

## Pakistan at it again!

### Breach of diplomatic norm

THIS is the second time in six months that the government of Pakistan has issued statements related to the trial of war criminals of 1971. The latest statement issued by the Pakistani Foreign Office over the dismissal of review plea against the death sentence on charges of crimes against humanity awarded by the international crimes tribunal to Nizami, the leader of the notorious Al Badr, under whose direct participation so many of our intellectuals were killed, is almost identical to the statement issued by Pakistani authorities in November 2015 when two other war criminals were executed.

Now that the review petition has been dismissed after due process of trial, we find to our astonishment and outrage that Pakistan is drumming the same tune again in trying to stir up unnecessary and unwarranted controversy over the legality of the judicial process in Bangladesh. Rooting for mass killers who collaborated with Pakistan army is deplorable. It is a disturbing fact that no government of Pakistan since our independence in 1971, when Bangladesh ceased to be part of that country, and has been a sovereign State for 45 years, has offered unconditional apology for the millions killed and hundreds of thousands of women raped during the nine months of its atrocity on the people of Bangladesh.

We find Pakistan's foreign ministry's statement utterly repugnant and hope that our government will take necessary diplomatic steps to counter the negative propaganda that the country is spearheading against Bangladesh. It is obvious that Pakistan's policymakers are stuck in a time warp and need to accept the truth. It is also time the government of Pakistan said Mea Culpa to the people of Bangladesh for the atrocities committed by its military, instead of meddling in our affairs.

## Intolerance continues to kill

### Where are we heading?

THE motive behind the horrid murder of Shahidullah, a 'Pir' in Rajshahi, is unknown but the way unidentified assailants killed him bears the hallmark of extremists who have been behind the recent killings of several others, both Muslim and non-Muslim.

That someone would be killed for practicing his faith, not considered mainstream by some, is barbaric and unacceptable in a country that was built on the cardinal principles of democracy and secularism. No true follower of Islam, the religion of peace, would have done such a thing at all.

In no evaluation will the law enforcement agencies get pass mark in addressing the current spate of killings. The inability to catch these elements of the society—often driven by misguided religious and political motives—sends a chilling message that those who do not conform to the warped views of a miniscule minority are in grave danger in today's Bangladesh. Will the state do nothing as extremist groups infiltrate the society and try to change the way citizens practice their faith, dress, and even think?

Nobody expects the government to provide individual protection to people. But they have a duty to bust these hate mongering groups, cut their sources of funding, catch their masterminds and neutralise them before they strike again. But unless and until the society as a whole stands united against these wayward groups, the threat will be far from removed.

## COMMENTS

### "Luxury car seized over tax dodging" (May 5, 2016)

Salahuddin Jamal

It is not enough that only the car was seized. The tax dodger should also be imprisoned as a punitive measure.

Jaser Khan

Well, if the tax wasn't so exorbitant then these people wouldn't have had to dodge it. I mean, the government has the right to apply taxes, but why put an 841 percent tax on products?

Shaiara Zulfikar

It should be investigated. How was an Audi R8 cleared as an Audi TT

MD. RIZWANUL ISLAM

THE recent verdict of the High Court Division (HC) of the Supreme Court (SC) declaring the 16th Amendment to the Constitution, which had allowed the Parliament to impeach Supreme Court judges with two-thirds majority, as unconstitutional, has not only stirred a debate but also the emotions of many people, particularly some members of the Parliament. As is often the case, when passion and emotions take over, our reasoning ability seems to vanish, and we say or do things that do not serve our best interests. Since the government has unequivocally expressed its intention to lodge an appeal against the verdict, the matter is far from closed. The full judgment of the HC has not yet been published and hence, commenting on the judgement is not possible. Again, on appeal, how the Appellate Division (AD) of the SC would settle the matter, is an issue for the AD, and to anticipate or prejudice that determination in any way is not the purpose of this brief write-up. Instead, my article seeks to shed some light on the ongoing debate on this issue.

