

## Why is BRTC in such disarray?

### Because of poor maintenance and irregularities

IT is shocking that a sector as important as the public transport system should be in a state that the biggest carrier—BRTC (Bangladesh Road Transport Corporation) should be plagued by buses that have an abnormally short shelf life. According to a report in this daily the BRTC buses after being imported from various countries become run down and often out of service long before their expected expiry dates due to lack of proper maintenance. The report has found that of the 255 Daewoo buses delivered, within around six years only 138 are running, when usually they should have lasted for at least 10 to 15 years. Out of the total number of buses owned by BRTC only 921 are in service with the rest being out of service or in need of major repairs.

So why does BRTC have such a poor track record when it comes to maintenance of its vehicles? Some of the reasons cited include, a lack of skilled mechanics and spare parts, inadequate maintenance, poor decisions by authorities and corruption by some members of the corporation. This has resulted in the strange situation of having a service that can barely meet the demand of its consumers—the thousands of people travelling by buses—but one that is running at a loss.

So what will it take for the authorities to wake up to the reality that BRTC must undergo major reforms? They must employ skilled mechanics, ensure spare parts are available and that there is regular maintenance of these buses so that they are financially viable and also meet public demand. These are the easier solutions. What will be the most challenging is to remove the corrupt practices of some of the members of the corporation such as making out false bills for new spare parts when they actually procure used ones that will obviously impede proper repair. Procurement of the buses must also be based on quality and durability. While the proposed software-based fleet management system may make monitoring more efficient, it will have little impact in improving the service unless corruption and inefficiency are removed.

## Children must be protected from sexual violence

### Culture of impunity must end

CHILDREN in this country have become increasingly vulnerable to sexual violence. According to *The Daily Star* reports, 29 of the 46 victims of rape in January were below 18 years and among the 29, 13 are aged between five and 12. Sadly, these figures do not include the incidents of child sexual abuse that take place in their own homes, by their close family members and relatives.

Children are easy targets of sexual predators particularly because they cannot fight back and are easily intimidated. And because the perpetrators of sexual violence often hold power in our patriarchal society, they almost always get away with the most heinous crimes. In order to protect our children we need to raise a massive social awareness programme against rape and sexual violence. This should start from home as well as schools. The issues of awareness should be included in the school curriculum. Teachers and parents should make their children aware of the potential dangers and advise them what to do in case they are scared of anyone or feel threatened by anyone. There should be a special helpline for children to report any such encounters. They must be encouraged to speak out if such abuse occurs.

Moreover, the cases filed with child rape incidents must be dealt with on priority basis. In this regard, we need to address the gaps in our existing laws. It is evident from numerous cases that the existing laws are not enough to deal with rape cases. According to reports, less than two percent of rape cases filed between 2012 and 2017 ended in conviction. This is because even if rapists are given severe punishment in the lower court verdicts, when the cases go to the higher courts, the punishments are reduced. The legal system and laws must be reformed so that rapists and sexual predators are meted out justice. If needed specific laws should be passed to deal with child rape (and other sexual abuse) cases.

LETTERS  
TO THE EDITOR

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Golden GPA-5 vs a golden life

"So are you not going to get the golden GPA-5?" I'm sure many meritorious SSC examinees have heard these very words uttered by their parents or others after the Bengali 2nd paper exam.

My brother was a candidate. He said the MCQ questions were pretty hard and he might not get an A+. I feel sorry for my brother, but what shocked me the most was that he was very worried particularly about the reaction he might receive from our family if he misses out on the golden GPA-5.

Whether knowingly or unknowingly, guardians nowadays are putting immense pressure on their children. In the process, their true potentials are being hurt.

We always want them to become doctors, engineers or bankers. Which seldom gives them a chance to think outside the box. I personally know some very successful professionals who regret pursuing the profession that they did. My brother wants to become a footballer. Why, then, are we forcing him to be an IBA graduate?

We all understand that education is a must. But the purpose of getting educated is not to earn a golden GPA-5, but to find our own unique way of living a golden life.

