

STRAIGHT LINE

Judicial probe report on Aminbazar carnage

Let the truth come out

WE are heartened by the speed and competence with which the one-member judicial probe body completed its work in the killing of six students on the night of July 18 by a mob, suspecting them to be criminals. The disturbing aspect of it was that the police stood by while the mob beat the students to death.

Though the official version of the judicial report is yet to be published, whatever could be gleaned from various sources is extremely worrisome. It has become apparent that the victims were innocent, not robbers, as told by police. The police stood by as the tragedy was being enacted. They did not intervene, even when the victims implored them to save their lives. So far as could be learnt, the surviving victim Al Amin's narration of the incident appears to have been vindicated.

If the probe findings confirm what the media reported earlier, that police was complicit in the killing to the extent that they watched the mob murder without stopping them, then we have a very serious and disturbing issue at hand. Media report and public complaints have long been raising the issue of police inefficiency and disinterest in dealing with the rising crime scene. In some cases, their direct involvement in criminal activities including actions leading to death have been found.

While waiting for court proceedings to start in the present case, we expect that meanwhile contents of the probe report would be published for public consumption.

We would further hope that, the truth would not get suppressed and those responsible for the death of the students are brought to justice. We expect that the higher court will ensure the process to its proper conclusion, which has been initiated by ordering the probe.

Media handling left much to be desired

There is a lesson to learn

THE strikingly different contrasts of how the governments of Bangladesh and India handle the media and share information became very apparent during Prime Minister Manmohan Singh's official visit to Bangladesh which just concluded. The Bangladeshi media was obliged to struggle during the summit to acquire the official version of the development of events, often having to chase officials for information and briefings. The media was apparently kept in the dark about the step by step outcome of the talks between the two governments. There appeared to be no designated person to approach in case of any clarifications required and if there was, he/she was not readily available. In fact, there were hardly any press conferences.

The Foreign Secretary of India, Ranjan Mathai clearly stated to the press on September 5 that the Teesta Accord will most likely not be signed at this time. However, the Foreign Minister of Bangladesh, Dipu Moni, stated at an informal briefing on the same day that an accord will be signed and furthermore stated that she was in constant touch with India.

In contrast to this, Indian officials met with journalists from their country, briefing and informing them and keeping them efficiently abreast of the developing situation. India has always had a policy of holding regular media briefings on such occasions.

This is standard practice in a democracy, particularly when two Prime Ministers meet. Constant contact, clarifications and exchange of information between the media and the government should be regarded as a given, promoting a healthy and beneficial relationship between the governments and the people at large.

The people's right to know and the unvarnished facts particularly about a major event is fundamental and

Law-enforcement professionalism and political will



MUHAMMAD NURUL HUDA

WHILE commenting on serious police malfeasance of committing extortion, The Daily Star post-

editorial of August 24 very candidly observes that non-implementation of police reforms "raises misgiving in the public mind that a thoroughbred reform of the police might keep them above politicisation" and "that may be the reason why no political party is serious on this score."

Experts are of the view that the police and the political executive are bound together in the common endeavour of preventing and investigating crime, maintaining law and order and ensuring that the people have a well-functioning essential service that protects life, property and liberty. The roles, powers and responsibilities of both the police and the executive must, therefore, be properly articulated in order for policing to work in an efficient, unbiased and responsive manner.

Cynical observers, however, are of the considered view that politicians do not want to professionalise the police because control over it is central in a polarised society. Ironically, our political leaders who since 1947 occupied positions of power were enamoured by the administrative and police system left behind and enjoyed exercising power and authority, oblivious of their own demand of yester-

years for far-reaching administrative reforms. The periods of unconstitutional rule in Bangladesh brought out in full virulence the repressive role of the inherited police system.

In Bangladesh, political manipulation, especially between 1991 - 2006, led to decline in discipline and senior officers were often unable to control undisciplined juniors with political connections. A situation developed wherein intrusion of politics into

For the British, the maintenance of their rule in India was the prime consideration. Crime control was only a secondary objective to be achieved through fear of the police. The Penal Code, Criminal Procedure Code and the Evidence Act put in place a legal framework and a police force equipped for the maintenance of British rule by force. The Penal Code prioritises offences against the state and the maintenance of public order.

stances" and for the appointment of private persons as special police officers.

