

Which law is priority: SC judges' appointment law or impeachment by JS

SHAKHAWAT LITON

THE cabinet on August 18 approved a proposal on amending the constitution to restore parliament's authority to impeach Supreme Court (SC) judges on grounds of misconduct or incapacity, by scrapping the existing provision for the chief justice-led Supreme Judicial Council (SJC) for the task. The bill will be passed any day in the next session.

The move has already triggered huge controversy as to whether the restoration of the parliament's authority will appear as a threat to the independence of the higher judiciary. It is certain that the parliament will be empowered after the amendment to the constitution. But the move generated some other crucial questions. Will the amendment have any positive impact on the higher judiciary? Which is the more urgent need now—empowerment of the parliament to impeach the SC judges or enactment of a law, according to the constitution, specifying the criteria for their appointments?

We think the majority opinion is for immediate enactment of a law on the appointment of judges to uphold the independence and dignity of the apex court. In absence of a law, all the successive governments enjoyed freedom to appoint judges. Some controversial appointments in the past have severely undermined the image of the SC.

On April 29, 2007, the then Chief Justice Ruhul Amin made some strong remarks about the faulty appointment system of judges to the SC. He said that the irregularities in appointment of judges in the past need at least 20 years to be removed. Senior lawyers of the SC welcomed the. The jurists said that the authorities should start immediately to cleanse the higher

judiciary through the supreme judicial council or other means, instead of waiting for 20 years. However since then no major move has been made to this effect.

About three years after Justice Ruhul Amin's remarks, the then Chief Justice Mohammad Fazlul Karim on April 18, 2010 refused to administer oath to Ruhul Quddus Babu and M Khasruzzaman as additional High Court judges along with 15 others appointed by the president. It was considered that Justice Karim had taken the decision in the wake of controversy over the appointment of the two judges along with the 15 other on April 11, 2010 by the president.

Justice Karim had to face strong criticism for his decision at his farewell on September 29, 2010. Attorney General Mahbubey Alam in his speech on the farewell programme blamed Justice Karim for violating the constitution by not administering oath to the two judges. In his written statement the attorney general said Justice Karim had satisfied that particular section which was against the Liberation War by violating the constitution.

About a year after his decision not to administer oath to the two HC judges, Justice Karim, along with some other former chief justices and eminent jurists, was invited by the parliament body for constitutional amendments, to attend a meeting to give their opinions on various issues. Along with others he attended the meeting on April 24, 2011 at the parliament building. He gave his opinion on some issues including the independence of the judiciary and the appointment of judges. Justice Karim stressed the need for letting the judiciary to grow as an institution. He said that there must be a specific policy, both regarding appointment and selection of judges. "This institution will earn much reputation if we follow the policy. In the past, we had an excellent institution. Everybody in the sub-continent

used to appreciate us about our judiciary. But recently this judiciary has become a subject matter of controversy for some reason or the other. You all know it well. We will be able to regain the image of this institution if we can remove the reasons [behind the controversy]." Justice Karim said, according to the committee meeting proceeding.

Some other senior jurists who were present at the meeting also spoke about the importance of a law on the appointment of judges. While commenting on whether the parliament should get back that the question [of impeachment] will not arise if good people are appointed as judges.

The 15th amendment to the Constitution was passed by the parliament on June 30, 2011. But the Awami League-led government did not pay heed to opinions on the enactment of a law according to Article 95 (2) (c) of the constitution. It has opted for following the suit of its predecessors and refrained from taking any move to enact a law. Amid such a situation, the parliament is set to get back its authority to impeach SC judges. It is certain that the parliament will have no say, as the government does not want, in the enactment of the law prescribing other qualifications of individuals for being appointed as SC judges.

In the absence of a law, a person, if he is a citizen of Bangladesh, and has been an advocate of the SC for at least 10 years or has been holding judicial office for 10 years, is eligible for appointment as a judge to the apex court. S/he needs no other qualification. There is no other mechanism to scrutinise the efficiency of individuals willing to be judges of the apex court. This situation will keep benefiting the government, not the higher judiciary.

The writer is a Sr. Reporter, The Daily Star.

Bangladesh cricket team needs sports psychologists

FAKHRUDDIN AHMED

BANGLADESH cricket team is consistently underperforming these days not because they have suddenly forgotten how to play cricket at the highest level, but because the whole team has lost confidence in their abilities. The remedy lies beyond the expertise of their cricket coaches. The team urgently needs the assistance of sports psychologists to fortify their beliefs in themselves.

Sports psychologists help professional and amateur athletes overcome mental impediments to their sports success. Many top athletes have credited sports psychologists for enhancing their performance and helping them achieve their goals. Entourage of elite athletes like tennis superstar Serena Williams always includes sports psychologists.

