

STRAIGHT LINE

Officials in a state of denial

Over extortion on nation's highways

IT is ironic when the Minister of Home Affairs Shahara Khatun advises Dhaka residents to secure their homes with locks before leaving for the holidays in order to minimise the possibility of burglary. It is as though people didn't take such precautionary measures before her revelation and were they to do so now, the security situation would get so much better. Equally shocking is to hear from the home minister that no extortion was taking place on highways. It goes to show that she is far removed from realities on the ground. This state of denial seems to have become contagious and was evident in statements made in a meeting by police officials and ministers of transportation and communication with transport leaders held on August 10. Officials continue to deny that any form of extortion is being collected on the nation's highways, a claim that was hotly refuted by transport associations.

We tend to share the views of the various transport associations leaders who categorically stated that toll was being extorted from buses and trucks to the tune of Tk.50 to Tk.200 on different routes on a daily basis. No matter how hotly such claims are refuted by the deputy Inspector General of Police, we have been continuously reporting on the issue. Indeed, investigative journalism has revealed that in many cases the police have connived with extortionists to raise this money ahead of the Eid celebrations. Such collection comes in the guise of raising money for some fund or other and what is more disturbing is that on a number of routes, extortionists have demanded and collected toll on the pretext that a percentage of the proceeds have to be given to the police.

We strongly urge law enforcement agencies and policymakers to stop misleading the people on the issue. We feel disheartened when people holding important public office such as Shipping Minister Shajahan Khan also holds the position of Bangladesh Sarak Paribahan Sramik Federation, an apex body of all road transport workers' unions suggests that toll collection should be legalised so as to stop this malpractice. It is our view that irresponsible remarks, such as those espoused by the Shipping Minister in late July and higher ups in the police force only serve to encourage the systematic regime of extortion that is fast becoming endemic.

Amazing feat on Mars

Hunt for traces of life by earthlings really begins

A giant leap forward has been taken in exploration of Mars in the saga of continuous US presence on Mars for 15 years. What marks out the touchdown on August 6, of Mars Science Laboratory called Curiosity in the Gale Crater, is the resounding success of a self-contained precision technology landing on the targeted spot of our nearest cousin planet.

The sheer magnitude of the feat can be gauged from the journey time and distance calculated at 8.5 months and 567 million kilometres, respectively. Then you marvel at the sophisticated instrumentation of the laboratory to drop a robotic car on the surface of the Red Planet, the heat shield, supersonic parachute and rocket-powered sky crane 'without any hitch'. More amazing are imageries already transmitted to NASA some of which resemble the deserts of Arizona besides the plethora of mountain peaks arranged in a picturesque landscape. It maybe a year before rover reaches its scientific target of Mount Sharp. Exploration of the Mount is supposed to unlock some of the mysteries of the origin and evolution of the planet and traces of life support system embedded in the layers of the mountains.

We congratulate NASA on its achievement and partake of the glory of US people and its President Obama for their persistent support to the space exploration programmes.

Mankind hemmed in by multifarious problems on Earth with its finite resources is increasingly finding it difficult to cope with a growing global population and facing the challenge of climate change will feel a bit liberated at the advancement of space technology. The universe is said to be 'littered with places that support life'.

In such a context, where do we stand in terms of our relative status on science education, research capability and technology? First of all, we need to develop and nurture scientific temper in all strata of our society. We have a talented youth force, all they need are tools to experiment with, innovate, improvise, knock down contraptions and learn the ropes to build new ones. For this, we need policy prioritisation which would move things in the right direction including pooling resources and mak-

The en masse accusation



MUHAMMAD NURUL HUDA

THE Daily Star editorial on August 2 raised concerns about the rationale behind accusing several hundred

unidentified persons or students in connection with a violent incident on and outside the campus of Jahangirnagar University. Reportedly, two cases have been filed and only a few accused have been named while all others were unidentified. The concern is apparently significant as the charges are grave; such as attacking on-duty policemen and obstructing them from discharging duties.

The worrisome aspect is that over the years the practice of accusing a whole lot of people has become a trend, reflecting either confused and incompetent handling or deliberately leaving scope for arm-twisting and harassment. The whole transaction smacks of a hunt for money-making or extortion. Either ways, there is a premonition that needs serious attention for providing relief to public and ensuring law enforcement practice.

