

A POLITICAL POSTMORTEM

Death of war crimes mastermind

MOZAMMEL H. KHAN

THE mastermind of crimes against humanity, Ghulam Azam, has passed away. He was one of the most despised individuals, both in life and in death, in Bangladesh's history. Ghulam Azam not only acted against the birth of Bangladesh but also tried to undo its creation even when the newborn nation had been recognised by many countries.

His death in a hospital cell a few days ago has naturally been the prime news event. The issues debated in the news, electronic and social media after his death were whether his burial should have been allowed to be in the soil of Bangladesh and whether his *janaza* prayer should have been allowed to be performed in the national mosque. The criticisms, out of anger and emotion, emanated primarily from proponents of the war crimes trials, and from those who are critics of the AL and the government; yet, the latter also want the war crimes trials to continue, however paradoxical it might sound.

After every judgment, either by the ICT or by the Appellate Division of the Supreme Court, if the verdict was not capital punishment, there were specu-

lations about an understanding between the AL and the Jamaat. Guided either by emotional impulse and frustration or by inherent antagonism against the current ruling party, there is a tendency to discount the reality that ours is a politically polarised society where, strangely, the Liberation War is a polarising factor instead of a rallying one.

Justin Trudeau, the son of the late PM Pierre Trudeau of Canada, while addressing the nation after the recent deadly terrorist attack in Parliament Hill, said in reference to his political rivals: "We are political opponents, not enemies, in the service of our nation." As opposed to what he said, our polarised poles are deadly enemies. For instance, on the issue of war crimes trials, while one pole is bent on continuing unconditional trials, the other pole wants trials "if only the trials are transparent, of international standard," etc. It is not clear at this time which side of the divide will carry the day if there is a free and fair election today.

It sounds absolutely preposterous when the bitter critics of the government, just to place themselves on a high moral ground, make deceptive assertions such as "the whole nation wants the trials," even when the supreme leader of one pole categori-

cally says "trial is a conspiracy to throw the nation into chaos in the name of war crimes trial four decades after the general amnesty to the collaborators. The BNP has no confidence in this tribunal. It believes that in the existing legal structure, the tribunal is nothing but a servile, rubber-stamp organisation. This tribunal must be dismantled, and the convicts who are victims of political persecution must be freed." The most outrageous declaration came from a party chairperson's adviser, a defense lawyer in the trials, when he said: "If voted to power BNP would try those involved in the war crimes trials." This sends a spine-chilling warning to the prosecutors and witnesses.

Ghulam Azam had been handed 90-year jail for his role in the genocide in 1971. All the five charges, which included murder and torture of unarmed people, conspiracy, planning, incitement and complicity in genocide, were proved in the International Crimes Tribunal (ICT). The gravity of Azam's offences warranted death penalty the ICT said, but stopped short of awarding it to the 91-year-old Jamaat leader considering his old age. So make no mistake, he died as a war crimes convict.

Regarding his *janaza* prayer in the national mosque, every Muslim citizen has that right. Ghulam Azam was given citizenship of the country, whose creation he fought tooth and nail against, by the nation's highest court. However much we disagree with the decision, we have to respect it and as such he was entitled to the burial rites. The government rightly provided all the required security to maintain order, just like it does after the death of any convicted criminal.

It was disheartening to see that more people attending his funeral than those who gathered to express their loathing. One must take into cognisance that war crimes convict Abdul Alim's funeral reportedly attracted a big crowd, and that Saydee's son and Quader Mollah's brother have been elected upazilla and union parishad chairman, respectively, from their hometowns. Without recognition of these realities, putting all the blame squarely on the government would be unfair. The real protagonists of the trials should never undermine the fact that the AL under the leadership of Sheikh Hasina will never compromise with her resolve to bring the war crimes trials to an honourable end.

The writer is the Convenor of the Canadian Committee for Human Rights and Democracy in Bangladesh.

GREEN CLIMATE FUND

Getting Bangladesh ready

MICHAEL O'NEILL

BD ANGLADESH is widely acknowledged as a country most vulnerable to risks arising from climate change. But, it is also acknowledged as a success case for building resilience to climate change.

However, the flow of climate finance to Bangladesh is far less than what the country requires to recover losses it has suffered from the impacts of climate change. This does not take into account money needed to maintain its economic momentum to help dislodge stubborn poverty, reduce inequality and develop sustainably.