Any top athlete knows that sports is not only physical; a lot of it is also mental. Muhammad Ali, "The Greatest," used to win boxing contests before the opening bell by psyching out his opponents with taunts. Before his title fight against then World Heavyweight Champion Sonny Liston in 1964, Ali acted crazy and made Liston believe that he was really crazy! No one likes to fight a crazy guy! Of course Ali won the heavyweight title.

After South Africa won their away series against Australia 1-0 in Australia in 2012, Shane Warne made an astute observation. He said that unlike some other nations, South Africa was not afraid to beat Australia. One of the instances Warne was alluding to was the 2006 Fatullah test when Bangladesh had an excellent opportunity to beat Australia, but lost its nerve and the match.

While a team's sports coaches concentrate on embellishing the physical and technical aspects of the players' talents, the sports psychologists focus on what goes on inside the athlete's head. The athlete may become too anxious and lose focus during critical times. He may have trouble communicating with his teammates, controlling his temper (something some Bangladeshi cricketers are unable to do) or to motivate himself. Worse of all, he may "choke" at critical moments of the game, when confidence deserts and nerves take hold of him.

Sports psychologists can help athletes enhance their performances by teaching them mental strategies such as visualization or mental rehearsals (something golfing great Tiger Woods employs), self-talk (to get pumped up) and relaxation techniques. These help athletes' sooth their nerves, overcome mental obstacles to their performance and achieve their full potential.

Athletes are under enormous pressure to succeed from parents, coaches, their own expectations, and most importantly, from the high expectation of fans. Sports psychologists can teach them how to mitigate these pressure-cookers of expectations so that these do not negatively affect their performance.

Sports and injuries go hand in hand. The best players are rarely injured. Muhammad Ali was injury-free all his life. The decline of Tiger Woods is directly related to the injuries he sustained over the last six years. Neymar's vertebrae injury put an end to Brazil's World Cup aspirations last month.

Sports psychologists help athletes recover from injuries, teach them how to tolerate and play with pain, adhere to strict physical therapy regimens, and keep the morale up and remain a part of the team mentally when sidelined. Sports psychologists teach athletes how to enjoy their sport, look forward to practicing and develop self-esteem and self-confidence. Cricket is a team sport. Players win or lose as a team. Actions of every player matters because it impacts all other team members. If the team's best player is regularly facing disciplinary problems and getting suspended, it has a demoralizing effect on the rest of the team.

A successful team also needs a strong leader who leads by example. There is no substitute for strong character. Sports legends such as Muhammad Ali, Jesse Owens and Sir Don Bradman were men of impeccable character. On the other hand, Tiger Woods's decline can also be traced partly to his philandering in 2009. Some suggestions for the coaches and sports governing bodies are also in order: cut your superstars some slack and consult them before making important team decisions. Management always consulted Wayne Gretzky, ice hockey's "The Great One," and basketball legend Michael Jordan, before making any changes in the roster. No one is perfect. Management should not just punish a player; they should help him overcome his flaws. After all, we are dealing with young and impressionable men.

Even their opponents admit that Bangladesh cricket team is loaded with talented players. All they need to do to excel consistently is to execute the techniques they have mastered, be patient and fearless like a real Tiger, keep succeeding even when everyone around is failing, and most important of all, keep on believing in themselves. And they need sports psychologists to constantly remind them how good they are.

The writer is a Rhodes Scholar.

LAUNCH ACCIDENT INVESTIGATION Move from blame-game to safety standard improvement

DR. MIR TAREQUE ALI

AFTER every launch accident, which often takes a heavy toll of human life, the government immediately exhibits promptness, forming multiple high-level probe committees, promising punishment for the responsible persons behind the accident. Without hampering the monotonous trend followed after each of the previous similar incidents, the government formed two probe committees soon after the Pinak-6 accident: a seven-member probe body by the ministry of shipping, and another four-member committee by the Department of Shipping (DoS). The whole investigation was unexpectedly put in an awkward position, when the committee formed by DoS was dissolved, just two days before the submission of report on Pinak-6 incident. However, the other committee by DoS was allowed to work seven more working days, as requested by them, to complete the investigation and submit their report.