It would be relevant to remember that our political leaders have failed to introduce administrative changes in tune with the provisions of the republican Constitution of Bangladesh. The police remained distant from the people and are as disliked as before.

It is very important to note that the blanket power of superintendence vested in the government by the Police Act, 1861, is not appropriate in a democracy. Further, the role of intelligence agencies has not been redefined to protect the fundamental right to freedoms of association, expression and movement. The police in Bangladesh still keep a watch on all political activities without discrimination and exclude only the ruling party of the day, which gives them authoritarian powers antithetical to the democratic spirit.

There is no denying that in a democracy police could not be wholly autonomous and political intervention is both inevitable and necessary to some extent. Therefore, there is a need to specify areas where government interference is justified and others where it is not. The recommendation of setting up of Security Commissions/Public Safety Commission as proposed in the new police ordinance can do this job effectively as its members are likely to be non-political persons. The enactment of a new police law brooks no further delay.

The writer is a columnist for The Daily Star.

The establishment has to realise and appreciate that politicisation of the police, its unaccountability to the people and its outdated managerial practices largely result from lack of professionalism and accountability within the organisation.

matters of police management led to solicitation of further political influence. Pervasive disillusionment, loss of pride and collegiality was the result.

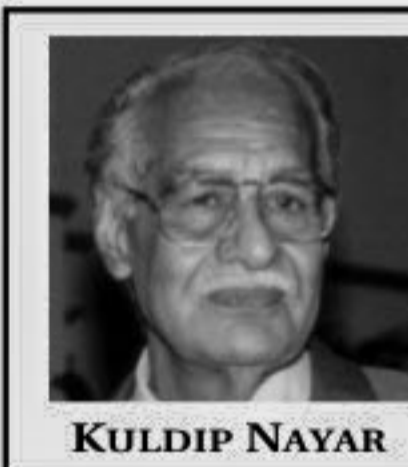
The establishment has to realise and appreciate that politicisation of the police, its unaccountability to the people and its outdated managerial practices largely result from lack of professionalism and accountability within the organisation. Political misuse of the police has been the direct result of internal organisational problems and poor performance. One cannot, however, lay all the blame on the political class, ignoring the negative role of the police leadership.

It begins consideration of traditional crime only from Section 299 onwards. The Criminal Procedure Code begins with the "arrest of persons" and the "maintenance of public order and tranquility" before getting to grips with criminal procedure relating to investigation and trial.

We have to remember that the Police Act of 1861, despite its preamble, prioritises collection and communication of intelligence affecting the public peace. The prevention and detection of crime is included among the duties of the police only in section 23 of the Act. The Act further provides for punitive policing at the cost of local residents in the event of "distur-

BETWEEN THE LINES

Government at its old games



KULDIP NAYYAR

PAKISTAN may not have democracy in the sense the world knows. Nor will it pass the muster in

the economic field. But it has to its credit independent judiciary and free media which the lawyers and journalists have won after long battles in their respective fields. Bangladesh and Sri Lanka cannot emulate Pakistan because the judiciary and the media exercise independence to the extent the governments of those countries allow, although Bangladesh is a shade better than Sri Lanka.

India is a different cup of tea. The country's constitution and the democratic system guarantee free functioning of both the judiciary and the media. Yet the baffling point is that the Manmohan Singh government, battered by scams running to a loss of billions of dollars to the exchequer and the Anna Hazare movement to have an anti-corruption Lokpal (ombudsman), did not interfere in the functioning of either the judiciary or the media.

However, while licking the wounds the government has begun a new way of thinking: should the media and the judiciary have the freedom they enjoy? It is like finding fault with the sea after the ship has been wrecked because the captain failed to act. Home Minister P. Chidambaram, Human Resources Development Minister Kapil Sibal and the experienced Finance Minister Pranab Mukherjee are reported to have urged the prime minister to "do something" to correct the two.

For action against the media, the suppressed report by the Press Council of India has come in handy. "Paid news" is not to the liking of journalists or the people. And it would help cleanse the field if the guilty could be spotted and punished. But the government's proposed remedy is to give teeth to the council. Such a

measure has been discussed many a time and rejected because the Press Council is not another law court, but a forum where peers judge peers. The sanction is moral and ethical, not legal. The government's proposal may defeat the very purpose of the council. Talking to bodies like editors' guild and union of journalists may be more beneficial. I dare the government to bring a bill to curtail the press freedom.

