

The ball is in politicians' court

BADIUL ALAM MAJUMDAR

THE recent judgement of the Appellate Division declaring the non-party caretaker government (CTG) unconstitutional has generated quite a bit of controversy. The opposition BNP has already rejected it. Personally, I welcome the judgement, although, without responsible behaviour on the part of our politicians, it may lead the nation to an uncertain future.

Along with making the CTG illegal, the Court, considering public interest, recommended a continuation of the system for another two terms and exclusion of the judiciary from it. These recommendations need to be acted upon by the Parliament, and thus the decision about the future of CTG now lies in the politicians' court.

Some observers find the judgement contradictory, but I disagree. It addresses two issues -- one legal and the other political. The constitutionality of the CTG is a legal issue. The decision to continue it is a political issue.

I have been arguing for a long time that the CTG is an undemocratic system. Democracy is included in the Fundamental Principles of our Constitution. It is also a part of the basic structure of our Constitution. Thus, the Court rightly declared it unconstitutional.

The CTG has other inherent weaknesses also. The system encouraged our political parties in power to behave irresponsibly as they, at the end of their terms, would not be responsible for holding free and fair elections. Consequently, they indulged in much mischief -- such as politicisation of the bureaucracy, packing the constitutional bodies

like the Election Commission (EC) with party loyalists, designating allegedly partisan individuals as chief advisers -- which created formidable challenges for the CTG in its efforts to hold fair elections. Such irresponsibility, needless to say, caused our political system to break down in 2006, leading to the formation of an army-backed CTG and the political tsunami that followed.

The CTG is an insult to politicians and is beset with an internal contradiction. The system essentially conveys the message that politicians cannot be trusted to hold free and fair elections, but they can be given the responsibility, after elections, to govern honestly and protect the interests of the citizens. In addition, it is an unstable system as the ruling party almost invariably wants to disband or at least manipulate it, while the opposition wants its continuation. In fact, the previous proponents of the system are now its opponents and previous opponents are its vigorous proponents. Thus, no political agreement or political will exists to make it function effectively.

In addition, all the excesses and agitations to adopt and keep the CTG in place over the years diverted the attention of the citizens from after-election governance to the elections themselves. This paved the way for an election-centred and Parliament-oriented "one day democracy" with total disregard for good and effective governance later. This in turn facilitated looting, plundering and misgovernance by democratically elected governments in the past and ushered into our country the best democracy that money can buy. Such a system of "dirty democracy" created incentives to

cling to power at all costs and engage in manipulations to make it happen.

Furthermore, the CTG was adopted to avoid deeper problems. It may be remembered that the demand for the CTG first surfaced after the Magura by-elections in

misgovernance after elections also made our state progressively weaker. Thus, the sooner this undemocratic and unstable system, which hides problems under the rug, is done away with the better it will be for the nation. The Court judgement has created such an opportunity. In fact,

by the 9th Parliament. Steps were also taken to separate the judiciary from administration, free the EC secretariat from the clutches of the Prime Minister's Office, make the Anti-Corruption Commission functional, and so on. Most importantly, all the CTGs were by and large able to deliver free and fair elections.

Nevertheless, I am of the view that this undemocratic, unstable and problem-avoiding system cannot be a long-term solution to our problems of predatory politics and misgovernance -- because the reforms initiated under the CTG do not sustain or are totally ignored by subsequent governments. An ideal solution of the prevailing problems would, therefore, require changing the mindset of politicians and the creation of a new political culture so that they would come forward to clean up their own acts and reform the system.

It is thus clear that the system of CTG does not signify robustness of our democracy and is not a sustainable, long-term solution to our problems, and the Court gave the green light to disband it. However, such disbanding cannot be done immediately as it will create uncertainty for our future national elections, since our politicians have yet to earn the credibility that they can be relied upon to hold free and fair elections because of their continued manipulations to influence elections and misgovernance afterwards.

Such a decision at this time would amount to allowing our politicians to play "Russian Roulette" with the future of our nation. Perhaps that is why the Court recommended that the CTG be continued for another two terms, although some want it to continue until our

political culture changes. In fact, the Court has issued a challenge to our politicians to urgently come to an agreement on important issues of governance and has also set a time-limit to change our political culture.

In light of the Court judgement, politicians must immediately come to a negotiated settlement on two important issues; the constitution of the next NCG so that the judiciary is not adversely impacted, and the formulation of a reform agenda so that the 12th Parliament election can be held under a party government. The Parliamentary Special Committee must catalyse such a settlement.

On May 3, before the Court judgement, I recommended to the Committee to disband the CTG after two more terms. I also proposed that a panel be created with all the retiring chief justices and the justices of the Appellate Division, and that they be given the mandate to select, either unanimously or with two-thirds majority, a chief adviser from among them for the next CTG. The earliest retiring chief justice may be mandated to chair the panel.

