

What's going on?

Private university affair

PRIVATE universities have image problem. Exceptions are there, and of middling quality would be some, but by and large, on a closer look, they would disintegrate them as university by the sheer reason of their substandard performances. Signboards disproportionate to the building size, foreign sounding names etched in bigger letters than their originals abroad could proclaim themselves, have become their trade-marks.

They mostly make news because of negative reasons, and when they run advertisements announcing the courses, but seldom mentioning the teaching staff they have, and never the fees they would charge.

The long simmering discontent that erupted violently in and around Stamford and Darul Ihsan universities on Saturday brought into a shocking realisation of how some private universities are having a field day shortchanging the students without feeling answerable to any authority whatsoever. Stamford students have been complaining of exorbitant fees, frequent increases in charges, compressing four-month semester into two months, offering course without UGC approval and lack of accreditation in case of the Pharmacy course with the Pharmacy Council, but these were not heeded by the authority in good time to avert the violent crisis. There could be inherently many others like them.

Who is in charge of private universities? Out of 54 private universities, 30 have no vice chancellors. The UGC had quite a while ago categorised them in terms of quality and viability taking stock of the quality of teaching staff, teacher-student ratio, laboratory and library facilities, classroom accommodation and some basic amenities. Evaluated against the high fees charged, most of the so-called universities proved to be running solely for profit rather than to meet any social or educational purpose. Why have they not been closed down? There has been talk of bringing uniformity in the curricula and examination systems. What has happened to this? Surprisingly, we do not even have a law to guide the private universities.

There was basically no reason for all this to happen. There is a huge demand for higher private education, thanks to limited number of public sector universities topped off by sessions jam and the prohibitive cost of pursuing it abroad. There is thus a stupendous rush for higher studies in private sector. The huge potential needs to be cashed in on the right way through competition for imparting quality education in affordable prices rather than that for money making.

War portents in Sri Lanka

Renewed faith in peace imperative

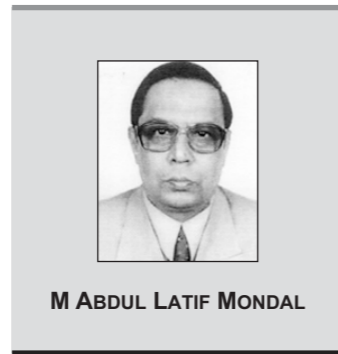
IT is disconcerting to see the ominous signs of violence returning to Sri Lanka. While the 2002 cease-fire truce has not been rescinded by either of the signatories, events of the last one month indicate that the ceasefire agreement exists in paper only. And although the recent spate of fighting was the result of a suicide attack carried out, according to the Sri Lankan government, by the LTTE, the counter measures of the government following the April bombing have unfortunately set a chain reaction in motion that has the prospect of plunging the once peaceful and economically the most vibrant nation in the region, into an abyss of another civil war.

It is very difficult to rationalise the current outbreak of violence, but if for the LTTE it is a show of force that is supposed to convey to the government its position of strength that they will negotiate from, the retaliatory action of the Sri Lankan government could leave peace prospects in dire straits. It is very important not to be provoked into precipitate action by either of the parties, more so the government. The LTTE on their part must desist making the peace supervisors their target, because it is with their consent the Sri Lankan Monitoring Mission has been in their country since 2002.

It is however encouraging to see the once non-compromising person, that President Rajapakse was considered to be before his election, on the question of Tamil autonomy and his intention of reviewing the ceasefire if he came to be elected, has resisted recent pressures from hardliners within his government to resort to strong military action to reduce the LTTE into submission and conclude a final agreement with them.

Clearly, both sides are aware that neither can afford another round of full scale war, but compromise and climb-down from long-held positions will require a commitment to peace and faith in the peace process which must not be allowed to suffer in spite of the recent outbreak of violence.

Enacting a new law on contempt



M ABDUL LATIF MONDAL

THE much-talked-about Contempt of Court Bill (CCB), 2006 was tabled in the last session (21st session) of parliament on May 2, proposing enactment of a comprehensive law on contempt of court, repealing the century-old Contempt of Court Act, 1926. As usual, the bill has been sent to the parliamentary standing committee on law, justice and parliamentary affairs ministry for further scrutiny.

