

Impeachment of judges and conflict of interest

JYOTIRMOY BARUA

HERE has always been a tug of war between different organs of the state in terms of exercise of power and controlling authority. In a democratic state the parliament does act as the supreme authority. But in a country where democratic practice has not yet achieved maturity, power game between the different organs of the state is inevitable. We often see that this issue comes forward in our country during any national crisis, whether it involves the government or other stakeholders.

Limited by slow pace in disposal of cases and in some cases lack of confidence, the judiciary has been taking a new shape. It has often played a vital role in deciding political issues like the caretaker government issue. There are a number of instances in which the judiciary intervened proactively that should have been dealt with by politicians. Corruption has also led people to take shelter of the courts more frequently as all other forums failed to redress the problems effectively. This is the reason why the courts have become overburdened with cases and every effort to dispose them off falls short in some way.

The most recent incident of conflict between the judiciary and the government was seen after an order passed by a Division Bench of the Hon'ble High Court Division to arrest certain Rab officials in the Narayanganj seven murder case. The recent approval of the draft Constitution (16th Amendment) Act, 2014 may be the outcome of the said conflict to curb the power of the judiciary. The amend-



ment is going to bring back the old provision of Article 96 of the Constitution of 1972. It would allow impeachment of a Supreme Court Judge by two-third majority votes in the parliament. The law minister, in response to a query by journalists, said: "The independence of the judiciary will not be hampered because of the amendment. The Supreme Court judges will be able to discharge their regular duties independently." But most eminent lawyers and jurists expressed their concern about this amendment as it will curb the independence of the judiciary.

The cabinet secretary said to the press that the draft was prepared following the constitution and provisions of several developed and democratic countries that have parliamentary or presidential form

of the government. It is an irony that we rely on those constitutions when it comes to defending the reason for making a harsh law, but we don't follow their other democratic procedures. I believe none of the countries have a form of government like ours.

However, the present Article 96 of the Constitution does have a provision for removal of judges of the Supreme Court by a Supreme Judicial Council for offences and incapacity. The proposed amendment empowers the Parliament to impeach any Supreme Court judge for proven offences or incapacity by two-third majority votes in the Parliament. In a democratic country, it is not possible for a particular party or alliance to always get two-third majority in the Parliament. In a situation where the government is formed with, for example,

40:60 ratio, no judge of the Supreme Court can be removed. As the present provision of forming a Supreme Judicial Council will no longer exist after the amendment, there will be no forum to redress the issues of removal or dealing with the offences of a judge of the Supreme Court. Moreover, the removal of judges is a judicial process and the parliamentarians from different backgrounds, specially the businessmen, would have no clue about how to deal with the investigation process.

The direct effect of the amendment would be that no court will dare to pass any order which goes against the interest of the government. In the present context, courts do feel shaky in some instances; the amendment will put the last nail in the coffin. The provisions laid down in Article 102 to review government actions by the Hon'ble High Court Division will be of no use if the judges consider the issues keeping in mind their removal if someone in the government dislikes their orders.

In addition to the above, the conflict of interest issue had not been given any consideration prior to assenting to the draft amendment. The representation of businessmen in the Parliament is increasing alarmingly and at present almost 40% of them are garment manufacturers. There will be apparent conflict of interest in many pending cases and the parties concerned would not like to take proactive steps to finish hearing of those cases for fear of outcomes that might come under undue pressure.

The writer is Advocate, Supreme Court of Bangladesh.

Heaven Just Got Funnier

HUMOROUSLY YOURS



NAVEED MAHBUB

SHE smiles at you. She's a flirt or is weak, or maybe stupid, or...available. Wake up! She smiles because deep inside she has faith and knows the power of a smile. Smile power! A smile is the best make-up you are ever going to wear.

Now, stretch that smile to a laugh. Nah! That will seem like you lack 'depth.' The laughter must be stifled. So, zip your lip.

