



Justice Obaidul Hassan took his oath as Bangladesh's 24th chief justice on September 26, 2023. PHOTO: PTI

Can the judiciary be free from politicisation as our CJ wishes?



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At a time when Bangladesh's position on the World Justice Project Rule of Law Index is 127th out of 140 countries – lowest among South Asian neighbours except Pakistan and Afghanistan, with a continual drift over the last three years – it is heartening to hear our new chief justice, Obaidul Hassan, pronounce that “the judiciary and courts should not be politicised in any manner.” Addressing his fellow judges and members of the Supreme Court Bar Association on October 8, he said, “In light of the constitution, let the judicial administration be transparent, independent, free from corruption, and congruent with the idea of social justice.”

CJ Hassan's open expression of the desire to not politicise the judiciary is significant, and not only because the main opposition has been alleging for quite some time that the current judiciary system is entirely under the control of the government. There's a growing perception that, as we are witnessing a disturbing trend of rising authoritarianism, there has also been erosion of confidence in the judiciary's independence. Even some in the international media have reported that courts in Bangladesh are being used by the government to suppress dissent and harass the opposition. The factors that the World Justice Project (WJP) considers while ranking countries in the Rule of Law Index include measuring “the extent to which those who govern are bound by law,” meaning institutions like the legislature and the judiciary. It also evaluates the extent to which the criminal and civil justice system is independent of government or political influence.

Notably, CJ Hassan also said that the right to criticise a verdict was part of freedom of expression, which has been guaranteed by the constitution with reasonable restrictions by law. He then urged journalists to be careful while reporting on courts and judges because judges cannot make statements to the media. Referring to former Chief Justice Habibur

Rahman's comment, he added, “I also want to say that judges are not above criticism. There is a way of decent criticism in a civilised world.”

Despite his reaffirmation that judges are not above criticism, it's hard to feel confident about raising questions on the norm of political activists congratulating judges on their appointments or promotions, which we have done frequently in relation to constitutional offices like those of election commissioners or the Public Service Commission. Judges' association with political parties is a crucial subject of scrutiny globally, as their impartiality and independence are universally accepted as essential prerequisites.

At the beginning of this millennium, realising the importance of judges' conduct, under the auspices of the United Nations, the Judicial Integrity Group (previously known as the Judicial Group on Strengthening Judicial Integrity) comprising chief justices from common law countries devised a set of principles. This is known as the Bangalore Principles. One of our former chief justices, Mainur Reza Chowdhury, was a member of the group and took part in developing the draft at a meeting held in Bangalore in 2001. In 2002, the draft was finalised and endorsed at a roundtable conference in The Hague by chief justices and judges of the International Court of Justice (ICJ).

These principles are intended to establish standards for ethical conduct of judges, and are based on the values of independence, impartiality, integrity, propriety, equality, competence, and diligence. Unfortunately, some of the public speeches and writings of a few judges, both in the higher judiciary and lower courts, run contrary to a number of these stipulated conducts. When allegiance to the ruling party has been a key consideration for appointment to the superior judiciary, and we see judges passing comments expressing political thoughts, or witness them return to active politics after

retirement, questions about their impartiality are bound to arise.

This is why the Guide to Judicial Conduct in the UK clearly states, “Each Justice will refrain from any kind of party political activity and from attendance at political gatherings or political fundraising events, or contributing to a political party, in such a way as to give the appearance of belonging to a particular political party. They will also refrain from taking part in public demonstrations which might diminish their authority as a judge or create a perception of bias in subsequent cases. They will bear in mind that political activity by a close member of a Justice's family might raise concern in a particular case about the judge's own impartiality and detachment from the political process.”

The importance of the court's role as a constraint on government powers has also been recognised as an indicator of judicial independence in the Bangalore Principles, which says, “A judge shall not only be free from inappropriate connections with, and influenced by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.”

Sadly, the government's influence in the corridors of the judiciary has never been felt more strongly than at present. We all know how the government misused the controversial Digital Security Act (DSA) to suppress dissent. Was it not seen how the repressive provisions in the DSA contravened our basic human rights, including that of freedom of expression? Doesn't the replacement of the DSA by the Cyber Security Act (CSA), despite its shortcomings, prove as much? Can we hope that the new chief justice will allow us to opine that the judiciary could have prevented the weaponisation of the DSA by the executive, which would have saved thousands of victims from varying levels of suffering?

