

Flood continues to create havoc

Gear up response

THE flood situation has affected a large portion of the country. With the water levels of major rivers like the Jamuna, Brahmaputra and Teesta rising and incessant deluge there is little respite for the affected people. While Bangladesh claims, rightfully, to have an efficient disaster handling mechanism, the ineffective and inadequate distribution of essential food and medical aid to those stranded in various localities, belies that claim.

We see communities split apart as men try and save their livestock that will probably not survive without immediate succor. Hence, it is not just food and medicines for people but also animal feed that is sorely needed. Loss of livestock for thousands of people means the loss of the only asset they have. Yes, some relief is getting to those who need it. But what is the point of sending rice and lentil to people who are stuck in inundated areas? How will they cook the food? Today, hundreds of thousands of people need immediate access to rations that are ready-to-eat and need medication that purify contaminated water. Such meals would typically consist of flattened rice, molasses and high energy biscuits—none of which require any cooking.

That people in the affected areas are spending their days under the open sky is hardly proof of meticulous planning and execution of relief operations. The administration needs to gear up fast on contingency plans that can effectively deal with both relief and rehabilitation once the flood waters recede. Otherwise, we could be looking at a host of waterborne diseases like diarrhoea, typhoid, hepatitis and also measles, which will prove to be another round of headache for authorities.

Foregoing the benefits of demographic dividend

A costly mistake

SINCE 2007, Bangladesh has had more people of working age than non-working, known as demographic dividend. All indicators, however, show that we have failed to accommodate the large numbers of people willing to work into the workforce, let alone benefit from our demographic dividend. This is a huge failure, our part as it is precisely by making the most of their demographic dividends that many other Asian countries, such as China and Japan, have managed to rapidly develop their respective economies.

But it is not only that we have failed to benefit, it is also that by being unable to provide millions of people, particularly the youth, with jobs, we have also disillusioned them and have forced them towards various activities that actually exert different forms of social costs on society and the economy in general. These may include getting involved in criminal activities, resorting to substance abuse, etc., which in turn increases security and health expenditure costs among others.

As this newspaper reported, there are about 7 million people who are currently underutilised. Worryingly, the number of jobs that are being added every year is a measly 1.4 million, drastically down from the 4 million that had been added between 2010 and 2013.

As economists and other experts have suggested, in order to turn the tide, the government badly needs to increase investment in the education and health sectors and do it intelligently. Only a holistic approach involving different stakeholders can now make up the ground that has been lost because of poor policies of the past.

LETTERS TO THE EDITOR

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Bangladesh should stop river dredging

Singapore has been using Cambodian sand to expand its land. For instance, dredging using as much as 72 million tonnes, according to UN estimates. But according to the *Times of Oman*, Cambodia has permanently banned the exportation of sand to Singapore. Why? Because of the immense environmental damage dredging has done to its waterways over many years.

Bangladesh should consider following Cambodia's good example and halt its current dredging practices in the Jamuna River. It should quickly end its shortsighted operations for exporting reclamation sand to Singapore and Maldives, before even more damage is done. If not, like Cambodia, Bangladesh will eventually destroy what nature intended it to have, all for the sake of profit, and come to regret it.

For Bangladesh, a healthy environment should come first.

Pavali Banerjee

Nature Watch

Abusing natural gas

Even though we have a limited supply of gas, some households keep the gas burner on throughout the day and night to dry their wet clothes. This is one of the less talked causes of our dependency on fossil fuel, which is a serious hazard. Each of us is responsible and answerable for our own country. It's every citizen's duty to help sustain Bangladesh's natural resources if we want to bear their benefits. There will be high prices to pay otherwise.

Ahsan Habib

University of Dhaka

SUPREME COURT VERDICT ON 16TH AMENDMENT

Points for hon'ble MPs to ponder



C. ABRAR

On July 9, the Members of Parliament launched a brazen attack on the apex court. They reacted bitterly to the Supreme Court's (SC) upholding of the

May 2016 verdict of the High Court, quashing the 16th amendment. The amendment had empowered the parliament to remove SC judges on grounds of misconduct and incapacity.

