

Speech of the Honorable Chief Justice of Bangladesh on the Occasion of Supreme Court Day

18/12/2024

Mr. Justice Ashfaquul Islam, the Chair of today's distinguished occasion and Chair of the Supreme Court Day Celebration Judges Committee,

Honorable Judges of both the Appellate Division and the High Court Division of the Supreme Court of Bangladesh,

the learned Attorney General for Bangladesh,

the respected President of the Supreme Court Bar Association,

the esteemed Members of the Supreme Court Registry,

members of the print and electronic media, and all distinguished guests present here,

Good Afternoon.

It is a rare privilege for me to stand here on this momentous occasion, as we commemorate the establishment of the Supreme Court of Bangladesh. This day is not merely a date on the calendar; it is an emblem of our nation's commitment to justice, equity, and the constitutional principles for which countless sacrifices have been made.

Paying Tribute to the Martyrs of 1971 and the Student-Led Revolution

We stand here today in the month of December, a time that carries an ineffable significance in the annals of our history—the month of victory. On this solemn yet celebratory occasion, let us recall with deep reverence the unmatched sacrifices of the martyrs of 1971. Their courage and ultimate sacrifice gifted us a sovereign Bangladesh and instilled within us a duty to guard the sanctity of liberty, justice, and equality. The independence we cherish today, this very hall of justice where we stand, and the Constitution we uphold are the fruits of their immeasurable valor.

Equally, I bow in homage to the brave souls of July- August 2024 who gave their lives during the student-led mass revolution. Their vision for an equitable and just society echoes through time and serves as a clarion call for all of us in positions of responsibility. Their sacrifice demands that we, as custodians of justice, endeavor to achieve a society where equity is not a distant ideal but an inalienable reality.

The Commitment Upon Taking Oath

On assuming the office of the 25th Chief Justice of Bangladesh, I took an oath not merely to the Constitution but to the people of this nation. I pledged to uphold the rule of law, safeguard the dignity of this great institution, and restore public confidence in our justice delivery mechanisms. The weight of this responsibility is not lost upon me. It demands a relentless commitment to reform, transparency, and institutional excellence.

Today, standing here in this august gathering, I reaffirm my staunch resolve to implement meaningful reforms and build a judiciary that commands the confidence of the public. Trust in the judiciary is not a privilege; it is an obligation—an obligation that rests upon the very foundation of our democratic principles.

Reflecting on the Roadmap for Institutional Reform

The road to reform is neither easy nor immediate. Yet, as jurists and guardians of the law, we must embrace the challenge with resolute determination. On 21st September 2024, I declared a reform roadmap, laying out a blueprint for institutional reform aimed at restoring public trust, ensuring efficiency, and upholding judicial independence. Today, I wish to revisit and expand upon that vision.

One of the cornerstones of this roadmap is the need for institutional autonomy. For the judiciary to perform its constitutional role effectively, it must be insulated from all external influences. A judiciary that lacks administrative and financial independence cannot remain impartial, nor can it deliver justice with the swiftness that society demands. To that end, I have already forwarded a comprehensive set of short-term proposals to the government, emphasizing the need for immediate reforms in financial independence and administrative autonomy.

The Case for a Separate Judicial Secretariat

A separate Judicial Secretariat is no longer a mere aspiration; it is an exigent necessity. The judiciary's administrative matters should not remain under the control of the executive. Such an arrangement stands in tension with the doctrine of separation of powers, which is one of the fundamental tenets of constitutionalism. A fully independent judicial secretariat will allow the judiciary to manage its own affairs, free from external oversight or interference, and ensure greater efficiency in case management and judicial administration.

The Role of an Independent Appointment Council

For the Supreme Court to remain the paragon of integrity and wisdom, the process of judicial appointments must be beyond reproach. I propose the establishment of an Independent Judicial Appointment Council, a body tasked with selecting judges based solely on merit, integrity, and professional excellence. The judiciary is not merely another arm of the state; it is the custodian of the people's trust. Appointments to its highest echelons must reflect the dignity and solemnity of this role.

The Role of the Supreme Judicial Council

The restoration of the Supreme Judicial Council after the historic disposal of 16th amendment case is of paramount importance. This institution must be empowered to oversee the removal of judges of the apex court, ensuring a fair, independent, and non-political mechanism

for judicial accountability. By reinstating the Supreme Judicial Council, we reaffirm our commitment to institutional autonomy and safeguard the integrity of the judiciary from undue influence even from the legislative branch of the state.

Transfer Guidelines for Members of the District Judiciary

The members of the district judiciary form the bedrock of our legal system. Their role in delivering justice at the grassroots level cannot be overstated. However, frequent and arbitrary transfers disrupt their ability to serve effectively. I am committed to implementing structured and merit-based Transfer Guidelines that will ensure transparency, fairness, and stability within the judiciary. Judicial officers deserve to work with dignity, free from the fear of undue interference.

