

Return Golapbagh playground

Residents want a solution

GREEN activists and residents of Golapbagh area recently formed a "citizens' rally" to demand the return of their beloved Golapbagh playground. People of the locality have long been deprived of the use of this free space since the beginning of the construction of Mayor Hanif flyover; the construction work ended two years ago. Yet, authorities have not bothered to remove the leftover construction material and equipment from the finished project. We are perplexed as to why this has not been done. Taking advantage of the situation, we understand that some unscrupulous elements have been trying to grab the playground altogether.

We sympathise with the residents in their clamour for the return of the playground. In a city of some 16 million residents, Dhaka has very few open spaces left for recreational purposes. Those that remain are constantly under threat of being grabbed and turned into commercial or residential plots. The Golapbagh playground may not amount to much as far as city officials are concerned, but for those who live in its vicinity, it is considered a vital area where children may play, where adults may walk and inhale a breath of fresh air, where the elderly may congregate and relax.

It is interesting to note that at the time of mayoral elections, both city mayors had pledged to free playgrounds and parks. Dhaka residents would like to see that promise fulfilled in the interest of maintaining some semblance of a quality life in a city that is fast transforming into a concrete jungle bereft of all greenery.

Turning wasteland into goldmine

Encourage such innovative initiatives

ONCE a swamp, it is now an innovative fish enclosure and vegetable farm run by thirty enterprising locals, including ten women, of Jhalakathi sadar upazila. With financial and technical assistance from a leading NGO, the members of the group initiated the process of turning unsightly and unused waterlogged non-agricultural land into productive farmland, creating floating beds for vegetable farming and an enclosure for fish production. Within a short time, their project has become a tremendous success, setting an example for others in nearby villages. The group estimates that the first fish harvest can earn them as much as eight to ten lakh takas. The project has given the members a much-needed source of income and a sense of purpose, but on a broader scale, it has shown how, with innovative ideas and entrepreneurial skills, we can make the best of our scarce resources.

We applaud this initiative which has empowered the local people to look at their surroundings in a new light and take steps to turn a wasteland into a goldmine. The project cost Tk. 4 lakh, with the members themselves contributing Tk. 5000 each in addition to external funding, but the returns of it – both in terms of monetary gain for the members and the positive environmental impact – far exceeds the initial investment. It highlights that investing in and fostering community-run enterprises can play a crucial role in poverty alleviation and women's empowerment, and in giving the local community greater access to underutilized resources and better control over own lives. We must encourage such initiatives across the country.

LETTERS TO THE EDITOR

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Sudden shutdown of internet

This is in reference to the news report, "Sudden shutdown follows verdict," published in *The Daily Star* on November 19. The state minister for telecommunication and the BTRC chairman said that the internet was mistakenly cut off. I want to point out that nowadays, many businesses are largely dependent on digital platforms. There are many businesses which are booming through Facebook. The government should build the capacity to monitor Facebook instead of blocking it.

Amina Begum
Barisal

COMMENTS

'Aphoto Ami'—The story of a Bangladeshi woman who escaped a sex racket (November 18, 2015)

▼

Habiba Akhter
The story of Chhaya is so unfortunate!

▼

Limon
So sad! I express my heartfelt sympathies to this woman. But I also feel delighted knowing that she escaped the sex racket and is trying to start a new life.

▼

Kiran
All the governments of the world must work together to stop human trafficking. Human traffickers should be punished rigorously.

SQC Trial: Why plea of alibi failed

BARRISTER SHAH ALI FARHAD

As the application for review by Salauddin Quader Chowdhury ("the convict") has already been dismissed, no further legal barrier remains in executing the sentence awarded by the International Crimes Tribunal ("Tribunal") and confirmed by the Appellate Division of the Supreme Court of Bangladesh. However, in recent times, a certain vested quarter, both at home and abroad, have been waging a well-resourced public relations campaign to portray a convict of war crimes and crimes against humanity as an innocent person being unjustly persecuted.

Both inside and outside court, the principal narrative from the convict's side has been that he could not have committed the alleged crimes, as he was not present in Bangladesh at the time the crimes took place. This opinion looks at the reasons furnished by the Tribunal and the Appellate Division (both during appeal and review stages) for utterly rejecting this plea as having no credibility whatsoever.

The convict claimed that he was not in Bangladesh from March 29, 1971 till April 20 1974. He stated that he left Dhaka for Karachi on March 29, 1971 and got admitted in final year BA (Honours) in Political Science at Punjab University. He along with his friends made a pleasure trip to Muree for 3 weeks and came back to Lahore. In the month of October 1971, he along with a group of friends motored to London from Lahore by road. He joined Lincoln's Inn in London. From December 16, 1971, he was in England and did not return to Bangladesh until April 1974.

