

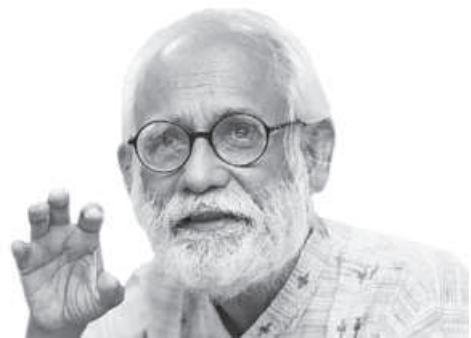
BACK-TO-BACK TRIALS OF CASES AGAINST OPPOSITION MEMBERS

Why the hasty delivery of 'justice'?

With seven nighttime hearings held over the last two months, and prosecution rushing to finish trials of cases against opposition members before the election, The Daily Star spoke to four experts to gauge the real intention behind this sudden speedy operation of the judiciary.



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The acceleration of the juridical process should be done for all cases. Selective treatment, with some cases remaining pending for years while others move swiftly, is unacceptable. The judicial process should be uniformly fast. The current sudden surge in court activity is indeed surprising. On the other hand, the trial of the seven Narayanganj murder cases was concluded in the lower division court. If it has now moved to the upper division, the government could expedite the proceedings through instructions from the attorney general, especially given that the trial was a highly publicised one. Yet, such cases often remain unresolved for years, raising questions about the consistency of the legal system.

The entire situation reeks of unethical conduct. What is the reason behind the rush in this step? If it comes from an honest intention, then I have no objection to it. Our courts have operated at night before, even granting bail at times. But often, the lower courts don't start operating on time and lack efficiency. If they can ensure fairness not only in political cases but in all matters and at all times, I'd appreciate that. However, if the intention is to be selective, and favour a specific group or party, then this is condemnable.

Regarding the recent High Court verdict, what I know is that convictions involving moral turpitude can disqualify one from contesting elections. Offences like bribery and cheating fall under this category. Yet, it's worth noting that our national reserves are depleting, and our institutions are growing weaker. Thus, allegations of moral turpitude should increasingly target the current establishment rather than the opposition. This raises questions about the motivations behind these actions.

We often speak of an impartial judiciary, but recent events have raised concerns regarding this. It appears that the government is pushing for settlements in cases involving opposition party leaders and organisers. This has led the public to suspect that it might be a tactic to disrupt ongoing protests and the upcoming elections. Additionally, a recent High Court ruling has deemed individuals who have served a two-year prison sentence ineligible for elections. This decision disqualifies many opposition party members who have had legal troubles in the past.

The nature of activities being carried out by the judiciary creates a significant amount of doubt among the public regarding its independence. If the judiciary was investigating all cases equally, then there would not be any space for such doubts. However, it seems their focus is solely on opposition leaders, giving rise to suspicions that the primary goal here is to undermine the ongoing movement and the election. The manner in which these events are unfolding seems unnatural from a democratic point of view as well as from a human rights aspect. Since there is already a lack of protection of human rights and equal treatment for all, such actions are likely to only exacerbate the situation.

Speedy and public trials in an independent court is a fundamental right of the citizens of Bangladesh. The ultimate end of this constitutional provision is to ensure justice, particularly in criminal cases.

As indicated in the combined reading of the maxims of 'justice hurried, justice buried' and 'justice delayed, justice denied,' speed in conducting trials needs to be 'reasonable' in order to achieve justice. Therefore, if a government singles out politically motivated criminal cases against opposition party members and takes measures to accelerate the trials of only those cases, there may be legitimate reasons for apprehending a miscarriage of justice. Unfortunately, this is what is happening in cases against the BNP and other opposition members, involving arson, explosion, vandalism, and attacks on police.

The process began with the filing of hundreds of suspicious complaints. As documented in a number of investigative reports in the media, numerous *gayebi* or baseless criminal cases were instituted against opposition members in the last 10 years, particularly in the months before the 2014 and 2018 elections. This trend is being repeated in the current pre-election period as well.

The *Daily Star* has reported that trials in some such cases are now rolling well into the night. It has confirmed the occurrence of at least seven such nighttime trials between August 28 and October 18—all involving BNP and Jamaat leaders and activists. In addition to these unprecedented nighttime trials, the interval between hearings in those cases has now significantly shortened upon the government's instruction to quickly dispose of these cases.

In another alarming development, the police headquarters has reportedly been instructed to take departmental action if a member of the police fails to give deposition in a criminal case or does not give testimony exactly in accordance with the FIR filed in the criminal cases.

Overall, such measures deliver an ominous message: that the police first have to lodge fictitious cases against opposition members, then give testimony in court in keeping with the phoney details of the complaints, and finally departmental action will be taken against members of police who speak the truth when questioned by the defence counsel or the judge. These would likely result in more convictions of opposition members in police cases based predominantly on the testimony of police.