Strategic Planning: Short-Term, Medium-Term, and Long-Term Goals

In keeping with our broader vision for reform, I have articulated a strategic plan for the judiciary encompassing short-term, medium-term, and long-term goals. The short-term proposals have already been submitted to the government and include reforms aimed at enhancing judicial institutional autonomy, financial independence, and addressing judicial vacancies. In the medium term, I envision the full implementation of e-judiciary initiatives and training programs for

judges to equip them with modern tools and techniques. In the long term, we aim to establish a judiciary that is truly independent, efficient, and capable of responding to the needs of an ever-evolving society.

The Supreme Court as the Beacon of Justice

The Supreme Court of Bangladesh stands as the sentinel of justice, equity, and constitutional governance. Its role in shaping a just society cannot be overstated. Through landmark judgments, this Court has not only defended the Constitution but has also upheld the rights and liberties of the people. From protecting the sanctity of fundamental rights to ensuring executive accountability, the Supreme Court has served as the bulwark against oppression and injustice.

Yet, even the loftiest institutions must engage in introspection. As judges, we must hold ourselves to the highest standards of conduct and integrity. Here, I recall the timeless words of Socrates, who declared that “*the unexamined life is not worth living.*” This wisdom holds particular weight for us, as judges tasked with safeguarding the lives and liberties of others. Systemic reform requires continuous evaluation of the self. Such introspection should better help us at approaching issues like scandalization of court and judges from a fresh perspective in keeping with emergent standards governing this branch of the law of contempt.

In the context of judicial conduct, it is essential to reflect on the views of Lord Atkin, whose modern interpretation of contempt remains profoundly

relevant. Lord Atkin believed that the dignity and authority of the judiciary are not fragile ornaments to be shielded from fair and reasoned criticism. He argued that judicial authority rests not on unquestioned reverence but on the public's faith in the fairness, integrity, and transparency of the judicial process. "*Justice is not a cloistered virtue,*" Lord Atkin famously observed, "*it must be allowed to suffer the scrutiny and respectful, though outspoken, comments of ordinary men.*" This statement highlights the importance of judicial humility and the ability to withstand constructive criticism.

It is often said that power unchecked leads to hubris. As judges, we are not above scrutiny. Introspection is both a privilege and a responsibility, for the judiciary must lead by example. Justice V.R. Krishna Iyer once reminded us that criticism of the courts, when fair and constructive, is not contempt but a tool for refinement. However, reckless scandalization of the judiciary—meant to erode trust in its integrity—must not be tolerated. As judges, we must strike a delicate balance: to welcome reasoned criticism and fair comment as part of democratic discourse while protecting the institution from malicious attacks that threaten its very legitimacy.

We, as judges, must not only deliver judgments with integrity but also remain open to reflection and feedback. Public scrutiny, when exercised responsibly, is an invaluable check on the judiciary. It is through such dialogue and introspection that we strengthen our resolve, reaffirm our ethical commitments, and ensure that the judiciary continues to embody the principles of justice.

Justice Benjamin Cardozo, one of the greatest jurists, once observed, “*The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness.*” This profound statement reminds us that judges must abide by the law, act with humility, and remain conscious of the limits of their role. True judicial excellence demands a constant process of reflection and restraint.

It is pertinent to raise the issue here of a constructive engagement with the Bar as equal partners in this transformative phase of the Supreme Court's history. We must in the bare minimum strike a “working consensus” by identifying the “lowest common denominator” on any given issue and building on the same with sustainable objectives in mind. In particular, recent events convince me to broach the subject of the relationship between the Bar and Bench which has been to the test on the issue of the Bar's attitude taken towards certain judges. It suffices to state here that a highest standard or degree of propriety is expected from the members of the Bar even when directing a fair comment or constructing and expose directed at a particular judge. Care must be taken in this regard not to impair the administration of justice. Indeed, there is a corresponding duty of the Bar to protract judges from scurrilous attacks when judges themselves have no voice to refute allegation and word of aspiration directed at them.

A Call to Pragmatism and Action

The reforms I speak of today are not mere ideals; they are pragmatic measures rooted in the needs of our time. I draw inspiration from the words

of Justice Oliver Wendell Holmes, who said, “*The life of the law has not been logic; it has been experience.*” Our experience demands that we act now, with courage and resolve, to transform the judiciary into an institution that delivers justice swiftly, fairly, and independently.

In closing, I extend my heartfelt gratitude to all who have worked tirelessly to uphold the sanctity of this great institution. Let this Supreme Court Day serve as a reminder of the sacrifices that made this day possible and the responsibilities that lie before us. The Supreme Court of Bangladesh is not merely an institution; it is the embodiment of justice, the hope of the oppressed, and the voice of the Constitution. It is our solemn duty to preserve its dignity and worth, and to ensure that it remains the beacon of justice for generations to come.

Thank you.