

# The Daily Star

FOUNDER EDITOR: LATE S. M. ALI

## Why resist data requests if there's nothing to hide?

### Authorities must remove barriers to accessing public information

It is disturbing to learn that a human rights worker is under investigation after he filed a Right to Information (RTI) request with police, asking about the number of people accused and arrested under the Digital Security Act (DSA) between 2018 and 2021. According to a report, Saad Hammadi, who works for Amnesty International in Sri Lanka, filed the request in mid-2021. After being denied twice, he took it up with the Information Commission where, on January 11, 2022, a legal representative of the police said that the information was "highly sensitive" and sharing it could "obstruct the enforcement of law," citing an exemption clause of the RTI Act. He also questioned Hammadi's motive for seeking information while sitting in another country. And at a hearing on February 22, the commission instructed the police to verify his background by going to his present and permanent addresses.

This unexpected turn of events—turning the spotlight from a public interest disclosure to an investigation of the person requesting said disclosure—is noteworthy as it shows how far off the target we are in terms of ensuring access to public information, despite there being a law precisely for that purpose. It also makes us wonder: What is so sensitive about the number of DSA lawsuits, accused and arrestees? It's already a part of public records and should be accessible for anyone. It's also unclear in what scenario could it lead to obstruction of law enforcement. Even if we buy into the claims that the data is "highly sensitive," we must admit that it's one thing to interpret the possible outcome of a disclosure, and another thing to try and discredit a citizen by casting doubts on his motive and identity. This doesn't sit well with the police's claim of transparency either.

We're equally baffled by the response of the Information Commission. As an RTI expert said in a column in *The Daily Star*, "information-seekers find themselves in a quandary when the Information Commission itself concurs with the denial of information by the authorities concerned." Some of the exemption clauses under Section 7 of the RTI Act have been questioned for the wide latitude they give to government agencies to disregard information requests. The commission should know that the harmonisation of the citizens' right to know and the government's right to protect public interest is a key part of its job, which it must do in a manner so that the citizens are not discouraged from using the RTI law.

By now, there should be no doubt about the devastating effects of the DSA and how it has been frequently abused to target dissenting voices. Any attempt to disclose information illustrating the actual situation should be welcomed, instead of allowing the scope for further abuse. We urge the commission to ensure that everyone using the RTI law is protected and empowered.

## Death in police custody again

### Torture inside police stations must end

We are deeply troubled to learn of another death in police custody. This time, the victim was a poor man named Wazir Mia, who had been picked up along with two others on February 10, 2022 on charges of stealing cows. The two other arrestees recently gave a horrific account of torture inflicted on Wazir while in custody inside Shantiganj police station in Sunamganj, which ultimately led to his death. When policemen hang an accused person upside down from the ceiling and beat him mercilessly, we can't help but wonder: What could embolden them to go to such lengths? Why such wrathful treatment to a citizen on *prima facie* charges of theft? Or is there a more sinister story behind, which needs to be uncovered?

The truth will come out if a neutral body undertakes a proper investigation. Meanwhile, the people of Wazir's village are not convinced with the police account of the entire episode. They want justice and have gone out to block the Sunamganj Sylhet road at Pagla Bazar, demanding punishment for the responsible cops.

Death of an accused in police custody is an extreme form of violation of human rights and dignity. The custodians of law must not turn into law-breakers under any pretext, and we condemn it in the strongest possible terms. Unfortunately, such stories of torture and death are not uncommon, although victims rarely get justice. One may recall the custodial death of Ishtiaque Hossain Jonny in 2014. Six years after Jonny was murdered, a Dhaka court gave the country's first-ever verdict in a lawsuit filed under the Torture and Custodial Death (Prevention) Act—in which it sentenced three of the accused policemen to life imprisonment and two others to seven years in jail. The enormity of the crime was aptly summarised in a single word of the presiding judge: "heinous."

Evidently, such crimes are still taking place. For example, several rights organisations in their presentation to the UN's Committee against Torture alleged that 348 prisoners died in custody in Bangladesh since the anti-torture and custodial death law was enacted in 2013. This heinous trend must stop. We often hear the higher authorities say that they want the law enforcers to act as people's friends. Police and the higher authorities both must strive to make this a reality, and build a mechanism to prevent such extrajudicial undertakings.

