

Need permanent solution

BADIUL ALAM MAJUMDAR

IN his address at the inaugural session of the Tenth Parliament on January 29, President Abdul Hamid called upon politicians to shun violence and engage in dialogue to settle their disputes. He noted that peace and prosperity could not be sustained without national consensus. He made a "fervent appeal for a collective initiative towards forging a consensus" among "political parties, classes and professions on fundamental issues such as the continuation of democracy, rule of law and sustained socio-economic growth."

We strongly feel that we should take the advice of the president, who is the guardian of our nation, and immediately engage in dialogue involving all stakeholders, including political parties, business, media and citizen groups. The dialogue must, first of all, aim at reaching a consensus to ensure free, fair and inclusive elections to the Eleventh Parliament at the earliest possible time so that transfer of power, if any, occurs peacefully through ballot boxes. Unless that is done, there would be risk of transfer of powers through violent means in the future.

The proposed dialogue must also focus on arriving at permanent solutions to underlying problems in order to sustain democracy, development and good governance in our country. The consensus reached through dialogue could be the basis of framing and signing a 'National Charter'. Such a Charter could be patterned after the 'Joint Declaration' of the three alliances of 1990, which was signed, among others, by Awami League and BNP.

Two sets of issues need to be addressed and resolved in the dialogue: pre-election related issues, and post-election related issues.

Pre-election related issues

The nature of the election-time government is the most important issue that must be

resolved through dialogue. It is clear that free and fair parliamentary elections cannot be ensured with a party-based government in power during elections. It is also obvious that under the present constitutional scheme if an election-time government is led by Sheikh Hasina, BNP will not participate in such elections. Similarly, Awami League will boycott the elections if the election-time government is headed by Khaleda Zia. Hence, the election-time government must be neutral and acceptable to both camps.

It may be remembered that on May 29, 2011, the 15-member Parliamentary Special Committee, set up by the government in 2010 to amend the Constitution, unanimously recommended keeping the system of the caretaker government (CTG), with a time-limit of 90 days imposed on its tenure, even after the apex court, in its short order of May 10, 2011, declared it unconstitutional. Many of the Committee members thought that the CTG was a settled matter and abolishing it would only complicate the situation. Nevertheless, they changed their mind after they met the prime minister the next day, leading to the abolition of the CTG. This resulted in the one-sided, controversial elections held on January 5. Thus, an acceptable type of election-time government must be found through dialogue in order to create a level playing field for all electoral competitors, paving the way for credible elections to the Eleventh Parliament.

Reconstitution of the Election Commission (EC) is the other important issue regarding which a consensus must be reached through dialogue. The present EC, through its recent activities, has become very controversial and its neutrality is in serious question. Article 118 of our Constitution mandates the enactment of a law to govern the appointment of EC members, which has never been enacted in the last 42 years. In the absence of such a law, a

consensus must be reached regarding the process of reconstituting the EC and the qualifications of its members before the next general election.

In order to ensure free, fair and peaceful elections, the electoral laws must also be further reformed and a code of conduct must be framed. The code of conduct, included in the Joint Declaration of 1990, is still largely relevant and may be adopted for the next election. In addition, commitments must be made by all political parties not to indulge in 'nomination trade' and buying votes, or nominate corrupt individuals, religious extremists, suspected war criminals, owners of black money and muscle power. Political parties must also commit to obeying all electoral laws and rules.

Post-election related issues

In addition, the proposed dialogue must lead to a consensus on certain issues that would be incumbent upon the new government -- elected through free, fair and inclusive elections -- to implement. The issues to be addressed and consensus reached for post-election implementation must include:

(1) Ensuring the speedy trial of the war criminals and immediate implementation of the court verdicts;

(2) Ensuring the effectiveness of the Parliament by allowing it to function as an independent institution capable of making the government transparent and accountable. A Parliamentary Privilege Act and Code of Conduct must be framed to ensure transparent and accountable behaviour of the legislators. Political parties must also commit not to appoint controversial individuals to the council of ministers and other constitutional positions;

(3) Making political parties democratic, transparent and accountable. Political parties must also renounce violence and sever their connections with organisations promoting

religious hatred and violence;

(4) Ensuring independence of the judiciary and removing those judges appointed without due diligence. A law must be enacted to govern the appointment of judges to higher judiciary. The separation of the judiciary must be made effective to ensure the neutrality and honesty of the lower judiciary. Political parties must also commit not to institute/withdraw cases based on political consideration to ensure the rule of law;

(5) Making the Anti-Corruption Commission effective by reforming the relevant laws and appointing neutral and competent persons in order to make an all-out effort to eradicate corruption. Other statutory bodies, such as the Human Rights Commission and Information Commission, must also be made effective through institutional reforms and appointment of persons with courage and integrity in those bodies;

