

The HC ruling on the 16th amendment

Restore the true spirit of the Constitution

THE HC on Thursday declared the 16th constitutional amendment as illegal, unconstitutional and against the principles of the separation of powers between the various organs of the state and the independence of the judiciary. Soon afterwards, however, several ministers and MPs disparaged the verdict, and by extension, we think, the judiciary itself, going so far as to describe it as a “conspiracy against democracy and sovereign parliament.”

The last thing we want is a confrontational relationship between the judiciary and the parliament. While it is not unusual for a parliament and a judiciary to disagree from time to time, whether in Bangladesh or in any other part of the world, what is harmful and undesirable is a relationship of antagonism, such as that exposed by the utterances of the parliamentarians.

We had wondered why the parliament felt compelled to make such an amendment to begin with, given that the legislature and the executive branches could already exert considerable influence over the judiciary, including appoint HC judges. The amendment raises concerns about whether or not the parliament wishes to have undue and crucial influence over the judiciary, violating one of the fundamental principles of the Constitution – that of an independent judiciary. It is imperative that, in a democracy, there is a balance of power between the different organs of the state thereby ensuring 'check and balance' between them.

We feel that the points raised by the HC have a lot of merit, particularly the criticism of Article 70 of the Constitution which is a major constraint to MPs performing functions independently in the parliament. The fact that the parliament can impeach judges with a two-thirds majority, on one hand, makes the judiciary subservient to the parliament, and on the other, means that the latter cannot take any action against a judge even if it has sufficient evidence to do so without a two-thirds majority. Seen from both angles, we believe that the process of impeachment of judges through the supreme judicial council should be seriously reconsidered by the Parliament.

Rather than to see this HC ruling as an affront against the parliament we urge our law makers to ensure that we uphold the true spirit of the Constitution, which enshrines the principles of separation of powers and judicial independence.

Early marriage a curse

23,000 deaths every year

ACCORDING to UNICEF, 23,000 children would not have to die if women in the country did not give birth before the age of 20. These stark statistics drive home the dark side of child marriages in the country, which inevitably lead to early pregnancy. Child mortality is 66 per thousand children born to women aged below 20, whereas this number falls to 43 deaths per thousand children for women giving birth aged from 20 to 29. And it is not only child mortality that is of concern. Should women choose to have children at a safer age, there is more time for them to finish schooling. Marriage can help reduce population growth and encourage more women to join the workforce would help drive the economy forward.

Child marriages happen due to societal reasons and it is up to the government to work with the development partners to raise awareness on the dangers posed to women's health. It is also important to keep working on disseminating information on the importance of contraception, which according to health experts, teenage married girls tend to neglect. That pre-adulthood pregnancies are fraught with danger to newborns is a fact as is the lack of safe delivery methods.

These and other issues bring us back to the need to reach out to the greater populace why it is not in the best interests of girls to get married early. Any state sponsored awareness campaign will be much more effective if partnered with media, both electronic and print.

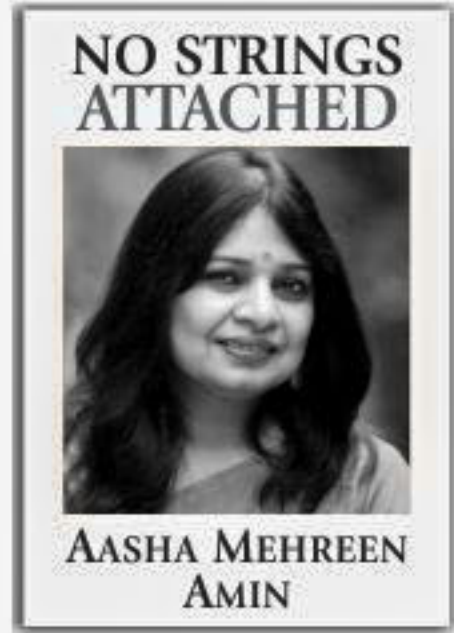
COMMENTS

“Ahsanullah teacher held over 'sexual harassment’” (May 5, 2016)

▼
Abdullah Al Mamun

We want exemplary punishment of the teacher so that others like him wouldn't dare do the same.

Going on the wrong side is just plain wrong!



SOMETIMES people take things a little too literally. Just because a place is called 'Shonir Akhra' (the devil's den) does not mean that everyone who lives there must be engaging in nefarious activities though perhaps there may be some basis in past history for such name-calling. Similarly, just because a road is called a VIP road, does not mean that VIPs own the road and may apply their own rules when going on them. It only means that it is a road that Very Important Persons may take to get from point A to point B. Unfortunately it also happens to be a Lesser Mortals Road too which means an inevitable class struggle and a high level of resentment among us ordinary folk, who must watch, experiencing sauna-like conditions in our vehicles while stuck in an excruciating gridlock, the merry breezing away of SUVs on the wrong side of the road. The alacrity with which traffic and other police make way for these lawbreakers only adds to the bitterness.

