

Woes of two cities

Stop the blame game and deliver on promises

HEAVY rains combined with traffic congestion brought the capital to a grinding halt on Wednesday as city dwellers went through untold sufferings to reach their destination wading through knee-to waist-deep water. The story is the same in Chittagong where the situation is so bad that waterlogging in the past couple of days has the streets resembling lakes with people commuting in boats.

Waterlogging is nothing new of course but residents of Dhaka and Chittagong have reached their limit. Additionally, this year the rainfall was excessive. But the problem is not rainfall alone; it is the dysfunctional storm-water drainage management system in both the cities. This is the result of rivers, canals and other water retention areas being filled up in the name of development and clogged with solid waste making it nearly impossible for the rainwater runoff to go anywhere. Tinkering with nature will invite its wrath, each time with greater vengeance.

WASA, the two city corporations, Water Development Board, and all the other authorities responsible for providing a well-managed network of storm-water drainage system must immediately end the blame game and come together to address issues such as expanding pumping facilities and clearing the canals. The illegal grabbing of water retention areas also needs to end and for that we need an effective monitoring system in place.

Furthermore, experts' suggestions and the Detailed Area Plan (DAP) need to be implemented without any political favour so that whatever is left of our water bodies can be salvaged. Although we are heartened by the comment of the LGRD and Cooperatives Minister that there will no longer be any waterlogging from next year, we cannot help but say that we have heard such platitudes before. The only way to gain public confidence is by delivering results.

Trial for 1971 genocide

Younger Pakistanis must push for it

WE are happy to hear young Pakistanis, who represent the new generation in Pakistan, take up the cause of letting their people know what happened in Bangladesh and come to terms with the genocide that was orchestrated by the State of Pakistan. Their recognition of the truth is heartening. Facts have been trickling through the facade maintained over the years in Pakistan, and some younger people have been questioning the official narrative on the role of the military during the war, as several of them did in Dhaka recently.

As we near the 50th year of independence that cost millions of lives, there has still been no formal apology from any Pakistani government, much less the trial, on the orchestrated mass murders that took place in 1971. It is unconscionable that successive governments in that country have suffered from collective amnesia when it comes to owning up to the fact that the Pakistan armed forces carried out atrocities during '71, events which have been covered up, and history books portray the war as only a conflict between India and Pakistan. The facts of 1971 must not only be made known to all in Pakistan, but appropriate lessons from it must be drawn by the government.

An official apology is in order and it can be possible when Pakistanis are made aware of the horrors perpetrated in the name of patriotism. It is up to the post-'71 generations of Pakistan to build pressure upon the Pakistani government to come to terms with history and settle the issue with an official apology and trial of those that wreaked one of the worst genocides of the 20th Century.

LETTERS TO THE EDITOR

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Dhaka's deplorable road conditions

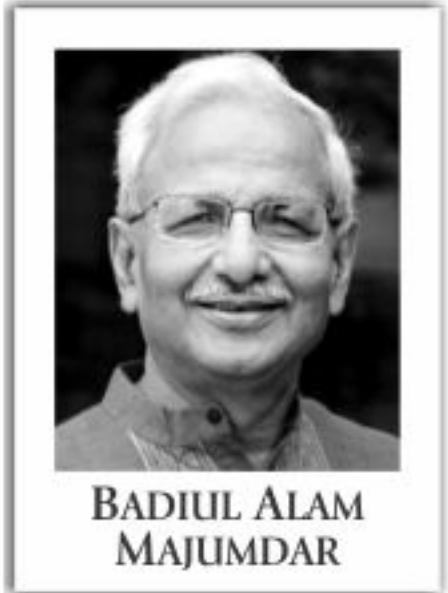
Monsoon has been playing havoc with the roads and alleys of the capital. Bus commuters, especially the elderly, are having an especially hard time. There must be a permanent solution. The government should punish the errant officers and contractors responsible for poor workmanship; and implement new technologies and products for sustainable solutions to Dhaka's road problems. They need to stop encroachment of whatever water bodies are left.

For years the various departments of the capital have been engaging in a cycle of counter-productive practices. Residential streets are carpeted with tar even in areas where it is not needed. The tarred surfaces are then dug up whenever they have to cut the roads to repair electrical cables or pipes. This leaves mounds of soil on the road that turn to mud when it rains. As a result, the surface of the streets rises above the ground level of the houses, thus reversing the flow of storm-water from the streets into homes and compounds. The roads are dug up once for the installation of service lines, and then again for some construction work. Why can't they all work together? Given that electric cables run across the same street as water pipes, these renovations often fill sanitary and drinking water pipes with dirty water.

The authorities must stop raising the tarred street level above that of the houses. There must be better coordination between the DNSCC and WASA. We hope the government will take this matter very seriously.

Zubair Khaled Huq
By email

Can the CEC take unilateral decisions?