(6) Making the Public Service Commission effective and reforming the civil administration and law enforcement agencies to ensure their neutrality, professional competence and effectiveness;

(7) Initiating an aggressive programme for decentralisation and devolution and promoting local democracy. Necessary resources (say 40% of national budget) and authority must be provided to the local government authority as part of such a programme;

(8) Forming an Expert Committee to review and recommend constitutional reforms. The areas for potential reform include: bringing a balance in the authority of the president and the prime minister; putting a term-limit on the position of the prime minister; making the prime minister the 'first among equals' in the council of ministers; preventing concentration of power by not allowing the same person to hold the position of prime minister, leader of the House and party chief; changing the sys-

tem of electing the president by including the local government representatives in the electoral college; reforming Article 70 of the Constitution to allow legislators to apply their conscience in voting; forming a bi-cameral legislature; introducing the proportional representation system to combine with the current 'first-past-the-post' system, leading to 'winner-takes-all'; reserving a third of the seats for women and introducing the 'rotational system' for filling those positions; reintroducing the provision for referendums in the Constitution, etc. The recommendations of the Committee can be approved by the Parliament and then put to a referendum;

(9) Upholding the values and principles of multi-party democracy and ensuring that political parties co-exist peacefully and work in partnership with each other;

(10) Ensuring the freedom of the media and preventing the shrinkage of space for civil society activities;

(11) Agreeing on a new 'social contract' to ensure social justice. The poor must be given their fair share of the national resources. Quality health care and educational opportunities must also be provided for them and their families;

(12) Committing to environmental sustainability and promoting remedies to the effects of climate change.

Bangladesh gained independence in 1971 through a War of Liberation with the ideals of democracy, secularism and social justice. However, for many complicated reasons these ideals are at risk at this time. Our president has urged upon all concerned to engage in dialogue to reach a consensus on some of the fundamental issues to redress the situation. We respectfully request our prime minister to immediately take such an initiative so that the blood shed by our valiant freedom fighters does not go in vain.

The writer is Secretary, Citizens for Good Governance (SHUJAN).

Shady shootouts: Making the State accountable

C.R. ABRAR

SHOOTOUT' has become the new buzzword in law enforcement in today's Bangladesh. It has entered the country's human rights lexicon as a synonym of extrajudicial killing along with 'encounter' and 'cross-fire'. Media reports say that at least twenty people were killed in shootouts in the period following general elections to the tenth parliament and January 30, 2014. Fourteen of those victims were opposition activists.

A content analysis of the official narratives shows that in most instances (a) the victims of such shootouts were activists belonging to opposition Jamaat-e-Islami and Bangladesh Nationalist Party or their front organisations, (b) they were picked up by the members of law enforcement agencies (LEA) from their homes, work places or public places with witnesses present and without warrant, and were subsequently taken into custody, (c) within days of their detention, in the wee hours of mornings (mostly between 2 am and 5 am) the detainees led the members of LEAs to show hideouts of their accomplices or caches of arms, (d) it was at this stage that the raiding parties came under armed attack by 'miscreants' believed to be associates of the detainees, (e) the members of LEA had little option but to resort to firing that resulted in the deaths of the detainees, and (f) in a handful of cases a few members of LEAs suffered injuries. That, in sum, is the sequence of events of shootouts as they had unfolded, as per the official accounts.

It is interesting to note that the narrative and the justification of officially unacknowledged extrajudicial killings have largely remained the same since the British colonial

and Pakistani days. Independent Bangladesh has experienced extra-judicial killings under all governments. The first Awami League government continued the practice when the infamous Jatiya Rakkhi Bahini was unleashed on the nation to tame the so-called miscreants. The Sarbojha Party leader Siraj Sikder was liquidated in a remarkably similar fashion. One would wonder if there has been any major change in the text of press statements that are issued now after such cases of shootouts and the press release that was circulated following the killing of Sikder while in custody in 1974. The misplaced desire to secure quick fixes to systemic problems led the first BNP government under Khaleda Zia to establish the all powerful Rapid Action Battalion (Rab) and initiate the most reviled "Operation Clean Heart." This was the beginning of yet another spate of institutional violation of human rights after the restoration of democratic order in 1990.

Instead of beefing up regular police force through appropriate training, motivation and equipment, and creating an independent competent institution for investigation into alleged crimes, successive governments, civil and military, preferred to rely on various kinds of special forces with the ability to respond quickly to unwanted situations and those not necessarily guided by human rights principles as enshrined in the Constitution and laws of the land. Their persistent failure to rein in errant members of LEAs created a situation of virtually granting those agencies institutional impunity. This further eroded the protection structure of the common citizens. Despite promising 'zero tolerance,' the performance of the last government in curbing incidences of extrajudicial killings and enforced disappearances has been particularly deplorable.

