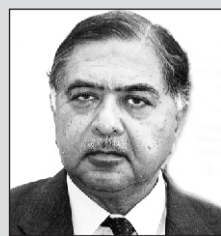


Time running out for reforms



DR. KAMAL HOSSAIN

THE proposals for electoral and caretaker government reforms were publicly presented at a press conference by the 14-parties on July 15, 2005 and formally placed in Parliament by the Leader of the Opposition in February 2006. Even though so much time has elapsed there has been no positive response.

The government's public declarations assuring the holding of free and fair elections cannot have any credibility if it does not respond positively to the proposals for reform, since these proposals have as their aim the goal of ensuring a free and fair election.

Independent and impartial Election Commission

Clearly, the first requirement for holding a free and fair election is to have an impartial and independent Election Commission. An election is a contest between a number of parties according to a set of rules (the law relating to elections and the related rules). In any contest, say a football or cricket match, the neutrality of the referee is essential since a partisan referee will miserably fail to ensure that the match is played fairly. This is why the chief election commissioner and election commissioners must be persons who are credible and enjoy the confidence of all contestants.

The present Election Commission has become highly controversial. The appointment of the chief election commissioner and the election commissioners

Essentially it has to be ensured that the head of the Caretaker Government is a non-partisan person who, as such, enjoys confidence of all contesting participants. Article 58 of the Constitution expressly calls for "non-partisan" Caretaker Government to be established for the purpose of assisting in holding a free and fair election. An effective, truly representative Parliament, through a free and fair election, is the first step to enable participation of citizens in affairs of the state.

without any consultation was controversial. They have become even more controversial by their actions. The seven months long controversy over preparation of the voter list, the conduct of the chief election commissioner, who initially failed to work with the two other commissioners, as required by the Constitution, have all contributed to the loss of public confidence. We note that ministers and leaders of the government party have also expressed their lack of confidence in the CEC and the EC. The situation was aggravated by the failure of the CEC to respect the judgment of the High Court. Then two new commissioners were appointed without any consultation. Even before joining they lost credibility by criticizing the High Court Judgment (which was later affirmed by the Appellate Division). One of the two was a former secretary of the Election Commission about whom even the previous chief election commissioner had complained that he did not function as an official of an independent Election Commission but took orders from the Prime Minister's Office.

The former secretary (now a member) swore an affidavit in the High Court Division in the voter list case in which he stated that the action of appointing the registration officers and enumerators was taken by the Secretariat of the Election Commission, functioning as "a Division in the Prime Minister's Office."

Secretariat of the Election Commission

An independent commission cannot function as such if its

Secretariat is under the control of the Prime Minister's Office. A rule has already been issued in a writ petition by the High Court Division to show cause as to why the functioning of the Election Commission Secretariat as a Division of the Prime Minister's Office should not be held to be unconstitutional. Immediate and urgent steps should be taken to change this position by removing the Secretariat of the Election Commission from the administrative control of the Prime Minister's Office.

Financial independence

To function independently, the Election Commission must be financially independent with its own budgetary grants and not be dependent on the Finance Ministry's discretion, that is, on the discretion of the Executive. The lack of independence of the present Election Commission was demonstrated by the finance minister's initial refusal to provide funds for fresh work on the voter list after the earlier work on the voter list was found to be done in violation of the of the Constitution.

Level playing field

There are other proposals for electoral reform aimed to ensure that the Election Commission can effectively monitor violations of the rules regarding election expenses (limit of Tk 5 lakh) and to ensure a level playing field. Candidates must be effectively prevented from using black money and muscle which are clearly prohibited by law. The Election Commission has now been given power to obtain declarations of assets and financial statements from the candidates, but it needs to be equipped effectively

to scrutinize them, and to disqualify the candidates who make false declarations. A special unit of the Election Commission needs urgently to be established for this purpose with persons trained to scrutinize the declaration of assets and financial statements.

