

Legislative power to impeach SC Judges End of checks and balance

THE cabinet on Monday approved a proposal to amend the constitution to restore parliament's authority to impeach Supreme Court judges. This will effectively make the judiciary subservient to the legislature.

A fundamental prerequisite for a truly democratic dispensation to function properly is the system of checks and balance between the three organs of the government. The proposed amendment, we are afraid, will distort the very precondition even further. Given the nature of our politics, the parliamentary system already stands distorted today. And that has been further pronounced by the continuous parliamentary boycott and the majoritarian nature of the parliament. And with a legislature that has a brute majority as now, and an opposition that is also part of the government, the new legislation will accord an absolute power to the parliament and to the ruling party by default, something that was never envisioned by the original framers of the constitution.

To add to that is the provision of Article 70 of the Constitution that absolutely subjugates a legislator to the party position. And those who cite the examples of other countries that have the same provision of legislative jurisdiction over the judiciary would be able to cite very few, if any, examples of provision like an Article 70 in their constitution.

The proposed change, when there is no palpable reason for that, leads one to the only conclusion; that it is being done to assert absolute power of the ruling party on all the branches of the government. And we conclude by citing Lord Acton that absolute power corrupts absolutely. Unfortunately, those who seek absolute power do not consider the inevitable consequences of it.

August 21, 2004

A black chapter in our history

BARRING the gruesome killing of Bangabandhu and most of his family on August 15, 1975, there has been no other more horrific incident than the ghastly bomb attack on the Awami League rally which targeted the party leadership on this day ten years ago. Although more than twenty people were killed, including Ivy Rahman, and more than two hundred injured, and some of them are still carrying the scars of the injury, it was by providence that the then leader of the opposition and the present Prime Minister, and all her senior colleagues, escaped unhurt.

We had all along believed that the August 21, 2004, grenade attack was not the work of religious extremists; the motivation was entirely political, and which was to take out the AL leadership. And our conviction has been proved correct. We know now how state apparatus including the intelligence agencies were allegedly used to perpetrate the attack. And it was with absolute horror and revulsion that we saw the investigation being distorted to present the incident as being the result of an internecine conflict of the AL. The investigation was so corrupted that even perpetrators were manufactured to shield the real culprits.

August 21, 2004, grenade attack was the manifestation of a culture of murder to settle differences between major political parties. We hope that was the last and that it will never be repeated.

Bravery or bravado?

EDITORIAL: *The Statesman* (INDIA).

HISTORY would be an ineffective yardstick against which to assess the decision of the Modi government to call off the foreign-secretary talks with Pakistan; or the reasoning behind it. Regardless of the political complexion of Raisina Hill, South Block has never been consistent about whether or not to talk with Pakistan and the pre-conditions for doing so. And so looking back will provide little clarity, or validate the consistent inconsistency of the puerile "I'm not talking to you now" policy. Not surprisingly is opinion divided over whether Pakistan's sustained flirting with separatist elements in Jammu and Kashmir remains the pinprick it was deemed over the years, or constitutes "live" evidence of Islamabad's rejection of the surprising initiative of Mr. Narendra Modi in inviting Mr. Nawaz Sharif -- and other regional leaders -- to his inauguration. A whole range of viewpoints are being advanced by both hawks and doves in the diplomatic community: the political "owls" would also point to the BJP extending its polarising tactics ahead of the upcoming elections to the state legislature. Talking tough with Pakistan, and appearing to cut the Hurriyat leaders to size, would boost the sentiments that Modi & Co hope will enhance the success registered in the Lok Sabha poll. Undoubtedly a sinister angle to a critical foreign policy complexity, but has there not been a strong dose of the sinister in the Amit Shah-choreographed electoral overture these past few months?

Inconclusive would be the argument over whether it has been sagacious, or a knee-jerk reaction, to make a major issue of the Pak-Hurriyat connect that is nothing new, and was accepted by New Delhi in the past. Or to wonder if the "re-discovery" of the proxy war, and highlighting cross-border assaults and terrorist activity are part of a larger exercise to sustain the belligerence of the BJP poll campaign. The key query is whether the NDA government has a considered game plan -- its predecessor did not, or it was an ill-conceived one. Will there be no negotiations till the Pak-Hurriyat link is snapped etc? That would be a step short of attempting to erase all that has happened -- three-and-a-half wars included -- since 1947. The Modi camp may think that its "mandate" authorises a re-scripting of Indo-Pak relations: that impression is not universal and pressure to resolve the Kashmir issue will not end in the wake of May 16. The jingoistic -- BJP-backers ever in the vanguard -- would hail the "forcefulness" the government is projecting in scrapping the official-level talks. Yet since little was expected from that interaction the cancellation could well prove bravado rather than bravery. Remember, that like ambition, good governance (internal or external) is made of "sterner stuff."

