

GROUND REALITIES

The mistakes, post-1971

Amended ICT Bill 2013 welcome

Lacunae addressed

FOLLOWING president's signing of the amended International Crimes (Tribunals) Bill 2013, it has now become a fully-fledged law. The special aspect of this law is that it will enable complainants to put to trial individuals as well as organisations involved in war crimes and crimes against humanity during the Liberation War in 1971.

It is worthwhile to note that inadequacies in the original law in the form of International Crimes (Tribunals) Act, 1973 came under public scrutiny, especially following Shahbagh protestations. By allowing complainants, government and informant, to appeal against any inadequate verdict by the ICT, those legal loopholes have been addressed.

We support the amended Act allowing for suing an organisation because Jamat-e-Islami as a party had a policy of genocide and helping the Pakistani occupation forces during the Liberation War in 1971.

And that party created Razakar, Al-Badr, Al-Shams and their cohorts who carried out widespread arson, looting and killing of people sympathetic to Liberation War as well as committed rapes.

Jamaate-Islami and similar other anti-Liberation forces collaborated with Pakistani occupation forces in the most abominable manner.

Thankfully, with the inclusion of organisation as punishable under the amended ICT Act, the legal inadequacy to prosecuting such organisations for their crimes in 1971 have thus been removed.

However, we may add that the Jamat-e-Islami of 1971 is guilty of war crimes. But can Jamat-e-Islami of 2013 be held responsible for war crimes of 1971? Evidently, many post-independence recruits of Jamat-e-Islami were not involved in war crimes and cannot be characterised as such.

Now that the lacunae have been removed, the government should proceed vigorously to apply the new provisions with judiciousness and transparency.

Law to stave off haphazard development

A step in the right direction

ONCE the Cox's Bazaar Development Authority Act 2013 (CBDA) has been enacted, a new body will come into force to take steps against the unplanned and haphazard structures being erected in the tourist hub of the district. This is a much awaited law that could very well save Cox's Bazaar from ruin. The law envisages a board comprising one chairman and three members with an enforcement authority to stem the tide against unscrupulous business interests that have been busy altering the very face of the largest tourist destination of Bangladesh.

With the government intending to generate as much as US\$5 billion per annum from tourism, CBDA would spearhead the plan to properly develop the district and make it attractive to tourists, both domestic and foreign. The plan is to develop both Cox's Bazaar and Kuakata sea beaches as special tourism zones. Only by designating these spots as special zones can authorities hope to stem the tide of illegal structures being built all over Cox's bazaar district. Besides adversely affecting tourism, the erection of real estate that falls outside a master plan has had a detrimental effect on the delicate ecological balance of the area.

The law will incorporate and update all existing laws. It will bring into effect regulatory mechanisms that will entail proper licensing procedures for restaurants, hotels and motels in the area. With tens of thousands of tourists congregating at Cox's Bazaar and other places like Kuakata, the Act and the formation of the proposed regulatory body could not have come at a better time. This is more so, since SAARC countries attract some 10 million tourists. With our beaches largely 'unspoiled', proper laws and enforcement could attract desired international travellers and much needed foreign currency. Tourism in Bangladesh has lagged far behind



SYED BADRUL AHSAN

IN all this revival of the spirit of 1971, in this collective national urge for the war criminals of more than four decades

ago to be brought to justice, it makes sense to travel back to the past and revisit the mistakes made in free Bangladesh by the powers that were soon after liberation. That early dawn of freedom came in intimations of an enlightening kind. Within hours of the liberation of Bangladesh, the Mujibnagar government decreed a ban on the Jamaat-e-Islami, Muslim League, Nizam-e-Islam and other communal parties and outfits. It was the first sign of secular democracy actually planting itself in the psyche of the nation. And it was just as well, for the entire War of Liberation revolved around the substantive concept of Bengali nationalism. For the very first time since East Bengal linked up with Pakistan as its eastern province in 1947, the message was going out that Bengalis were returning to their heritage, one of all faiths and beliefs enjoying equality of space and opportunity in the People's Republic of Bangladesh.

Even as the nation set off on its new political and constitutional trajectory, there were the dark questions which assailed the country. The reason was palpable: the government had not constituted any special tribunal along the lines of the process followed at Nuremberg and Tokyo, where those who had waged war and murdered people had little scope of making good their escape through the loopholes of the law. The absence of clearly defined war crimes tribunals in those early days of Bangladesh quickly led to some notorious criminals emerging free from imprisonment through the judiciary being unable to subject them to requisite punishment. Bengali collaborators who had accompanied Pakistani

soldiers through rural towns and villages, helping them to identify Liberation supporters, Awami League workers and Hindus, walked happily out of prison. They died peacefully in bed, at home.