It is therefore hard not to sport that Cheshire cat smile when you read something like 'HC move to stop wrong side driving in Dhaka'. Yes! Finally, someone is doing something about the preposterous level of highhandedness displayed by people who are either truly very important or think they are very important. But whether they are VIPs or wannabe VIPs or the minions of VIPs it doesn't matter – the fact is that no one is so important that he/she has the authority to blatantly flout traffic rules by going on the wrong side of the road and risking the lives of people in the process. People have been killed or maimed by such acts of utter defiance of the law. In February a police vehicle going on the wrong side of the road in Kakoli, rammed into a young motorcyclist, snuffing the life out of him.

A Supreme Court lawyer has filed a petition based on a photograph

published in The Daily Star that showed a vehicle belonging to a Very Important Person going on the wrong side of the road. *The Daily Star*, in fact has been relentlessly publishing these photographs – flag bearing, non flag bearing, cars belonging to law enforcement agents, even public university buses (which have become the latest thugs on the road). The police commissioner has declared that the police have video footage of those who go on the wrong side of the road but has also

other important, influential persons who have also gone on the wrong side may be asked to respond too.

The HC has asked the authorities to explain why they should not be directed to stop plying of vehicles on the wrong side of roads in Dhaka city. We don't know how far this will go and whether this practice that is in complete violation of traffic laws will stop after this. In fact, even on Thursday (May 5) many of us 'lesser mortals' had to

job, asked the authorities to clear lakes and parks from land grabbers, asked the government to get formalin kits that work... the list of good deeds of the HC is very impressive.

Which brings us to the disturbing question of why the HC, is forced to intervene for every little lapse in the system? It is like a mother having to give timeouts to the children even when they have become grown men and women. People in power are



PHOTO: PALASH KHAN

admitted that 'a large number of vehicles that drive on the wrong side belong to the influential people of the society'. And we all know what that means!

It is quite impressive that vice chancellors of some of the most renowned public universities, a cabinet secretary, home secretary, education secretary, Inspector General of Police (IGP), BRTA chairman, Dhaka Metropolitan Police (DMP) commissioner and deputy commissioner (traffic) have been made respondents to the rule. One cannot help but wonder if

witness at least three 'official' vehicles going on the wrong side of the VIP road.

One cannot give up hope though, considering that the HC has been able to do many things that no other ordinary mortal or institution has done. It has ordered probes into the torture of students at schools, compensation for Jihad, the little boy who lost his life when he fell into an open well, directed the government to recruit around 2,500 people who qualified as assistant teachers of government primary schools in 2012 but were not given the

supposed to abide by the laws that they, in fact, help to create or are oath bound to uphold. So is it a lack of maturity that makes some of them act so bratty?

Even if these ridiculously important persons (RIPs) continue to get away with their arrogant street manners, at least somebody has had the gumption to try and make them accountable. At which point you just want to clap your hands and go 'Yippee Yay!'.

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India's Jewel in the Crown



INDIA'S Solicitor-General, Ranjit Kumar, recently declared that India would not seek the return of the Kohinoor diamond – one of the world's oldest and most valuable – from the British, to whom India had “gifted” it. The statement shocked India and unleashed passionate debate – so passionate, in fact, that the government scrambled to

declare that it still wants the gem back. But the government's commitment to securing that outcome remains unconvincing, at best.

Kumar was responding before the Supreme Court to a suit filed by the All India Human Rights and Social Justice Front, an NGO, demanding that the government seek the return of the famed diamond, which can be found among Britain's crown jewels. He claims that the erstwhile Sikh kingdom offered the gem to the British East India Company in 1849 as “voluntary compensation” for the expenses of the just-concluded Anglo-Sikh wars. Add to that the Antiquities and Art Treasures Act of 1972, which does not permit the government to seek the return of antiquities exported before India gained its independence in 1947, and, according to Kumar, the Indian government has no recourse to secure the diamond's return.

The uproar that Kumar's statement triggered has forced government spokesmen to backpedal furiously, asserting that Kumar's was not the final official view. The Ministry of Culture announced that a claim will still be pursued. But unless Kumar is instructed to file a new deposition before the Supreme Court, his statements appear to have put paid to India's claim to the world's most fabled diamond. So the question is whether that should indeed be the final outcome.

The Kohinoor was first mined by the Kakatiya dynasty near Guntur, in what is now Andhra Pradesh. The Kakatiya kings installed it in a temple, which was raided by Delhi Sultan Alauddin Khilji, who took it back to his capital along with other plundered treasures. It passed into the possession of the Mughal Empire that established itself in Delhi in the sixteenth century.

In 1739, the Kohinoor fell into the hands of the Persian invader Nadir Shah, whose loot from his conquest of Delhi (and decimation of its inhabitants) also included the priceless Peacock Throne. It was Nadir Shah, or so legend has it, who baptized the diamond the Kohinoor, or “Mountain of Light.” One of his consorts memorably and

colorfully stated, “If a strong man were to throw four stones – one north, one south, one east, one west – and a fifth stone up into the air, and if the space between them were to be filled with gold, it would not equal the value of the Kohinoor.”