There's no public record available regarding whether we have a judges' code, though the verdict of nullifying the 16th Amendment drew one up. It's ironic that dozens of common law countries have adopted the Bangalore Principles that Bangladesh helped develop, but we ourselves choose not to follow it. Without abiding by stricter principles, can we make our judiciary independent, as well as free from politicisation?

Western media's ahistorical reporting on Palestine-Israel

Decontextualising the occupation narrative



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The attack in southern Israel and the ensuing retaliatory war in Gaza are unprecedented as people from all over the world – from Nepal to France to the United States – have lost their lives, and many immigrant communities in southern Israel and refugee communities in Gaza have been terrorised. Such rich and in-depth coverage of the harrowing and heart-wrenching anecdotes of the survivors and victims of the Hamas attack brings the events to life and makes the gravity of loss in the *Kibbutz* deeply palpable. But it is difficult to ignore the

Ahistorical reporting is harmful as it barely skims over the decades of resistance, ethnic cleansing, emergency situations, and injustice orchestrated by the occupation. While it is important to humanise suffering on both sides, it is critical to note that the status of the occupier and the occupied in this crisis are not the same.

apparent demarcation between how the situations unfolding in Israel and Palestine are being reported by the Western media. What is disheartening is that all nuance has been lost in examining the root cause, history, politics, and mechanism of terror, oppression, and occupation. This incident is not

scholars critical of the occupation as “anti-Semitic.” Spaces for prayer are needed to be guarded by police officers on US college campuses to prevent violence. Scope for critical discourse is slim due to mass-polarisation and selective exposure to information.

The big blanket allegation that if someone supports justice for Palestinians, they also support terrorism and are anti-Semitic, needs to be taken seriously and questioned. Does this also mean that someone who grieves the loss of lives in southern Israel supports the oppressive dehumanising tactics of the occupation? There might be some on the fringes who support violence, but they are outliers. Rather than addressing the root cause of the attack, we are wrangling over outliers. Islamophobia and anti-Semitism become more accepted and visible to varying degrees as political inclinations become more pronounced through group politics and biased reporting. Using religion simplifies complex politics and makes it easier to bifurcate and galvanise people into group- and identity-based politics.

This tension is fuelled by callous journalism that perpetually fails to take into account the protracted emergency and the systemic oppression that has made Gaza into an “open-air prison” and mass graveyard, depriving its economy and residents of basic necessities to the extent that donkeys have become critical for mobility. This dire situation has persisted for decades. It is unfathomable how international state actors could think of patching up the Middle East without addressing the continuous

revenge carnage and loss of human lives in Gaza, Israeli state actors are also responsible for the deaths of its residents. We need to clearly differentiate between the interests of Israeli citizens living under the hard right-wing government and the Palestinians living under Hamas' control in Gaza. Such institutions do not represent the interests of residents. Israeli citizens are bearing the brunt of their government's failure to build a consensus. It is important to keep in mind that not all Israelis agree with the genocidal tactics of the occupation, and many are committed to justice.

The failure of such a strong state like Israel to act should be questioned further. Not only is it one of the biggest exporters of surveillance technologies, its state security apparatuses (such as Shin Bet and Mossad) also bolster their special brand of military industrial complex with billions of dollars of investment into intelligence infrastructure. The success of these surveillance tools is proven, as they are tried and tested on Palestinians – providing an experimental lab for intelligence institutions and defence contractors. With such top-notch military and intelligence apparatuses and intel from the Egyptian intelligence on an impending attack, why was the rescue operation delayed? This is a question that Israel needs to answer for itself.

Israel's cunning occupation tactics, which have resulted in the loss of thousands of lives over decades, have been justified through the doctrine of double effect, where the loss of civilian lives is an unintended double effect or collateral damage as the Israeli state operates to mitigate the terror inflicted by Hamas. Hamas, on the other hand, directly targets civilians. The terror mechanism from both sides should be condemned. As Husam Zomlot, the head of the Palestinian mission to the UK, aptly puts it, “International law must be applied equally.”

Terrorism and occupation share a symbiotic relationship of justifying



Houses and buildings destroyed by Israeli strikes in Gaza City on October 10, 2023. PHOTO: REUTERS

a surprise attack or result of a state's failure to act. It is quite the opposite.