When apparently random accusations are made it is only natural that indiscriminate arrest may follow. In such a scenario, there is a strong possibility of miscarriage of investigation. In effect the ends of justice and fair play are not likely to be met. Therefore, there is a requirement to look into the statutory provisions related to criminal accusation and subsequent curtailment of liberty by means of arrest.

The Criminal Procedure Code, 1898, has conferred very wide powers on police in making arrest but the limiting factor is the necessary requirement of reasonability and credibility of information to prevent

the misuse of powers.

We all know that to accuse people, especially in huge numbers, without an apparent justification is one of the most serious encroachments upon the citizen's liberty. The reasonable suspicion must have definite fact or some tangible proof sufficient enough to establish in the mind of a reasonable police officer the credibility of that information. This must be related to averments which the arresting officer should consider before he acts. Let us remember that the authority that the law confers in this regard is personal and the responsibility is personal also.

police officer should have grounds for determining the reasonableness of complaint and that of the credibility of information and the foundation of suspicion upon some definite fact.

A democratic polity may, therefore, reasonably ask as to why our law-enforcement is plunging headlong into a legally indefensible course and with such disconcerting gusto? Are they acting at the behest of ill-advised personnel? Are our police doing things they ought not to do or refraining from doing things they ought to do?

In a democratic set-up, the members of the police must be made to

arranges to commence criminal proceedings for wrongful arrest, the wrongdoers in enforcement outfit would get the message and hopefully, rash and illegal actions will be on the decrease. All segments of the judiciary have to assert themselves.

Our apex court has already given a number of procedural and administrative guidelines in respect of arrest under Section 54 of the Criminal Procedure Code. This has to be followed up in right earnest by issuing strictures and where appropriate by arranging to institute criminal proceedings against delinquent officers. One or two criminal convictions of wayward police officers would have a salutary effect. The fear of authority needs to be instilled.

For their part, the senior police officers should be able to prove that law observance by the police is the best form of law enforcement in a democratic country under the rule of law. They should be ready to carry out the behest of law at any cost.

The concept of legal aid to the poor in criminal cases should be enhanced on a war footing. This step will reduce the possibility of wrongful confinement and false incrimination in offences. NGO activism should be encouraged to keep a close watch on police indiscretions, specially the arrest on suspicion. Simultaneously, investigative journalism should expose gross misuse of arresting power.

Claims for damages caused by wrongful arrest should be instituted by activating the law in this regard. There should be no bar in fixing the civil liability caused by wrongful arrest. That would be a damper to highhandedness.

Last but not least, we have to realise that the right to live is not merely confined to physical existence but includes within its ambit, the right to live with dignity.

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The writer is a columnist for The Daily Star.

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The expression "credible and reasonable" in Section 54 of the Criminal Procedure Code must refer to the mind of the person by whom the information is received and mere assertion cannot form the material for the exercise of judgment by such person.

The arresting police officer has to exercise his own judgment for which he must have the necessary facts before him. Reasonable suspicion is understood to mean a bona fide belief that an offence had been committed or is about to be committed necessitating the arrest of the person concerned.

There is nothing in Section 54 to suggest that the arresting police officer is to be the final judge of what is credible. The spirit of the legislation makes it clear that the

realise that they are not above the law but subject to it like all other citizens and all their actions have to be supported on ground of legality when challenged before a court of law. The question is how do we do that? One way of ensuring that would be to question police indiscretions and excesses, specially the major ones, in court.

As has been mentioned hereinbefore, the legal authority and responsibility to arrest on suspicion is personal, so each individual officer must be made to account for rash and indiscriminate arrest, if so proved. To be more specific, a wrongful arrest of graver type should make the arresting officer liable to a charge of wrongful confinement under the penal law of the country. Therefore, if the authority

Of PMs lost

RAFIA ZAKARIA

ON August 6, 1990, Pakistan President Ghulam Ishaq Khan took a seat before the television cameras and announced that he was dismissing the government of Prime Minister Benazir Bhutto.

When he delivered the news, the first Bhutto government had been in office for about 20 months. It had been corrupt and inept, the president told everyone, and he had no confidence in its ability to govern the nation. He appointed a caretaker government and elections for a new prime minister were held in two months.