Ummey Habiba Mimuna, IIUC, Chittagong

# Compensation is a matter of right, not sympathy



TAQBIR HUDA

ON January 25, 2019, a coal laden truck flipped over and crushed a makeshift workers' shed in a Comilla brick kiln factory, killing 13 people and injuring five others. The shed was situated inside K and Co Brick Field at Narayanpur, Chaudagram and the truck came from Chittagong. The truck was in reverse gear and was driving backwards to be parked, so the coal could be unloaded. However, since one side of the truck was piled up with up to six-feet of coal, it caused the vehicle to overturn and smash the shed, where eighteen workers were sleeping at the time. The shed was merely built with a tin-roof and five-inch brick walls and was only seven to eight feet high and therefore could not withstand the impact. An inspector of Bangladesh Road Transport Authority (BRTA) mentioned that the truck was overloaded with coal which is what caused the crash.

Among the deceased, most were students who worked part time and went to university. Moreover, seven of the deceased belonged to the same family. A case has already been filed at Choudhagram Police Station against the truck driver and helper later that night by the brother of one of the victims, accusing them of negligence. The Officer in Charge (OC) mentioned that the brick kiln authorities would also be impleaded in the case if any negligence is found on their part. This case was filed under section 304A, Penal Code 1890 which deals with the offence of causing death by negligence, punishable by up to five years imprisonment or fine or both. Notably, neither the driver nor the helper could yet be arrested as they fled the scene after the accident and are yet to be located by the authorities. However, should criminal prosecution be the sole response of the law to incidents such as this? Even if the two are located and arrested, found guilty and handed the highest possible imprisonment of five years for the offence, has justice been duly served? What will happen to the injured victims who suffer severe injuries and can therefore no longer work, and to the families of the deceased who used to rely on their income to sustain themselves? Imprisoning the offenders does nothing to address the immense losses they are now faced with, if they are left wholly uncompensated.

Interestingly, a statement from the

Ministry of Labour and Employment disclosed that the families of the deceased workers will receive Tk 1 lakh as "compensation" from the Bangladesh Workers Welfare Fund, while the injured workers will receive Tk 50,000 each. Additionally, the Comilla Deputy Commissioner and the brick field owner have donated Tk 10,000 and Tk 20,000 respectively, to each of the deceased victims' families as "compensation". However, let us be clear: these ad-hoc payments arising out of individual sympathy (or public pressure) are not "compensation" but at best, merely humanitarian aid. Black's Legal Dictionary defines compensation as monetary payment "which is necessary to restore an

No such gazette notification has yet been released and therefore the 1983 Ordinance is still applicable. Under this Ordinance, the District Judge Court acts as the Motor Accidents Claims Tribunal where an application form for compensation (called CTA form) which costs Tk 20 can be submitted by the injured party. This Ordinance would allow the victims to recover compensation not only from the truck driver but from the owner of the vehicle as well, which is crucial because it will seldom be the case that a chauffeur will have sufficient wealth to pay compensation to victims of their reckless driving. For instance, it is under this law that the High Court awarded Tk 4.4 crores in damages to Catherine Masud

jointly sue the employers and the truck owners under the more broadly worded Fatal Accidents Act 1855 which applies "whenever the death of a person" is "caused by a wrongful act" but unfortunately this Act would not allow claims by injured victims.

However, given the costly and protracted nature of civil litigation (especially when it comes to compensation claims), it seems a bit unrealistic to expect the families of these brick kiln workers to pursue compensation cases on their own. This is precisely where the National Legal Aid Services Authority (NLASO) should step in to fulfil its purpose of ensuring access to justice for those who are hindered by their financial hardships and socio-



injured party to his former position." So clearly, a uniform amount of payment which does not factor in the victim's specific losses (for instance, loss of potential income based on the age and income of the victim) and is quite minimal in nature cannot in a legal sense be called compensation. Furthermore, compensation is a matter of right, not a product of sympathy.

There are laws in place under which the victims can get compensation as of right, such as the Motor Vehicles Ordinance 1983. Even though the recent Road Transport Act 2018 seeks to replace the 1983 Ordinance, Section 1(2) of the Act states that the Act will come into force on the date stipulated by the government through gazette notification.

for the road accident that killed her husband Tareque Masud and caused her an eye injury as well. Here the bulk of the award was to be paid by the vehicle owners. Additionally, if any negligence is found on part of the workers' employer, Brick Kiln & Co (as per the claims of many rights groups such as Shramik Nirapotta Forum) then the workers may also sue them for compensation under Bangladesh Labour Act 2006, but the major disadvantage here is that unlike the 1983 Ordinance where compensation amount will increase with the extent of harm sustained by the victim, awards under the 2006 Act are uniform: Tk 1.25 lakh for injury and Tk 2.5 lakh for death. To overcome this hurdle, the victims may

economic conditions. It should direct the District Legal Aid Committee (DLAC) of Comilla to file compensation cases on behalf of the victims under the 1855 Act, 1983 Ordinance or 2006 Act, as applicable. Thus if the main objective is to redress victims of negligence in the Comilla accident or any of the abundance of similar "accidents" of this kind, mere criminal prosecution or makeshift donations in the name of compensation are not enough. Compensation must be recognised and enforced as of right so victims are in fact restored to their former position in so far as monetarily possible.