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STRATEGICALLY SPEAKING



Brig Gen
SHAHEDUL ANAM KHAN
psc (Retd)

NINE years have passed since the country witnessed the most serious terrorist action. Although there were not many casualties in the nearly 500 near simultaneous explosions, and that was perhaps not the intention of the perpetrators, it was the first exposure of the existence of well organised extremist group with technical know-how. And after several years of being in a denial mood the government of the day was still dithering to acknowledge that Bangladesh was indeed facing a phenomenon that had

up until then been absent or was at a very low key.

And it would not be misplaced to suggest that such a stance, even going to the extent of suggesting that the issue was but a figment of the media's imagination, allowed the extremists to take root, and for which the BNP that was in government then has to face the accusation of patronising these elements.

There was a strong resistance to seeking outside assistance in investigation of the August 21 or the August 17 cases, although I am of the view that the August 21 attack on Sheikh Hasina and the AL leadership was not the work of religious extremists, as all the other two dozens or so cases of bomb explosion in the country since 1999, although some of their cadres may have been used to perpetrate the attack of August 21, 2004. 2006 -2007 witnessed the capture and hanging of some of the JMB and HUJI (B) leadership. And we had warned then that it would be well for the government not to be complacent. The extremist / terrorist groups are hydra-headed and no sooner one head is cut off does another sprout. We had also impressed on the need to defeat their philosophy through counter narratives that would stymie their recruitment efforts and indeed win the members of the cadres away from the mainstream extremist groups.

Apparently the counter extremism / terrorism efforts have not been pursued through a well formulated strategy or a thorough operational plan. And as per the recent extensive reports in the print and electronic media, and the versions of the well informed about the issue, the threat has by no means receded although for the near term their

ability to create any serious trouble has been severely stunted. There are reports that the extremists are regrouping, (that should not come as a surprise) and that they are turning their attention to the Rohingyas as a source of recruitment, (vulnerable groups are easy prey to extremist motivation). That the extremists are not sitting idle has been demonstrated by the ambush and snatching away of their cohorts from police custody in February of this year.

The moot point is what should we do?

Firstly, we must stop playing politics with the issue. Political rhetoric and mutual blame game only helps the extremists. One of the reasons why these groups germinated in the last decade was the space they were afforded because of the divide created by the prevailing antagonism between the two major parties.

Secondly, what and which group should the prime focus be on? The government proscribed 12 extremists groups in 2009. While some of them have also been banned by the West, some have not, as is the case with HUJI (B) and Hizbut Tahrir. While the government actions have primarily focused on HUJI (B) and JMJ (B) and has been successful in combating it to an extent, one feels the threat from Hizbut Tahrir has not been completely addressed even if fully comprehended. This is the only group that has its counterpart in many other parts of the world including the UK, and that is perhaps one of the factors that makes the task of combating them relatively difficult. The group has targeted the affluent and the educated and has made inroads into many universities, particularly the private ones. Reportedly, Hizbut Tahrir has infiltrated more than 70 institutions in the country. It propagates its aim, to establish Khilafat by uniting all Islamic countries, but has abjured the path of violence.

Thirdly, there is a need to take tough measures against those that use educational institutions to preach hatred against others through misinterpretations of religion. While it is true that not all madrasas can be accused of producing extremists or terrorists, there are some that do. And these are the ones that must be rectified.

Last but not the least is the need for political will to take hard decisions on sensitive issues. But before that, the rationale must be explained to the public because no strategy to combat extremism and terrorism that stem from it will succeed without the active participation of the people.

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World Bank and rights of indigenous people

IFTEKHARUZZAMAN

THE World Bank's neglect of human rights of the poor and disadvantaged in general and that of the indigenous people in particular has been as well-known as disturbing. However, it is appalling that instead of making any serious effort to improve, it is reportedly moving further down the road to worsen its own records.

