



- Two topics:**
- 1. Why should I be opinionated &**
 - 2. About the administration of Justice.**

Justice Md. Rezaul Hasan (M.R. Hasan).

1. Why should I be opinionated : My concern

I often wonder about the rationale for being opinionated. I do not know what the others think about it, but, so far as I am concerned, I have no alternative but to abide by the message inherent in the remarks made by Benjamin Franklin, (read over by James Wilson on his behalf as Franklin was too frail himself to talk) in his address before the Constitutional Convention, met for the final time on 17.09.1787, to adopt the Constitution for the USA. His remarks to the delegates, who were present to consider the final manuscript and to put their signature was as follows:

"Mr. President, I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure that I shall never approve them. For having lived long, I have experienced many instances of being obliged by better information or fuller consideration, to change opinions even on important subjects which I once thought right but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment and to pay more respect to the judgment of others

I doubt too whether any other convention we can obtain may be able to make better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be assembled? It therefore astonishes me, sir, to find this system approaching so near to perfection as it does.....

Thus, I consent, sir, to the Constitution because I expect no better, and because I am not sure, that it is not the best.....

On the whole, sir, I cannot help expressing a wish that every member of the convention who may still have objections to it, would with me, on this occasion, doubt a little of his own fallibility- and to make manifest our unanimity, put his name to this instrument."

Quoted from: "Birth of the Constitution -"by Edmund Lindop, 1987 Ed, P. 69.

2. About the administration of justice and the Rule of Law: My views

"A very humble person like me do admit the limitation of my knowledge, and my standing as a commoner, but assume that many important issues the common people of this country are aware of and feel worried about, but tends to speak the least and, silently in their

mind, do expect remedies, accountabilities and changes in many respects. But, in a society like ours, which is yet to be called a political society and where the majority of the people are poor, unaware of their rights, have no or little access to information, busy in earning their daily breads, fulfilling such expectation by the judiciary remains more than a challenge.

Yet, the Supreme Judiciary, of its own, seems not forgetful of its role-expectation as protector of the Constitution, of human and fundamental rights, as well as, of its own authority and dignity, which is a sine qua non to ensure Rule of law in the country. Besides, the lawyers, particularly the learned members of the Supreme Court Bar, have a complementary role to lend its support and remain as a solid ground to ensure that apex court, on which the ultimate burden to uphold the Rule of Law does rest, is not and never feels isolated in performing its constitutional functions and in exercising its constitutional powers. At the same time, it is relevant here to quote Hon'ble Mr. Justice V. R. Krishna lyer about the concept the 'Rule of law'

"The rule of law is a basic feature of our Constitutional Order but remember, the rule of law is not the rule of lawyers even as the supremacy of the Constitution is not the supremacy of judges. Lawyers judge Judges and the country holds the Bench and Bar to social scrutiny. When I retired from the Supreme Court, some distinguished Advocates affectionately gave me a farewell address when, in decorative diction, they stated:

Permit us to remind you that the Bar is the judge of judges and no judge can avoid or escape the verdict of the Bar. We have summoned you this evening to hear our unanimous declaratory verdict. Our verdict is a decree of affection and admiration. Let us also declare, in these proceedings which are suit generis, that we are not only your judges but also judgment - debators."

If, what is quoted does not work to form the appropriate mindset of those in the Bar and in the Bench, if such mindset in fact lacking anywhere, then one can have practical reasons to be afraid of the future of the system of administration of justice in this country."

Please note, that the view expressed above is mine, [vide, the preface to the 2nd edition of my book "M.R. Hasan's Index of Bangladesh Law" published in 2004], but subject again to the remarks of Benjamin Franklin, quoted above.

* Mr. Md. Rezaul Hasan, a sitting judge of the High Court Division of the Supreme Court of Bangladesh. He obtained his LL.B (lions) & LL.M (7th both) from the Law Department, University of Dhaka. He had joined the Bar as an advocate in march, 1985. He was also enrolled as an advocate of the High Court Division and the Appellate division, before he was elevated to the Bench on 30.09.2009. He was a 3rd generation lawyer. His late grandfather was a student of the Presidency College, Calcutta and roommate of Late Mr. Justice Abdus Satter, at Baker Hostel. He owns a huge legal resource (a 3rd generation Law Library). He was a resource person of World Bank Group, a Short Term Consultant of the World Bank, Dhaka (2003) and of many other reputed multinational, private sector and public sector concerns. His book "M.R. Hasan's Index of Bangladesh Laws" was first published in December, 1991, copies of which are preserved in the world famous U.S. Library of Congress. This book has widely accepted and appreciated in both Bar and in the Bench. He subscribed many articles in the Law Journals, periodicals, national Dailies, since 1991, on various significant issues.

(This view was published in the preface to the 2nd edition of my Boob "Index of Bangladesh laws," 2nd edition, published in 2004.)