So, let it out. There you go. You're laughing. Good. Now let's see what you're laughing at -- the poor old gentleman who trips and falls in the middle of the road, too embarrassed to massage his aching behind. That's hilarious! There is nothing more entertaining to us than the misfortune of our fellow beings. To hell with being a Good Samaritan.

Let's take it up a notch. Ask to pay to laugh. "What? PAY to laugh. And VAT on top of that? Are you serious (about being funny)?" Tell you what, if you want to laugh for free, just go and watch the Parliamentary proceedings.

Do I get threats for cracking (such) sensitive jokes? Plenty. Have I been a victim of circumstances just by tickling the funny bone? Absolutely. But I call these endorsements.

Yet, I quit my high paying, high flying, high profile CEO's job at IBM, to take on the low paying, low lying job (I even have the word 'discount' written all over my forehead) of making people laugh.

Such is the calling and purpose of my life. I am the doctor of the blues. There is no turning back -- asking a comedian to surrender his wicked touch is like taking the sword away from a samurai. The justification of comedy...is comedy.

Crazy? Perhaps. Eccentric? Ask my wife. One thing is for sure, there is the totally unexpected behind the laugh factory, a complex DNA that is better left unanalysed. Euphemism for 'craziness'? Probably.

Suicidal? No. I really don't know how many comedians suffer from depression, but judging from all the comedians I hung out with in the LA comedy circuit, I'd say, just about all of them. And jaded? You bet!

Robin Williams was all of the above. But what a cover up job he did with his warp speed wit. He could have solved Dhaka's load shedding problems with the electricity he generated. "If I see something, it comes out as music", said Lionel Richie. "If I see something, it comes out as humor" -- was surely Robin's motto.

But why the tragic end? The funny man had everything. It's like saying, "How can that chicken be dead? The nuggets made from it are so delicious."

The writing was on the wall. He did joke about his darker side. After all, comedy is based on truth. He needed help, but we were all too busy laughing at his jokes to realise his pain. He took his own life, but he was funny till the end...

So, the next time you come across the class clown, keep your eyes open. At one point, he may just drop the act. And when he does, get him some help. You will do the world a huge favor, because the world surely needs these specimens to provide the best medicine.

Am I depressed? You bet! The Robins come in a thousand years, if at all. My only solace, I got close to him, literally. And boy, the impression he left on me...Mrs. Doubtfire has lit the fire in me that burns away all the doubts I ever had of my calling.

Robin Williams will be missed, but Heaven just got funnier...

Do us a favor Robin, wish Hope, Pryor, Carlin, Farley...the whole crew, a Happy Anniversary.

The writer is an engineer & CEO turned comedian (by choice), the host of NTV's The Naveed Mahbub Show and the founder of Naveed's Comedy Club.
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150 YEARS AFTER THE FIRST GENEVA CONVENTION

Switzerland and ICRC call for greater respect for international humanitarian law

DIDIER BURKHALTER and PETER MAURER

HUNDRED fifty years ago to the day, the first Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field was adopted, enshrining the idea in international law that even in times of war, a certain degree of humanity must be preserved. Switzerland and the International Committee of the Red Cross (ICRC), which together helped to secure acceptance for international humanitarian law on the world stage at that time, are now calling for stricter compliance with this principle, as there remains a lack of effective mechanisms for encouraging compliance around the globe.

Today's wars have little in common with the battles of the 19th century. The fighting has gradually moved from clearly defined battlefields to populated areas. Traditional war between armies of opposing states is the exception, while non-international conflicts have become the norm. Nowadays civilians bear the brunt of armed conflicts.