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## Indian apex court works truce

### But it may be the lull before a fresh storm

PALLAB BHATTACHARYA

IN the end, it was left to the Indian Supreme Court to bring down the political temperature which shot up furiously following the confrontation between the Mamata Banerjee government in West Bengal and Prime Minister Narendra Modi's dispensation over the Central Bureau of Investigations attempt to interrogate the Kolkata Police Commissioner in connection with a multi-billion Rupee ponzi scam.

The apex court bench, headed by

No wonder, both sides claimed vindication of their respective stance in the Supreme Court order.

However, the top court wanted the questioning of Kumar to take place in a "neutral" place—Shillong. Implicit in the choice of place is the highly politically polarised ambience in West Bengal and the fear that the interrogation may not be done properly. That was something not unexpected after the surcharged atmosphere sparked by the huge mobilisation of West Bengal police

filing of a contempt of court petition against the Chief Secretary, the Director General of Police of West Bengal and Kumar and (iii) the federal Home Ministry asking the West Bengal government to take disciplinary action against five senior Indian Police Service officers of West Bengal cadre, including Kumar, who "participated" in Mamata's sit-in protest "in violation of" service rules. The federal government is the cadre-controlling authority of IPS officers across India. Surely, all this has the potential to set off a fresh round of politico-legal battle between the Mamata government and the federal dispensation.

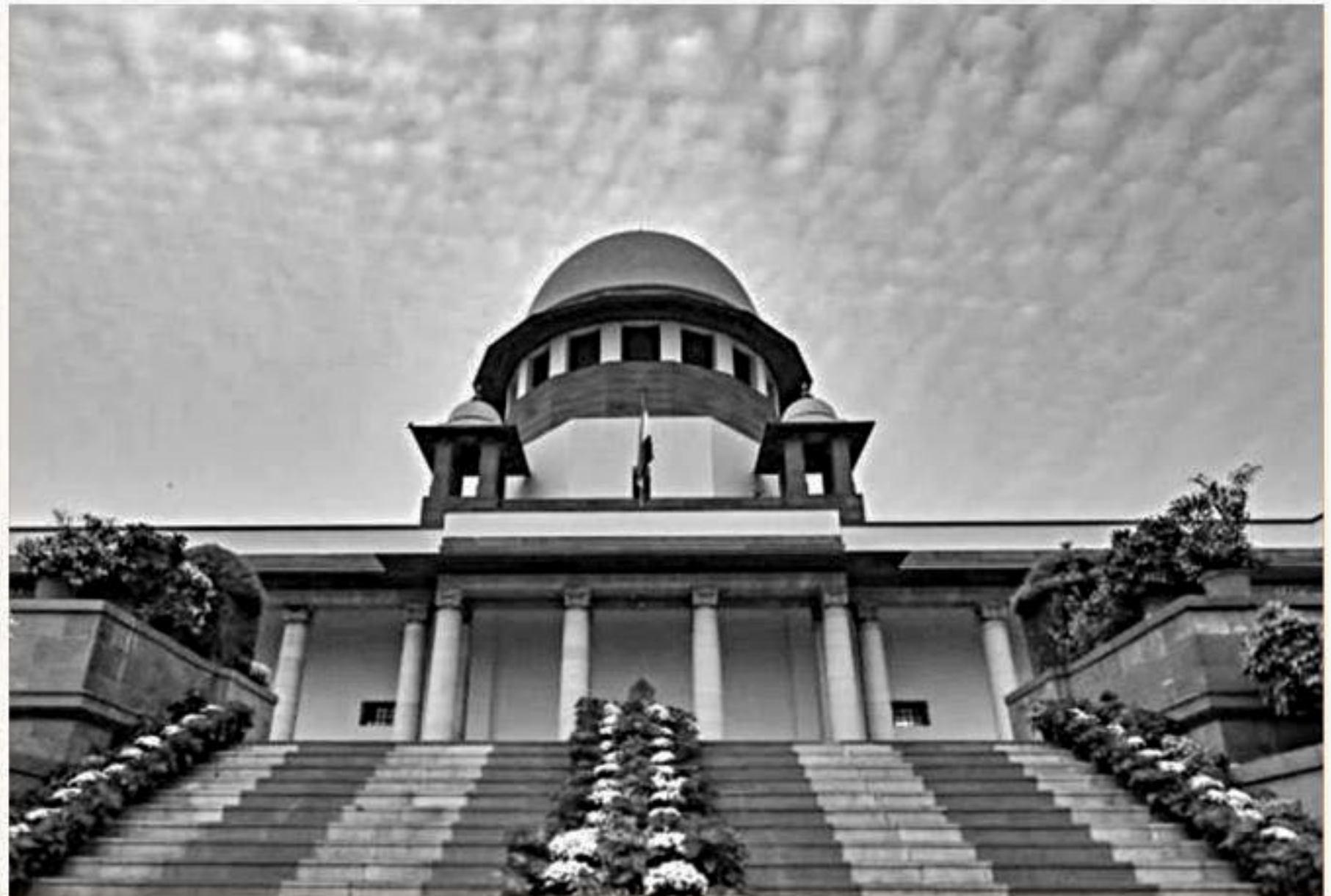
The standoff, however, tends to push into the background two key issues: (1) the need to do justice to lakhs of ordinary people defrauded by the ponzi scheme and (2) a politically impartial bureaucracy in the world's most populous democracy. The investigations into the scam, both by West Bengal government and the CBI, have gone on for the last six years. The CBI has either interrogated or arrested a number of people chit fund company heads and Mamata-led Trinamool Congress leaders but completion of probes remains a far cry.

