



Among the directives police should follow is ensuring prisoner's safety to and from the court.

PHOTO: PALASH KHAN

Our criminal investigation system needs overhaul



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In 1849 French writer Jean-Baptiste Alphonse Karr wrote: “The more things change, the more they stay the same.” This may be briefly interpreted to mean that despite drastic societal changes, certain fundamental aspects are so deeply rooted that they remain unchanged overtime, unless consciously and decisively addressed.

The criminal investigation for a serious offence in Bangladesh generally begins with a written complaint—General Diary (GD) or First Information Report (FIR)—lodged at a police station usually by a victim or a relative, but sometimes by someone without any *locus standi*, accusing any number of named or unnamed individuals. There is no requirement for a

of people living at home and abroad was enormous. The goal was clear—henceforth, in an utter break away with the past, meritocracy shall prevail, and democratic values, including the rule of law, zero tolerance of corruption, freedom of speech and human rights shall be the driving force.

Naturally, the 15 years of impunity, with which offences such as extrajudicial killings, forced disappearances, extortion, money laundering and gross misuse of public office were committed by those associated with the former regime, came to an abrupt end. In particular, it was expected that those truly responsible for killing hundreds of students and maiming thousands would be rounded up within days of the fall of

is necessary for it to be compatible with the values associated with the rule of law. It is beyond the scope of this article to discuss such reform. However, the interim government could consider giving several directives to the police and court as a first step.

These directives can include ordering police to register complaints themselves in relation to as many cases of the killings as

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possible, conduct the initial investigation as to the person who actually did the act, and then follow the chain of command upwards to where the order had initiated from. Police officers, who have actually committed the act of killing or injuring, must be interviewed as suspects, while bearing in mind that some of them may have acted in self-defence and others may invoke the defence of duress from their superiors.

Besides, only the victim, a relative of the victim or someone in some tangible way affected by the crime should be allowed to lodge a complaint, GD or FIR. The document must have a declaration of truth, with the warning that if it is later found that the complainant has knowingly provided false information, they may be prosecuted for an offence. Also, an arrest should only be made when the officer in charge is satisfied that there is a reasonable suspicion that the person has committed the crime in question. The basis of that suspicion must be recorded. The individual must be told the allegation for which they have been arrested. Moreover, the officer in charge must ensure the prisoner's total safety to and from the court. Where facilities are available, with the consent of the prisoner, interim hearings could take place via video link allowing the prisoner to appear from a suitable room in prison.

Regarding remand in police custody, it should be an exception rather than the rule. The police must strictly justify why they need further time in police custody. The magistrate or the judge must give sufficient reason for allowing police remand. Meanwhile, a suspect must be offered to have a lawyer of their choice, registered with the bar council, present during the police interview and interrogation. The suspect must be informed that they do not have to answer questions, but that in such circumstances, the court would be at liberty to draw adverse inferences from their refusal to answer questions. Where a suspect complains of physical assault in police custody, the magistrate or judge before whom they appear, unless found not to be credible, must order an examination of the person by an independent medical professional and submission of the medical report to the court.

As the interim government took charge, its declared mantra was reform, reform, reform—which resonated well with the people. In that spirit, the above steps would be a good start as the current government embarks on reforming the criminal investigation and justice system.

It is not unusual for a murder allegation to name over 400 individuals as suspects. Each one of them becomes liable to be arrested and remanded in police custody without any further investigation. There have been incidents of arrests and remand of individuals, who may have been suspected of financial crimes or other misdemeanours, but there is not a shred of evidence connecting them with the murder offence in question.

declaration of the truth by the complaint or an objective assessment of the veracity of the complaint.

This complaint forms the basis on which those individuals may be arrested and remanded in police custody for up to 15 days and then in prison until trial, unless bail is granted at some stage. They spend months or years incarcerated while still innocent in the eye of the law. It may be months before the strength of the case is assessed by the court. The principle, formulated in the 19th century by the British rulers, is that arrest and incarceration first and investigation later. No regard for human liberty, no respect for the truth—it served the purpose of keeping a subject race down by instilling the fear of mass arrest and incarceration at will. Inheriting this legacy through the Pakistani rulers, the successive governments in Bangladesh found it expedient to keep the colonial concept intact.