# Search Committee's Final Hour

## History will judge whether it was their finest



THE THIRD VIEW

Mahfuz Anam is the editor and publisher of *The Daily Star*.

MAHFUZ ANAM

As announced, the Search Committee for the Election Commission will submit its recommendations to the president today, February 24, 2022. Regrettably, it will be done as before—in secrecy. We will never know (unless the president decides otherwise and sets a new precedent, and we hope he does) the 10 names they recommended, and only learn about the five the president will choose in consultation with the prime minister.

We write today to put on record a few things. Unlike the previous search committees, whose terms of reference were determined by the president, the present committee has been formed under a new law that spells out how it will be formed and function. This is a significant departure from the past, putting the committee's stature and prestige at a much higher level, but at the same time making its activities far more accountable than before.

Of the six members of the search committee, two—the chair and another member—are directly nominated by the Chief Justice of Bangladesh. This means that through these two nominations, the office and the person of the Chief Justice, who stands as the apex of our judiciary and is seen as the epitome of public confidence in our judicial system, has become linked with the performance of this committee. The way they discharge their functions will reflect on the Chief Justice himself, especially because he nominated the chair.

We, of course, expect and express our confidence that these two honourable judges will act with the highest standards of judicial tradition. Still, we thought of bringing this fact to their attention.

The law specifies, under Section 3(2), that the search committee will decide its own procedure of work. Therefore, when the search committee decided not to disclose the names of their final nominees to the president, they did so on their own, not under any compulsion or obligation or legal necessity. It is the committee's own decision, and as such, they are

responsible for all the consequences that will emanate from this action of secrecy.

According to media reports, the chief of the search committee said that revealing names was "the domain of the president. After submission to the president, if he wants to reveal the names, then the names will be revealed." With the highest respect to the learned

significantly increased public confidence, which is of vital importance in anything that has to do with elections. It is more so than usual because of the controversies that surround the past two elections.

Earlier, we had written about the moral role of the search committee, which along with their legal role made their work so vital. The point we stressed



ILLUSTRATION: BIPILOB CHAKROBORTY

judge, there is nothing in the law that prevents the committee from revealing the names of its nominees. This is something that the committee has imposed on itself, ignoring the demands of all the political parties who sent their recommendations and individuals whom they invited for the dialogue. Why opt for the "restrictive option" when the "transparency option" exists and is demanded by most political parties, the principal actors in any election? Isn't it one of the most famous judicial dictums that "justice is not only to be done, but also seen to be done"?

The significant point that is being missed here is that revealing the names of the 10 nominees would have greatly added to the process of transparency and

was gaining public confidence for their decisions. We tried to draw the bigger picture of the democratic future of our country—along with it the prestige and credibility of the country in the international arena.

While we question the decision not to reveal the names, we still hope that, considering all the points raised, the search committee will be fully conscious of the supreme importance of their task, and rise up to the public expectation of the moment and give us a courageous and competent Election Commission that we deserve and, more importantly, desperately need.

(This commentary was published online earlier.)

# The future doesn't justify the past



CHINTTO SINCE 1995

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NIZAMUDDIN AHMED

In case you have felt the shivers recently, or sweated profusely, know that climate is not the only earthly element that has undergone change. In tandem with erratic rising temperatures and dipping mercury, the favourite pastime of millions (in most languages, it is decried as politics) has gone through momentous transformation for the worst, and in some very unlikely places.

There was a time not so many years ago when some (economically) interested developed country would employ every resource at home and abroad to first criticise, begin policing, then mobilise international media support, create a band of local bootlickers, and finally usurp a head of state of a developing country—someone who was not to their (fiscal) taste.

To help fulfil the unpleasant agenda of the leaders of these developed countries, there were indeed vile, unpopular rulers scattered around the world, who hung on to their "throne" (elected or inherited) by aborting the constitutions, living in lies and, as a last resort, ordering troops to fire on unarmed citizens to quell any uprising.

Even observers on the fence would tell you that Iraq's Saddam Hussein, Libya's Muammar Gaddafi, and now Syria's Bashar al-Assad, North Korea's Kim Jong-un, Belarus's Alexander Lukashenko and such held on to power by guile and gun, though a few are known for their benevolence.