We have, in the meantime, already read in the newspapers that certain pending cases were speedily settled and a number of central leaders of BNP and many of its activists were sentenced. With the election looming ahead, the above initiatives have apparently been taken to speedily complete the trial of many more such cases ostensibly, in order to punish opposition members. A mid-level police officer told *The Daily Star* that they have received clear instructions from the government to finish off the trials involving BNP and other opposition parties' leaders before the national election.

BNP leaders allege that the government has made these moves with a dual purpose: first, to keep them in courts so they cannot join the movement for a free and fair election and, second, to imprison their leaders and activists and 'vacate the field' ahead of the general election, which is already being assumed to be conducted like the elections of 2014 and 2018.

These allegations are hard to dismiss as political rhetoric unless the government can justify its categorical enthusiasm in speeding up and dictating the trials of *gayebi* cases against opposition members. If the trend continues, it will further dent the possibility of a free and fair election taking place come 2024.

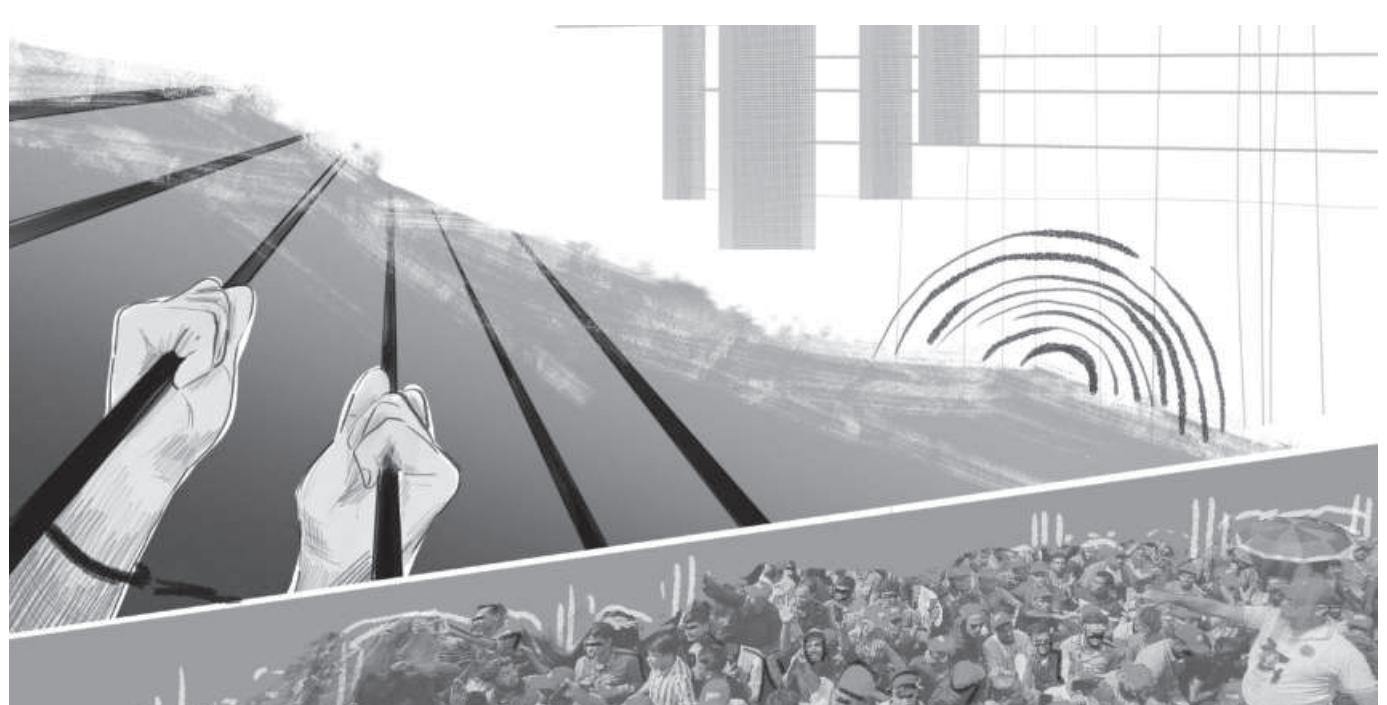


ILLUSTRATION: RENUMA PROSHON

PROJECT ■ SYNDICATE

Fixing global economic governance



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Following the annual meetings of the International Monetary Fund and the World Bank this month, the Middle East is teetering on the edge of a major conflict, and the rest of the world continues to fracture along new economic and geopolitical lines. Rarely have the shortcomings of world leaders and existing institutional arrangements been so glaringly obvious. The IMF's governing body could not even agree on a final communiqué.

True, the World Bank, under its new leadership, has committed to addressing climate change, tackling growth challenges, and strengthening its anti-poverty policies. It aims to increase its lending by leveraging existing capital and by raising new funds. For the latter, however, it will need US congressional approval, and that seems unlikely with Republicans controlling the House of Representatives. Importantly, the planned increase in lending capacity falls far short of what the world needs. It is more than just a drop in the bucket, but the bucket remains largely empty.