The impact of the injustice of the inherited system is less apparent when a government in power is relatively tolerant of the rule of law. But an authoritarian regime, such as the one which has just been overthrown, takes full advantage of the system—resulting in numerous false cases against innocent people, torture in police custody and imprisonment for months without charge. It is no wonder that Bangladesh's ranking in the World Justice Project Rule of Law Index has gradually fallen to 127 out of 142 countries—sandwiched between Zimbabwe and Mozambique—in the last 15 years. The score is even worse when the criminal justice system is singled out within the rule of law context.

In “the 36 days of July 2024,” Bangladesh was shaken to the core. The seismic transformation swept away an authoritarian and murderous regime. The sacrifice by the students and the efforts

the dictator to face justice. What was not expected was that the same arbitrary method of arrest and investigation process, befitting only of the regime as brutal as the one overthrown, would be followed.

On August 21, 2024, the Ministry of Home Affairs issued a circular directing the police not to refuse GDs, FIRs or complaints and to process them speedily. Cases are now being filed on a daily basis in all parts of the country. It is not unusual for a murder allegation to name over 400 individuals as suspects. Each one of them becomes liable to be arrested and remanded in police custody without any further investigation. There have been incidents of arrests and remand of individuals, who may have been suspected of financial crimes or other misdemeanours, but there is not a shred of evidence connecting them with the murder offence in question.

This trend needs to be corrected urgently. This is because it brings the interim government into disrepute. Secondly, while the international community and the rights organisations at home and abroad have not spoken out yet, they are certainly observing the developments closely. Thirdly, the interim government would not be able to persuade any foreign government to return those suspects, who have managed to flee the country, when such arbitrary arrests and incarceration are prevalent in the country. Fourthly, as Barrister Sara Hossain has pointed out, the way these cases are being framed, they will not be able to pass the initial stage. Thus, many are likely to be discharged before the trial stage since no real efforts seem to have been made to collect independent and forensic evidence. Imagine the scenario, where these individuals walk out of prison with the hero's welcome from their followers.

In Bangladesh, wholesale reform of the criminal investigation and justice system

A case for democratic reforms in universities



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The recent mass uprising, which began as the quota reform movement, had a unique characteristic. In many public universities, including Dhaka University, we witnessed the ruling party's student body being driven away from the residential halls.

After the chaos subsided, during my regular morning walk, I noticed many new changes on the Dhaka University campus. In front of Mohsin Hall, I saw various belongings of Chhatra League members in the dumpster. I also came across a PVC banner that read, “Politics is banned here from this day. From now on, no one can force a student to attend a political gathering or the guest room.”

The banner indicated that the anti-discrimination movement had given students a platform to unite and express their solidarity.

Living in a university residential hall traditionally provides students with opportunities to improve their lives, both academically and non-academically. Therefore, students who experience economic hardship often prefer to live in these halls, hoping to achieve their long cherished dreams.

Unfortunately, until now, the halls had been transformed into places where ordinary students faced heavy oppression.

The halls had operated without a proper seat allocation system for students. The student wing of the former ruling party essentially managed the halls with unofficial authority, allotting seats to themselves. As a result, students lost their dreams and hopes, facing nightmares in their residential halls. This is how many “*shikharthi*” students become “*gundarthi*” (hoodlums). And the university administration's teachers have served as enablers in the transformation of bright students into goons.

Universities should be proper educational institutions in every sense, and student halls should be places where residential students can learn how to be fair and just in their social and educational lives. Now that a platform of unity has emerged among the students, they are endeavouring to erase their memories of living in such nightmarish environments. For that reason, the hall administration must perform the responsibilities of maintaining these halls, which is supposed to be a routine institutional practice.

The aforementioned PVC banner clearly exemplifies this. As discussed above, the two main demands were that no one should be forced to attend political programmes or be sent to guest rooms against their will. These are their biggest concerns, and they are trying to escape them. They are striving for a system where their dreams do not turn into nightmares and where the administrative system supports them in achieving their goals, completing their education, and doing something meaningful with their lives.

Autocracy, oligarchy, and dictatorship at the state level have enabled and even encouraged mismanagement in all forms of government and organisational structures. As such, universities are not exempt from this.