ON July 16, 2017, the Election Commission (EC) arranged a news conference to announce its electoral roadmap. According to a *Prothom Alo* report (July 17, 2017), when asked at the news conference about the recent transfer of EC officials due to the decisions of the Chief Election Commissioner (CEC) and the Secretary, ignoring other Commissioners, the CEC said, "Mr. Talukdar [Election Commissioner Mahbub Talukdar] knows this better. This is Mr. Talukdar's product." The CEC claimed that transferring officials is within the jurisdiction of the EC secretariat and there is no need to coordinate with the Commissioners in this matter. The Commissioners do not even have to know about it.

Article 118 of our Constitution mandates the creation of an independent EC. Article 119 specifies four functions for the EC: a. holding elections to the office of President; b. holding elections of members of parliament; c. preparing the electoral rolls; and d. delimiting the constituencies. The EC has the vast inherent power to carry out these functions. In *Altuf Hussain vs Abul Kashem* [45 DLR (AD)(1993)], the Bangladesh Supreme Court stated, "the Election Commission's inherent power under the provision of 'superintendence, control and direction' should be construed to mean the power to supplement the statutory rules with the sole purpose of ensuring free and fair elections."

In the past, the EC did not have a separate secretariat—its secretariat was part of the Prime Minister's secretariat. In response to the longstanding demands voiced by many of us, The Election Commission Secretariat Act, 2009 was enacted to create an independent secretariat for the EC to help it perform its responsibility of holding free and fair elections.

The EC's independent secretariat is created with a secretary and a group of other staff. To reduce its dependence on the government in conducting elections, a significant number of new staff were hired during the tenure of the Huda Commission (Dr Shamsul Huda). The purpose of such hiring was to help the Commission conduct free, fair and credible elections. Since all of the staff work for the Commission to this end, it



SOURCE: EIBELA.COM

is only natural that their appointments, transfers and promotions should be the jurisdiction of the Commission, consisting of five members.

Under Section 5 of The Election Commission Secretariat Act, it has been said that "the secretary shall be the administrative head of the Election Commission secretariat", with the responsibility of administration and control of all its staff, including the field staff. The secretary performs these roles to assist the Commission in conducting free and fair elections. Section 4(1) of the law clearly states, "The EC secretariat shall be responsible for providing all secretarial services to the Commission and it shall perform other responsibilities given to it by the Commission." It is thus clear that the Commission is the supervising authority of the secretariat and the secretary is accountable to the Commission.

The Election Commission Secretariat Act makes this accountability structure more unequivocal. Section 14(1) of the law states, "In performing all its responsibilities, the secretary shall be accountable to the Election Commission through the Chief Election Commissioner". In other words, the secretary is clearly made accountable to the Commission, although through the CEC. Thus, the CEC has no authority to make important decisions together with the secretary ignoring the Commission, which is a composite body [*Jatiya Party vs*

Election Commission, 53 DLR (AD)(2001)].

In fact, the CEC cannot make any important decision at all without the authorisation of other Commissioners. According to Section 4 of The Representation of the People Order, 1972, "The Commission may authorise its chairman or any of its members or any of its officers to exercise and perform all or any of its powers and functions under this Order." In the *Jatiya Party vs Election Commission* case, our Supreme Court unequivocally stated that "for exercising and performing any powers and functions under this Order he (the CEC) must get authorisation from the Commission itself, otherwise his action ... would be *coram non judice* and without jurisdiction."

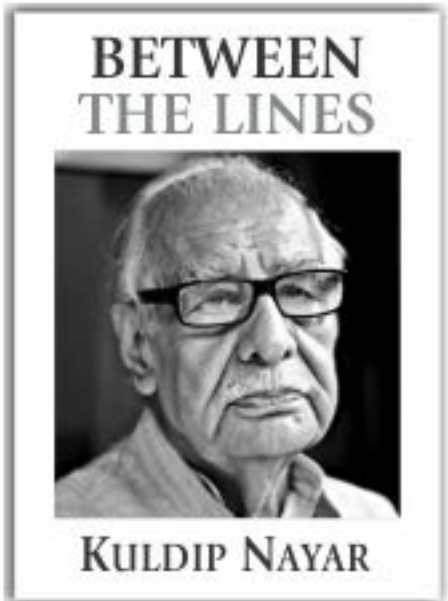
An Indian Supreme Court judgment more clearly demarcates the authority of the CEC. Readers may remember that the legendary T N Seshan was the lone Commissioner of the Indian Election Commission until 1993, when the government appointed two more Commissioners. The appointments were not acceptable to Seshan and a conflict arose within the Commission. Subsequently, Seshan and two other citizens filed writs before the court. Although the Indian Supreme Court in its interim order recognised the authority of the CEC over other Commissioners and allowed him to unilaterally give direction to the staff of the Commission,

this was rescinded in the final judgment. In its final judgment, the Court stated, "The function of the Chairman would ... be to preside over meetings, preserve order, conduct the business of the day, ensure that precise decisions are taken and correctly recorded and do all that is necessary for smooth transaction of business ... He must so conduct himself at the meetings chaired by him that he is able to win the confidence of his colleagues on the Commission and carry them with him. This a Chairman may find difficult to achieve if he thinks that others who are members of the Commission are his subordinates. ... If the CEC is considered to be a superior in the sense that his word is final, he would render the ECs non-functional or ornamental."