It can be argued that much more international technical and financial assistance is needed to make a business case for Bangladesh to adopt a green development pathway, a policy aspiration reflected in all major development strategies of Bangladesh, including the mid-term perspective plan.

Finally, most climate vulnerable countries including Bangladesh are increasingly concerned about the modality of accessing climate funds to ensure national ownership.

So how do we address such challenges? In countries like Bangladesh, the answer may lie with the Green Climate Fund (GCF). Let me cite three reasons.

GCF promises significantly higher level of funds in comparison to most funds as developed countries have reiterated their commitment to mobilise up to \$100 billion per year from public and private sources, by 2020. The fund provides opportunities to promote low emission green growth as part of the overall funding window. Finally, the governing Instrument of the GCF explicitly allows a modality to directly access the fund by government without any third party support/mediation/facilitation.

So how might climate vulnerable countries respond to this unprecedented opportunity?

It will take time, perhaps by 2020, but each country needs to develop required institutions, and sufficient capacity and knowledge to efficiently manage the potentially large amount of directly accessible funding. And they will need to address five immediate priorities.

Prepare a credible pipeline of projects that can be funded by GCF: For us, this is a rather tried and tested strategy. Given that GCF is a fund with a stated purpose and objective, it may not fund opportunistic proposals. Project proposals need to be based on evidence of how each intervention is going to affect the global climate challenge and local climate impacts. While this sounds simple, in reality it calls for deep rooted institutional change. This is a reason why proposals from several countries, including Bangladesh, have been declined by GCF.

Set-up the appropriate authorities with relevant mandates and capacities to access the GCF: Bangladesh has taken the first step already -- the country has already assigned the National Designated Authority (NDA) as the apex body to facilitate access to the fund. The NDA is required both for directly and indirectly accessing the fund. Other institutions such as the National Implementation Entity (NIE) -- that ensures fiduciary standards and develops, approves and monitors projects needs to be identified. These entities also need sufficient capacity to be able to manage fiduciary risks as well as maintain an internationally accepted level of transparency. Finally, there is a need to identify executing agencies under the fund that will deliver project results on the ground.

The NDA should facilitate an inclusive dialogue with all parts of the government and incorporate non-government stakeholders including civil society and private sector: This needs a 'whole-of-government' approach that requires significant involvement of several ministries; ministry of planning and finance working with ministry of the environment, as well as with key line ministries such as agriculture, energy, health, local government, disaster management, and transport. This task can be deceptively difficult. For example, ministries may differ in terms of their mandates and their role as NIE, there may be disagreements over priority selections, the private sector might feel that it is being ignored. A broad, country-wide, transparent discussion is needed to build consensus on issues such as the selection criterion of projects, modality of sharing information, etc.

Improve the overall "Aid Management" capacity of the country: It is indeed commendable that Bangladesh launched the "Aid Information Management System" this week. It is expected to bring improvement in the country's overall development-effectiveness in a sustainable way. We have also worked with the ministry of finance to develop a robust Climate Fiscal Framework to improve the governance of climate finance in Bangladesh. At the same time, issues such as public financial management and public procurements systems need to be looked into too.

Countries like Bangladesh, among the worst hit by climate change but who also have the capacity to successfully negotiate on the world stage, should continue to work with the GCF mechanisms to keep pressure on the fund to further simplify the processes without compromising quality. Bangladesh also needs to work with the GCF secretariat to expedite the release of capacity development funds, which it can access to improve national capacities.

So how can the UNDP help? As one of the most trusted capacity development agency, we are ready, able and keen to work with designated entities including NDA, NIEs, etc., or if needed even possibly work as an interim NIE.

We are currently working with Bangladesh to develop a National Adaptation Plan (NAP). We can also support development of a Nationally Appropriate Mitigation Action (NAMA) that is critical to access the mitigation portion of the fund. Additional support can be explored in implementing pilots around those actions.

Finally, given UNDP's long term partnership with key government stakeholders such as the ministry of finance, the Planning Commission, the ministry of environment, and close association with civil society and private sector, we can facilitate the proposed 'whole of government' approach to support building consensus among major stakeholders.