It has been reported that over the last four decades more than 800 investigation committees have been formed to investigate over 500 inland waterway incidents, of which only a handful of the report have been made public. Although as per Inland Shipping Ordinance (ISO), 1976, the government forms investigation committee to probe the reasons behind the inland waterways accidents, over the years they are found to be inefficient and ineffective. Actually probe committees in general, have lost their credibility and the general perception about any probe committee is that they are simply an 'eye-wash' to hide the real picture. It is not unusual to find an official from DoS or, BIWTA, involved in a vessel's registration or, survey and fitness checking or, inspecting the launch before the journey at the ghat, was included as a member in the investigation committee of that particular vessel's incident. Due to this inherent weakness in the formation of

probe body, impartiality in the findings and in the recommendations of the report prepared by the probe committee, is seriously compromised. On the other hand, concealing the probe committee reports actually help the responsible persons escape punishment. There are plenty of examples where multiple probe committees were formed right after the launch accident, which rather initiates the blame-game among DoS, BIWTA and the ministry of shipping. In most of the instances the accused person or, official escape punishment because of loopholes in the ISO, 1976, which need to be updated and modernize.

Another major drawback in the formation of probe bodies after an inland waterway disaster is the non-inclusion of experts particularly in the field of naval architecture; as a result the engineering or, technical elements behind any launch accident always remain out of focus. Inclusion of preventive measures to avoid repeated accidents of passenger launches has become a must. Moreover, it is important to have thorough insight into the processes and conditions behind every accident.

Similar to the investigation procedures followed currently in advanced countries, our probe bodies can take assistance from technical experts to simulate or reconstruct the accident scenario using latest engineering software and advanced technologies. Other than computer applications, a well-equipped ship model testing centre (Towing Tank) will also be useful to go for a physical experiment using scaled model of the real ship to identify the technical reasons and recommend engineering solutions to mitigate the problem.

Most of the world's major maritime nations have abandoned the board of inquiry approach for marine accident investigation, although it still remains in a number of countries in the developing world including Bangladesh. The accident investigation approach in the modern world has changed from 'who to blame' to 'how to stop accident'.

Currently in many developed countries, similar to UK's Marine Accident Investigation Branch (MAIB), the marine accident investigations are being conducted by an independent body comprising of professionals, with a view to identify and understand the cause of marine accidents that will lead to develop preventive strategies. Their objective is to determine how safety on the waterways could be improved. An important feature for modern accident investigation approach is to issue practical recommendations that can effectively prevent the recurrence of accidents. For a recommendation to produce positive results, it must be affordable to the majority of the interest groups. Should the recommendation yield a costly change, some of the interest groups may be unable to meet the financial requirements. Thus the success of any safety recommendation can be judged by how conveniently it accommodates the interest groups. To accomplish that target investigators must consider cost as well as the time necessary to implement the changes. Actually, the investigators must use their intelligence and expertise to make a compromise between cost and time to create the most practical recommendation.

The government must go for a major overhaul in the formation of probe bodies to investigate launch accidents. Since launch disaster is one of our long-lasting problems, government should also consider formation of an independent investigation board. However, to prevent frequent launch accidents on our waterways, government must give emphasis to implement the valuable recommendations made by the probe bodies. Finally, it is the time to move towards a professional launch accident investigation and to develop a system that would be much more responsive and appropriate for the 21st century.

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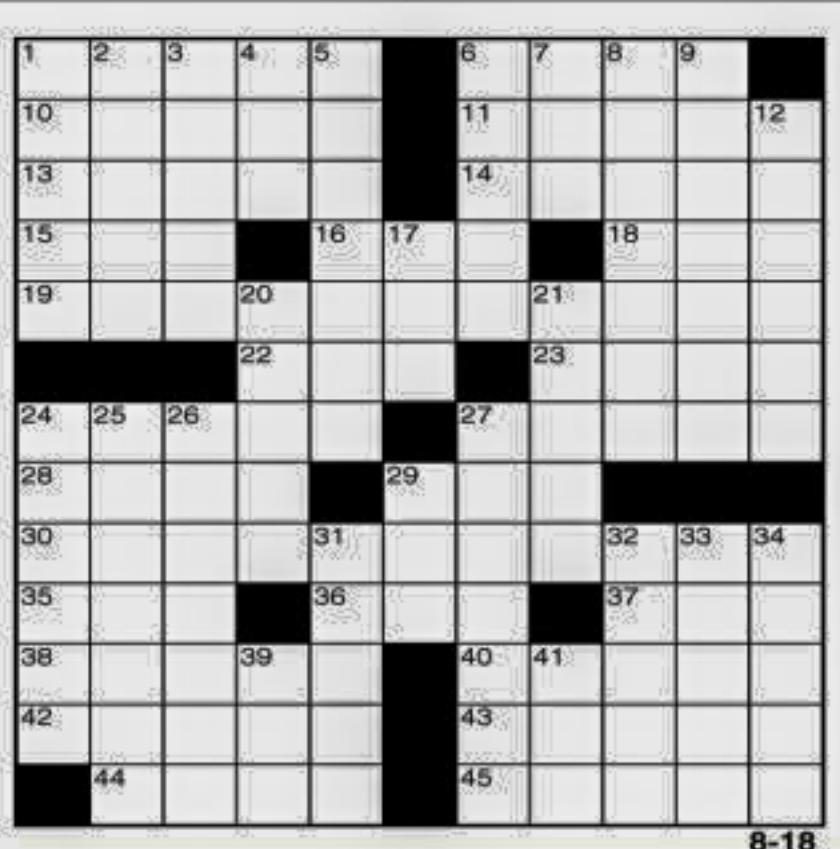
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CROSSWORD by Thomas Joseph