In contrast, the self-assuming *darog* of the world were the apparent good guys, upholding the heraldry of democracy. They made it their business to interfere with the internal affairs of another country—all under the pretext of rescuing a people (not theirs) from their avowed tyrannical despot. Often, such tactics in a Western country earned points on the political front.

Unbelievably, actions, trials and even executions in one country are believed to affect elections in another country. If that is what the expression "global village" means, then we are living as rudimentarily

as the cave people.

There are examples galore, but a couple of samplers will bring home the argument. *The New Yorker* in 1996 called him "omnipotent, benevolent, and everlasting President." Captured by the US in 2003, Saddam Hussein was found guilty by Iraqi judges for his violent campaign against the Kurds and the Shias, as well as for crimes against humanity. Rights groups and the United Nations at the time were concerned because Saddam's trial did not meet international standards of fairness. The Iraqi supreme was hanged in 2006.

After leading a military coup in 1969 against the Libyan monarchy, Muammar Gaddafi headed a two-faced Revolutionary Command Council—benevolent towards his people who gained prosperity, but repressive against political opponents. He befriended Nelson Mandela, Fidel Castro, Yasser Arafat, and the Provisional Irish Republican Army. His dream of a common currency for Africa was making headway. In October 2011, the National Transitional Council, backed by the North Atlantic Treaty Organization (Nato) forces, unseated Gaddafi, captured him, and beat him to death. Amnesty International and the Human Rights Watch termed his killing a violation of international law.

If you flip through the pages of photo albums, there could be cuddly images of the leader of a rich democracy and that of a moneyswayer poorer nation, all smiles, never differentiable by the quality of their clothing. They seemingly fell a world apart due to some not-so-unseen disputes—oil, water, land or trade. But such unscrupulous, power-hungry leadership was no longer the prerogative of only the less developed countries.

In a world-changing scenario, there is little difference today between the leaders of the economically developed and the less developed countries. No one wants to let go of power, even if that means death of democracy. In the poorer countries, such greed has often led to hunger, economic hardship, and sectoral violence.

In at least two of the world's most respected and longstanding democracies, desperate measures to hang on to power by some protagonists have surprised many.

Till it happened in early 2021, no one could have imagined that the US politics would be the cause of political violence. Unlike any of his predecessors, Donald Trump began his acceptance speech long before the elections. Reading his psyche

and his encrypted garbled pomposity, the media repeatedly asked him whether he would accept the results. His response every time was feigned efforts to confuse the public—millions loved that.

After the verdict went decisively in favour of Joe Biden by a margin of 306 to 232 electoral votes and 51.3 percent of the popular votes cast—a difference of over seven million—Trump turned his supporters against his chosen running mate, then Vice-President Michael Pence. Trump counted on Republican lawmakers to make one last doomed attempt to reverse the results when Congress met to confirm the Electoral College vote. He called up governors to twist facts and hand him the state votes. When they did not, he made their life hell with threats and mob violence.

Then, on the infamous January 6, a desperate Trump did what was below the ethics of 44 POTUS before him. A rowdy mob of Trump supporters besieged the seat of the US Congress in Washington, DC, seeking to overturn his defeat. No American president had tried so hard to damage the value of democracy and undermine the people's mandate before, and Trump's cult following did not help.

UK Prime Minister Boris Johnson is another "change-maker" without remorse—an inherent leadership quality among many of his predecessors. Police are investigating reports that he and about 30 others were partying at 10 Downing Street when indoor gatherings were banned, and only groups of up to six people were permitted to meet outside under the Covid restrictions in the UK. Singing was prohibited, but they sang to wish him a happy birthday. The leading lawmaker who had made that law broken it.

Boris was brave to say "sorry" in parliament, but indicated he would not resign, which many observers thought was a foregone conclusion, given the country's history of political integrity. Boris was not taught by my Jhenaidah Cadet College teacher, who often reprimanded us with, "Sorry is a cheap word in the dictionary."

Both Trump and Johnson lost high ground. Yet, neither are willing to drop the towel. No one else had remained in contention for a possible second crack at the presidency after so many antiques as Trump. No UK premier has survived lies in the past, but the climate has changed.

They may win back the mandate of the people by hook or by crook, but the future doesn't justify their past.

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