

## The EC now has immense power

**Must ensure a level playing field for all candidates**

THE announcement by the Election Commission that the 11th parliamentary election will be held on December 23 has brought to the fore the uphill task ahead of the Election Commission. The EC can exercise the immense power it now wields to make sure that the upcoming election is free, fair and participatory. The announcement, in the backdrop of major contentions from the opposition remaining unresolved, means that the EC has an immense responsibility to ensure a level playing field, meaning equal opportunity for all parties and candidates.

The condition for such a congenial atmosphere now depends on how diligently the EC carries out its role and enforces the electoral code of conduct which comes into place as soon as an election schedule is announced.

The promises that the CEC has made must be kept and the executive must unconditionally honour and support this body. It is the constitutional and collective responsibility of the state to ensure a free and fair election.

The CEC has promised that all parties and candidates will get equal opportunity for electioneering. The law enforcers will be instructed to refrain from harassing or filing cases against political leaders, candidates and agents. In the wake of indiscriminate, random arrests of individuals in recent days, we hope the EC will demonstrate its sincerity through actions and not mere words.

The EC is now both empowered and obligated by the Constitution and electoral laws to play a very important role at this time. It must show its sincerity in making sure a congenial, healthy atmosphere is maintained before, during and after the polls. This will mean holding law enforcers accountable, ensuring that returning officers and polling officials are allowed to do their jobs and voters can cast their vote without influence or intimidation. A free and fair election is the lifeblood of a democracy. The people of this country are hoping for a credible election. The EC must therefore use all the powers it is equipped with to uphold that leap of faith.

## Strikes cannot hold patients hostage

**Punish those responsible for the death of children**

DURING the two-day transport strike, from October 29 to October 30, at least three critically ill children died on their way to hospital. The transport workers did not let the ambulances or, in one particular case, a rickshaw, which were carrying sick kids, to proceed to the hospital.

One of the victims was Shukria, an 11-month-old baby girl, suffering from diarrhoea and pneumonia, who was in urgent need of hospitalisation. As the striking workers prevented the auto-rickshaw in which the mother and baby were travelling from proceeding, in a desperate move to save her daughter's life, the mother took a rickshaw. But in an act of blatant cruelty, the workers let the air of its tyres out and were jeering at the plight of the baby and her mother.

Commuters all across the country had to face immense sufferings due to the recent transport strike. The striking transport workers did not stop at obstructing people's right to movement; they also prevented critically ill patients from getting medical attention. If they wanted amendments to the newly approved Road Transport Act 2018, they should have found a more humane way to press home their demands. Holding people hostage for getting their demands met is just not acceptable.

It gives us some solace that the HC has issued a rule upon the inspector general of police to take action against the people responsible for the death of these children. Therefore, we hope the culprits will be apprehended and given exemplary punishment. At the same time, we urge the government to formulate a strict law that during any such strikes in future, ambulances or other transports carrying patients and going to the hospital cannot be obstructed.



TAQBIR HUDA

MUCH controversy surrounds the new Road Transport Act 2018 which has been the subject of massive protests by road transport workers who

perceive the new law to be unduly harsh on them. They are particularly unhappy with the non-bailable nature of certain driving offences under the Act and the insertion of a provision which makes a maximum of Tk 5 lakh fine payable by negligent drivers.

This protest gives the impression that the 2018 Act is overwhelmingly pro-pedestrian in its effort to ensure road safety. And this new law has also been hailed as the much-awaited panacea to our road safety concerns in public dialogues. In light of this, it is worth examining the extent to which the 2018 Act does in fact put road accident victims in a better position than before and whether it can be expected to make our roads safer.

In order to answer these interrelated questions, we must first enquire what causes road accidents in the first place. A research report by Accident Research Institute (ARI) of BUET identified that over-speeding and careless driving are two main causes responsible for 53 percent and 38 percent of the casualties in road crashes, respectively. Why is this the case? Are our transport workers bloodthirsty hounds physically incapable of safe driving? Or is it because they work under conditions which trigger and facilitate unsafe driving?

Experts have long suggested that one of the key reasons behind rash driving of transport workers is the unfair method of payment they receive. Instead of being paid a respectable weekly wage, transport workers are paid per trip. So the higher the number of trips they can complete, the more they will get paid. Naturally, this type of piece-rate payment directly incentivises drivers to complete as many trips as possible in as little time as possible (e.g. without taking adequate breaks or complying with speed regulations), which in turn results in over-speeding and careless driving. A colleague of mine once told me how during a night journey back to Dhaka from Cox's Bazar, when all the passengers were fast asleep, he saw a pubescent bus helper steering the wheel of the vehicle since the overworked and sleep-deprived bus driver had passed out

on the driver's seat. Although this year in August, transport owners pledged to abandon the contractual system, Shahidul Islam, General Secretary of Dhaka Drivers Union, stated that this is yet to be implemented in a recent press briefing.