Earlier, the ruling party bigwigs advised senior MPs to come prepared to speak on the matter. Leaders of allied parties were nudged to participate. The MPs did not take the bait. They condemned the higher judiciary. They couched their opinion in no uncertain terms. Expressing their "outrage", they denounced the verdict as "illegal" and "unconstitutional". Some felt that the SC verdict was "against the fundamental spirit of the original Constitution of 1972." One influential MP reminded his colleagues "enemies must be treated as enemies...and if need be, they are to be quelled." He warned the judges that they "could not prevent their impeachment through verdict." His advice, judges should "rectify their own mistake."

Leader of an Awami-aligned party snuffed "larger conspiracy" and interference in the "sovereignty of the parliament." The MPs were unequivocal in their stand that they "voted independently" in an effort in "restoring Article 36 of the 1972 Constitution" and "did not infringe upon the fundamental character of the Constitution." Another leader of ruling alliance reminded the judges that it was this parliament that had enhanced their retirement age, and hiked their salaries and allowances only "some days ago".

Regrettably, the MPs did not limit their observations on the judgment of the Court and the submissions of the ten amicus curiae (nine of whom recommended scrapping of the amendment). They took the opportunity to laud a vicious curiae of Ami, Dr Khaled Hossain and Dr Aminur Islam. A very senior minister claimed that the verdict has indicated that the Chief Justice views Pakistan as his ideal. Dr Hossain and Barister Islam were branded as "opportunists", "unscrupulous" and "betrayer". Opportunity was not lost to stress that in-laws of one of the amicus curiae "hailed from Pakistan" and "his son-in-law is a Jew"!

The proceedings of the evening were

particularly heartbreaking to those who have struggled over the decades for establishing parliamentary democracy and rule of law in this land. The arguments placed before the House not only appeared to have contravened parliamentary etiquette and undermined the principle of separation of powers between the three organs of the state, particularly judiciary and the legislature, they were also erroneous, and self-serving.

The MPs claimed that by overturning the 16th amendment the SC acted "illegally" and "unconstitutionally" and has jettisoned plans for "restoring" the provisions of the original 1972 Constitution. Since 2010 the SC had annulled three more constitutional amendments—5th, 7th and 13th. Commentators have noted that the Awami League MPs lauded the 5th amendment verdict as "landmark" and welcomed the 7th amendment. The

Constitution.

The deliberations of July 9 at the House completely sidetracked the issue that uprooting of the much-celebrated provision of removal of judges by the parliament from the 1972 Constitution was the dead of the first Awami League government when it enacted the 4th Amendment in January 1975.

The content and tenor of deliberations at the House on July 9 raise the question whether the MPs acted within their mandate. The answer is an unequivocal no. Article 94(4) of Bangladesh Constitution stipulates that the Chief Justice and the other Judges of the SC shall be independent in exercise of their judicial functions. In this context, eminent jurist Muhammed Islam observes, "Conduct of any judge of the SC cannot be discussed by the executive government or by the Members of Parliament. The Rules of Procedure provide that no question, motion or

vested in parliament. Empirical evidence exposes the vainness of such a claim. The "Compendium of Analysis of Best Practice on The Appointment, Tenure of Removal of Judges under Commonwealth Principles", a 2015 Commonwealth initiative, informs that out of 48 Commonwealth countries only 16 follow parliamentary removal method (34.3 percent) and as many as 30 have a disciplinary body that is separate from the executive and legislature (62.5 percent). The rest of the two countries follow a mixed method (3.2 percent).

The Commonwealth study observes that parliamentary removal systems have been modified by the involvement of an independent, external body in initial investigations, fact-finding and assessment of the allegations against a judge." Hon'ble MPs may wish to take into cognizance that of the 16 countries that follow parliamentary removal, as many as 12 do not entrust the task of fact-finding on the legislators. Instead an external body, independent of both legislature and executive, performs the task. It's only Bangladesh—in league with island states of Sri Lanka, Nauru and Samoa—that has retained unencumbered parliamentary control over judges' removal.