International humanitarian law has adapted to this change. Appalled by the destruction and suffering caused by the Second World War, states agreed in the four Geneva Conventions of 1949 on comprehensive protection for those who are not or are no longer participating in hostilities -- wounded and sick soldiers, prisoners of war and civilians. This cornerstone of international humanitarian law was supplemented in 1977 and 2005 by three additional protocols. The use of certain weapons, such as biological or chemical weapons, cluster munitions and anti-personnel mines is now widely outlawed. The law has put barriers in place to protect the most vulnerable from the brutality of war. Its implementation has also seen a certain amount of progress, such as in the training of soldiers or in the prosecution of the worst war crimes, thanks in particular to the founding of the International Criminal Court (ICC).

Nevertheless, every day we receive horrific

reports and pictures from around the world that bear witness to unspeakable suffering in armed conflicts. All too often, serious breaches of international humanitarian law are the cause of this suffering. Underlying it all is our collective failure. The Contracting States undertook in Article 1 common to the four Geneva Conventions of 1949 "to respect and to ensure respect" for these Conventions "in all circumstances." Thus far, however, they have failed to give themselves the resources required to keep their promises. International humanitarian law has since its conception lacked mechanisms for encouraging effective compliance. This impotence has often meant death and destruction for those affected by war.

The principles of international humanitarian law apply universally. However, constant effort is required, as there is no guarantee that they will perdure. A right that is regularly violated without provoking any clear response is likely to lose its validity over time. The consequences for the victims of armed conflict do not bear thinking about.

This is why Switzerland and the ICRC have been holding talks since 2012 with all states on the best way to improve compliance with international law. Their work is based on a mandate given by the 31st International Conference of the Red Cross and the Red Crescent. They are convinced that states need a forum where they can decide jointly on the measures that are needed to bring better compliance with international humanitarian law. They should have regular and systematic discussions on how they are meeting their obligations. The forum would help the states to gradually establish an overall picture of how these obligations are being fulfilled, and how the associated challenges are being met. On this basis, the states could finally take steps to reinforce the application of the law, for example by assisting each other to develop the skills and capacities required to meet their obligations. They could also keep each other up-to-date and exchange views on the most

effective measures to tackle this often complex task.

A forum of states would also create the conditions required to ensure that the law dictates future developments in warfare (such as new weapons technology) and not vice-versa. This requires a regular dialogue on current issues of international humanitarian law. It is also important that the states have an appropriate instrument to respond to serious violations of international humanitarian law, to prevent such crimes in the future and to protect civilian populations from further suffering. A mechanism for investigating the causes of such violations would be expedient.

In accordance with their mandate, Switzerland and the ICRC will submit specific recommendations on the establishment of such a forum at the 32nd International Conference of the Red Cross and Red Crescent, which will be held in Geneva in late 2015. At this occasion the states will decide what action to take.

Since the adoption of the first Geneva Convention 150 years ago, international humanitarian law has become a central pillar of the international legal order. Ultimately its provisions serve to protect our key characteristic as human beings: our humanity. This is an irrevocable right. It is based on the belief, forged over the centuries and in all our cultures, according to which it is essential to lay down rules if we want to prevent wars from degenerating into barbarism. It is up to our generation to consolidate these achievements and to create an institutional framework to ensure these rules are respected. If it is to be fully effective, the law needs suitable instruments. Never in the history of humankind have we been closer to a solution than we are today. It is up to us to seize this opportunity.

The writers are President of the Swiss Confederation, and President of the International Committee of the Red Cross (ICRC), respectively.

CROSSWORD by Thomas Joseph

QUOTABLE Quote

“He who learns but does not think, is lost! He who thinks but does not learn is in great danger.”

