

A challenge to restore the credibility of the process

Mozammel H Khan

Jamaat leaders Motiur Rahman Nizami, Ali Ahsan Mohammad Mojahid and Delwar Hossain Sayedee have been arrested more than a week ago apparently not for their alleged role during the liberation war but for failing to appear before a Dhaka court in connection with a case of hurting the religious sentiment of the country's Muslims. According to government sources, they were detained not because they are Jamaat leaders, but because arrest warrant had been issued against them.

They, however, have not yet been charged with war crimes. Rather they have been booked for hurting religious sentiment of Muslims, instigating violence, obstructing law enforcers and for several murders during the Liberation War. Three of those cases were filed with Paltan police station in the capital, and are in connection with assault on police, and attempt to murder; one was filed with Ramna police station in the capital in connection with an incident of torching a car on June 27 this year, in which two persons were severely burnt; and the other is a sedition case filed with Uttara police station in the capital in March this year for a conspiracy to destabilize the government. All three of them were also shown arrested in connection with Rajshahi University student Faruq Hossain's murder. There are ongoing court orders for their remand for 16 days each in all the cases together. Following their arrest, they have been, however, granted bail in the original case for which they have been detained.

As it appears now, a series of other charges, including Chittagong arms hauling case, are in the offing based on their reported confessions during remand. The arrests, the subsequent remand and the stories of their confessions under duress are nothing unusual in Bangladesh especially since the onset of the last BNP-Jamaat government. In fact, it was the BNP-Jamaat government which initiated the culture of remand in the country; torture such as electric shock was a common phenomenon during that regime. Innocent people such as Jaj Mian, Mokhlesur Rahman and others were the inventions and outcomes of criminal investigation during that dark era. Judicial investigations were transformed into the exercises for creating fictions, rather than unveiling the truth, when one looks at the partially leaked reports of the Mymensingh cinema hall bomb blast and the August 21 tragedy carried out by two of our justices. In that backdrop, it is indeed a big challenge for the investigating teams, even if their members are professional, independent and impartial, to restore credibility to the process being used to frame charges against any arrestee. The challenge has added more dimensions to the current tasks. The odds are many.

Firstly, the arrestees are the top leaders of a legal political party, and one time or the other, they were elected to represent their constituents in the parliament through a reasonably free and free election and were cabinet ministers in the erstwhile government. And never before in the history of legal proceedings of the country, politicians of this high echelon as them in their own party were indicted in any sort of charges in which they have been shown arrested.

Secondly, due to the long practicing culture, people have very little faith in the outcomes of the criminal investigations involving opposition politicians. Due to the lack of precedence, it would be a very difficult to convince the people that the top leader of a political party, notwithstanding

its widely known violent practice and despicable agenda in the political arena and its virulent image of 1971, could be implicated for a crimes allegedly committed by the lower levels leaders and workers of the party.

Thirdly, ‘conspiracy’, ‘sedition’ and ‘destabilization’ are the common vocabularies of any government in Bangladesh irrespective of the party in power while implicating opposition politicians. People of reasons attach very little credence to those allegations even if there is potential existence of a certain degree of merit to them.

Fourthly, the arrest in such apparently trivial(in the context of Bangladesh’s political minefield) and common charges, as opposed to crimes against humanity, has created an opportunity for the official leader of the opposition to come up with a statement demanding their release terming the detention as politically motivated. An open-minded observer will have very little argument to counter her observation, since implications of these sort are not unique in the political culture of Bangladesh and no politicians of significance has ever been convicted in the court of law for committing these kinds of crimes. Quite to the contrary, her terming of the proposed trial of war criminals as an attempt to ‘divide the nation’ was simply preposterous and did hold any water since this so-called ‘division’ was nothing new. It existed during the war of liberation, for instance, when ten of the eleven sector commanders’ wives opted to join their husbands except for one who elected to remain in the protective custody of the enemy forces.

Finally, if the investigating authorities, whose credibility reached the lowest ebb during the last BNP-Jamaat government, in unison, fail to come up with concrete evidences and unflinching witnesses to prove the merit of any of the charges to be framed against them not only in the court of law but to the public court as well, the arrestees will garner undue sympathy not only from the common people but from their severest detractors, who believe in rule of law, as well. It might be creating a boomeranging effect, in terms of lost credibility of the process, for the government in their pledge to bring the alleged war criminals, of which the three arrestees are believed to be leading members, into book and for which the government enjoys the overwhelming mandate of the people. People, by and large, notwithstanding the concerted efforts of the successive post ’75 governments to erase and distort the real history of our golden chapter, have no apprehension in their minds about their direct involvement in the worst genocide committed in our planet since the World War II. Public mindsets are all prepared for the war crime trials. Onus now lies on the investigating authority to collect and compile the overwhelming evidences available at both home and abroad, albeit after a lapse of forty long years, to make an insurmountable case, devoid of any potential loopholes, in the bench of the special tribunal. It will be disastrous if any sort of intermediate mishaps result in creating any loss of credibility to the investigation process under the current government thereby trivializing the guilt of the heinous crimes. Any such inducement will impinge an irreversible dent on the process of fulfilment of the nation’s momentous aspirations to pay our overdue debt to our martyrs.

Dr. Mozammel H Khan is the convener of the Canadian Committee for Human Rights and Democracy in Bangladesh.