As a part of an exercise to review the Bank's Safeguard Policies and Environment and Social Framework, meant to prevent adverse implications on people and environment in the areas covered by Bank-funded projects, it is moving to options that may open floodgates of potentially devastating impact on indigenous people, the poor and environment. After receiving the draft document nearly a hundred NGOs and civil society networks from Asia, Africa, Latin America as well as Europe and North America sent protest letters to the Bank's president and Board and urged to refrain from adopting it.

In a submission to the Committee on Development Effectiveness of the WB's Board on July 30, 2014, on behalf of 84 indigenous people's organisations/institutions, and 79 support groups and individuals, the Asia Indigenous People's Pact have been "deeply dismayed by the overall weakening of the policy requirements for indigenous peoples with very serious implications, including the outright denial of the existence and rights of indigenous peoples under international human rights laws." The WB has, however ignored these and many more outrages and cleared the draft for "broad public consultations," which can only be eyewash before the proposals are adopted.

The draft proposes to move away from the requirement for Bank-funded projects to be in conformity with a specific set of processes and standards to be replaced by some vague and open-ended guidance. The worst implications of this shift, it is feared, will be on indigenous communities.

Presently, governments that receive Bank funds are under obligation to obtain free, prior and informed consent (FPIC) from the indigenous people in the project area. Conducting impact assessment of projects is mandatory, so is preparing and disseminating specific plan of work to handle and mitigate those impacts and to ensure effective monitoring from the point of impacts.

The new proposals broadly retain these measures, but under cover of addressing implementation challenges and apparently to take into cognisance views of borrowing governments the Bank practically creates an option of totally disregarding those standards. According to a press statement issued by the Bank on July 30: "In exceptional circumstances when there are risks of exacerbating ethnic tension or civil strife or where the identification of Indigenous Peoples is inconsistent with the constitution of the country, in consultation with people affected by a particular project, we are proposing an alternative approach to the protection of Indigenous Peoples. But we should be clear that any alternative approach will only be adopted with approval from our Board, which represents all of our member countries."

The Bank has clearly made a sweeping conclusion that all provisions of constitutions of all countries where it operates are fully democratic and respectful to international standards of human and indigenous rights. As if there are no countries in the world that have failed to provide constitutional recognition to their indigenous peoples; as if there are no indigenous communities around the world where systematic violation of whose basic rights by use of force by army, para-military forces and law enforcement agencies is the main reason behind "exacerbating ethnic tension or civil strife;" as if inconsistency of identification of Indigenous Peoples with some arbitrary and controversial provisions of the constitution is a sufficiently valid justification for the Bank to look for alternative approach of opting for other much less stringent standards.

The Bank is proposing not only to absolve itself of obligation to comply with international standards but also to

stay away from defining any specific criteria of such alternative approach except for a full discretion given to the Bank's Board. If the proposal is pushed through the Bank will have the discretion to use whatever means it wishes to determine the validity of so-called borrower's concerns. In other words, if a borrowing government wants to undertake a project ignoring rights of the indigenous peoples in the project area, collusion may soon take place between the borrower and the lender as the latter may find it convenient to go ahead without caring about potential adverse implications for the indigenous communities.

According to the new draft, similar exemption is to be granted to Bank funded projects in general in infrastructure involving land administration and development that may cause involuntary resettlement and displacement of people.

As shocking as these proposed changes may be, it should not surprise anyone aware of the basic principle of any lender -- more lending brings more benefits. The more rigorous are standards to comply with, the less is the scope of lending business.

The Bank's track record in terms of human rights violations is well researched and documented. Human Rights Watch for instance, in a report published in 2013, concluded that the World Bank "neither acknowledged nor mitigated human rights risks in its programs." The case studies that featured in the HRW report included a Bank-funded project for drug detention centres accused of forced labour, arbitrary detention and torture and an Ethiopian "villagisation" programme causing forced and violent relocation though it failed to deliver the avowed objective of improved service quality and infrastructure.

Other examples of World Bank's option of expanding its lending at the expense of human rights are not far to seek. In the Bank-funded Boeng Kak Lake project in Cambodia, residents were deprived of land rights when flooding caused by filling of the lake with sand forced families to leave their homes while others were compelled to accept compensation at much below the market rate.