As with the climate discussions surrounding the United Nations General Assembly in September, there was much talk about scaling up private capital by lowering the risk premium that investors demand for projects in poor countries. Although the social returns to investing in solar power in Sub-Saharan Africa (where there is abundant sunshine and a dearth of energy) are higher than in the cloudy north, the private sector has

been reluctant to enter, owing to fears about political and economic instability.

The upshot of all this "de-risking" talk is that the public sector should provide whatever subsidies it takes to "crowd in" the private sector. No wonder big private financial firms are hovering around these international

been awash with liquidity for 15 years, thanks to central banks pumping huge amounts of money into the economy in response to the 2008 financial crisis (which the private sector caused) and the Covid-19 pandemic. The result is a roundabout process whereby central banks lend to commercial banks, which lend to private Western firms, which then lend to foreign governments or infrastructure-investment firms, with transaction costs and government guarantees piling up along the way.

It would be much better to use liquidity to strengthen multilateral development banks (MDBs), which have developed special competencies in the relevant areas. Though MDBs have sometimes been slow to act, that

Even if advanced economies reached net-zero emissions tomorrow, we would still be doomed, because emissions in developing countries would continue to rise. While offering the private sector better incentives (a euphemism for bribes) has been discussed exhaustively, very little progress has been made, and tariffs and other restraints on environmentally harmful imported goods, such as those Europe is now imposing and threatening to increase in the future, are unlikely to elicit the kind of cooperation that is needed.

meetings. They are ready to feed at the public trough, hoping for new arrangements that will privatise the gains while socialising the losses—as past "public-private partnerships" have done.

But why should we expect the private sector to solve a long-run, *public* goods problem like climate change? The private sector is well known to be short-sighted, focusing wholly on proprietary gains, not social benefits. It has

is largely because they have obligations to protect the environment and uphold people's rights. Given that climate change is a long-run challenge, it is better that climate investments be carried out wisely and at scale.

When it comes to achieving scale, the key is not just to mobilise more money by borrowing from rich countries, with all the well-known problems that entails; it is to enhance emerging markets' and developing countries' revenues.

Yet existing international arrangements are effectively blocking this urgent imperative.

Consider the OECD's Base Erosion and Profit Shifting framework. The hope was that BEPS would make rich corporations pay their fair share of taxes in the countries where they operate. The prevailing "transfer price system" gives multinationals enormous leeway to report profits in whatever tax jurisdiction they prefer. But the proposed BEPS reforms—even if fully adopted, which seems unlikely—seem of limited effect and will provide developing countries with limited additional revenues at most. Worse, the invidious Investor-State Dispute Settlement process—which allows multinationals to sue governments when they make regulatory changes that could harm profits—has further constrained the resources available to emerging markets and developing countries, even as it has hampered their efforts to respond to environmental and health challenges.

Then there is the World Trade Organization's Trade-Related Aspects of Intellectual Property Rights (TRIPS) regime, which led to vaccine apartheid and unnecessary deaths, hospitalisations, and illnesses in the developing world during the pandemic (further increasing expenditures and decreasing revenues). And TRIPS is designed to fill rich multinationals' coffers with royalties on intellectual property from the developing world well into the future. In fact, the entire structure of trade agreements has preserved neocolonial trade patterns, with developing countries stuck producing mostly primary commodities, while developed countries dominate the high-value-added links in the global production chain.

All these flawed arrangements can and should be changed. Doing so would provide developing countries with the resources they need to invest in climate change mitigation and adaptation, public health, and the rest of the Sustainable Development Goals.

Perhaps the single most important improvement to the global financial architecture would be an annual issuance of, say, \$300 billion in special drawing rights (SDRs, the IMF's international reserve asset), which it can "print" a will if advanced economies agree. As matters stand, the bulk of SDR issuances go to rich countries (the IMF's largest "shareholders") that don't need the funds, whereas developing countries could use them to invest in their future or to pay back debt (including to the IMF).

That is why rich countries should recycle their SDRs by turning them into loans or grants for climate investments in developing countries. While this is already being done to a limited extent through the IMF's Resilience and Sustainability Trust, it could be scaled up massively and redesigned to achieve a bigger bang for the buck. The best part about this approach is that it does not really cost advanced economies anything. Unless one is beholden to some misguided ideology, there is no reason to oppose it.

Even if advanced economies reached net-zero emissions tomorrow, we would still be doomed, because emissions in developing countries would continue to rise. While offering the private sector better incentives (a euphemism for bribes) has been discussed exhaustively, very little progress has been made, and tariffs and other restraints on environmentally harmful imported goods, such as those Europe is now imposing and threatening to increase in the future, are unlikely to elicit the kind of cooperation that is needed.

The best—and perhaps the only—strategy, then, to ensure that developing countries and emerging markets do what they must if we are to avert a climate catastrophe is to start rectifying some of the global injustices of the past, and to generate more income and affordable financing for developing countries.