The study cautions that parliamentary removal "could lead to serious constitutional conflicts if put into practice" and notes that bicameral system provides some degree of safeguard. There is no scope for Bangladesh to have that recourse.

During the July 9 deliberations a senior minister accused an amicus curiae for deliberately misleading the SC on the practice of removal of judges in India. He gave the impression that the country still continues its old method of removal by parliament. In fact, many countries including India, UK and South Africa had empowered their parliaments to remove judges by now introduced other measures to free the process from the influence of the government. Our MPs, whose liberty is fettered by Article 70 of the Constitution, may well be advised to take due note of the new reality.

The unsettling response of the legislative branch to the annulment of the 16th amendment and the fallacious claims about near-universality of parliamentary control on removal of judges do not augur well for democracy in this country. One hopes that reason prevails and all organs of the state pay due heed to the fundamental precepts of separation of powers and the rule of law.

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question can justifiably be asked if the Awami League MPs did not find those verdicts illegal and unconstitutional, why should they deem the 16th amendment to be so?

The claim of restoring the original provision of 1972 Constitution also appears to be hollow. If the ruling party MPs feel so strongly about the value and usefulness of the 1972 Constitution why do they not bring it in the House to bring in the same in its entirety? With more than two-thirds majority such a move is guaranteed to succeed.

The ascent of the MPs that the 16th amendment did not alter the basic structure of the Constitution and thus the SC acted beyond its remit does not hold water either. Any rudimentary knowledge on independence of judiciary informs that under the scuttled amendment the parliament wrested the power of removal of judges from the judiciary, undermining the independence of judiciary and thus weakened the basic structure of the

resolution which contains reflection on the conduct of any judge of the SC shall be admissible" (Rules 53, 63 and 133).

Jurist Islam further clarifies, "The immunity under Article 78 of the Members of Parliament in respect of what they say or do in the House is not to be allowed as allowing them to make any statement or comment which may directly or indirectly undermine the independence of judges of the Supreme Court"

(Constitutional Law of Bangladesh, 3rd edition, Dhaka: Multlibro Brothers, 2012).

It is also pertinent to mention that Rules of Procedure also prohibit MPs to "make or imply a charge of a personal character." Therefore in all likelihood by making disparaging comments on amicus curiae the MPs contravened the Rules of Procedure that they themselves had framed.

The hon'ble MPs asserted it was only in Pakistan that Supreme Judicial Council functioned for removal of judges. Embedded in their statements was in most other countries this power is

The tragic death of Kashmiriyat

BETWEEN THE LINES



KULDIP NAYAR

WHEN terrorists attack from the front, it means that they are not afraid of consequences. The story of the counterattack to kill seven pilgrims, returning from Lashkar-e-Taiba, is similar. Lashkar-e-Taiba did not hesitate to take on the police or the army as if the terrorists knew that the counter-

challenge would fall short of the yatra.

Lashkar is a possibility, particularly when it has not claimed the responsibility yet. Even if they claim the responsibility, there is no certainty that they are doing so to cover up the homegrown terrorists. Even the Jammu and Kashmir police have pointed fingers at Lashkar. It is quite likely that Lashkar is the perpetrator. They are being battered so much in most countries in West Asia that they want to resell themselves. If they can frighten India, there is every possibility of nations in West Asia coming under their spell of fear.

The nation is justified in expressing its horror because the yatra were the pilgrimage of faith which they cherish. It has nothing to do with politics. Unfortunately, the whole episode, as the days pass by, is being politicised. The BJP is to blame. It has not bothered that the party has a share in West Asia coming under their spell of fear.

