

AL GS's remarks

Avoid mixed signals

THE ruling party's General Secretary has said that the opposition's latest hartal was in fact not called on the issue of the caretaker government system or the power crisis and price hike of essentials, but to hinder the process of the trial of war criminals and the proceedings of the corruption charges against BNP Chairperson Khaleda Zia's sons.

The Awami League's GS has apparently tried to read motives into the opposition's hartal at variance with stated objectives of the BNP of making the hartal call. We do not know whether he speaks for the government or the party, but coming on the heels of the AL chief's reiterated offer for talks with the BNP, the GS's comments can only create confusion in the public's mind.

Where one of the prime duties of any political party is to inform parties that it is seized with the issue at hand and to politically educate the people, leaders of the ruling party seem rather to be misleading them by sidelining the issues raised and highlighting those which were not. While we do not support hartals for any reason, to imply that the opposition had no issue or had different ones from those suggested, raises questions about how grounded in reality the AL GS's comments are.

The primary issue of the last hartal being that of the caretaker government system, the government would do well to take it into consideration, do everything possible to engage in dialogue with the opposition as the party chief has offered and reach a reasonable and acceptable conclusion of the matter.

Hartals are disruptive for the economy, society and politics of the nation. Just as the opposition should abjure the path of aggression, the government, too, should be in tune with reality and try to grapple with the issues that are of concern to the nation.

Handling of hartal

Overreaction by police undesirable

WE are relieved to note that Sunday's general strike called by the BNP went off relatively peacefully. But the inconvenience that people were put through during the period of hartal is highly regrettable, and we find it utterly reprehensible that private and public property should be made targets of attack by hartal supporters as we saw being done the day before hartal when as many as 12 vehicles were destroyed.

There were some sporadic clashes in several parts of the country on the hartal day, some of which had resulted from anticipatory and preemptive actions by the law enforcing agencies.

While restating our abhorrence for hartal we cannot help but say that the law enforcing agencies went a bit overboard in following the directives of the administration to not to allow any ground to the BNP and it alliance partners to enforce the strike.

We believe that it is the duty of the state to provide security to the people as much as we believe that it is the duty of the state to allow people to exercise their democratic rights of association, right to demonstrate and ventilate their grievances, within the bounds of law and without violence or endangering public peace. To that extent the law enforcing agencies should take necessary precautionary measures and remain in a state of readiness to prevent untoward incidents and violence.

But what we witnessed in the capital in particular was quite contrary to the principle of democracy and political freedom. We cannot understand why a political party should be prevented from holding meetings or bringing out processions as long as they follow the law of the land.

It is regrettable that intolerance of political opponents, of not allowing them political space, has become a part of our political culture. And this only adds to the pre-existing state of animus between the AL and BNP.

THIS DAY IN HISTORY

June 7

1099

The First Crusade: The Siege of Jerusalem begins.

1893

Gandhi's first act of civil disobedience.

1942

World War II: The Battle of Midway ends.

1942

World War II: Japanese soldiers occupy the American islands of Attu and Kiska, in the Aleutian Islands off Alaska.

1944

World War II: Battle of Normandy At Abbey Ardennes members of the SS Division Hitlerjugend massacre 23 Canadian prisoners of war.

1967

Israeli forces enter Jerusalem during the Six-Day War.

1975

The inaugural Cricket World Cup begins in England.

1981

The Israeli Air Force destroys Iraq's Osiraq nuclear reactor during Operation Opera. The facility could have been used to make nuclear weapons.

ENIGMATTERS



MOHAMMAD ALI SATTAR

Speechifying continued. Mudslinging went on unabated.

BNP went to the parliament on a casual trip after a long gap, which many say, was to avert losing seats. The party has gone back to its "outside the house" stance. It is not interested to attend parliament and give legitimacy to the AL parliamentary exercises.

The trial process of the alleged war criminals got underway. Efforts are on for constitution amendment with debate galore on the rationale and possibility of reverting to the 1972 Constitution.

The latest is the Supreme Court (SC) verdict on the caretaker government. The SC declared the caretaker government an illegal arrangement which should be done away with. However, it opined that next two elections may be held the caretaker system.

One is left confused as to why the revered court suggested (not verdict) continuation of an illegal system even if it is for a short while?