During Pakistan's current wrangles over the issue of contempt of court the mechanics of previous dismissals make for ironic reading. If the issue today is the task of ordering the prime minister to write a letter to a foreign government and the power of the judicial branch to compel him to do so, the issue then was the Eighth Amendment to the constitution.

Could an unelected president summarily dismiss a sitting prime minister, do away with the choices made via elections -- those costly mechanisms of the people's will? Those who supported the president then insisted that it was possible, even necessary for the amendment to exist as an instrument via which the executive could stand guard over the power of the elected to usurp.

The current Pakistan People's Party (PPP) government evaded long ago the Damoclean shadow of the Eighth Amendment; the president and the prime minister are cut of the same party's cloth and hence not intentional dangers to each other. New perils have emerged to dog them, the fears again of military appointments and dismissals and

immunities coined via seemingly illegitimate reconciliations.

The Supreme Court's decision to strike down the hastily passed Contempt of Court Act, 2012 has left Prime Minister Raja Pervez Ashraf as shelterless as the old one and restored the perpetual state of crisis that pursues the PPP-led administration.

Will the leaders of the PPP attempt to pass another contempt bill through parliament, this time even faster? Will the SC dismiss this prime minister with the same alacrity as the last one? There are no certainties in Pakistan, except those of more reviews, more petitions and more commissions and prime ministers.

Given these historical constants, it is unsurprising that the details of dismissals past and impending have captured the attention of commentators in Pakistan. It feels lofty to argue the complexities of constitutions, patched up and hacked and suspended and restored as Pakistan's may be.

It is comforting to consider individual crises as the generative pangs of robust institution-building. Whether the executive can or should or could dismiss the leader of the legislature and whether a court has the power to strike down legislation and compel prime ministers to do its bidding are all civilised ques-

tions. Each one suggests the existence of a rule that can be unearthed, a system that can be devised.

It is here that the faulty assumption lies: not in the law or the leaders but in the semblance of them and in the charade that this episodic wrangling takes the country in some better direction towards more finely delineated protections against abuse than what existed previously.

The question is not of legalities and amendments but of ethics, and the architecture of immorality is the same one each time: one person with more power and another with a little less, a push and pull with the law covering up for the barbarism of greed, the husband who stole versus the son who was bribed.

In the constitutional wrangles of Pakistan, the danger is not in their details but in what they

mask, appearing before the country each time in new casts but hiding the same inadequacies, the same weaknesses and the same churlish belief in the rightness of power and the wrongness of not having it.

There will be another episode in the drama, a day when a few hundred thousand Pakistanis sitting before their television sets will feed again on the theatre of review petitions and unwritten letters. Millions of others have already turned away,

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or perhaps never paid attention in the first place. The cost of usurping the system in Pakistan must be assessed in their numbers, the ones who no longer believe in the nuts and bolts of democratic governance. These people have been won away to another side where the vote is not the instrument of choice; where the misuse of institutions is reason enough to literally blow them up.

When Pakistanis stood amidst the wreckage of an elected government 22 years ago, they may have been able to afford the fantasy that crises of legitimacy can be solved with process and procedure. Now, after thousands killed in terrorist violence and extremist groups spurring violence in every corner of the country, the cost of constitutional crises, of laws and letters, cannot simply be explained away as the birth pangs of the newly democratic.

Democracy has always been young in Pakistan -- when the nation was young, when the prime minister was young and young still when it is no longer young; when it dies, it will undoubtedly still be mourned as having passed before its time. It's the problems that have gotten old, worn repetitive and now lethal.

If another prime minister is sacked in Pakistan in the days before its 65th birthday, it may be a different death: a time when it will not simply be the office holder that will perish, literally or figuratively, but the office itself. With their history of lost prime ministers, dead, deposed or dismissed, Pakistanis might conclude that the problem lies not in the man or the woman or the party but in the very concept of prime ministership itself.

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THIS DAY IN HISTORY

August 11

- 1918**
World War I: the Battle of Amiens ends.
- 1919**
The constitution of the Weimar Republic is adopted.
- 1952**
Hussein is proclaimed King of Jordan.
- 1999**
Millions marvel at total eclipse. Up to 350 million people in Europe and Asia witness the last total solar eclipse of the century.
- 2003**
NATO takes over command of the peacekeeping force in Afghanistan, marking its first major operation outside Europe in its 54-year-history.