One other mistake made by the post-Liberation government was to go for a cancellation of the right to citizenship of some notorious collaborators. The country would have benefited in no small way if rather than denying citizenship to men like Golam Azam, the government had brought them back to the country through an exercise of diplomacy and placed them on trial before specially constituted tribunals. Perhaps Golam Azam would not have returned, but in that case he could have been tried in absentia and convicted. That would have spared us the ignominy of seeing him descend on Bangladesh in the late 1970s on a Pakistani passport

A rush to judgement often proves counter-productive. It was a mistake to grant clemency to a fairly good number of collaborators in 1973 on the premise that they had not taken part in killing, raping and pillaging during the war.

The repercussions of the mistakes, post-1971, have been debilitating for the nation.

and eventually acquire Bangladesh citizenship. A cancellation of citizenship rights absolves an individual of any possibility of being hauled before the law. He simply has to find a new country he can call home. Meanwhile, those whose families he and his friends have ravaged are devastated by the knowledge that these men might never pay for their crimes.

A major mistake committed in the aftermath of the war was Bangladesh's inability to put 195 Pakistani military officers it had identified as war criminals on trial. And that despite the government's repeated reassurances that men like A.A.K. Niazi and Rao Farman Ali would be made to face justice in Bangladesh. In the event, all these men, along with 93,000 other Pakistani prisoners of war, made their way home to Pakistan from

camps in India on the strength of the tripartite agreement reached by India, Bangladesh and Pakistan in April 1974.

You can hear the argument made in Bangladesh even today that if the PoWs, including the 195 officers, had not been permitted to go home, the return of more than 1,00,000 Bengalis stranded in Pakistan would be put in jeopardy. That is a puerile presentation of logic, given that the Bengalis in Pakistan had committed no crimes and so could not be a bargaining chip, at par with the PoWs, in diplomatic negotiations. An assertive position on Bangladesh's part could have made a difference. There should have been little reason to take Z.A. Bhutto at his word when he promised Bangladesh that he would put the accused officers on trial in Pakistan. He never did. In time, Niazi became a politician and Farman Ali joined

good control of the country. Besides, the Indian army was still around ensuring that no breakdown in order occurred. Security for the PoWs could, therefore, have been guaranteed by Indian forces in conjunction with the Mukti Bahini. Had such an arrangement come to pass, the PoWs, especially the 195 war criminals, would perhaps not escape justice.

A rush to judgement often proves counter-productive. It was a mistake to grant clemency to a fairly good number of collaborators in 1973 on the premise that they had not taken part in killing, raping and pillaging during the war. What was conveniently forgotten was that these men had committed criminality of an immoral kind. They saw their fellow Bengalis being brutalised by Pakistan, and yet they defended the Pakistan ideology throughout the course of the war.

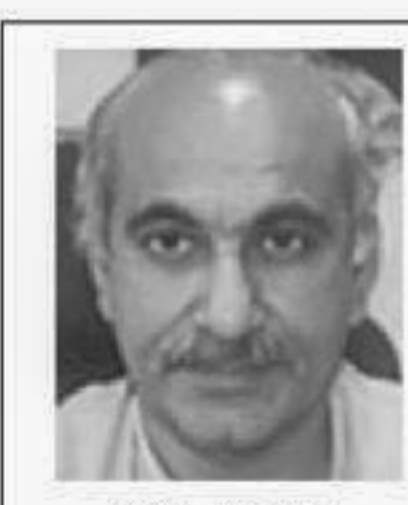
The repercussions of the mistakes, post-1971, have been debilitating for the nation. Pakistan's soldiers went home from India convinced that they had done no wrong in Bangladesh. Khan Abdus Sabur spent his final days as a member of Bangladesh's Parliament; Shah Azizur Rahman served as prime minister in the Ziaur Rahman regime; Hamidul Haq Chowdhury came back to reclaim his newspaper; Syed Sajjad Hussain, having lied to the world that the Pakistan army had killed no teachers at Dhaka University, made his way back to a land he did not love; Moulana Abdul Mannan and Salahuddin Quader Chowdhury were ministers in the regime of General Ershad. Golam Azam saw his Bangladesh visa expire and yet stayed on, for no government would move against him. Two of his lieutenants, having taken active part in the war against Bengalis, cheerfully served as ministers in a country they did not approve of.

It is a sad tale.

The writer is Executive Editor, *The Daily Star*.
E-mail: ahsan.syedbadrul@gmail.com

BYLINE

Propaganda Darshan



M.J. AKBAR

THANK heaven for little Doordarshans. An offshoot of the government-controlled TV behemoth,

Doordarshan Bharati, broadcast a moving hour-long documentary on the late genius Ustad Amir Khan, at least 35 minutes of which was free from the excesses of a garrulous presenter and experts tripping over their own repetitions. This unknown channel had the pawmarks of its parent's ethos: a logo like a design patch from a 19th century sari; a script font quivering in a style that was synonymous with deep emotion in the 1950s. But whenever Doordarshan dips into that treasure house, its archives, there is magic.