Bangladesh, like a Royal Bengal Tiger, is ready to jump over the obstacles posed by the impacts of climate change. Having the right capacity, institutions, and strategy for accessing GCF are going to add needed energy in that jump. Given my faith in Bangladesh's capacity and on our on-going partnership, let me congratulate Bangladesh in anticipation for successfully benefiting from the GCF.

The writer is Assistant Secretary General and Director at the Bureau of External Relations and Advocacy, UNDP.

Maritime environmental laws needed to combat marine pollution

KAMAL UDDIN BHUIYAN and MD. JAHANGIR ALAM

ARTICLE 193 of UNCLOS confers upon member States the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment, which requires States to take all the measures consistent with UNCLOS to prevent, reduce and control pollution of the marine environment from any sources mentioned in this convention. Have we complied with this duty to protect marine environment and obligation to take measures to prevent and control the marine pollution of the Bay of Bengal (BoB) region?

In the National Programme of Action (NPA) 1999 under the Global Programme of Action (GPA) of United Nations Environment Programme (UNEP), twelve major issues, such as industrial waste (including ship breaking yards); sewage disposal; solid waste management; agrochemicals; deforestation; salinity intrusion; rapid urbanisation; erosion in the coastal zone; coastal tourism; land use change and climate change, have been identified as the main sources of coastal and marine pollution of BoB.

In the international Conference on Marine Environment Aspects of Bangladesh 2010, held in Japan, it was mentioned that around 3.5 million tons of crude and refined oil are imported by Bangladesh, which contributes around six thousand tons of oil to the four hundred thousand tons of annual oil pollution in the BoB. Approximately 1,800 tons of pesticides enter the Bay annually. The web based publication 'World Casualty Statistics' 2011, by IHS Fairplay, the largest five ship recycling countries in the world are India, China, Bangladesh, Pakistan, Turkey which recycle 97% to 98% of the world's tonnage. Interestingly, of the top three largest ships recycling countries, India and Bangladesh are surrounded by the BoB. It was reported that about 250 kg of polychlorinated biphenyl (PCB) are released from each ship in the ship breaking yard of Chittagong area. With 90 ships being dismantled each year, the total influx of PCB in Bangladesh could be about 22.5 tons. These toxic chemicals and pesticides are threats to both coastal and marine environment as well as public health.

Human rubbish, including synthetics and plastics, in the oceans and on beaches is called marine debris. It is one of the world's most ubiquitous pollutants affect-

ing the oceans. According to the Global Program Action Report 2005 under UNEP, the quantity of solid waste generated by the costal populations of South Asian Seas (SAS) region is 11,650 tons per day. In Bangladesh, only a fraction of the solid waste generated is collected. It is estimated that about 9,000 metric tons of human waste are released along the coast from Chittagong and Khulna.

If this pollution continues, it will certainly destroy important habitat and biodiversity; drive many wildlife species near to extinction; destroy mangrove forests; cause the whole ecosystem to become unbalanced and hinder sustainable development. For our survival and sustainable development, it is time to comply with the duty to protect marine environment and adopt laws and regulations to prevent, reduce and control pollution of marine environment.

To combat marine pollution, Bangladesh ratified or signed International Convention on Oil Pollution Preparedness; Response and Cooperation (London, 1990); Basel Convention on the Control of Trans boundary Movements of Hazardous Wastes and their Disposal (Basel; 1989); United Nations Conventions on the Law of the Sea, 1982; International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (Brussels, 1969); and International Convention for the Prevention of Pollution of the Sea by Oil 1973 (MARPOL) as modified by the protocol of 1978. The six annexes of MARPOL (Annex 1 to 6) that are in force in Bangladesh from 2002 cover pollution by oil, chemicals, harmful substances in packaged form, sewage, and garbage. But there is no comprehensive national legislation for enforcement of these conventions.

Some of the laws concerning marine pollution were enacted 100 years ago and have not been updated. For example, the Port Act 1908 was enacted to protect the water of port areas from pollution caused by chronic spillage of oil; dumping of ballast and rubbish; and discharge of bunker water containing oil from vessels. But the penal provisions are not adequate. Section 8 of the Territorial Waters and Maritime Zones Act (TWMZ) 1974 implies that the government may, with a view to preventing and controlling marine pollution and preserving the quality and ecological balance in the marine environment in the high seas adjacent to the territorial waters, take such measures as it may deem appropriate for the purpose.