The unfair method of payment coupled with the fact that transport owners employ unqualified drivers and operate largely unfit vehicles further institutionalises reckless driving, making it the norm rather than the exception. Indeed, according to BRTA data, there are 31 lakh vehicles across the country without fitness certificates and 77

In this regard, forcing transport owners to pay compensation to victims of road deaths and injuries is one way to hold them to account. Unfortunately, this is precisely what the 2018 Act tragically fails to do. Previously, under section 128 of the Motor Vehicles Ordinance 1983 (which the 2018 Act replaces), motor vehicle owners were held liable to pay compensation to victims of road accidents if the insurance coverage was inadequate to cover their losses. A Motor Accidents Claims Tribunal would be constituted to specifically deal with compensation claims from road accidents. For instance, it was under this

This fund will be established from these sources mainly: grants from the government, yearly nominal contributions from motor vehicle owners, fines obtained under the Act, and grants from motor vehicle owners' and workers' associations as per Section 57 of the 2018 Act. This therefore virtually nullifies the operation of compensation liability on the motor vehicle owner whose employee (i.e. the chauffeur) causes a fatal road accident or injury in any given case. This is because this owner's only possible contribution to the compensation award would be the nominal yearly contribution they, along



A tiles-laden truck flipped onto its side after skidding off the Dhaka-Tangail highway in Savullah area of Tangail's Mirzapur upazila last month. A couple and their seven-year-old daughter were killed and their five relatives injured in the accident.

PHOTO: STAR

percent of drivers do not hold valid licences.

Thus for our roads to be made safer, it is absolutely vital for these root causes to be addressed. But is imprisoning a reckless driver and slapping him with an unrealistic five lakh taka fine (which probably will remain unrealisable) actually the best way to address the problem—given that reckless drivers are the symptom and not the cause of the problem? As we have already seen, factors which cause over-speeding and reckless driving are a direct result of how transport owners operate the industry and the working conditions they impose on transport workers, so it is only when these owners are held accountable that the root causes of road accidents can effectively be addressed.

law that Catherine Masud successfully imposed a compensation liability of Tk 4.3 crore on the owners of the bus which killed her husband and famous filmmaker Tareque Masud.

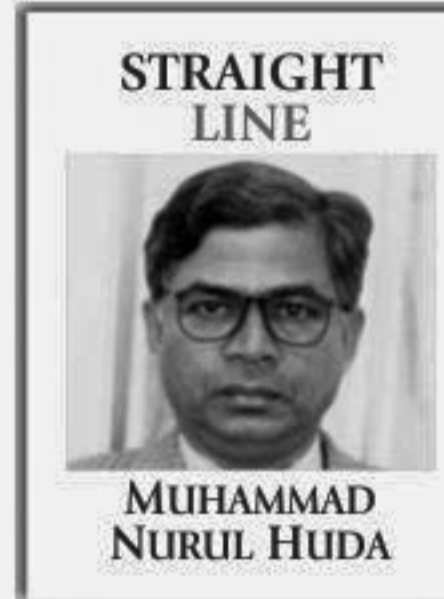
However, the 2018 Act not only removes compensation liability of an owner whose vehicle caused an accident but also removes the provision requiring a Motor Accidents Claims Tribunal to be set up. This is because Chapter 10 of the 2018 Act (which deals with compensation) replaces a road accident victim's right to sue motor vehicle owners for compensation before a tribunal with the right to apply for "financial aid" from a rather charitably termed "Arthik Shohoyota Tohbil" (i.e. Financial Aid Fund) through a largely executive process and not through any court or tribunal.

with all other motor vehicle owners, made to the fund. So while transport owners had a hefty price to pay if their vehicles killed or injured any person under the 1983 Ordinance, the 2018 Act appears to grant them total immunity from such liability. In fact, if the Catherine Masud case was pursued under the 2018 Act rather than the 1983 Ordinance, the bus owners would have had no liability to pay compensation.

If the new law grants immunity to the very people whose policies stimulate the root causes of road accidents by removing a road accident victim's right to sue them for compensation in court, how can we feasibly expect it to make our roads safer?

Taqbir Huda is a research specialist at Bangladesh Legal Aid and Services Trust (BLAST) and can be reached at taqbirhuda@gmail.com.