Since the Election Commission must ensure a level playing field it must design and effectively implement rules to regulate election-related expenses even in the period immediately prior to elections. It is evident from the wall-postering and other activities that election work incurring huge expenses involving black money is already underway. To ensure a level playing field in relation to media, a binding code of conduct must operate in relation to the print and electronic media.

The South African Media Commission's experience could be usefully drawn upon for this purpose. At present, gross disparity is evident from the fact that there are seven TV channels, which have been granted licenses and are operating. On the other hand, Ekushey Television remains inoperative; even after it had successfully filed a writ petition and obtained a licence sixteen months ago, it has continued to be denied a frequency allocation, without which it cannot function. The other TV channels, launched by persons who seem to enjoy special relations with those in power, have thus been placed in a position of undue advantage, while Ekushey continues to be a victim of gross discrimination.

Adjudicatory power of Election Commission

The Election Commission should

be given resources and staff so that they can monitor violations in the field and report to an adjudicatory body which should be able to immediately adjudicate on matters without delay. This should be so in the case of violations in the course of elections so that serious cases can be penalized instantly by disqualification of the candidate concerned and/or cancellation of the election. After the results are given, it must be ensured that all election cases are disposed of within a time limit, of say six months.

The Caretaker Government

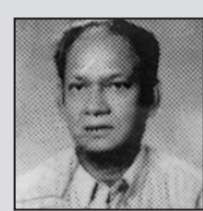
Essentially it has to be ensured that the head of the Caretaker Government is a non-partisan person who, as such, enjoys confidence of all contesting participants. Article 58 of the Constitution expressly calls for "non-partisan" Caretaker Government to be established for the purpose of assisting in holding a free and fair election. It should also be ensured that the responsibility for the defence portfolio entrusted to the president should, like all other portfolios, be administered on the advice of the chief adviser. Also the defence services should not be used for carrying out police functions as this undermines their professional status.

National consensus on reforms

There is a national consensus on such reforms as citizens too demand a meaningful change in institutions that uphold democracy. An effective, truly representative Parliament, through a free and fair election, is the first step to enable participation of citizens in affairs of the state.

Dr. Kamal Hossain is eminent jurist and politician.

Pope and Islam



ARSHAD-UZ ZAMAN

THE statement of the Pope on the highly sensitive subject of the Prophet of Islam Muhammad (pbuh) has quite understandably caused deep anguish in the world of Islam. There has been a worldwide call for the Pope to apologize. The Pope, in a Sunday Mass, has expressed sorrow that his statement has caused resentment among Muslims across the continents. Hopefully, this will pacify the sentiments.

Of all the Islamic countries the reaction in Turkey, with a 99% Muslim population, has been a strong one. Ali Bardakoglu, President of the Religious Affairs Directorate which is the highest Islamic Affairs Office, strongly criticized the Pope and called upon him to apologize. The situation is complicated in Turkey because the Pope is slated to make a State visit there in early November. For Turkey, with her past role of Khalifa and protector of the holy sites of Islam, like Makkah and Medina, the visit of the Pope assumes unusual importance. The Prime Minister of Turkey, Recep Tayyip Erdogan, in a harsh statement, called upon the Pope to apologize. While answering a question on the Papal visit, the prime minister refused to reply. His Foreign Minister Abdullah Gul has, however, confirmed that the Papal visit will take place.

The Papal remark on the Holy Prophet (pbuh) comes at an unusually critical time. In the popular thinking in Turkey there is great reservation about Christianity in general. After all the concept of Jihad is a few centuries old, and the Muslim Ottoman Empire fought many wars against the Christian west. The memories

THE HORIZON THIS WEEK

There is, at present, enough tension between the Christian west and the Muslim east, and the two important religions did not need fuel for a new fire. It has been pointed out that the Papal comments were very unfortunate at this point in time when a ground for understanding was being created between the two.

linger in western folklore.

