with business as the occupational background constituted the largest elite group in the 5th, 7th and 8th Parliaments (59%, 48% and 50% in 5th, 7th and 8th Parliament respectively). In the 9th Parliament, 57% of the MPs are from the business community. These businessmen turned MPs are heavily pre-occupied with their business activities, which keep them away from the house frequently or delay their arrival there.

Third, some knowledgeable people argue that many MPs, particularly from the treasury bench, do not find interest in legislative business in the House because they think that they have nothing to do but to follow the dictation of his or her party pursuant to Article 70 of the Constitution.

Fourth, the involvement of the MPs in local development works invited severe criticism during the period of the immediate past BNP-led alliance government. The UZP Act 2009, making MPs advisors, has given them authority to control the decisions of the UZPs. An MP has the last say in all developmental and nondevelopmental matters in his constitu ency. So, attending the sittings of the house has ceased to be a priority to many lawmakers.

Bringing an end to quorum crisis in parliament requires (i) legal measures; (ii) non-legal measures; and (iii) the

exercise of moral sense. The legal measures include, inter alia, amendment of Article 67 of the Constitution to drastically reduce the lawmakers' leave of absence from the house; amendment of Article 70, allowing MPs to speak freely on any matter excepting (a) censure or noconfidence against the government, and (b) passage of the finance bill, or annual budget. In both cases the concerned MP shall vote for the party on whose ticket s/he was elected.

Section 25 of the UZP Act 2009 that allows an MP to control the UZP in his constituency should be deleted to allow the Parishad to work independently. This will enable MPs to give more time to legislative matters in the House.

The TIB has suggested setting up of a parliamentary committee to look into the attendance of the MPs in the house. Such a committee is known exist in the Indian Parliament.

Non-legal measures for encouraging attendance of the MPs in the house may include, among others, prime minister's regular presence in the house and introducing incentives for the MPs who attend the house regularly, or more than a certain number of days.

Regarding the exercise of moral sense, the MPs have to remember that they are handsomely paid from the taxpayers' money to attend the business of the House.

To conclude, it is always the responsibility of the party/alliance in power to make the parliament vibrant and effective through creation of a congenial atmosphere that contributes to the participation of both treasury and opposition bench lawmakers.

The writer is a former Secretary. E-mail: latifm432gmail.com