## What our intelligence imperatives should be



STRAIGHT LINE

MUHAMMAD NURUL HUDA

THIS newspaper on July 9, 2011 editorially commented that when state agencies step out of their defined terms of reference, the resultant sociopolitical

scenario becomes dismal. It cautioned the authorities to take note of the issue of employment, direction and control of intelligence agencies in public interest. In retrospect, this newspaper's premonitions proved very credible when one reads the judgment of the case relating to the 21st August 2004 grenade attack on Awami League rally, in which heads of two national intelligence agencies have been awarded capital punishment for their alleged illegal, conspiratorial and ignominious role in facilitating the gory occurrences.

Since the legal process of the incident under reference has not been judicially exhausted, this writer cannot comment on the adjudication procedure. What, however, is of concern is the absence of an informed discourse on the role and function of our intelligence agencies that without doubt are very sensitive organisations; and on account of its very secret nature, few would like a free and frank discourse on its modus operandi. Present-day security experts are, however, of the considered view that open discussion by competent and concerned persons may in fact rationalise the operations of such an organisation to the benefit of a democratic polity.

Historically speaking, the growing need for internal political intelligence felt by the British colonial authorities in the context of the increasing militancy of the freedom struggle was the key to the rapid development of intelligence-gathering assets at the centre and provincial levels. The intelligence branch's work then included coverage of terrorism and subversive activities, political movements, communal violence, the communist movement, and the activities of inimical powers beyond the borders. On the basis of information collected, it made an

overall assessment for the formulation of government policy.

Intelligence-gathering has been no less important in our independent political existence. As in many other countries, the intelligence bosses enjoy privileged access to the top political executive, the prime minister and the home minister. The agencies provide direction to police organisations in addition to providing political-analytical inputs to the ruling regimes. The agencies have undertaken strategic exercises during elections, and conducted election forecasts and analyses for the party in power.

Events of the recent past in Bangladesh indicate that far from being confined to the proper intelligence role, overzealous bosses became almost a confidante of the chief executive, adept at every task entrusted to them. There are reasons to

gruesome manner. Similarly, intelligence could not prevent subsequent assassinations.

We had the unfortunate experience of witnessing a very sensitive intelligence organisation working principally at the whims and caprices of a military dictator and using public funds for creating and destabilising political parties, political horse-trading and shadowing people on personal and flimsy grounds in mid to late 80s. No wonder in such a scenario the professional efficiency was sacrificed and public servants turned into personal retainers.

The mission and strategy of our intelligence organisations have not been stable at least insofar as the domestic threat perception is concerned. They invariably change with the change of a political government. Differing political

such demand unconditional adherence to it.

An intelligence agency should not be the judge of its own operations with regard to the necessity and propriety thereof, nor should it be allowed to operate as the agency or instrument of politicians, or degenerate into an institution for controlling the opponents of the party in power, or elements within the party in power with which the high command of the party does not see eye to eye. There must be inbuilt constraints.

There should be a charter of duties for the intelligence organ, with well-defined responsibilities and area of operation. The purpose for which intelligence has to be collected should be clearly spelt out. It should not be to sub-serve the interests of a political party or an individual or to blackmail or control the opponents of the political party in power or hostile elements within the establishment.

The legitimate purpose of intelligence should be to anticipate developments that may imperil national interests so as to enable appropriate action, and any effort to equate national interest with party interest should be discouraged. Once the purpose is known, the chances of non-observance of fairness and objectivity in intelligence collection will be reduced. Constant vigilance against misuse will be needed as intelligence activities are carried on in secrecy.

The catch-all definition of "national security" should not be used as a cover to hide a multitude of abuses. It should exclude activities that in effect mean denial of human rights and basic freedoms.

A detailed and precisely honed charter for the intelligence organ in consonance with the spirit of the Constitution needs to be worked out.

Our intelligence organisation needs to work under pragmatic political leadership and if properly and professionally steered, it will not threaten our liberties. If we operate by the book, we will be adequately informed of the perils which face us. The last thing we can afford to do now is to put our intelligence in chains. Its protective and informative role is indispensable at a time of unique and continuing violence.

Muhammad Nurul Huda is a former IGP.

## LETTERS TO THE EDITOR

letters@thedailystar.net

### Minority communities in fear as election nears

The Election Commission has announced the schedule of the election, and political parties and potential candidates are busy preparing their campaigns. But what about the minority communities of this country? How do they feel now that the election schedule has been announced?

Let me tell you that they are scared, and justifiably so. It is difficult for them to forget what they went through in the aftermath of previous elections simply because they exercised their constitutional right to vote.

What do the minority communities expect from the government? They do not run after power. All they demand is security. We urge the authorities concerned to ensure security of minority communities across the country.

Pradip Das, By email