The overriding focus of current Turkish foreign policy is on her quest for membership of the European Union (EU). In that light the visit of the Pope has very special importance. The Pope is the spiritual Head of the Catholic Church, if not of Christianity, and also the temporal Head of Vatican. He is on record as having opposed Turkish membership of the EU. Therefore, his views on the subject are of extreme importance. The Pope does not have a Christian population here that he could address. Therefore, it will be a political visit, and due to Turkey's past, it will be watched carefully.

The Pope's observations on Islam attracted worldwide criticism from the media. The New York Times called upon the Pope to apologize. The commentators have specially pointed out that there is, at present, enough tension between the Christian west and the Muslim east, and the two

important religions did not need fuel for a new fire. It has been pointed out that the Papal comments were very unfortunate at this point in time when a ground for understanding was being created between the two monotheist religions.

It is in this light that the entire episode surrounding the observations of the Pope needs to be viewed. There is too much at stake to make an issue of Papal remark on the Prophet of Islam (pbuh). Fortunately for the world the Pope, without wasting time, has used the Sunday Mass for expressing sorrow. It is not an apology, but something that we Muslims can live with.

The Pope, and for that matter anybody holding such a high station in the spiritual world, needs to be more circumspect.

Arshad-Uz-Zaman is a former Ambassador.



Tata investment for whom?

JUSTICE GOLAM RABBANI, NURUDDIN MAHMUD KAMAL, ENGR. SHEIKH MUHAMMAD SHAHIDULLAH, PROF. M. SHAMSUL ALAM, AND PROF. HOSSAIN MANSOOR

WHEN the Board of Investment (BOI) turned a deaf ear to the protests against the Tata proposal, the media of Bangladesh played a positive role. Even though Tata signed their letter of 'expression of interest' for investment, on 13 October 2004, and subsequently submitted a formal investment proposal on 30 May 2005, facts continued to be held back from the main stakeholders -- the people of Bangladesh. For the past two years the imperious government had chosen the role of maestro and let the BOI act on its behalf as the master of ceremonies. Obediently, the BOI continued to hide the details of Tata's proposal in such a manner that a common man could not get access to relevant documents. This is impious.

Thanks to the media, both print and electronic, some data and analysis on the subject were available. It soon became obvious to us that the main objective of Tata, like any other investor's, was to seek the highest benefit based on the availability of cheap natural gas. They were not ashamed to offer one dollar / MCF for Bangladeshi natural gas for setting up production plants for one million ton fertilizer, 1000 megawatt power generation system, and 2.4 million tons of sponge iron /steel. Worse still is that a major portion of the products would be exported to India! The profit motive of an investor is quite understandable. There is nothing wrong in it. But, acceding to a proposal that will help plunder our natural resources is another matter. Such an ill motivated effort cannot be allowed. So the common people stood up against the unholy move. But what went wrong with the decision makers of Bangladesh has remained a mystery. Why didn't the government publicly disclose a proposal of such national importance through the media, or otherwise? Yet, we learned that around

3.25 Tcf, or over 50% of the proven reserve of gas (6.2 Tcf as per Nagorik Committee Report, November, 2002) in Bangladesh, would be needed to implement the three proposed projects of Tata. Even when this information leaked out, BOI was nonchalant. Tata was on the perch: watching. Opinions were voiced. And there was furor throughout the media. The government's first negotiating committee, led by Petrobangla, was confounded when it discovered that the price being offered for the gas was \$ 1/ Mcf! Quite understandably, the negotiation could not reach a consensus. The media reported disagreement on the gas price issue without giving any details. Chicanery on either side was not about to yield any benefit to anyone.

Having been put in an awkward position, Tata proposed an amended price, ranging between \$ 1.5 / Mcf and \$ 4 / Mcf, with \$ 1.5 / Mcf in the initial 6 (six) years, and also an upgraded investment to \$2.5 billion. BOI was excited and applauded Tata for the friendly gesture. Yet, the discussions did not proceed as desired. In fact, they stumbled.