The statement regarding objects and reasons of the bill has said that Contempt of Courts Act that now exists in our country was promulgated in 1926 when the British ruled the sub-continent. This law is insufficient and vague. There are only three sections in that law. More importantly, the law did not define contempt of court. As a result, doubts exist in the mind of the people regarding offences for contempt of court on the one hand, and complications arise in the exercise of powers by different courts on the other hand. Under these circumstances, it has been necessary to enact a new and comprehensive law on contempt of court.

The proposed CCB contains 21 sections, some sections having one or more sub-sections. Section 2(c) of the draft bill proposes a four-point definition of contempt of court while Section 3 of the bill details seven activities that would not constitute contempt. The other sections relate

BARE FACTS

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to issues such as jurisdiction of courts, procedures, punishments, self-defence, tendering qualified or conditional apology before the court, contesting the case along with tendering apology, special provision for government officials, rule making power of the Supreme Court, etc.

According to Section 2 of the bill, "any willful act, statement or expression by words or visible sign that may be considered as a violation of any verdict, decree, order, writ or warrant issued by a court, or undermine any court, or may obstruct the process of justice, will constitute an offence of contempt of court. The slander or libel of a court and personal criticism of a judge while performing judicial functions will also constitute an offence of contempt."

According to Section 3 of the bill, the following activities will not constitute offences of contempt:

- Any innocent and fair comment and publication of information on normal proceedings and functioning of the court in good faith and in public interest.
- Any statement made by a person in good faith and decent language in his application to the government or any court seeking disciplinary proceedings against any judge.
- A factual statement or news regarding the conduct of a judge or any act or statement

by a person regarding a judge in a matter not connected with the discharge of his judicial functions.

- Any constructive criticism of a judgement against which appeal is pending.
- Any restrained and constructive criticism of the final judgement in a case.
- Comments made or news published on any matter remaining uninformed about the proceedings of the court on the matter.
- Authentic news or comments published on any matter of public interest.

In view of shortage of space, let me now highlight some of the activities that do not constitute offences of contempt in some of our neighbouring countries.

Contempt of Courts Act, 1971 of India has provided that the following activities shall not constitute offences of contempt:

- A person shall not be guilty of contempt of court on the ground that he has published (whether by words, spoken or written, or by visible representations, or otherwise) any matter which interferes or tends to interfere with, or obstructs or tends to obstruct, the course of justice in connection with any civil or criminal proceeding pending at that time of publication, if at that time he had no reasonable grounds for believing that the proceeding was pending.
- A person shall not be guilty of

contempt of court on the ground that he has distributed a publication containing any such matter as is mentioned above, if at the time of distribution he had no reasonable grounds for believing that it contained or was likely to contain any such matter as aforesaid.

-- A person shall not be guilty of contempt of court for publishing a fair and accurate report of judicial proceedings before any court sitting in chambers or in camera except in certain cases.

-- A person shall not be guilty of contempt of court for publishing any fair comment on the merits of any case which has been heard and finally decided.

-- A person shall not be guilty of contempt of court in respect of any statement made by him in good faith concerning the presiding officer or any subordinate court, or (b) the High Court to which it is subordinate.

Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence under the Contempt of Courts Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice.

Contempt of Court Ordinance, 2003 read with Contempt of Court Ordinance, 1998 of Pakistan, have, among others, the following

provisions:

-- The publication of a substantially accurate account of what has transpired in a court, or of legal proceedings shall not constitute contempt of a court.

-- Fair and healthy comments on a judgement involving questions of public importance in a case which has been finally decided shall not constitute contempt provided it is phrased in temperate language and the integrity and impartiality of a judge is not impugned.

-- No person shall be guilty of contempt of court for making any statement, or publishing any material, pertaining to any matter which forms the subject of pending proceedings, if he was not aware of the pendency thereof.