As a conclusion, let me quote Benjamin Franklin. During the American Constitutional Convention held in 1787, a lady asked Mr. Franklin what kind of Constitution he and his colleagues were framing. His answer was: "A republic, Madam, if you can keep it!" Similarly, the future of our hard-earned democracy will depend on the responsibility and wisdom of our politicians in general, and the members of the Special Committee in particular. May God Almighty help them!

The writer is Secretary, SHUJAN.



1996, where the ruling party indulged in corrupt practices and the EC failed to prevent it. Preventing such misdeeds in the future would require reforming political parties and reconstituting the EC. Instead, our politicians invented the system of CTG and swept the underlying problems under the rug.

These weaknesses of the CTG caused irreparable harm, causing our democratic system to become ineffective because of the lack of a strong institutional base. All the manipulations of the CTG and

the Court gave a wake-up call to our politicians that, for the sake of greater national interest, they must soon come to an agreement on certain basic issues of governance, including the system of CTG.

However, it must not be forgotten that the CTG has had many outstanding achievements. A reliable electoral roll with photographs was created during the tenure of the last CTG. During the same period, many systemic and institutional reforms were initiated and a number of progressive laws were framed, although some were not approved

Crusade against corruption

AHMAD MAHMUDUR RAZA CHOWDHURY

IN the early days of April a septuagenarian civil society activist Anna Hazare started a fast unto death crusade against mounting corruption in India. His demands were (i) immediate passing of Lokpal (Ombudsman) Bill and (ii) recasting of the existing committee that was drafting a new anti-corruption law. He insisted that the existing committee was not acceptable as "some of its members (ministers) known for corruption should have already been in jail."

The nascent movement at Delhi's Jantar Mantar soon gained momentum. Crowd swelled as many joined from far flung states to give a day or two to his crusade. Support venues sprang into existence in cities and candle light vigils were brought out at different places of India.

While these activities were visible through electronic media, a parallel invisible movement was making headway. Support blogs were floated in London, USA and Beijing with unprecedented spontaneity and activists sent thousands of SMS messages through mobile phone networks inviting people to rally behind Anna. The SMS calls, crisscrossing India, ignited the masses at thunderous speed. Yours truly, who was traveling in India during those days, received such messages in his cell phone from unknown senders and witnessed supporting processions in Delhi and candle light vigils taking place even in the wilderness of Himachal Pradesh.

The prime minister appealed to the 73 years old activist to break his fast, assuring government's immediate action. Sonia Gandhi said there were no two views on corruption and government would do everything. But Hazare stood undaunted. Nothing short of forming committee with equal numbers from the government and the civil society would satisfy him. It was, the activists said, not a movement against government or party/parties in power, nor was it aimed at giving any mileage to the opposition, albeit, opposition leader Sushmita Swaraj backed Anna Hazare's cause and appealed to him to break his fast. The government ultimately yielded to Anna Hazare's demand and the peoples' power. A 10-member committee would be formed with 5 members drawn from government side and 5

members from civil society with Finance Minister Pranab Mukherjee as chairman. Hazare broke his 99-hours fast on the morning of April 9 after government issued official notification to this effect. It was a moral victory for millions of Indians' ardent desire to rein the monster of corruption.

Indeed, civil society cannot be a substitute for politicians. The latter are the prime movers of democracy and have a much bigger role to play. But there comes a moment in the life of a nation when someone has to rise to the occasion and give a wake up call to arouse its members against an evil that threatens to destroy the fabric of a society. Since politicians and bureaucrats have indulged in corruption, it was argued that framing of any anticorruption law must involve representation of civil society. No person would voluntarily part with alluring perks and enormous unearned gains that come with public position. The crusaders declared in Churchillian echo

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that corruption had become too important an issue to be left to the politicians alone.

The Gandhian non-violent approach is not new to India. But what astonished all was the velocity with which the call could reach and inspire people sitting in distant houses which otherwise would have taken weeks or months in a vast country like India. In fact, it was made possible by exploiting combined powers of peaceful demonstrations, cyber science, digital technology, mobile phones and involvement of the print and electronic media. The latent power of digital technology has been unfurled with amazing results.

Bangladesh Perspective:

In Bangladesh there is no dearth of

man-made issues affecting lives of citizens. The latest ones to mention may be; all pervading corruption, extra-judicial killings, Grameen Bank debacle and the share market scam.

Ours is a country where institutions have been dismantled one after the other without creating better substitutes. Rules have been flouted with impunity, laws have been bent to benefit individuals and government refuses to make public names of persons associated with share market scams. We have seen our history distorted and national heroes maligned or deprived of their rightful place in history. We have seen how a personality who brought name and fame for the country, the man who has made Bangladesh known to the world by winning Nobel Prize, has been maligned and become a victim of orchestrated character-assassination campaign. The old adage that no good work goes unpunished has unleashed its ugly face in all spheres of our national life.