First and foremost, it needs to be re-stated that the Parliament of Bangladesh is by no means sovereign, and it has not been so since the foundation of the Republic of Bangladesh. On four other occasions (5th, 7th, 8th, and 13th Amendments), the Supreme Court of Bangladesh has held constitutional amendments as incompatible with the Constitution. Laws made by the Parliament, or one or more of the provisions of the law, are often challenged on the grounds that the law in question, or parts of it, are incompatible with the Constitution, and the SC passes its verdict on those claims. This would not have been

possible if the Parliament of Bangladesh was sovereign and laws passed by it were immune from constitutional challenges. And in a democratic society, fair and reasoned criticism of the judgements can be a right of the public, but criticism of the judges delivering the judgement just because a judgment is not liked by some is unwarranted and, in fact, hazardous.

On the other hand, there is no doubt that the laws made by the Parliament (which include constitutional amendments), as the expression of the

was more favourable to the judges than the proposed three-member inquiry committee, of which no one would have been a sitting judge, therefore violating Article 147(2) of the Constitution, is open to debate. And a fundamental problem with the SJC was that it was rarely functional, its activities were shrouded in strictest secrecy, and it could only act when the President (upon the Prime Minister's advice) referred a matter to it. Thus, there may be a plausible case for some sort of judicial or quasi-judicial body to rule on the impeachment issue. However, reverting

MPs could have a chance of voting based on their conscience rather than their party's decision.

Again, it is a tragedy that our political system is such that we assume that on a sensitive issue like the impeachment of an SC Judge, if no political party holds two-thirds majority in the Parliament, a judge may continue to hold office simply because all MPs would be voting along the party lines (even if Article 70 of the Constitution does not tie their hands down). And more importantly, we are assuming (not unreasonably) that a whole political party, on the matter of voting on the impeachment of SC judges, would choose its course on the basis of petty party politics, even though such voting would be preceded by a detailed inquiry into the allegations raised against the relevant judge.

In this debate about the 16th Amendment, another point is that while the politicians have been very hasty in either dismissing or hailing the judgement of the HC, both sides of the political discourse have been visibly silent on formulating laws on the qualifications for appointment of the judges of the SC. The Law Commission made its detailed recommendations through a report published in 2012 (Law Commission's Report No. 118) but it seems that there has not been any progress whatsoever. There has to be an impeachment procedure for judges of the SC, but a procedure for appointment of the judges is no less important. In terms of the order, it can be fairly said that emphasising too much on the impeachment of the judges, with no emphasis on the detailed rules for their appointment, is in some ways like putting the cart before the horse.

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will of the people of Bangladesh, manifested through the decision of the elected representatives, carries a presumption of constitutionality and there has to be compelling grounds for setting aside a law validly passed by the Parliament. An argument made by some eminent jurists, like Dr. Shahdeen Malik, that an impeachment procedure involving inquiry would be less favourable to the judges, may be a bit too stretched. The concern that the abolished Supreme Judicial Council (SJC), which was constituted solely of sitting SC judges,

to the scrapped SJC model may be a step backward.

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## How can an Italian court murder Indian democracy?



BYLINE

M.J. AKBAR

THE ancients knew their metaphors. They classified the state of a human mind into four categories, or 'humours', based on bodily fluids: blood, phlegm, melancholy and choler [or bile]. It struck me that criticism, or opposition, in a democracy can also be usefully divided into these four conditions. As the second anniversary of the NDA

government approaches, all of them are coming into play.

Blood is the first. Like any other body, the body politic also cannot function without free flow of blood, and if the heart and mind of a democracy are in the charge of government then the arteries of opinion are with the estates that can stand up to authority. An Opposition has every right to see everything wrong in any government; exaggeration and twists are part of the weapons of the duel, with Opposition given some indulgence. Government always has the means to smoothen any warp.

Phlegm denotes calm. This is the humour of independent analysts from the sciences of economics or politics. Their verdict will tend to tilt towards the negative, but that only enhances the credibility of the positive when they do praise a government's performance. Those in power appreciate criticism that is not motivated by self-interest.

Melancholy is probably the best description of media's attitude towards power. Journalists like to be sardonic; it gives their queries a sarcastic frisson, and their challenge a combative edge. This is true of perhaps 80 percent of media; the rest are, unfortunately, on the take, and therefore should not be taken seriously. The debate about yellow journalism began with the birth of a free press in the United States and will not end as long as there is freedom of speech. We imagine that censorship is the only solution, but that is not strictly true. The audience also has the ability to reject such journalism: it can stop purchasing a rag, cutting circulation, or turn off a TV set, reducing TRPs. The big problem lies in the fourth humour, bile.