As per Rule 51 of the Rules of Procedure (ROP) 2010 of the International Crimes Tribunal, the burden of proof as to plea of alibi lies upon the defence. But mere failure to prove the plea of alibi by the defence shall not render the accused guilty. Apart from the convict himself, the defence examined three other witnesses, all of whom were either his friends or relatives. Both the Tribunal and the Supreme Court found a number of contradictions in the statements of these defence witnesses as regards the plea of alibi.

The convict also relied upon some documentary evidence including affidavits. After careful consideration by the Tribunal and Supreme Court, the affidavits were disregarded as they showed multiple signs of fabrication, did not comply with the legal requirements and were raised in such an advanced stage of proceedings, as to call into question their motive and authenticity.

Most importantly, the defence did not produce a shred of evidence in the form of any travel or residential documents to show the date of so-called visit to West Pakistan and stay therein during the War of Liberation. The convict could not produce any formal certificate of his purported degree from Pakistan. Instead he produced a mere informal testimonial of a family friend who happened to be the head of the said University department asserting about his degree.

Rather, during review, the convict presented a "forged" certificate. Although no such document was produced during the three and a half years the case remained at the Tribunal for trial and at the Appellate Division for appeal, this forged certificate was presented at the very suitable time of review, indicating

that it was a recent fabrication by the defence as a last ditch effort.

It should also be noted that the spellings for Punjab University are different (Punjab and Panjab) in the forged certificate and the earlier purported testimonial of a teacher, making both the documents suspect in the eyes of the law. The Supreme Court made the following points regarding this forged "certificate" when dismissing the review application:

Such a document, if authentic, should have been presented at the trial or appellate stage, which was not the case;

The forged certificate mentions a grading system, although in 1971 there was no grading or semester system in honours degrees. Studies were conducted on a "year" basis;

One has to apply oneself for getting a certificate, and the defence could not present any evidence of the

The defence did not produce a shred of evidence in the form of any travel or residential documents to show the date of so-called visit to West Pakistan and stay therein during the War of Liberation. The convict could not produce any formal certificate of his purported degree from Pakistan.

convict taking any such step;

Any such certificate has to be brought via the Bangladeshi Embassy, but the forged certificate contained no such authentication from the Bangladesh mission;

The forged certificate was purportedly issued in 2012, but the authentication came in 2015. In the three years in between, the defence did not submit this document or even mention it. In fact, this was not presented at the appellate stage even;

Any documents from Pakistan are to be considered scepticism at best in this regard. The Liberation War was against Pakistan. The Pakistan President and Parliament have made openly hostile statements about the International Crimes Tribunal.

An example of the fact that the certificate is a forged one is the number 1900 being bigger in font than the 71.

Making false or unsubstantiated claims vis-à-vis documents is, however, nothing new for the convict. In his affidavit for the 2008 general election candidacy that requires by law a full and truthful disclosure from all candidates, the convict did not claim to have any degree from the University of Punjab in 1971. Actually, he did not disclose his highest educa-

tional qualification at all. However, in view of his claim during 2001 election (law degree from University of London), his 'self-education' claim was rejected and he was asked to submit his certificates by the then Election Commission. The convict took part in the election with a condition that he would submit his certifications shortly, which he never did.

During appellate stage, the Supreme Court also noted that even the convict admitted but did not comment on the fact that murder cases were filed against him (some by people who actually testified more than 40 years later) in 1972 just immediately after the Liberation War, although he claimed to have been outside Bangladesh from March 1971 to April 1974.

However, the defence of alibi not only failed because of insufficient evidence from the defence, but also because of overwhelming documentary and direct evidence from the prosecution that the convict was actually present in Chittagong during the relevant times in 1971. The prosecution presented three specific evidences to counter the plea of alibi:

First, a report by *Dainik Pakistan* (Exhibit 10) dated 29.09.1971 which stated that the convict's car was bombed killing the driver and injuring the convict; Second, a report by the Special Branch of Police dated 02.10.1971 which corroborated the *Dainik Pakistan* article stating that the convict's car had indeed been fired upon and attacked with grenade on 20.09.1971, killing the driver and injuring the convict;

Finally, witness testimony from a doctor who was on duty at Chittagong Medical College Hospital (CMCH) in 1971, named Dr. AKM Shafiullah, when he saw the convict at late September 1971 in CMCH receiving treatment for severe injury to his leg. Interestingly, this report by the Special Branch was written at a time when the administration was under the invading Pakistani army's control. There was no reason for the Pakistani authorities to falsely place him in Bangladesh, if he really was in Pakistan at that time.

Prosecution eyewitness testimony by at least 14 prosecution witnesses also placed the convict at various places of Chittagong throughout 1971 committing crimes for which he now stands convicted. Prosecution witnesses 2, 4, 6, 7, 14, 15, 17, 19, 22, 24, 28, 21, 32 and 37 all saw the convict accompanied by the Pakistan Army and Razakars in the act of committing or directing genocide by attacks upon unarmed people of the Hindu community of different villages of the locality, while a number of them actually saw the convict at his residence in "Goods Hill" while they were abducted and tortured therein.