Experts opine that we can make do with the system for the next two terms and then revert to the traditional system of polls under incumbent government. To them, a caretaker administration is, after all, not a people's selection, hence the question of its legality in democracy.

But we must not overlook the fact that it is the people's representatives

THE last two and a half years have been quite a peaceful time, politically that is. However, cold politics never ceased.

who decided on the system through an accord. It was an outcome of shared understanding between the two major parties.

Both the parties were elected through elections held under the interim administration. Polls were by and large free and fair. The outcomes were accepted by all and sundry, except the losing party. It was internationally acclaimed affair.

Former Sri Lankan President Chandrika Kumaratunga and Imran Khan, head of Tehrike-Insaf of Pakistan voiced support for such

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system and suggested same arrangements in their countries if need be.

The prime minister's wish to do away with the caretaker system right now in line with the verdict of the premier court of the country was a little surprising. Many believe the time is not ripe. In the same breath she calls for opposition formulas, if any, regarding the caretaker issue.

She brushed aside the observations made by the Supreme Court, recommending options of continuing with the system for next two terms. She, however, vouched for a strong and effective Election Commission to have clean and acceptable elections.

However, before shutting off the caretaker system there ought to be deliberations in the parliament where the opposition can make its point. There should be extensive public

discourse on it. We could also go for a national referendum. We still have quite a way to go before a final resolution comes into effect.

The decision to discard the caretaker system right now may not augur well. SC ruling could be implemented after having two more provisional governments. By this time the politicians would have time to be more coherent and accommodative. People would have been more free-thinking and exercise their rights to vote with more wisdom.

And the much debated Election

Commission could have gone under massive transformation so as to make it a strong and effective body which all could trust. The main problem is lack of trust in EC. Here we need people with high integrity and wisdom. They need to be pro-people.

Khaleda Zia was opposed to the concept of a neutral caretaker government. She ridiculed the concept. Sk. Hasina fought for the introduction of the system. She compelled BNP to accept her demand. That's how today's caretaker system was born. The system, born out of mutual wedlock, served us right. It gave us elections of the best kinds than under any incumbent administration. Today, Sheikh Hasina advocates for shunning the system. And Khaleda Zia stands for it.

BNP reacted by declaring a day

BARE FACTS

No more delay in enacting law on contempt



M. ABDUL LATIF MONDAL

(CCA) 2011, a new law on contempt that forbids punishment for contempt which does not impede the normal process of justice dispensation. Earlier on May 20, the cabinet considered the draft law and asked the law ministry to resubmit it to the cabinet after further examination. The law minister will now table the draft law in the form of a bill in the Parliament.

In the face of a longstanding demand from a cross section of the society including the media, the immediate past BNP-led alliance government initiated the move for enactment of a new and comprehensive law on contempt of court replacing the CCA 1926, which can no longer keep up with the country's changing socio-political perspective and has thus become obsolete. The Act hasn't even defined contempt of court. Actually, the matter has been left to the discretion of the courts. So, any act that a judge thinks to be disrespectful of the court is contempt of court.

The BNP government tabled the Contempt of Court Bill, 2006 in the House on May 2, 2006 in the 21st session of the eighth Parliament. The parliamentary committee on law ministry was tasked with the responsibility of scrutinising the bill and making recommendations. It could not be known why the bill was not placed in the House for enactment as law in the next few months of BNP rule.

It was during the period of the last caretaker government that the president promulgated the Contempt of Court Ordinance (Ordinance No 21 dated May 21, 2008). On July 24, 2008 the High Court Division declared the ordinance illegal, void and ultra-vires of the Constitution. The government

preferred an appeal before the Appellate Division. Further development on the case in the apex court was not known. However, the ordinance ceased to exist when the ninth Parliament declined to ratify it.

The draft law approved by the cabinet proposes provisions similar to those specified in the Contempt of Court Ordinance 2008. The draft law, amongst others, defines contempt of court and delineates the activities that will not constitute offences of contempt.

Enactment of Contempt of Court Law will help remove the doubts existing in the mind of the people in general, and the journalists and public servants in particular, regarding offences that constitute contempt of court.

According to the draft law, any willful act, statement or expression by words or visible sign that may be considered as a violation of any verdict, decree, order, writ or warrant issued by a court, or that may undermine a court, or may obstruct the process of justice, will constitute an offence of contempt of court. Slander or libel of a court and personal criticism of a judge while performing judicial functions will also constitute an offence of contempt.