Bile is the bitter, slimy fluid secreted from the liver, and stored in the gall bladder. When bile enters an individual's mind, it turns vicious, and poisons nurtured in frustration creep towards the tongue. An infected person begins to rant instead of respond, accuse instead of argue, vilify instead of explain, froth instead of talk. One television station has already aired a vicious

personal attack on the Prime Minister in which accusations were paraded without proof, cloaked in barely disguised malice. Fortunately, such hatred becomes its own enemy; vilification makes a villain of the accuser rather than the target.

It is notable that the proper noun just after bile, in the Concise Oxford English Dictionary, is bilge.

But there is a fifth, and new, humour in democratic Opposition which the ancients never considered, possibly because the theatre of the absurd is a more modern phenomenon. Witness, for instance, Congress reaction to the conviction by an Italian court of Agusta Westland

Mrs. Sonia Gandhi accused the present government of "murdering democracy" during a demonstration in Delhi, at which incidentally, the duopoly at the head of Congress officially became a triumvirate: Robert Vadra's picture was placed amidst that of Sonia and Rahul Gandhi. How precisely does an Italian judgement murder Indian democracy? Is democracy safe only if a particularly powerful Congress "family" [this term is from the judgement] is allowed to keep the bribes it took? So far, we only know that it is a "family"; hopefully we will get more specific information after further interrogation of suspects. How do you crush democracy by asking police



helicopter company executives for giving bribes in the VIP chopper deal with India.

If bribes were given, they were taken. The money was not handed over to any missionaries of charity. It is axiomatic that cash went to those with influence in the UPA government; men with money are not fools. So far, investigators have reached only those Indians at the lower end of the bribe chain, and not the big bananas. But protest trumpets from Congress seem more reminiscent of the Biblical Last Judgement than an Italian first judgement.

to do their duty?

I suppose this is what happens when a party leadership loses its good humour or balance. Nothing brings the Congress to its feet faster than any threat to the family that is now in permanent control of the party. If the alleged recipient of the bribe had been any non-family Cabinet minister, he would have been abandoned with a shrug. The shrill outcry is telling us something.

The writer is an eminent Indian journalist and author. Currently, he is the National Spokesperson of the BJP and Rajya Sabha MP from Jharkhand.

## LETTERS TO THE EDITOR

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### Reconsider the ban on commercial establishments in residential areas

The government has recently issued a notice to the people concerned that no commercial establishment will be allowed to operate in residential plots of Dhanmondi, Gulshan, Banani, Baridhara, and Uttara. They have been given six months time to relocate. Let us examine the prevailing ground situation.

The main reason for renting a non-commercial space is that the rent is affordable. Most of the owners of the establishments won't be able to pay rent for the proper commercial spaces. If the

decision is implemented, one third of the houses and apartments will be rendered vacant with permanent 'to-let' signboards. Thus, the owners will suffer tremendous loss of income.

Moreover, there are not enough commercial spaces in the city to accommodate these commercial establishments. Even if the owners of commercial establishments can find spaces, the rent will be exorbitant. As a consequence, the stakeholders will be forced to close down the schools,

colleges, hotels, restaurants, etc., leading to loss of business and employment of thousands. And finally, this decision will be a golden opportunity for some of the corrupt officials of Rajuk and Department of Housing and Public Works to resort to extortion and intimidation. We urge the government to reconsider the decision and find out an acceptable, pragmatic alternative.

Dr. SN Mamoon  
Dhaka

### More public libraries needed

- Libraries play an important role in spreading knowledge. A well-stocked library is as essential as a park in a modern city.
- Libraries nurture the habit of reading, which is unfortunately on the decline among the young generations, as they are addicted to electronic gadgets like laptops and smartphones. In Chittagong, there is only one public library, which is not adequate for its half a crore citizens.
- The government should take initiatives to build more libraries so that readers of all ages can find a place to sit and read.



Zabed Wali  
Chittagong

PHOTO: PRABIR DAS