

# Human rights record embarrassing

## Ensuring accountability of law enforcers pivotal

HUMAN rights reports released periodically by different rights groups have found that, while Bangladesh's situation has improved in some respects, in others, it continues to be the same and has actually worsened in certain cases. The latter is especially true with regards to extrajudicial killings and enforced disappearances.

Despite the government's supposed 'zero tolerance' policy towards extrajudicial killings and its promise to bring those responsible to justice, at least four persons were tortured in custody while two others disappeared after being picked up by members of law enforcing agencies last month alone, according to rights organisation Odhikar, which has documented 72 cases of enforced disappearance since 2009. But we are yet to see any significant instances of investigation and punishment of the culprits in such cases -- despite the fact that over half of all complaints of rights violations filed with the National Human Rights Commission (NHRC) are against law enforcing agencies.

The government's policy seems even more ambivalent in light of the Foreign Minister's recent claim that the large population as well as periods of military rule have made it difficult to ensure human rights in the country. We take issue with the Foreign Minister's comments which border on an attempt to justify the deteriorating human rights situation and sincerely hope that the government will overcome its denial mode.

As was the demand made at a national seminar on the Universal Periodic Review by the NHRC, law enforcing agencies must be held accountable for their actions. Last week, a treasury bench MP promised to move a Private Member's bill in parliament criminalising custodial torture and enforced disappearance. We hope the government, too, will realise the urgent need to take strict measures against such blatant abuse of power by those within the justice system who have come to think that they are above the law.

# Regulating MLM companies

## Need is to enact stricter law than proposed

THE cabinet proposal to enact a law styled, MLM Control Act 2012, aimed to regulate the so-called multilevel companies is a welcome move by the government.

The government has at long last responded to public outcries against fake companies that have already defrauded numerous customers playing on their gullibility. Particularly, in the wake of the recent furore over the dubious business activities of the Destiny Group, which calls itself an MLM company, has prompted the government to go for enacting a law.

Considering the magnitude of their fraudulent practices blamed for pauperising and throwing many on to the streets, a stern law should have been in place long before.

The proposed law does not prohibit such business outright, but says that those found violating its provisions like obtaining a licence before launching such business or engaging in forgery will face jail term from three to five years and pay a maximum of 50 lakh taka as fine.

In practice, the activities of such fake companies come to the notice of the public or the government only after they have swindled millions of taka out of the victims. Worse yet, the fine provided in the proposed act is peanuts for such tricksters. The Destiny group now under close scrutiny is a case in point.

In the circumstances, the government would do well to review the necessity of the very existence of such companies called MLM that do not follow any standard marketing principles.

Many MLM companies even strayed into the field of banking as a massive infringement of the banking laws and without any semblance of financial discipline.

In the case of the law proposed, the government should consider making it stricter by increasing the amount of fine and the jail terms.

The companies already found to have bamboozled numerous people into losing money should be awarded exemplary punishment and made to compensate the

# THIS DAY IN HISTORY

- September 20
- 1187

Saladin begins the Siege of Jerusalem.
- 1857

The Indian Rebellion of 1857 ends with the recapture of Delhi by troops loyal to the East India Company.
- 1970

Syrian tanks roll into Jordan in response to continued fighting between Jordan and the fedayeen.
- 1990

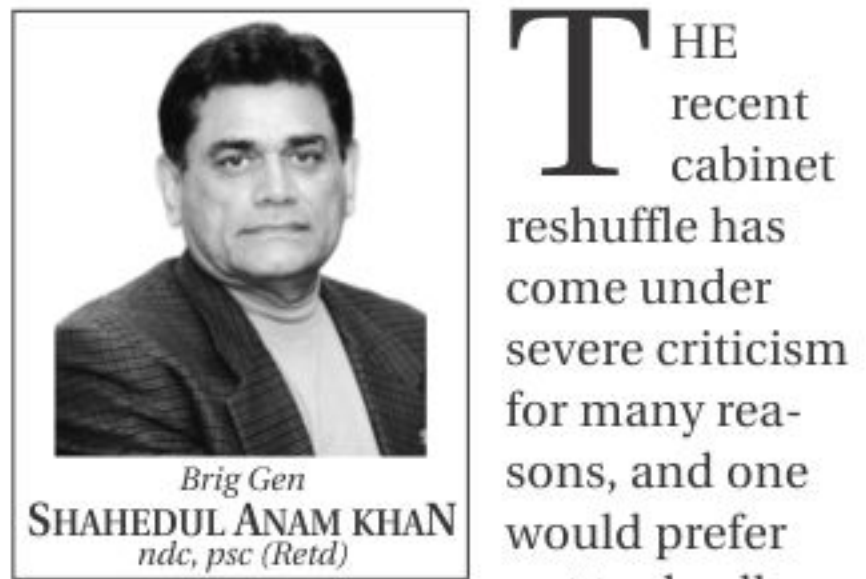
South Ossetia declares its independence from Georgia.
- 2001