Section 9 of this Act empowers government to make rules in this regard. The Environmental Action Plan adopted in 1992 focuses on coastal and marine environment. It contains 8 plans that have to be implemented by various agencies of the government.

The Environment Conservation Act (ECA) of 1995 (amended 2010), followed by the Environment Conservation Rules (ECR) of 1997, is the umbrella environmental legislation that provides for overall environmental conservation of the country. The above mentioned laws are not suitable for implementing the international conventions ratified by Bangladesh concerning marine pollution.

Bangladesh government, pursuant to Section 20 of ECA 1995, enacted Ship Breaking and Hazardous Waste Management Rules 2010. Rule 18 of this law calls upon each importer and exporter of hazardous wastes to comply with the provisions of Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989. The Basel Convention focuses on the regulating the transboundary movement of hazardous wastes to protect developing countries from importing such wastes that they are unable to manage in an environmentally sound manner. However, Basel does not establish a system for ship recycling, rather this has been dealt with in the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships 2009. Though Bangladesh is the 3rd largest ship recycling country, it has not ratified the Hong Kong Convention and the observance of this convention has not been mentioned in Ship Breaking and Hazardous Waste Management Rules 2010.

Because of the lack of comprehensive marine environment laws in Bangladesh, there has been little success in preventing and controlling marine pollution. Comprehensive legislation is urgently needed to make international conventions concerning marine environment and marine pollution of the BoB effective. In 2004, the Department of Shipping drafted a Marine Environment Conservation Act 2004. But it has not been enacted. It is hoped that the government will enact comprehensive maritime environmental legislation to protect BoB from marine pollution.

The writers are, respectively, Professor and Head, and lecturer at the Department of Law, World University of Bangladesh. E-mail: drkamalbhuiyan@gmail.com and jahangir0706@gmail.com, respectively.

In 2004, the Department of Shipping drafted a Marine Environment Conservation Act 2004. But it has not been enacted. It is hoped that the government will enact comprehensive maritime environmental legislation to protect Bay of Bengal from marine pollution.

QUOTABLE Quote

Real knowledge is to know the extent of one's ignorance.

Confucius

CROSSWORD by Thomas Joseph

ACROSS

1 Commotion

5 Wall Street worker

11 Glass section

12 Takeback

13 Pay to play

14 Started the bidding

15 Anatomy class prop

17 Equip

18 Legal actions

22 Carrying out

24 Principle

25 Flurry

26 Clinic cost

27 Rich dessert

30 Bloodhound's clue

32 Fiery crime

33 Gallery item

34 Mare's mate

38 Slays

41 Cherish

42 Entomology

43 Trolley's skin

44 Neatnik's banes

45 Ibsen's home

DOWN

1 Relaxing resorts

2 Refinery sight

3 Woody Allen movie

4 Finish catching

5 Easyrun

6 Correct an online comment

7 Fifth, for one

8 Mafia head

9 -- out a living

10 Checkers side

16 Easter find

19 Subordinates

20 New driver, often

21 Proofing note

22 Raw numbers

23 Freshener target

28 Flings

29 Tempt

30 Peruvian coin

31 Beckon

35 Tiny workers

36 Track shape

37 Animated fish

38 Poorly lit

39 Count start

40 Twisty turn

CRYPTOQUOTE

WLS HVBFH EMC BJDY DLFDC HVBFH YVB NCCQ HVB BFLJS.

-- KVM LHF BQVCM GBMD CX

Yesterday's Cryptoquote: IF YOU CAN KEEP YOUR HEAD WHEN ALL ABOUT YOU ARE LOSING THEIRS, IT'S JUST POSSIBLE YOU HAVEN'T GRASPED THE SITUATION.

-- JEAN KERR

Yesterday's answer

CALL ABATED
OBOE REMOVE
DECO GLOWER
ELK VOUS
LEWING LAD
LEDON AMUSE
IDOL ACHE
SNUFF BIKER
PAT OZONE
ARIZ DNA
COILUP HOOP
ONRAMP RUSE
TEENSYSTYX

BEETLE BAILEY by Mort Walker

DID MISS BUXLEY GET ME A DATE?

YEAH, SHE HAD A HARD TIME FINDING A BRAVE GIRL

HERE SHE COMES NOW

HENRY by Don Trachte

HENRY!

HALF OF EIGHT IS WHAT NUMBER, HENRY?

8

4-22