Those in positions of law enforcement and authority of the State want the citizens to believe that the deaths of detainees were nothing more than unfortunate results of shootouts when the victims either tried to escape or the raiding parties were attacked by the accomplices of the detainees. Under such circumstances, there was little option for the members of LEAs but to resort to use of firearms, causing death of the detainees.

There are some obvious gaps in this line of reasoning. Firstly, the prior preparedness of the alleged attackers appears to be far-fetched. After all, in all cases the detainees were in custody and there was little scope for them to inform their accomplices about the time and spot of the impending raid. Secondly, in these incidents, very few members of LEA suffered major bodily harm. They appear to be extremely lucky not to fall victim to any of these mindless shootouts initiated by the 'miscreants' in such a large number of cases. Thirdly, not one of the alleged attackers was apprehended, injured or killed in such shootouts. And finally, in most instances, the local people of the area where the alleged shootouts were claimed to have taken place found little evidence of any such incident.

It may be mentioned here that in all cases the relatives and acquaintances of the victims rejected the claims of the authorities that the detainees were killed in such shootouts. In contrast, they maintained that the latter were killed in custody. There is a strong case to argue that even if the LEA's version of events were taken at face value, why have the agencies failed to protect the detainees under such adverse situations? Why has there not been a single case of a detainee being saved when his accomplices were alleged to have attacked the

raiding team? Are not the LEAs appropriately trained to use non-lethal weapons before resorting to firearms?

There have been several cases where bodies with bullet wounds were found of those who had disappeared earlier. Although LEAs failed to unearth the reasons for their disappearance and provide any explanation of such deaths, they were prompt enough and enthusiastic to release information about the alleged criminal past of the individuals concerned.

There was little surprise when the State Minister for Home Affairs Asaduzzaman Khan rejected the claims of extrajudicial killing and repeated that the casualties were simply the results of acts of self-defense.

Extrajudicial killing has become a curious case of rare bipartisanship -- the Nationalist Babar-Moudoodian rationalisation of encounters, shootouts and crossfires has been adoringly upheld and embellished by their Awami Sahara-Alamgir successors.

Extrajudicial killing does not appear to be high on the agenda of the National Human Rights Commission. The Commission seems to be oblivious to the sudden spurt of the phenomenon that the government prefers to term as shootouts. It is yet to take any visible initiative to investigate, let alone take action, against the incidences of extrajudicial killings and enforced disappearances. One hopes that the Commission would assert its independence and take the State version of the narratives with a pinch of salt.

The shootouts do not bode well for the country. So far there has been no expression of concern from the senior functionaries of state that are entrusted with protection of citizens. This omission may give wrong signals to the perpetrators about the authorities' tacit con-

sent in such illegal acts. The identity of victims, timing and spots of the shootouts raise the question in public mind if the shootouts were acts of reprisals. Even if the police accounts were true about the criminal past of the victims, in no way can the State justify their death under any circumstances. Every person is entitled to be treated in accordance with the law and only the competent authority can find someone guilty. It is incumbent on the LEAs to ensure full protection of individuals who are under their custody, irrespective of the degree of their alleged guilt.

The latest spate of extrajudicial killings has thus far prompted little reaction among the erudite section of the middle class of the country -- the custodians of national conscience, including that of the spirit of the War of Liberation. Frustration with existing criminal justice system had led certain quarters to justify extrajudicial killing as an immediate solution to get rid of criminals, however illegal that action might be. Likewise, it would also be grossly erroneous to pursue such a course of action as a quick fix to purge extremists or the politically undesirables.

Political and ideological challenges must be met politically and ideologically. Liquidation of political opponents through brute force and coercion can only invite escalated violence and irrational response. One can only hope that reason prevails and those in charge of law enforcement and running the administration of the State abandon such myopic and self-destructive option. In combating crime their actions should be based on the rule of law and respect for fundamental human rights, including the right to live and die in dignity.