To conclude, our EC is an independent constitutional body, and as such it is not directly accountable to any other institution. The Commission's accountability is to the people of Bangladesh and it is obliged to hold, on their behalf, free, fair, peaceful and credible elections. In the absence of an institutional accountability structure, the Commission has to function with the highest degree of transparency, accountability and sense of responsibility. That is what we expect from our Commission.

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Hindi spread requires patience



WHENEVER a state language wants to spread itself to the national sphere, it naturally meets with some resistance. The limits of both are delineated. One is confined to the state while the other has the entire country for its spread.

The chauvinists in states have not understood it or at least not in the manner it should be. There is no competition. One is regional and the other is national. That Hindi is the national language was decided by the constituent assembly. The parliamentary committee—representatives from the non-Hindi speaking states

over the adoption of numerals, not the language.

Today, official business and most other work are conducted in Hindi, much to the difficulty of non-Hindi speaking people. In fact, during the framing of the constitution in between, the issue of language was one of the most debated topics and the decision to declare a national language resulted in two prominent camps. One, the North Indians who advocated Hindi as the national language and, two, the South Indians who did not want it to be imposed upon them.

While the Hindi camp tried to push Hindi due to its "numerical superiority", the Tamil camp rejected it outright and one of the Tamil leaders even went on to mock them by pointing out that if "numerical superiority" was the criteria, then the crow had to be chosen as the national bird instead of the peacock.

could be used as the single national language would take more time. Even C Rajagopalachari, who had always been in favour of Hindi as the national language and had imposed Hindi in 1937 when he had formed the Government of Madras, began to air his concerns about how Hindi was yet to develop to be acceptable as the single national language.

I was present at the discussion by the parliamentary committee when Govind Ballabh Pant was the Home Minister. I was his information officer then. When he started the business, he found that the non-Hindi speaking members were up in arms and vehemently opposed to the use of the language in official business. Slowly and gradually, Pant brought around all members to reiterate that the union language, as enunciated in the constitution, would be Hindi. He left the matter of switchover to sometime in

subject and does not want to take any action until the non-Hindi speaking members endorse it. But a recent move by the BJP government to promote Hindi had opened up a can of worms and scratched old scars. Social media was abuzz with debates over linguistics. While there seemed to be a general consensus among citizens that no language must be imposed upon anyone by anybody against their wishes, most states in the south, Tamil Nadu in particular, had vehemently opposed any such move.

With the spread of soft-Hindutava in the country, Hindi is coming in its wake. Prime Minister Narendra Modi feels at home with the language. So do the other members from the majority of Hindi-speaking states. That is the reason why a non-Hindi speaking state jealously guards its regional language and even challenges Hindi whenever the particular state feels that the rightful space of its own language has been taken over by the national language.

Since the country has adopted a three-language formula—English, Hindi and the regional—the Hindi-speaking states are happy because it is their regional language. Non-Hindi speaking states are also happy because they have English and fit into the dictates of the Union which is primarily conducting its business in English.

Hindi chauvinists, who showed no patience earlier, are now quiet because they find that Hindi is a compulsory subject all over the country. If not today, but tomorrow Hindi would have been learnt by the generations to come. Even the people in South India have realised that there is no go from the national language and their children are learning Hindi. Probably, the Modi government feels that it has to be patient only.

The noting on files is already in Hindi. Those who do so have the dictates of the Union in mind and give the English translation of the noting as well. It serves everybody's purpose and hence there is no reason for the government to take any extreme measures that will be looked down upon as an imposition. It would be better if things are left as they prevail today. Hindi is already there. Only a bit of patience is needed from the chauvinists. The RSS is doing that. Modi's occasional visits to the RSS headquarters at Nagpur testify to that.

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included—once again made it clear that Hindi was the national language and what has been left to the future was the switchover from English to Hindi.

What is happening now is that an effort is being made to reopen the language issue. Some are challenging the very idea of India and making territorial demands. This is unfortunate. Hindi was adopted to be India's language by the constituent assembly and there is a wrong impression that it was done by the majority of one. The controversy was

After several brainstorming debates, the Constituent assembly decided to finalise on Hindi with Devanagari script as the official language of the Union, along with a special clause that English would continue to remain in use for all official purposes for the next 15 years.

But within a few years, the committees set up to implement it began to face the ground realities. It came as a hard realisation that 15 years would not be a sufficient period as the process of developing Hindi to a stage where it

the future.

Prime Minister Jawaharlal Nehru gave an assurance to the non-Hindi speaking people that the switchover would take place only when they would be ready for it. His successor Lal Bahadur Shastri brought a bill in parliament to that effect. Parliament gave an assurance to the country that the non-Hindi speaking people would not be put to inconvenience or handicapped.

Parliament is very sensitive on the