Upon Nadir Shah's death in 1747, the diamond fell into the hands of one of his generals, Ahmad Shah Durrani, who became the Emir of Afghanistan. In 1809, one of Durrani's descendants was obliged to cede the Kohinoor in tribute to the powerful Sikh Maharaja of Punjab, Ranjit Singh. But Singh's successors could not hold on to his kingdom. The Sikhs were defeated by the British in two wars, culminating in the British Empire's

Prime Minister David Cameron declared outright that the Kohinoor would have to “stay put,” because “if you say yes to one, you would suddenly find the British Museum would be empty.” With Kumar having essentially taken Britain's side on the Kohinoor issue, albeit for different reasons, nationalists like me are losing hope that we will get that priceless element of our heritage back.

annexation of the Sikh domains in 1849. That was when the Kohinoor was supposedly “gifted” to the British.

The argument that the diamond was offered as “voluntary compensation” for the expenses the British incurred in defeating the Sikhs is ridiculous. For starters, the formal handover was conducted by the last Maharaja of the Sikh Empire, Duleep Singh, who was only ten years old – and most certainly was not given a choice. As I have pointed out to other Indian politicians, if you hold a gun to my head, I might give you my wallet, but that doesn't make it a gift – and it doesn't mean I shouldn't get it back.

Compensation provided to the winners of a war by those they defeated is usually known as reparations, which

are not entirely voluntary. And, in fact, many former colonies rightly argue that it is Britain that owes them reparations for centuries of oppression and looting. Returning priceless artifacts of cultural significance purloined at the height of imperial rule might be a good place to start.

To be sure, the Kohinoor poses a particular challenge, owing to competing claims. The Iranians say that Nadir Shah stole it fair and square, while the Afghans assert that the Sikhs forced them to surrender it. Now Pakistan has entered the ring, with the somewhat flimsy argument that the capital of the Sikh Empire, the undisputed last pre-British owners, was in Lahore. (They tend to gloss over the fact that, after decades of ethnic cleansing in Pakistan, hardly any Sikhs are left there.) But, given that the diamond spent most of its existence on or beneath Indian soil, Indians consider their claim self-evident.

For the British, however, the existence of contending claims is a major relief, as it helps the country to fend off a blizzard of demands to undo the manifold injustices of two or more centuries of colonial exploitation of far-flung lands. The British expropriation of other peoples' patrimony, from the Parthenon Marbles to the Kohinoor diamond, is a particular point of contention, as conceding any one item could, the British fear, open a Pandora's box of problems.

Indeed, on a 2010 visit to India, Prime Minister David Cameron declared outright that the Kohinoor would have to “stay put,” because “if you say yes to one, you would suddenly find the British Museum would be empty.” With Kumar having essentially taken Britain's side on the Kohinoor issue, albeit for different reasons, nationalists like me are losing hope that we will get that priceless element of our heritage back.

Britain owes us. But, instead of returning the evidence of their rapacity to their rightful owners, the British are flaunting the Kohinoor on the Queen Mother's crown in the Tower of London. It is a stark reminder of what colonialism truly was: shameless subjugation, coercion, and misappropriation. Perhaps that is the best argument for leaving the Kohinoor in Britain, where it emphatically does not belong.

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The writer is a former UN under-secretary-general and former Indian Minister of State for External Affairs and Minister of State for Human Resource Development. Currently, he is the Chairman of the Parliamentary Standing Committee on External Affairs and an MP for the Indian National Congress.
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LETTERS TO THE EDITOR

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Critical situation of the stock market

On April 27, 2016, Bangladesh Bank issued an ambiguous directive regarding exposure of scheduled banks in the stock market. Earlier Bangladesh Bank directed the banks to bring down the exposure to 25 percent by June 30, 2016. After that declaration, every day the stock market shed points. The present directive is inadequate, late and not transparent. The finance minister categorically announced a few months back that the time limit will be

extended for two years. The bourses demanded four years up to 2020. The present directive does not specify the time frame and will not help to salvage the stock market and the morale of millions of investors.

We would like to draw the attention of the relevant authorities to address the critical stock market situation.

Dr. SN Mamoon
Dhaka

Severe power cuts

The load shedding of pre-2009 period has reappeared now, though the government has been taking so much pride and making statements on substantial power generation. From the beginning of summer, we have been experiencing frequent power cuts daily. These power cuts are making life difficult for us. The government should do something about it.

Luthfe Ali
On e-mail

Inclusion of Jubair Hossain in the team

Leg spinners play an important role in cricket. Almost every batsman faces difficulty tackling the deceptive bounce and turn of a googly. We have a leg spinner named Jubair Hossain but unfortunately he is not being included in team as coaches say

that he gives away too many runs. I think the coaches should train him to improve his deliveries so that he can be an excellent leg spinner capable of bagging crucial wickets.
Kowsar Rahman Sadit
Uttara, Dhaka