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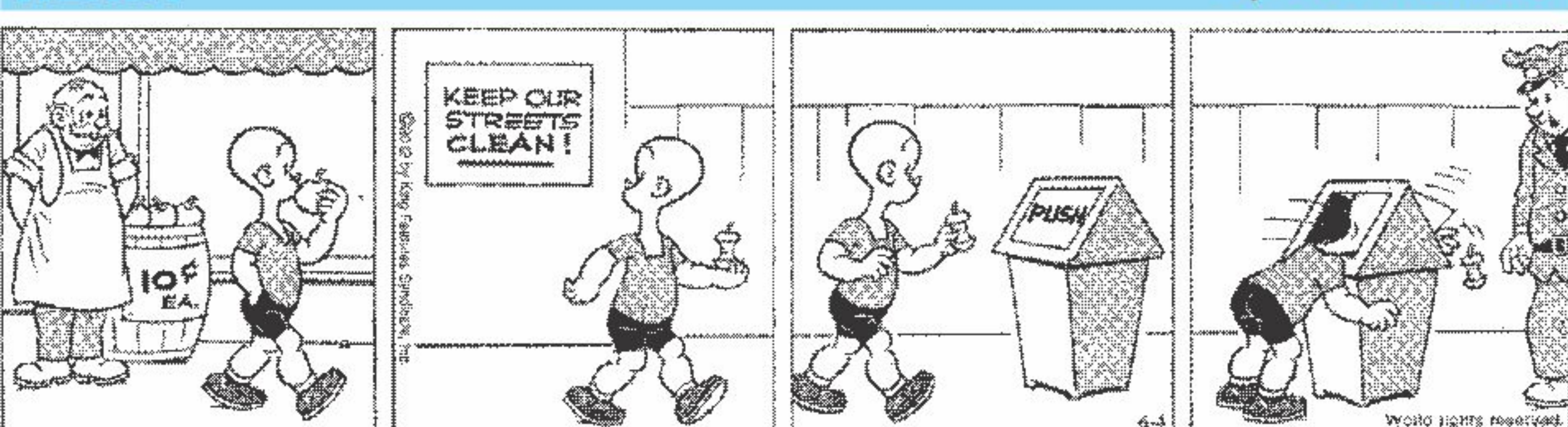
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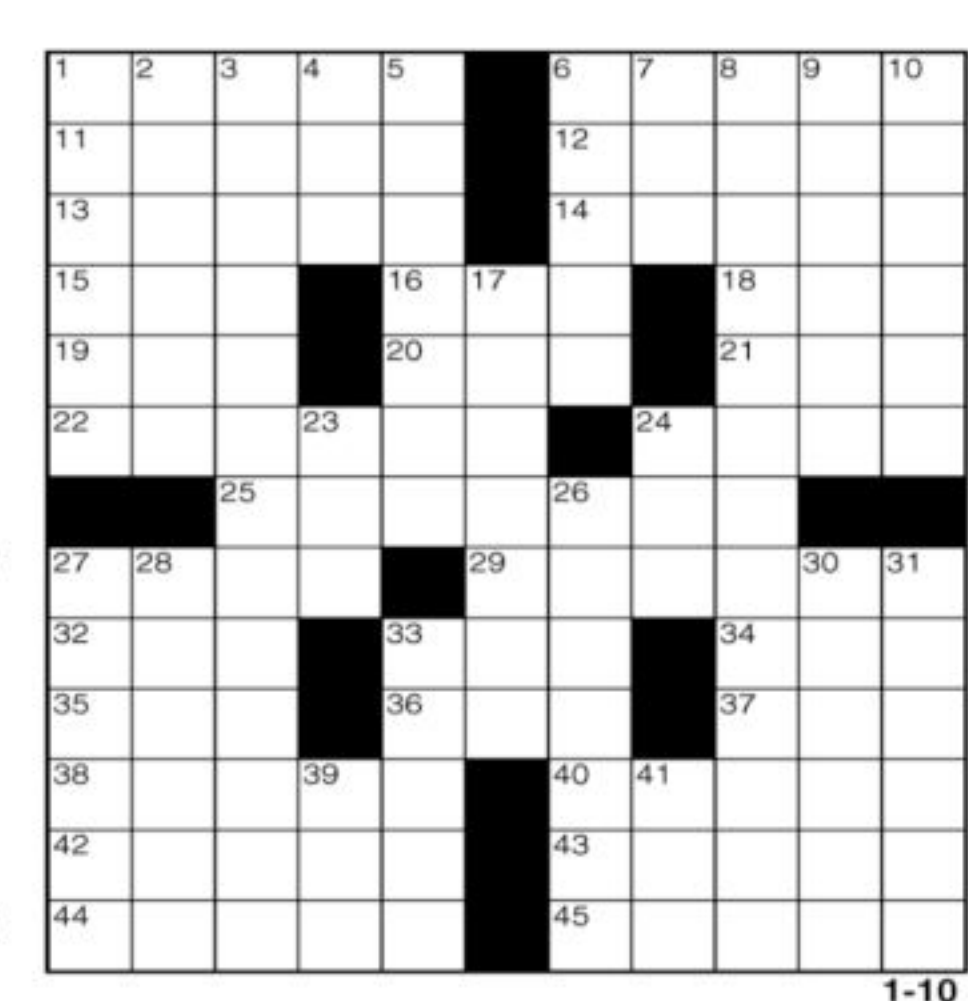
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Success is not final, failure is not fatal: it is the courage to continue that counts.

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Interested bidders may collect schedules of tender from the Finance and Accounts Department of NSU from 10:00a.m.to 4:00p.m. Sunday through Thursday on all working days till **February 10, 2014** by paying non refundable taka 500.00(Five Hundred) only in cash for each schedule.

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Director (Logistics & Resources)

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