This is not the first time that attacks on yatra have taken place. In August 2000, the terrorists had opened fire on over 95 people, leading to a death toll of 89. The series of attacks, which began on the night of August 1, were believed to be planned. The following year, too, terrorists opposed to the local outfit Hizbul

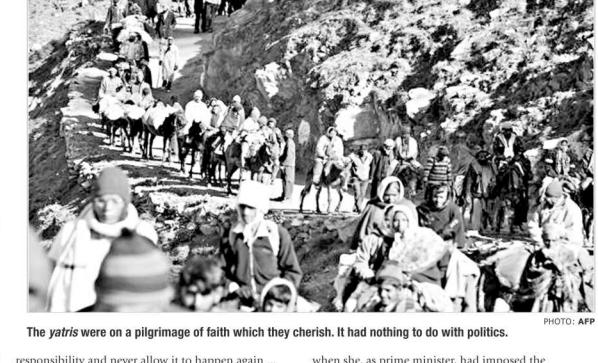
Mujahideen's ceasefire declaration, had attacked a pilgrim base camp at Pahalgam. A total of 32 people were killed in the base camp strike at Pahalgam, of which 21 were Amarnath yatri.

Similarly, a militant hurled two grenades at a camp and later opened fire near the Amarnath shrine on the night of July 20, 2001, killing nearly 13 people, including three women yatri and two police officers.

The attack took place around 1:25 am near Sheshnag, one of the highest stops on the way to the Amarnath cave.

What is baffling is the fact that nearly 15,000 security personnel and policemen were deployed to offer protection to the Amarnath pilgrims in 2002. Yet, a terrorist attack could not be averted as eight people were killed and 30 were injured. The attack took place before dawn on the Nunwan camp on the way to the Amarnath shrine, according to reports.

Coming back to the attack on the yatra in Jammu, Congress Vice President Rahul Gandhi has hit out at the government over the attack. "This is a grave and unacceptable safety lapse. The PM needs to accept



The yatra were on a pilgrimage of faith which they cherish. It had nothing to do with politics.

responsibility and never allow it to happen again ... India will never be intimidated by these terrorist cowards," he said in tweets.

The bus, which was fired upon by terrorists in Kashmir, was not registered with the Amarnath Shrine Board and plying without any security cover long after the evening deadline fixed for the vehicles carrying Amarnath yatri, said Congress chief spokesperson Randeep Singh Surjewala.

Yatris may be involved but that is only a suspicion so far. The terrorist must leave before the country the evidence of Islamabad's involvement. But we must cleanse our own house. The establishment is involved in training Hindu terrorists and as Hillary Clinton has said "if you snore snakes in your courtyard, they are bound to bite you one day." Indigenous terrorists are now a reality and they do strike here and there. The attack on the Samjhauta Express is said to be the handiwork of homegrown terrorists.

The biggest casualty of the Amarnath Yatra is the Kashmiri, a secular belief propelled by the Sufis. This faith asserted itself when Mahara Hari Singh quit the government and left it to the popular leader, Sheikh Mohammad Abdullah. There was no communal feeling at that time. Fundamentalists and the propaganda by Pakistan have destroyed what was so beautiful. But why should we throw in the towel? For 70 years we have been upholding India's ethos, secularism and democracy.

We have added the word secularism in the preamble of our constitution. Ironically, Indira Gandhi did not

when she, as prime minister, had imposed the emergency. She detained one lakh people without trials and imposed censorship on the press. And she openly said that the press did not resist the restrictions she introduced. LK Advani was quite correct in chiding the press after the emergency: "You were asked to bend but you began to crawl."

While the Kashmiri had to assert itself, the basic values like the freedom of speech had to be respected. The Kashmiri Muslims have themselves to decide whether their faith in togetherness is being replaced by fundamentalism. I was recently in Srinagar and found, to my horror, that the youth, which has taken to the gun, want to convert the Valley into a sovereign, Islamic country.

Leaders like Yasin Malik and Shahab Shah have become irrelevant. Syed Ali Shah Geelani and Mirwais have a following but that was because they talked about Pakistan and Islam at the same time. They even support the stone-pelters saying that the stones were being hurled in the name of Islam. It is a dangerous trend to emerge.

New Delhi will have to think hard and come up with a solution which is acceptable to the people in the Valley and the ruling party at the centre. Home Minister Rajnath Singh has accepted the responsibility of arranging the yatra without any mishaps. The BJP should consult with other political parties and take necessary steps based on consensus.

Kuldip Nayar is an eminent Indian columnist.