-- No proceedings for contempt of court shall lie in relation to the following:

* Remarks made in an administrative capacity by any authority in the course of official business, including those in connection with a disciplinary inquiry or in an inspection note or a character roll or confidential report; and

* A true statement without intent to scandalize a judge regarding his conduct in a matter not connected with the performance of his judicial functions.

-- No person shall be found guilty of contempt of court, or punished accordingly, unless the court is satisfied that the contempt is one which is substantially detrimental to the administration of justice.

Let me now revert to the CCB tabled in our parliament. A closer look into the draft CCB reveals that it, particularly the provisions relating to the activities that shall not constitute offences for contempt, largely resembles the contempt of court laws in India and Pakistan.

It is heartening to learn that the parliamentary standing committee composed of members of the treasury and opposition benches has expressed interest to thor-

oughly scrutinise the bill. Khandaker Mahub Uddin Ahmad, the chairman of the committee is reported to have said that they wanted to pass the bill unanimously and are taking time to arrive at a consensus on the bill.

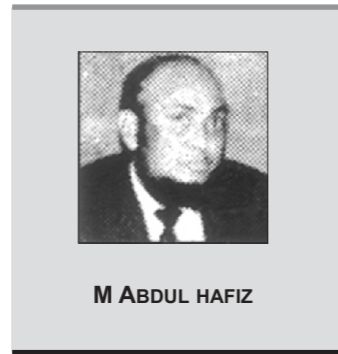
The media reports suggest that the special provision that no court will ask any government official to appear in person in a court before being given an opportunity to explain his or her position about the allegations of contempt of court has so far been severely criticised.

In the face of a longstanding demand from a cross-section of society, the government decided to enact a new and comprehensive law on contempt of court replacing the Contempt of Court Act, 1926 which is obsolete and does not even define contempt. The law ministry reportedly had a series of consultations with a cross-section of society, including journalists, lawyers, and judges.

It is learnt that the Law Commission recommended the enactment of the law and sent a draft bill to the government. The proposed bill, among others, clearly defines contempt and is media-friendly. It is expected that the parliamentary standing committee will clear the bill with amendments, if any, and the house will pass the bill in the forthcoming budget session.

M. Abdul Latif Mondal is a former Secretary to the Government.

When power becomes means of pillage



M ABDUL HAFIZ

The ugly vulture eats the dead
Guiltless of murderers' taint
The heron swallows living fish
And looks like an ascetic saint.
-- Anonymous

AS we suffer through our everyday ordeal -- that of water and electricity as well as sky-rocketing prices of the essentials -- the authorities simply come up with an innocent face, thus disarming us of our anger and putting an end to the boiling river of lava running through our veins.

Look at our Law or LGRD Ministers who are enviably

PERSPECTIVES

The pied pipers of Bangladesh would adeptly play their flutes to mesmerise the public to take another plunge into the valley of death -- taking that to be their green pasture of prosperity. The power seekers and power brokers are to be confronted with caution. Are we prepared? The next few months are going to uncover the minefields that lie ahead. Till then what do we do? Perhaps we do that which most people would do: hope for the best, prepare for the worst.

unprovoked even while stoutly defending the tricky cases. Yet they, along with others, catalysed many of our miseries. We are told of an "unnayaner joar" (flood of development) even if we witness around us a state of decrepitude, things falling apart, and even withering away, and trust that a mythical developmental surge is underway -- a fact repeated over and over again by none other than the Prime Minister at numerous public meetings.

Empirically, however, the BNP or an alliance led by it has chronic inability to deliver -- let alone the question of a develop-

mental surge. The incumbent government has a unique strategy to tide over difficult and tricky situations, withstand pressure and give a damn to the opposition's demands, particularly with regard to the upcoming general election.

It's another matter that a grim law and order situation that visibly irks our Home Minister still persists and haunts public safety, as does the nagging perpetuation of corruption often remarked on by the donors and even by our economists.

The pillage of thousands of crores of takes in various sec-

tors of the government as reported by our newsmen is, of course, the matter of privilege for those who wield power. The clever dispensation ruling the country now deftly handles the cases without letting them boil over.