In an address to a joint session of Congress and the American people, U.S. President George W. Bush declares a "war on terror".
- 2003

Maldives civil unrest: the death of prisoner Hassan Evan Naseem sparks a day of rioting in Malé.

# STRATEGICALLY SPEAKING

# Zero tolerance for dissent



THE recent cabinet reshuffle has come under severe criticism for many reasons, and one would prefer not to dwell on them at length here. The substantive and qualitative changes have been open to question and so has been the timing of it. The comical aspect is that new inductions have been made and new portfolio designated while there is one in the cabinet with no office to hold.

Suffice it to say, the underlying motivation behind the induction of seven new faces, all but one of who are totally "green," was a desperate attempt to retain the integrity of the alliance which by now has become a mere agglomeration of a few political parties. The commonality is in the common "enemy" and nothing to do with political philosophy or national policies. There is at best a gloss of integrity of the coalition; and the loose cohesion in the party came out so transparently through the refusal of Menon and Tofail to join the cabinet.

And while so much space has been devoted to the reshuffle, very little has been said about the two turning down the offer to join the cabinet, the reasons offered by them for doing so and the reaction of the AL to the explanations.

The reshuffle, I am inclined to believe, has highlighted a few things

that reflect our political ethos and culture. For one, it has demonstrated clearly the lack of political correctness in dealing with political allies and for another it has demonstrated a total absence of toleration of dissent within the AL. One may ascribe various subtexts to the rationale of the two but cannot deny that both have a very cogent argument in their favour for doing what they did.

While the two "dissenters" have received effusive accolades for their action they have been coshed by the AL, one more than the other, and whatever may be the interpretation of

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the explanations offered by the two, the reaction of the party, particularly to Tofail's negative response, is unbecoming of a vintage political party. The manner of approaching a prospective cabinet member may not be new or surprising in our context, neither is the reaction to the offer, but what is certainly surprising is the way AL has vented their wrath on the two, particularly Tofail.

Menon has got off lightly, perhaps because he is not an Awami Leaguer, by being told that the procedure adopted in approaching him for the minister's job was correct. Was it

really so? Is Menon justified in feeling aggrieved that the procedure was at best slipshod. One should not forget that Menon does not belong to the AL but is a member of the coalition. Was it not the right thing for the PM to consult him beforehand without taking him for granted? We know from instances in India that not all coalition partners are always willing to join the cabinet, though many (in our case) may lack the potency to differ with the major partner. It is lack of not only political correctness but also of refined attitude for a member of the coalition to be informed of his new status by the cabinet secretary.

As for Mr. Tofail Ahmed, he has chosen to submit with good grace by preferring not to answer the vituperative comments made about him post cabinet reshuffle. One of his colleagues has seen in the decisions, "a forecast of a new equation of new politics" that, "create a new equation of the new shape of queer politics." I must admit that such a sublime thought I have not the intellectual capacity to interpret, but it is not surprising that the views have sprouted from one who has plenty of spare time in his hands. But the stalwarts in the working committee were

even more critical, terming Tofail's decision as a "black chapter" in the party's history. And the party GS went a step further suggesting that this was a part of conspiratorial politics.

Not only Tofail's dissent but all those AL members who have been generally critical of the party's misgovernance were singled out for criticism and suggestions were made to the party chief to take disciplinary action against them.

Tofa-l is the senior-most member of the party whose credentials or commitment to the party is above board. And for the PM as the party chief it would have been only civil to speak to him beforehand and give out the thoughts behind her intentions to reshuffle her cabinet and what role she envisaged Tofail to play in it, which would have perhaps made him feel "wanted" and motivated him to accept the offer. He might still have turned down the offer, in which case all these differences might not have come to the public domain and the party, the PM in particular, could have saved its blushes.