- ACROSS**

 - 1 Viciously criticize
 - 6 Surgery souvenir
 - 10 Toil
 - 11 Halley's sighting
 - 13 Busy
 - 14 Humiliate
 - 15 Singer—King Cole
 - 16 Gibson of "Lethal Weapon"
 - 18 Brownish gray
 - 19 Early explorers
 - 22 Mine rock
 - 23 Enormous
 - 24 Big water pipes
 - 27 Does some modeling
 - 28 Opposed to
 - 29 New England catch
 - 30 Puts off
 - 35 Quantity; Abbr.
 - 36 Rent out
 - 37 Memorable period
 - 38 Slugger Roger
 - 40 Copper or cobalt
 - 42 Dodge
 - 43 Celeb roster
 - 44 Penn of "Mill"
- DOWN**

 - 1 Duck hunter's cover
 - 2 Islands veranda
 - 3 Touches on
 - 4 Urgent call
 - 5 Quakes
 - 6 Weigh-in need
 - 7 Corn core
 - 8 Best Picture of 1984
 - 9 Make a comeback
 - 12 Past, present and future
 - 17 Cain's mother
 - 20 Volcano-shaped
 - 21 Mary's TV pal
 - 24 Monsieur's wife
 - 25 Zoo residents
 - 26 "Honest!"
 - 27 Natalie of "Thor"
 - 29 Pool stick
 - 31 Hall-of-Farmer Merlin
 - 32 Arrive
 - 33 Make blank
 - 34 Sea dogs
 - 39 Writer Tarbell
 - 41 Quarter-back Manning



Yesterday's answer

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

CRYPTOQUOTE
FEE FLUBWOSUOPLS WG TLSFO FLUBWOSUOPLS FCOSL
GPRGSO; DSLBFDG FLUBWOSUOPLS WG LSFEH F
RVUOPLFRE FLO, EWMS OBS FLO VC CWLSQVLMG.
—TWEISLO M. UBSGOSLOVR

Yesterday's Cryptoquote: A PEOPLE WITHOUT THE KNOWLEDGE OF THEIR PAST HISTORY, ORIGIN AND CULTURE IS LIKE A THREE WITHOUT ROOTS.
—MARCUS GARVEY

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



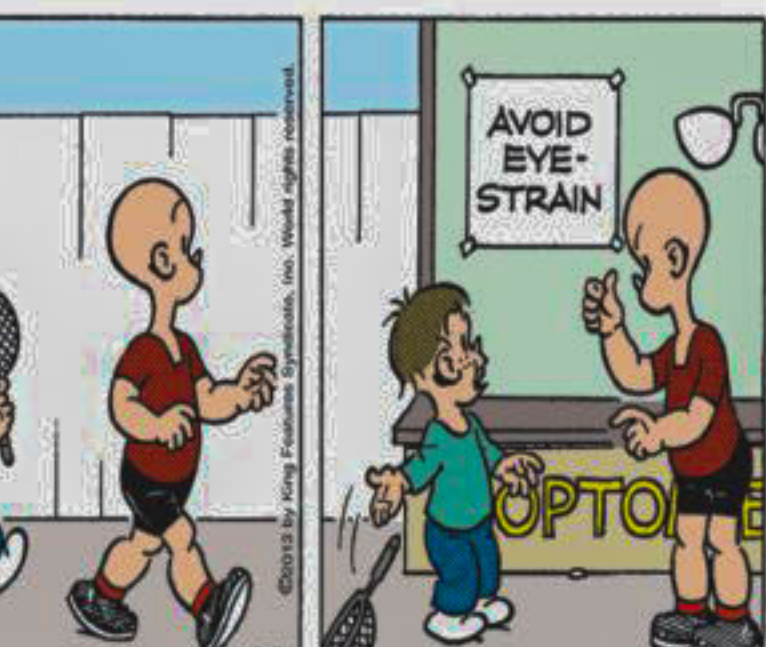
HENRY



by Mort Walker



by Don Trachte



QUOTABLE
Quote

The boundaries which divide Life from Death are at best shadowy and vague. Who shall say where the one ends, and where the other begins?

Edgar Allan Poe