This should be Doordarshan's true public calling. It should eliminate news from its oeuvre, since it is run by politicians. News is almost always injurious to any government's health. Propaganda is safer, so Doordarshan is ordered to sell propaganda as news. Why should our taxes pay for political propaganda?

You can measure a government's desperation by the effort it puts into disinformation. Doordarshan reported the AgustaWestland scandal not, as others did, with evidence gathered by the Italian police, but with stress on some heavy breathing by our defence minister, St Antony

of Kerala, who suddenly discovered the virtues of transparency and "experts" of the sort who claimed they had never witnessed such ministerial integrity ever before. There was, naturally, no mention of A.K. Antony's shocking silence over the past 11 months when he repeatedly shrugged off details of the scandal brought to his notice.

Fortunately, the Italian government did what the Indian government refused to do: investigate on its turf. Antony remained curiously unmoved even when the name of a service chief popped up, with implications on the credibility and

Once there were double standards. We have raised the game to triple standards. But democracy has its own way of rescuing truth from a maze, and handing it to independent media, en route to the voter.

morale of the force. A Member of Parliament, Prakash Javadekar, wrote to him. Antony continued to do nothing. Why? Antony calls himself an honest politician. If, therefore, Antony was not protecting himself, who was he protecting?

The defence ministry's explanation for inaction was silly. It sent a request for information to Rome through the external affairs ministry. When it got nothing, it did nothing. But this was always an Indian crime as much as an Italian one. Italy did not wait for information from India; why did India wait for Italy?

In any cover up, deft use is made

of that extremely useful fish called the red herring. A shoal of facts, mostly irrelevant, is thrown into the stream of information to divert the chase. Let's keep this simple.

What are we looking for? Evidence of bribes through agents. The concern is not about the quality or specifications of the helicopter, which may all be very good indeed, but the fact that commissions were given to honour what former Italian Premier Silvio Berlusconi has called the rules of the system. According to the confession by Guido Haschke, the principal middleman, to the Italian police, bribes began to flow from 2007 and

continued till 2011. We know who was in power in Delhi then. Haschke got 20 million euros, and allegedly passed on 12 million to Sanjeev and Rajiv Tyagi, relatives of ex-IAF chief SP Tyagi. Why did the Indian government look the other way?

There is at least one good political reason for Antony's prevarication. It is reasonable to assume that he hoped that delay would push the investigation process beyond the general election in 2014. This government's bliss is directly proportionate to voters' ignorance. Antony's shock at Italy's speed was evident on his face. The manipulation of time is part

of political strategy. CBI moves rapidly against an electoral adversary of the Congress like Jagan Reddy. CBI becomes immobile when told to move in the coal block fraud, since friends and cronies of ministers are involved. Five months ago, after massive public outcry, CBI was given charge of "coalgate." We have just learnt from CBI's director Ranjit Sinha, who appeared before a parliament committee, that his agency has not yet received files he asked for. The distance between the two offices can be covered by a pleasant walk, but neither demand nor delivery was considered worth any hurry.

Jagan Reddy has been repeatedly denied bail on the specious argument that, despite being out of power, he might still have enough influence over officials to subvert their investigation. Compare this with the generosity towards coal minister Shriprakash Jaiswal, who is suspected of being complicit in the scam; he is close to the owners of AMR Iron and Steel Pvt Ltd, one of the beneficiaries. Jaiswal was not even shifted to another portfolio, let alone dropped. Officials in charge of files report to him. Should we be terribly surprised if CBI cannot get them?

Once there were double standards. We have raised the game to triple standards. But democracy has its own way of rescuing truth from a maze, and handing it to independent media, en route to the voter.

The writer is Editor of *The Sunday Guardian*, published from Delhi, *India on Sunday*, published from London and Editorial Director, *India Today* and *Headlines Today*.

THIS DAY IN HISTORY

February 20

1933
Adolf Hitler secretly meets with German industrialists to arrange for financing of the Nazi Party's upcoming election campaign.

1988
The Nagorno-Karabakh Autonomous Oblast votes to secede from Azerbaijan and join Armenia, triggering the Nagorno-Karabakh War.

1989
An IRA bomb destroys a section of a British Army barracks in Ternhill, England.

2005
Spain becomes the first country to vote in a referendum on ratification of the proposed Constitution of the European Union, passing it by a substantial margin, but on a low turnout.

2009
Two Tamil Tigers aircraft packed with C4 explosives en route to the national airforce headquarters are shot down by the Sri Lankan military before reaching their target, in a kamikaze style attack.