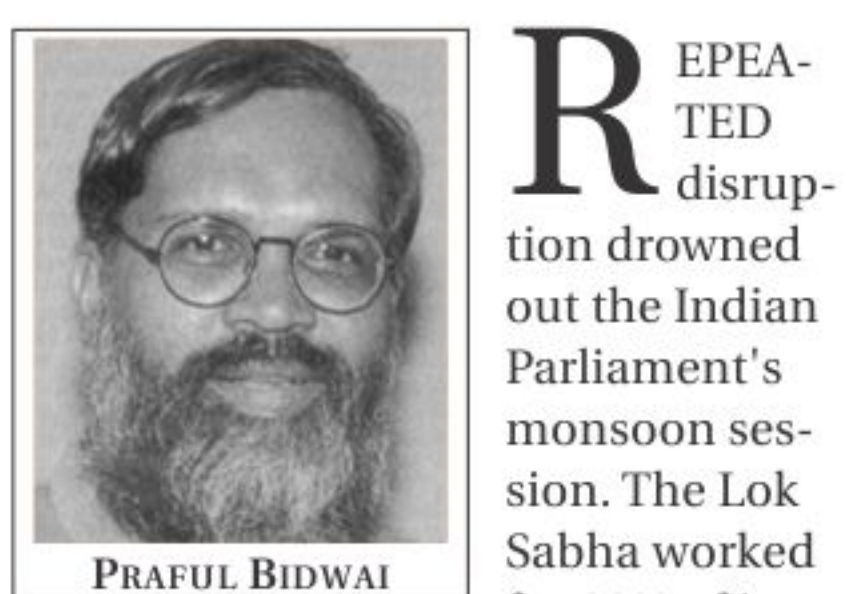
When a party of the vintage of the AL demonstrates a deep-rooted paranoia against criticism and where disciplinary action is called for dissent, we have reasons to be worried. Criticism and dissension are the hallmarks of a vibrant political party and when it ceases to be tolerant of the "other view" it only exposes a degenerative culture, which can engender anything but democracy.

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# PRAFUL BIDWAI COLUMN

# Shadow-boxing over coal scam



REPEATED disruption drowned out the Indian Parliament's monsoon session. The Lok Sabha worked for 20% of its scheduled time, and the Rajya Sabha a mere 27%. Only four of the 15 Bills tabled were passed. Of 399 "starred questions," only 11 were answered. "Question Hour," when MPs discuss topical issues, was held only once in 19 days.

The "coal scam," or alleged losses to the exchequer from the allotment of coal-mining blocks to private firms, estimated by the Comptroller and Auditor General (CAG) at a staggering Rs 1.86 lakh crores, precipitated a vicious confrontation, raucous accusations, and even fisticuffs in Parliament. The Bharatiya Janata Party, which led this disruption, brazenly justified it. "Disruption can sometimes produce results that discussion cannot," said senior leader Arun Jaitley.

Clearly, the BJP has convinced itself that after "Coalgate," public opinion has turned decisively against the United Progressive Alliance -- a repeat of the Bofors scandal of 1987.

However, the BJP may be counting its chickens too soon. It hasn't come out of the session smelling of roses. Its state governments too were neck-deep in the coal scam.

Besides, the BJP's own record on corruption is no better than the Congress's. And after the Anna Hazare campaign more or less unraveled, with some leaders like Arvind Kejriwal deciding to enter mainstream politics, the BJP's anti-corruption crusade has gone limp.

The UPA, like all neoliberal governments since 1991, is guilty of transferring valuable natural resources from public ownership to private interests. In the present instance, 57 coal blocks were allotted at cheap rates without inviting competitive bids to private corporations like Essar, Tata Steel and Jindal Steel for power, steel and cement production.

This has effectively allowed private corporations to gain control of about one-fifth of India's known coal

reserves, among the world's largest. Many allotments reek of cronyism. Only one of the 57 blocks has reached the production stage, although the licence conditions stipulate that operations start 36 to 48 months. This has triggered suspicion that the companies invested in coal for speculative reasons.

The CAG has done well to point out these irregularities. However, the Rs.1.86 lakh-crore loss estimate is notional, and involves subjective assessments and extrapolations. So the figure isn't a hard number. But such dramatic figures have a way of sensationalising India's political debate.