In an elected-democracy, political parties are known to cultivate employees at different levels, more so among top civil servants. It is a common practice in democracies to find a reshuffle at the top echelon of civil bureaucracy every time there is a change of government. Prime ministers and chief ministers pick their own sets of bureaucrats to work with after assessing their comfort levels and the need to push through their economic programmes. What adds to the complexities in India is the prevalence of a federal structure under which the federal government is the controlling authority of Indian Administrative Service and IPS officers

and the authorities in states decide on their transfers and promotions. As a result, the officers have to deal with dual power centres. The problem arises when the reshuffle is prompted less by considerations of efficiency and more by allegiance, personal or ideological. Largely, however, partisanship is not common in the Indian bureaucracy even though complete neutrality is a utopia.

For decades since independence, this problem was not a major issue as the Congress Party was the only party in power not only in India but also in most of the states. But as more and more parties opposed to the Congress, particularly the regional parties, gained prominence since the 1970s and also power in states, the bureaucrats started facing increasing difficulties in coping with the political executives belonging to different parties at the centre and the states. This often caused a tiff and many of the civil servants were caught in the crossfire. Transfers and promotions were often used by the political masters to reward or punish bureaucrats. Many of them then choose to be on the right side of the powers that be. It has often been found that a group of top bureaucrats who worked with one regime are shunted out by the next one, especially in the event of a change of party in power. For quite a number of years, the current Aam Aadmi Party government in Delhi was at loggerheads with the Modi government over postings of bureaucrats. There have been a few cases when upright officers stood up to the political masters and were subjected to frequent transfers. What is unfortunate is when dissent by bureaucrats is viewed through a political prism.

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India's Supreme Court

Chief Justice Ranjan Gogoi, gave a balanced ruling which addressed the concerns of the two feuding sides. On one hand, it asked the Police Commissioner Rajeev Kumar, a senior Indian Police Service (IPS) Officer, to appear before the CBI (under the federal government) for questioning which the anti-graft agency has been pressing for and on the other hand stopped his arrest, at least for now, something that Mamata did not want.

which briefly detained the team of CBI officers who had gone to the residence of Kumar on February 3 to quiz and possibly arrest him and the sit-in protest started by Mamata on the same night.

While the apex court may have succeeded in lowering the heat generated by the two-front (legal and political) battle, the threat of fresh flare-ups remains for three reasons: (i) interrogation of Kumar (ii) the CBI's