Rajiv Gandhi, hurt by the criticism on the Bofors gun scandal, tried to have an anti-defamation act. There was such a widespread pretest that he had to beat a hasty retreat. In democracy, the media hands have a duty to perform. They cannot be silenced by the group of ministers or even the

corporate sectors which have a large advertisement budgets.

Justice Sri Krishna suggested this in a report on Telengana. He did a tremendous job in naming the leaders who killed Muslims in the 1993 riots. But I did not know that he too could be on the government side. His suggestion to the home ministry is that media should be managed to build opinion against separate statehood for Telengana. He has even gone to the extent of recommending the use of government advertisements as an inducement to turn the opinion in favour of a United Andhra Pradesh. How naive he is.

Rattled by the Hazare movement, the government is playing its old game by digging out cases against Hazare team members Prashant

The fact is that no government wants strong media or judiciary. It has a way to indirectly influence the judiciary because the budgetary allocations are made by the government. Media can be "disciplined" through corporate sectors which have a large advertisement budgets.

entire cabinet. Left to the government, nothing would appear in the press except official handouts.

The government's mind is clear from the manner in which its television network, Doordarshan, treated the Hazare movement. It just did not cover it, the biggest story since Gandhian Jayaprakash Narayan's movement in 1974. India's tax payers finance Doordarshan. It does not have to depend on advertisement. Readers or viewers would always revert to private avenues to get the news. This is exactly what happened when the Congress government imposed censorship in 1975.

The fact is that no government wants strong media or judiciary. It has a way to indirectly influence the judiciary because the budgetary allocations are made by the government. Media can be "disciplined" through

Bhushan, Arvind Khejwal and Kiran Bedi. And I do not know why Manish Tewari who rescued himself from the standing committee should return to it? Is the government serious about working of the standing committee? I did not like Kiran Bedi asking Agnivesh, earlier a Hazare team member, to prove his credibility. His public service goes back to the time when Kiran Bedi was a cadet in the police academy. And what secrets he could have divulged when every move of Hazare was transparent? It is in the government's interest to create cleavage among people working for Hazare. Kiran Bedi or, for that matter anyone else should not play into its hands.

As for the judiciary, the members of different parties are peeved over the obiter dicta of judges' while hearing a case. Such remarks never make part of

their judgment. For example, a Supreme Court judge said a few days ago that people would teach a lesson to the government. This was a realistic assessment against the background of the countrywide anti-corruption movement. It is apparent the government and the opposition have not liked the remark. But should parliament go overboard to counter it?

Giving vent to their annoyance, members of a house panel of parliament have recommended to the government to set up a mechanism to scrutinise the declaration of assets by the Supreme Court and High Court judges (what about the cabinet ministers who too have declared their assets?). But the bizarre proposal is that the media should be prohibited from publishing names of judges under probe. This reminds me of the days of the emergency (1975-77) when no judgment could be published without clearance from the authorities.

Whether names are published or not they soon become talk of the town. All this should not in any way affect the independence of the judiciary. Hazare did well to keep it separate from the ambit of Lokpal. After all, the Lokpal pronouncements are subject to a judicial review. How could, therefore, the judiciary come under the Lokpal? Yet, the judges should shed their sensitivity over what forms the contempt. There is a lesson in how Lord Chancellor in the UK treated a remark after a judgment. The remark was that he was an old fool. His reply was that he was indeed old. As for fool, it was a matter of opinion. He let the matter rest at that.

High Courts and Supreme Court judges in the subcontract should take a lesson from Lord Chancellor's attitude. They use the rule of contempt of court at the drop of a hat. The authority should rarely use it but never against the media. The two are on the same side.

The writer is an eminent Indian journalist. Visit My Website: www.kuldipnayar.com <http://www.kuldipnayar.com/>

THIS DAY IN HISTORY

September 10

1813

The United States defeats the British Fleet at the Battle of Lake Erie during the War of 1812.

1974

Guinea-Bissau gains independence from Portugal.

2002

Switzerland, traditionally a neutral country, joins the United Nations.

2007

Former Prime Minister of Pakistan Nawaz Sharif returns to Pakistan after seven years in exile, following a military coup in October 1999.

2008

The Large Hadron Collider at CERN, described as the biggest scientific experiment in history is powered up in Geneva, Switzerland.