Bangabandhu played his historic role in 1971. Have we not yet reached another point of time when a man or a woman will rise to the occasion and loudly speak out the unarticulated desire of the masses? In around 2000, an eminent person was offered the position of ombudsman in Bangladesh. While politely declining the offer he maintained that if the spirit of the constitution was upheld, laws of the land were applied without let or hindrance and if the government genuinely committed itself to good governance, the country did not require an ombudsman to set things right.

Our civil society is quite active and a section of politicians favour arriving at consensus on national issues, though in a feeble voice. Our print and electronic media are no less pro-active (barring a few). Internet-use is growing, digital technology is proliferating, at least as seen in meteoric rise of mobile phone use. But with all these modern and powerful tools of mass communication available at hand, we could not see the civil society taking an issue to the people, generating support in its favour and ultimately making a difference by using those tools. Can the success of Anna Hazare's crusade be an eye-opener for many of us?

The writer is a former civil servant.

E-mail: rcmahmud@yahoo.com

Life on fire!

SHEGUFTA YASMIN

TONDAY, May 31, is "World No Tobacco Day." Bangladesh has been celebrating this day along with the world since 1987. On this day, smokers across the globe are advised a 24-hour period of self-restraint from all forms of tobacco consumption. Smoking is recognised as a major public health problem in the developing world. In Bangladesh, smoking is very common among male and even more prevalent among youths in slums. Advertising may also have an important influence on students.

According to the Ministry of Health and Family



We can understand that smoking is a fatal habit. Hence, quitting smoking is the only option for a smoker to live a healthy life or else he/she has to put his/her valuable life in the fire of cigarettes to get temporary pleasure! So leave and live.

Welfare and the World Health Organization (WHO), tobacco use in the country is increasing enormously among adults. 41.3 million people aged 15 and older smoke cigarettes regularly, and about 57,000 deaths and 382,000 serious diseases per year in Bangladesh were caused due to smoking. A study says some 21.2 million men and 0.7 million women currently smoke tobacco, while some 25.9 million adults use smokeless tobacco like gut or zarda, but the Smoking and Tobacco Products Usages Act could not give us a guarantee of complete smoke-free environment.

In the last one decade, tobacco production increased almost ten-fold. Twenty-five lac people

took up smoking in the last three years. People spend Tk.8 crore taka everyday to buy bidi. With this amount we can arrange one glass of milk and an egg for our fifty three lacs malnourished children. If we spend 69% of this money in the food sector then child death rate will be half of the present rate.

125 maunds of wood are needed to dry 200 kg of raw tobacco leaves, and the smoke creates pollution. Recently, 200 MPs submitted Demand Order (DO) letters to NBR asking it not to impose tax on tobacco. Again, in a conference of bidi workers in May 24, the industry minister advised against increasing tax on bidi. These are contradictions of government policy. The government wants to reduce cultivation of tobacco while many MPs do not want imposition of tax on tobacco.

Smoking is completely banned in certain public places and workplaces such as healthcare and educational facilities and in certain forms of public transport. The law, however, permits the establishment of smoking areas or spaces in many public places and workplaces. Further, there is no prohibition on smoking in restaurants and hotels, though it's very harmful to smoke in air-tight AC restaurants, buses or trains. We often find that passengers or customers cannot react to a smoker because the smokers argue that there is no prohibition of smoking in restaurants. Here we need a strong law against smoking.

The law bans promoting the use of cigarettes but not the use of smokeless tobacco. Bus drivers are often found smoking while driving. Rickshaw pullers and CNG auto-rickshaw drivers also smoke while sitting idle. Students, young boys etc smoke openly in the streets. But not a single one is challenged by a passerby or the police. The fine of Tk.50 is not imposed on anyone.

We know that this fine may be increased to Tk.300, and Tk.10 lacs is proposed as a fine for the direct advertising of smoking. But only increasing of fine is not enough, we need proper monitoring and execution of law. The concerned committee also suggested giving easy loan to tobacco farmers to encourage them to go for alternate cultivation to preserve the fertility of cultivable land.

Child labour in the tobacco industry is a major problem. Children working in bidi, kholi and cigarette factories, or selling tobacco products, suffer from fatal health hazards. Over 57,000 people die in Bangladesh every year from tobacco-related diseases.

From the above facts and statistics about cigarette smoking we can understand that smoking is a fatal habit. Hence, quitting smoking is the only option for a smoker to live a healthy life or else he/she has to put his/her valuable life in the fire of cigarettes to get temporary pleasure! So leave and live.

The writer is Lecturer, Department of English, ASA University Bangladesh.