A braggart opposition whom we try to draw succor from during the crisis now prevailing is equally feckless -- neither capable of winning election nor successfully resorting to street agitation -- what to talk of a mass upsurge to provide a ballast in the society. The result is further misery.

Their constant refrain of

toppling the government (no one knows to what end) has become a joke thanks to the brinkmanship of party secretary general. Many suspect that the people would have dispensed with the liability of the incumbent government long before had they found the alternative a trifle better. The enthusiasm of Awami League goes several notches up only when it sees Kansat or Demra exploding.

In the middle of the spectrum are chameleon members of the civil society, the mavericks of which can, at times, throw up sensation, if not substance of any consequence. But the agony persists with our miseries multiplying.

Then there are stray politicians, feel gooders, boot lickers, favour seekers, influence peddlers, the crooks, frauds, and other layabouts who are also the beneficiaries of collateral goodies as the country is indeed up for grabs. And we have to put up with all of these varieties. They all are the same in dealing with us, the public, the real victim of politics and the

exploitation in its name. Even if there is an election at all, what is going to happen? The same mediocrity approaching the public with its mealy-mouthed mendacity, false promises, and syrupy illusions. A despondent public will be led to another river of disasters like the rats of Hamelin.

The pied pipers of Bangladesh would adeptly play their flutes to mesmerise the public to take another plunge into the valley of death -- taking that to be their green pasture of prosperity. The power seekers and power brokers are to be confronted with caution. Are we prepared? The next few months are going to uncover the minefields that lie ahead. Till then what do we do? Perhaps we do that which most people would do: hope for the best, prepare for the worst.

Brig (ret'd) Hafiz is former DG of BIISS.

The infernal modernity of Dhaka

Dhaka is full of contradiction, and chaos is its surname. But the bottom line is that chaos and contradiction are not necessarily negative forces. Romantic as it may sound, ambiguities could well be the ingredients of a vibrant urbanity as well as economic nourishment. Excessive order can blunt human imagination and silence necessary dissent, whereas chaos, social or physical, can spawn unexpected bursts of creativity and entrepreneurship. Chaos, however, should not be confused with corruption or lawlessness.

DR. ADNAN MORSHED

FRITTING inside a car and trying for hours to trek an impossibly traffic-inflicted urban passage -- from Dhanmondi to Gulshan -- paradoxically offers me a prism onto Dhaka's urban life. The capital city has changed and is changing, fast. But so what? Are not change, development, and growth the phenomena of the modern market economy with a built-in sense of inevitability? I cannot quite pinpoint it, but there is something hauntingly ambiguous about Dhaka's change.

Well, let us consider an image inventory of Dhaka's whirlwind modernity: massive shopping

arcades incessantly cannibalizing streams of shoppers; frenzied people everywhere navigating treacherous streets; the unexpected respite of the Parliament building; persistent hawkers offering dirt-cheap, pirated copies of Dan Brown's *The Da Vinci Code* and micro-credited beggars selling bananas at traffic lights; the cacophony of all kinds of vehicles; the sudden and serpentine ascent of Mohakhali fly-over; restaurants with fluttering canvases advertising Tk 295 buffets; mannequins at trendy boutique stores gawking back at the chaos of everyday life from their lonely perches; and massive billboards rising right above squalid squat-

ter colonies to advertise mobile phones.

A long list indeed. Yet that is precisely the point. Dhaka has become a jigsaw puzzle of myriad spectacles, an urban maze perhaps destined to remain unsolved. There is almost a Dante-esque infernal quality about Dhaka's modernity, one that perpetually sucks everything into a dizzying vortex of land speculation, economic extremities, environmental degradation, and fledgling entrepreneurship. Neither despair nor hope alone can account for the city's exhilarating urbanity. If the city's crumbling infrastructure and traffic congestion epitomize the murky

time ahead, then the fantastic, populist architecture of mushrooming gas pumps along the main arteries of the expanding metropolis suggests a future of prosperity.