With the legal process complete, victims of genocide, war crimes and crimes against humanity now await completion of justice via final execution of verdict. The judgments of the Tribunal and the Supreme Court explain in broad details why the convict was found guilty on each of the charges based on what evidence. They also set out why the defence failed in their plea of alibi, among others. Thus, there is no scope for doubting the process, as everything is out in the open for any interested person to study and analyse.

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NEPAL IN A STRAITJACKET

SUNDAY POUCH

ASHFAQUR RAHMAN

A curious situation has been developing on the international border between two South Asian neighbours – both of whom are honourable members of SAARC. Nepal is a landlocked country bordered by India on the south, east and west. China is on Nepal's north. The country is heavily dependent on its neighbours for transit and supplies.

On September 25 this year, Nepal, after seven years of controversial deliberations, passed a new constitution which ensures democracy and secularism. But prior to the signing of the new constitution, violence broke out between Nepalese security forces and a crowd of Madhesi people who are of Indian origin. They were demonstrating in Birganj in the Parsa district of southern Nepal. Several people had been killed in the clashes between these Madhesi and Tharu ethnic groups over changes in territories in Nepal and new election rules. The Madhesi people staged a 40 day sit-in and also triggered a fuel blockade that left over 200 fuel trucks stranded on the Indian border. This paralysis on the border crossing, which in fact is the main supply route to Nepal's capital Kathmandu, resulted in crippling fuel shortages. This was at a time when Nepal was still reeling from a devastating earthquake that occurred in April of this year. Nepalese police descended on the protestors and dispersed them. But they regrouped and burnt tires. Police then fired tear gas and charged on them. Subsequently in August, 40 protestors were killed by security forces. The protestors had been objecting to the new federal structure in the new constitution, which allowed people in the mountains to dominate minorities in the lowlands.

As the violence spread, India strongly denounced the allegations made by a Nepalese minister without portfolio that India was sending soldiers in plain clothes into Nepal to boost the claim of Indian origin Madhesis as 'provocative'. The agitation by these people took place near the main trading post Raxaul, thereby shutting off fuel supplies to Nepal which comes from India.

So what is Nepal likely to do if it cannot contain the Madhesis' unrest? India on its part says it does not want to



Students rally in Nepalgunj on Sunday against Indian interference in Nepal's affairs.

prescribe any model to Nepal over its constitution. But it is worried about violence and instability in Nepal which, it fears, could spill over to India. It has therefore suggested that Nepal introduce

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a constitution that is acceptable to all sections and which does not sow the seeds of instability in either country. It has urged Nepal to address the demands

of the agitating Madhesi people through dialogue.

Nepal now has to rethink her options in the face of fuel shortages. One option is to obtain the fuel from China in the north. But the road route to China has become quite hazardous after the earthquake earlier in the year. Nepal is now sandwiched between the proverbial devil and the deep sea.

India ought to reshape the contours of its relations with Nepal at a time when the former appears to be losing out to China. Nepal blames India for pulling the strings from behind the scenes. Meanwhile, Nepal is not waiting. It has recently signed a pact to import a third of the fuel the country needs from China, following Beijing's grant of 1000 metric tonnes of free petroleum as a 'goodwill gesture'. All this implies that slowly but surely Nepal is being driven towards China, marring its relations with its old friend India.

Today India's intervention in Nepal is seen as having a polarising effect on the Nepalese. In any case India should not be seen by Nepal as taking sides. It is likely to have a destabilising influence in the Himalayas. India is being self-contradictory by taking sides in the internal affairs of Nepal and thereby compromising Nepal's sovereignty. Indian Prime Minister Modi's much publicised 'neighbourhood first' policy is coming to naught. India should now refrain from being a polarising figure,

and instead encourage both sides through quiet and sustained diplomacy to reach an amicable solution to the Madhesi problem. It is time it plays a constructive role and reverses the situation which it has inadvertently created. It should under no circumstances alienate the hill people of Kathmandu.

As a SAARC neighbour, Bangladesh can also play a discreet role in bringing the two sides closer again. It is indeed a test case for India. Bangladesh is also expanding her partnership with India in many spheres. We must wait and see how it plays her card with Nepal. On this will also rest India's future possibility of being a new permanent member of the UN Security Council. Many are watching its motives and moves. If it is unable to resolve her relations with her small neighbour Nepal amicably, questions will be raised later as to whether India can be a strategic player as a Security Council member in the world stage. It will also show how India under Prime Minister Modi has abandoned her old profligate behaviour and is now ready to play the role of a responsible and responsive neighbour to countries like Nepal, Bangladesh and even Bhutan. The world is watching.

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