The Bank was not bothered that the Kaptai Dam project funded by it not only caused gross violation of human rights of the indigenous community of the Chittagong Hill Tracts in 1960, displacing over 100,000 people and flooding a lion's share of cultivable land in the region, but also sowed the seeds of a conflict that is bleeding Bangladesh till date. The example created by this Bank-funded project has been systematically followed over the years to evict the indigenous people from their ancestral homes, to deprive them of fundamental rights to life and livelihood, to transform the demographic and socio-cultural landscape and to militarise the region.

Credible research has demonstrated how World Bank policies led to deliberate manipulation of market forces that destroyed economic opportunities and created a situation of famine and social despair that accelerated the process that leading to genocide. Hundreds of Mayans were massacred by military in Guatemala in 1982 for resisting eviction of innocent indigenous people designed to implement the Bank-funded Chixoy Dam. In Uganda 30,000 forest dwellers and peasants were evicted to implement the Kibale Forest and Game Corridor programme under the Bank-funded Forestry Rehabilitation Project.

The list is incomplete. The World Bank should face the mirror and opt for standards and practices to respect and uphold human rights as indispensable precondition for designing and implementing projects funded by it. They must ensure that no project is designed and implemented without conducting fully independent impact assessment in terms of human rights in general and rights of poor, marginalised and indigenous population in particular. The WB cannot be disrespectful to international human rights standards just because it needs to expand lending. It cannot, because its funders -- people of its member countries -- have not given it the right to do so.

The writer is Executive Director of Transparency International Bangladesh and member of the International Chittagong Hill Tracts Commission.

LETTERS

TO THE EDITOR

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Come to the aid of Palestinian brothers

We in Bangladesh want to help our fellow human beings in Gaza desperately. Words fail to describe the sufferings they have been going through. Let us all contribute whatever we can for them. We can send cash, food, cloths, medicines, teams of doctors, nurses, and builders to rebuild their devastated homes, etc. Let's



PHOTO: AFP

not just sit idly and watch. Please arrange reliable bank accounts where we can donate. More organizations like Drik can come forward to help. It is an emergency. Gaza is bleeding. So we must act fast and arrange 'first aid'. Then take the next step, whatever we can, so that such a catastrophe never happens again and people can live with dignity as we do in our country.

Dr. Sabrina Rashid

Dhaka Cantt., Dhaka

GPA 5 scorers' predicament

A total of 70,602 students of 8,104 institutions took this year's HSC and equivalent exams. Students have been consistently doing well. When GPA system was introduced in 2003, only 20 students had scored GPA 5. Now compare it with 2014's figure, which is undoubtedly a magical improvement. The big success in HSC exams however has become a concern for all as seats in public universities are limited. For instance, BUET, DU, and public and private medical colleges have 965, 5787, and 8,000 seats respectively. The total number of seats at public universities is around 50,000. We must ensure better education for all the students.

Md. Masud Rana

Sociology, final year
University of Dhaka

Pinak-6-type tragedies waiting to happen

After the Pinak-6 capsized, we got nothing but condolences from the authorities. The victims' families will bear the irreparable loss for the rest of their lives. Yes, the owner of Pinak-6 has been caught. But we don't know if any kind of punishment will be given to him or whether he will go scot-free. This type of accident happens regularly in Bangladesh and by not protesting these man-made disasters, we are actually allowing this to go on.

Md. Masud-Ur-Rahman

Dhanmondi, Dhaka

Comments on news report,
"Investing in youth,"
published on August 14, 2014

Deepjelejai

We need to address the issue of brain drain. In China, government is encouraging scientists, scholars or graduates from renowned universities to return home by offering positions in universities and other organisations with competitive salaries. But in our country a PhD holder finds it difficult to be employed in a public university unless he has political link.

Saleh Md. Shahriar

I fully agree with the views expressed in this editorial piece.

Saif

They need open and serious platform to share their ideas, opinions, values, etc.

"How Gen Zia took the helm of army" (August 16, 2014)

SM

When the whole squadron of lancer tanks left cantonment, what were all the senior officers doing? Lots of officers and AL leaders knew something was up and they had their silent support. Zia was not the only one. The situation created by Bangabandhu via BAKSAL did not help him and he lost support of some of his own people.

Fraudsters used old MP hostel as office! (August 16, 2014)

Saleh Md. Shahriar

Corruption centring the MP hostels should be investigated with objectivity.