Confucius

ACROSS

1 Mississippi's source lake

7 Muddy up

11 Domestic denial

12 Computer menu choice

13 Car-washing aid

14 Put away

15 Shortage

17 Life stories

20 Choose

23 Curry on TV

24 Giveaway

26 Gangster-s gun

27 Penguin's cousin

28 Saloon brew

29 Draws air

31 Set fire to

32 Most new drivers

33 Lackluster

34 Frank

37 Latte topper

39 Stump figure

43 Singer Fitzgerald

44 Heavenly

45 Water source

46 Checked (out)

DOWN

1 Office-holders

2 Pinnacle

3 Commotion

4 Excites, in slang

5 Parakeet home

6 District

7 Steal steers

8 Alert

9 Groom's answer

10 Depressed

16 Stinks

17 Knock off work

18 Laughable

19 Site for portentous writing

21 Eyelashes

22 Comb parts

24 Unfaithful

25 Regret

30 Muppets drummer

33 Opera cheer

35 Tacit okays

36 Idle on film

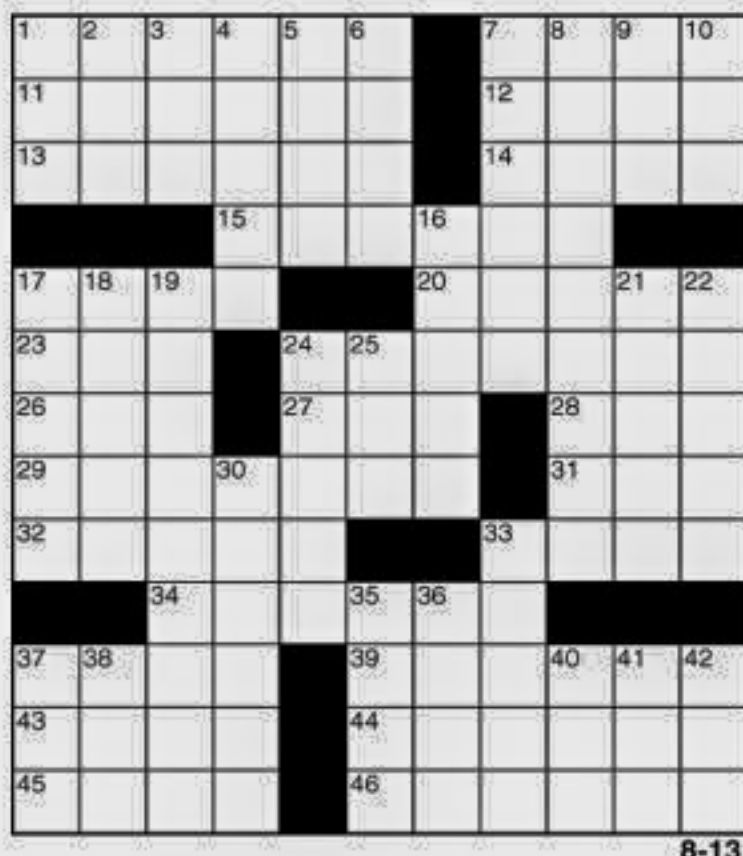
37 Handful of

38 Flamenco cry

40 Service reward

41 Low number

42 Spectrum end



Yesterday's answer

B I T E S B L A S T
A D O R E A O R T A
W E A R A N D T E A R
L A D D A G A R T
P O P U P
I D T A G Y A R D S
R E E L N A I L
S N E E R L E G G Y
S E P A L
A D D C A N M E A
L E A N A N D M E A N
P A R I S H E I S T
S L E P T O G R E S

CRYPTOQUOTE

IVM IQMM EG ADKMQIX HZBI KM QMGQMBVMC GQEH IDHM IE IDHM NDIV IVM KAEEC EG UTIQDEIB TPC IXQTPIB. - IVEHTB WMGGMQBEP

Yesterday's CRYPTOQUOTE:

WE ARE EACH OF US ANGELS WITH ONLY ONE WING, AND WE CAN ONLY FLY BY EMBRACING ONE ANOTHER. - LUCIANO DE CRESCENZO

A XYDLBAAXR is LONGFELLOW

One letter stands for another. In this sample, A is used for the three L's, X for the two O's, etc. Single letters, apostrophes, the length and formation of the words are all hints. Each day the code letters are different.

BEETLE BAILEY

by Mort Walker



HENRY

by Don Trachte