While there are gruesome acts from both sides, this is not a war between equals. The cover of international law has not befitted the Palestinian cause for justice. The meticulous choice of words in international reporting is telling of the one-sided, ahistorical narrative that elite media in the West is choosing to amplify. Netizens have taken to social media to bicker about right and wrong, and usually there is less hope for constructive dialogues on these vacuous mediums. One will hear what they want to hear, and see what they want to see. Student groups on college campuses are being targeted and individuals are being doxxed for solidarity activism. Harvard professors like Alan Dershowitz are demanding a public release of information on students who condone violence. Universities are touted as left-wing indoctrination camps by right-wing media, and any dialogue is quashed by terming students and

trauma inflicted by the apartheid regime.

The constant flurry of reporting fails to contextualise the occupation when it calls the Hamas attack a surprise attack and a failure of Israeli intelligence. Israel's border with Gaza has experienced attacks before. There should not be any residential settlement on a border that is so fraught with history of contention. Communities cannot serve as human shields to protect borders. Houses on Israel's southern *Kibbutz* need to have safe rooms to withstand attacks from mortars and rockets. Israel's articulation of state power and settler colonialism through forced expansion has pushed its citizens to the edges of precarious living.

Hamas' attack is being called “pyrrhic,” because now it not only legitimises occupation but provides an excuse for Israeli state actors to go above and beyond in its massacre operation. Both Hamas and Israeli state actors should be seen in the same light. If Hamas' terrorism is responsible for the

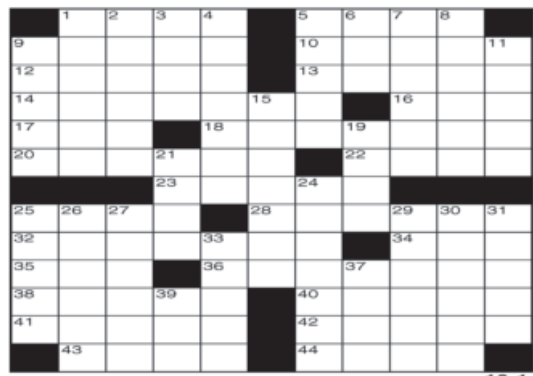
each other. While the US is sending arms to Israel, aid has stopped flowing to Gaza where families and children are in desperate need. Creating further imbalance would only lead to escalations, loss of human lives, and also delay any possibility reaching a comprehensive solution.

Ahistorical reporting is harmful as it barely skims over the decades of resistance, ethnic cleansing, emergency situations, and injustice orchestrated by the occupation. While it is important to humanise suffering on both sides, it is critical to note that the status of the occupier and the occupied in this crisis are not the same.

As we speak, downtown Gaza is being indiscriminately bombarded, while hospitals are turning into morgues and neighbourhoods into mass graveyards. Billions of dollars of hard-earned taxpayers' money are being channelled into funding this war on terror, which only results in subsequent cycles of wars and creates vacuums for political forces that are harder to tame.

CROSSWORD BY THOMAS JOSEPH

- ACROSS**
- 1 Jose's house
 - 5 Diamond clubs
 - 9 Plotting group
 - 10 Field units
 - 12 In the middle of
 - 13 Head out
 - 14 Lab containers
 - 16 Comfy room
 - 17 Like some verbs: Abbr.
 - 18 Obviously happy people
 - 20 Low points
 - 22 “Got it”
 - 23 Glossy fabric
 - 25 Org.'s kin
 - 28 Capital north of Syracuse
 - 32 Some Quidditch
- DOWN**
- 11 Reason
 - 15 Make good as new
 - 19 Source of cents
 - 21 “It Romantic?”
 - 24 Pet Shop Boys song
 - 25 The Yokum boy
 - 26 Mariner
 - 27 Swift work
 - 29 Get even for
 - 30 Mars, e.g.
 - 31 Good quality
 - 33 Reviewer Roger
 - 37 Wall climber
 - 39 Superman foe
 - Luthor



WEDNESDAY'S ANSWERS

TAME SECT
 ARIES ATHOS
 PICKY BARON
 ASH SALTINE
 SEATTLE SIR
 NEWEL STET
 LAM BEI
 ASKS TUNAS
 CEE PARTNER
 TEABAGS BRA
 UTTER TWAID
 PHONE SALAD
 ENDS RELY