A crucial assumption underlying the CAG report is that the UPA government didn't invite competitive bids in 2005 on the ground that auctioning coal blocks would necessitate an amendment to the Mines and Minerals (Development & Regulation) Act, 1957. Building consensus on this would cause delays, and a loss in GDP

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and revenues. So the government found a rough-and-ready allotment route.

The CAG doesn't question the logic of urgency. But it insists that the auction route should have been taken by issuing administrative orders to allow the central government to grant mining licences. Such orders, it holds, would have substituted for a proper amendment to the Act. According to legal experts, this view is mistaken. Sound common sense also suggests that a statute cannot be amended through administrative orders.

The MMDR Act confers special powers upon state governments. They alone have the statutory power to grant mining leases. The centre comes into the picture only through a screening committee, which ensures, before the lease is issued, that the licence conforms to the requirements of central laws. The screening isn't a substitute for the statutory process.

The states have persistently opposed moves to dilute their power

to lease mines. They also explicitly opposed on July 25, 2005 the centre's proposal to switch over to competitive bidding. The most vociferous among them were BJP -- or National Democratic Alliance -- ruled states.

In fact, for all its (well-deserved) reputation for corruption and malfeasance, state governments ruled by the Congress account for only four of the 57 coal blocks. The rest are located in opposition-ruled states. Twenty-seven blocks, or almost half the total, belong to NDA-ruled Jharkhand. Next comes Chhattisgrah, with 13 blocks. Orissa follows, with nine blocks. BJP-ruled states, including Madhya Pradesh (two blocks), together account for almost three-fourths of the total.

By contrast, Congress-ruled Maharashtra has four blocks. Even West Bengal, then under the Left Front, was not free of the allotment malady. But it accounts for only two blocks.

So the true scam is not exclusive to the UPA. Rather, it's a collective or

collusive scandal, with both the UPA-ruled centre and the non-UPA states reaching a "match fixing"-style arrangement to allot coal mines to shady business interests, while snatching them away from public sector companies.

That's the real issue which should have been soberly debated in Parliament as part of a larger discussion of the neoliberal policy framework, which is uncritically accepted virtually across the political spectrum despite its proven bankruptcy in capitalism's heartland, so evident in Western Europe and the United States.

This framework assumes, contrary both to good economic theory and to actual experience everywhere, that private enterprise is inherently more efficient than state-owned companies, and can be trusted to obtain socially desirable results. This makes the privatisation and plunder of natural resources inevitable. Alas, this was never critiqued or debated.

The real, if not-so-obvious, question is why the dog didn't bark -- why the Congress didn't go to town on the dominant role of opposition-ruled states in coal block allotment. The only plausible, if incomplete, explanation is twofold. First, the Congress has lost some of its morale, self-confidence and even political instinct as a result of the recent political setbacks and humiliations it has suffered. Even rhetorically, it didn't focus on the culpability of non-Congress states until it was far too late.

Second, some of the Congress's own leaders and business cronies are involved in the coal scam. Coal minister Sriprakash Jaiswal, his former deputy Santosh Bagrodia and tourism minister Subodh Kant Sahai have been mentioned, besides MPs like Naveen Jindal.

However, this can at best bring cold comfort to the BJP. Its chief ministers in the minerals-rich states bear the primary responsibility for the underpricing of coal as wielders of far greater statutory power than the centre. And its MPs and media barons close to it are also implicated. Indeed, Ajay Sancheti, recently appointed as Rajya Sabha MP at the behest of party president and Nagpur buddy Nitin Gadkari also stands tainted.

Politically, the Congress is in bad, indeed ghastly, shape. Many of its leaders are probably in the process of reconciling themselves to losing the next election. As a tired, effete Manmohan Singh becomes a liability, and Sonia Gandhi passively follows a hands-off approach to the government, nobody is about to emerge as a mobiliser and campaigner who can electrify the Congress into combat mode.

But then, nobody in the BJP is playing an equivalent or similar role either. As K.N. Govindacharya, RSS *pracharak* and former BJP strategist -- the ablest it has ever had -- puts it, a "BJP high command does not exist." The party has no leadership and "no coherent decision-making process;" it has alienated itself from the people.

Not only is the BJP bereft of policy alternatives. It's hard to see how it can improve its present tally of 116 of 543 Lok Sabha seats.

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