Whenever we talk about the 1973 Dhaka University Order that guides the university's operations, we take pride in it. We rightly appreciate that it ensures freedom of speech, expression, and the right to speak. However, it also inherently contains certain autocratic

elements.

For example, as per the order, the Vice Chancellor (VC), in some exceptional cases, can overturn any rule, suggestion, or decision already made by any administrative body. But these “exceptional cases” have become everyday practices. This is just one example. Even in selecting the VC, his or her academic or administrative qualifications do not matter. The chancellor appoints him or her based on their political identity. The same goes for the recruitment of teachers.

If we examine the list of past provosts, we see how different they were from the current ones in terms of their wisdom and personality. Some of the current provosts did not even have the required qualifications to become teachers, yet they became provosts. This practice is not limited to provosts or VCs only; it also applies more or less to many of the administrative posts.

Partisan identity had become a deciding factor in their appointments. This does not mean that this factor was present only in the past 16 years. However, the former regime took this malpractice to an extreme and unparalleled level.

The same issues extend to the Dhaka University Teachers' Association.

As a bargaining agent, the Teachers' Association is supposed to negotiate with the university administration and the government for the best interests of teachers. There should be debates and negotiations from both sides. However, teachers who are already in administrative positions often contest elections for posts in the association with the advantage of easily getting votes from junior colleagues, which can lead to their election. Under these circumstances, it is difficult to discern who is making whom accountable and how.

After the fall of the Hasina-led autocratic regime, the opposition party is trying to re-establish its position. As a result, anarchy seems to be on the rise, with personal agendas and witch-hunting, targeting people who had associations with the ruling party in some cases. Without proper administration, it seems like students are preparing lists to decide which teachers will stay and who will not. The situation has become quite unruly in some places, with registrar's offices and other administrative buildings being targeted.

We are forgetting that this is an educational institution. Of course, teachers with allegations against them must be investigated, and justice must be served—there is no doubt about that. But all of this must go through due process.

Anarchy is not the solution. It will destroy the integrity of the university. If this practice continues, it will not ensure a stable environment for the university or government. What we need is creative leadership in the administrative process that brings back the original structure and upholds the spirit of the people's uprising and sacrifices.

The leaders need to create a structure and a plan with the goal of state reform. They should reform higher educational institutions, including universities, to establish a student-friendly, democratic administrative body that dismantles the autocratic structure. This will pave the way for a bright future for students and bring about a brighter tomorrow.

Addressing dual citizenship in public offices in Bangladesh

Recent developments, such as the apprehension of retired Justice AHM Shamsuddin Choudhury Manik, who admitted to holding both Bangladeshi and British citizenship, have sparked concerns regarding dual citizenship in high public offices. This issue is particularly significant given the constitutional and legal restrictions surrounding dual citizenship for officeholders in Bangladesh.

Reports suggest that several high-ranking officials, including police officers, civil bureaucrats, and members of parliament during the Awami League government, held dual citizenship. It is alleged that Sheikh Hasina knowingly appointed or allowed these individuals to continue in office due to their unquestioning allegiance to herself and her government. Such practices undermined the constitutional framework and created conflicts of interest that had eroded public trust in the government.

Article 66 of the Bangladesh Constitution explicitly disqualifies individuals holding dual citizenship from serving in public offices, including members of parliament. This disqualification is rooted in the principle of ensuring exclusive loyalty to Bangladesh, which is critical for maintaining the integrity of the country's governance structures.

The interim or future governments should conduct a thorough review of the citizenship status of all public officeholders. This review could involve cross-referencing immigration records and legal documentation to ensure full compliance with constitutional requirements.

To prevent future violations, we propose the implementation of an oath system for all public job seekers. This oath would require individuals to declare that they do not hold citizenship of another country and that they will not seek or accept foreign citizenship while holding public office. Such a system would formalise the expectation of exclusive national loyalty and serve as a deterrent to potential conflicts of interest.

The enforcement of these measures could set a strong precedent for upholding constitutional principles in the country. It would reinforce the importance of national loyalty in public service and ensure that the country's governance remains free from divided allegiances. However, the successful implementation of these reforms will require political will and robust legal frameworks to ensure that enforcement is fair, transparent, and universally applied.

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