In other words, there is no single vantage point to grasp the city and its array of characters. Dhaka seems like the ultimate modernist narrative in which optimism and pessimism could not find a more fluid coexistence. Modernity is "a paradoxical unity, a unity of disunity ... it pours us all into a maelstrom of perpetual disintegration and renewal ... To be modern is to be part of a universe in which, as Marx said, 'all that is solid melts into air.'" Thus, to see modernity as a monolithic linear progress is to misunderstand the complexity of development.

Here is a megalopolis of nearly twelve million people that would have been a perfect backdrop for Salvador Dalí's surrealist fantasies or the nineteenth-century French lyrical poet Charles Baudelaire's literary anatomy of transient modern life.

"Howl," the American poet

Allen Ginsberg's existential angst over the hyper-modernity of 1950s New York, could pretty well be an apt description of current Dhaka: "What sphinx of cement and aluminum hacked open their skulls and ate up their brains and imagination? ... Robot apartments! invisible suburbs! skeleton treasures! blind capitals! demonic industries! spectral nations! invincible madhouses!"

Ginsberg's modern city is hardly a wasteland, but rather a battlefield where the social, cultural, and economic forces of modernity engage in an epic struggle. Take a walk around Farmgate or Motijheel and hear the reverberations of Ginsberg's howl!

Both middle-class Dhakaites and peripatetic Western reporters often dismiss Dhaka as an uninhabitable urban jungle. In a 2003 *Newsweek* special issue, a journalist named Ron Moreau called the capital city "a potential catastrophe" and "a disaster waiting to happen." Moreau's impatient eye focuses exclusively on the capital city's disorderly development to relegate it

to "the ledger of Asian urban basket cases."

What Moreau forgets in his blanket criticism is the inherently chaotic nature of modernization. A bit of historical awareness would suffice to make the point. Charles Dickens's London, Baudelaire's Paris, James Joyce's Dublin, and Ginsberg's New York -- all meticulously trace modernity's alter ego: chaos or contradiction.

These cities are of course literary representations, but they are based on objective observations of reality, one in which both disruptive and liberating effects of modernity were experienced in their fullest intensity. As the histories of these great cities reveal, being modern means straddling contradictory currents.

If the *Newsweek* report evinces the most negative visage of Dhaka, a 2005 *New York Times* feature: "In Bangladesh, an epic sign of changing fortunes," presents the most positive end of the spectrum. Identifying, if cautiously, the colossal \$80-million Bashundhara City shopping complex as an index of

Bangladesh's recent economic progress, the *Times* piece introduces a different kind of Bangladesh, one that is not hobbled by natural calamities or derogatory "bottomless basket" syndromes.

Yet, ironically, the Bashundhara City's impressive 180-foot wide glass dome over the eight-story atrium also suggests the widening gap between the *nouveau riche* and the poor: only about six percent of the city's population can afford to shop in the sprouting markets of the capital. Here is an example of the contradictory nature of modernity, the juggernaut that won't wait around for the other ninety-four percent to catch up!

Dhaka is full of contradiction, and chaos is its surname. But the bottom line is that chaos and contradiction are not necessarily negative forces. Romantic as it may sound, ambiguities could well be the ingredients of a vibrant urbanity as well as economic nourishment. Excessive order can blunt human imagination and silence necessary dissent, whereas chaos, social or physical, can spawn unexpected bursts of creativity and

entrepreneurship. Chaos, however, should not be confused with corruption or lawlessness.

The Algerian psychiatrist and renowned post-colonial author, Franz Fanon, stressed the need for a non-structured life to mobilize society toward a path of revolution. The uniform grid of bureaucracy in the city and the anonymity of human relations necessitates, Fanon argues, fuel city dwellers' compulsive desire for self-exclusion into private circles where they would not be overwhelmed by uncertainty.

Uniformity -- a peculiar middle-class dream -- ensures psychological comfort, but ultimately limits creative pursuits. In short, with all its urban pathologies and political anarchy, something good can come out of Dhaka's labyrinth. The civil society can play a seminal role in this process by relentlessly articulating a vision of necessary chaos and diversity in urban life.

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