Publication of information on any proceedings of a court, which sits in camera on a matter related to public order or security of the state, and on any confidential act, invention or discovery, which is under trial, would constitute contempt of court.

Amongst others, the following activities will not constitute offences of contempt:

- Publication of accurate information, comments or news on the normal proceedings and functioning of the courts or on any running proceedings of a court;
- Any statement made by a person, aggrieved by the personal attitude of a judge or any member of his or her family, in an application to the government or any court seeking

disciplinary proceedings against the judge in good faith and in restrained language;

- Publication of any information, comments or news about the personal conduct of judges in a matter not connected to the performance of their judicial functions;
- Any constructive criticism of a judgement, be it a final verdict or when an appeal against the judgement is pending;
- Comments or news item, if true,

published on any matter that is in the interest of the public;

- Any comments or news item on corruption, irregularity, incompetence and ignorance of judges, in connection with their judicial functions;
- Publication or airing of any comment, analysis, statement or quotation made in parliament about a judge or the judiciary or any open discussion on such matters.
- Any violation of any order, directive or observation passed by a judge or a court, either in any matter not related to the running proceedings of the court or in the judge's administrative or other capacity.

The draft law provides that if it is not possible for a public servant to implement or go by any judgement, order or direction because of any existing laws and rules or any other practical reasons, no contempt proceedings will be drawn against the public servant. The public servant, however, will have to show the written communication with the controlling authority as proof that efforts have been made to implement the court's edicts.

The draft Act further says that no public servants will be ordered to

long hartal on June 5. It has also hinted at stricter programmes if the present government plans to go ahead with holding the next parliamentary elections under it. In response to the PM's dialogue call, Khaleda Zia rejected any possibility of a meeting, instead she demanded resignation of the government before any talk could be held.

We gathered nothing tangible from the crises that had befallen us in the past. We wriggle out of one crisis and get into another with merriment. History has failed to make us learn. This is the paradox.

We should allow ourselves more time to be democratic. Only elections and change of governments are not democracy. This simple lesson should be learnt in an undemanding way. But we prefer the hard way to get to simple conclusions.

We are well on our way to another pointless combat for power. We don't know how intense will be the blood-letting this time round.

Bangabondhu, in his historic March 7 speech, called upon us "to counter the enemy with whatever we had." Today, all political parties, civil bodies, trade organisations, teacher and students' associations, judiciary, individuals from all professions should come up with formulas to save statecraft and nationhood.

It's time we had a "national charter for peace" drawn up by all, pledging to build a peaceful society with a vibrant democracy and a strong economy.

Let not deep wishes for peace turn into darkest fears of life. We might not be lucky next time.

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make personal appearance in the court for contempt proceedings relating to their official functions. They will be allowed to explain their position through lawyers. The court, however, will have the power to order the contemners to appear in court if it thinks that they should be heard personally for the ends of justice.

The draft Act also says that the president may, if he thinks it lawful in the exercise of his power under Article 49 of the Constitution, grant pardons, reprieves and respites, and remit, suspend or commute any sentence passed by any court on charge of contempt against any public servants in relation with their duties or against any person for constructive criticism, analysis or opinion aired in the print or electronic media.

The draft law provides that a person can be handed a maximum sentence of six months of simple imprisonment or be fined Tk. 2,000 or both for contempt of court.

The provision that the courts will not ask the public servants to make personal appearance in the court for contempt proceedings relating to their official functions and they will be allowed to explain their position through lawyers may invite criticism.

Both India and Pakistan have replaced the CCA, 1926 much earlier, saying that it was not a comprehensive piece of legislation. The draft CCA-2011 approved by the cabinet largely resembles the CCA, 1971 of India and the CCA, 1976 of Pakistan.

Socio-economic and politico-cultural aspects of Bangladesh, India and Pakistan are same to a considerable extent. This suggests that Bangladesh enact Contempt of Court Law in line with the Contempt of Court Laws in the neighbouring countries, particularly India and Pakistan. Enactment of Contempt of Court Law will help remove the doubts existing in the mind of the people in general, and the journalists and public servants in particular, regarding offences that constitute contempt of court.

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