After a while, negotiation with Tata's high powered delegation restarted with a handpicked Bangladeshi team. Even they were not visibly enthused by the terms and conditions. The discussions faced obstacles again. There followed a lull for several months. Meanwhile, the people were persistently demanding transparency. Tata now changed its strategy to a cajoling mode. For the third time, Tata's offer was raised, this time to \$ 3 billion. Both, Tata and the CEO of BOI, observed that this was 'the proposal of the century.' Unfortunately, every time TATA-BOI came up with a new proposal, people became more suspicious about the deal. The proponents locked-horns with the people.

The conscientious citizen's study apprehended enormous financial loss and environmental disaster, in addition to the adverse effect on the energy security of the country, if the contentious investment proposal went through. Realizing this the government hesitated to sign an agreement with Tata. Publicly, in the face of

severe criticism, the company formally declared its investment proposal suspended. The interesting point is that, in spite of this declaration, Tata and the government seem to be cautiously working behind the scene for signing a contract under a new strategy. As a result of non-transparency and the ill motive so far demonstrated by the Tata-BOI axis, the people reacted by opting for public demonstrations, and writing and speaking through the media for rejecting the investment, as was undertaken four years ago in the case of a proposal for export of gas to India in 2002.

Yet, it came to us as a surprise when we heard that our finance

cleverly orchestrated proposal to woo, and befooled, the inexperienced public representatives of Bangladesh.]

"Tata's proposal is simply a carrot!" (4/5/06 Ajker Kagaj)

"What else could be termed suicidal, as well as a subversive act, if the gas is purchased at a higher price (\$ 2.90/Mcf) and is then supplied to Tata for 20 years at less than half the purchase price (28 May,2006, Janakantha). [Incidentally, the international market price of natural gas ranges between \$ 5 and 8 /MCF]

"We have a hunch that, since Bangladesh is the champion in corruption, some group from within our country is behind the

No one is apparently serious enough to encourage the policy planners of Bangladesh and Tata to work towards a course which recognizes the importance of such an investment proposal to the future of all of us -- a course which above all should propel us to seek a peaceful and just settlement of conflicting viewpoints. The government also has failed to take the main stakeholders (the citizens of Bangladesh) into confidence.

minister told journalists at Hyderabad (India) that the government considers the new proposal from Tata much better than the one submitted earlier in 2004 (May 6,2006, Prothom Alo). The energy advisor, echoing the minister, said: " Now there is no further need for negotiation. It is time for taking a decision" (May, 2006, Prothom Alo). He added: "This proposal is win-win for both the parties" (May 2006, Prothom Alo). In an emotionally charged voice the BOI chief further said that this has opened up a new horizon for both of us. Elan Rosling, the Chief executive of Tata also delivered his statement of truth: "This is the proposal of the century"(Prothom Alo, May 2006). Even with such optimism, the negotiation did not succeed. Meanwhile, an international consultant, appointed through the "The Economist" by Tata, supported the proposal in vague terms. But the government never bothered to elucidate the benefit for Bangladesh.

The irate media made some harsh comments on the proposal. Some of them, as quoted under, deserve careful scrutiny :

"Tata's revised investment proposal is a big bluff"(3/5/06, Shamakal). [In our opinion, it is a

Tata deal (The editorial of Desh Bangla 25/3/06).

"The proposal from Tata is non-transparent; reject it" (Sangbad, 28 May 2006).

The points made by the steel mill / re-rolling mill owners association include, among others, "10 lac labourers will be unemployed if Tata's steel mill is commissioned." They further added, "innumerable steel and re-rolling mills will close down for shortage of gas, while Tata is assured of long term uninterrupted gas supply" (Naya Diganta 7/5/06).

The promoters of the national committee for protection of oil, gas, mineral resources in Bangladesh have categorically stated: "The plundering of national wealth shall cross all limits in the event of signing of the contracts with Tata and Asia Energy"(12/5/06, daily Shamakal). The committee has emphatically demanded cancellation of the contract (if it had been signed) with the Asian Energy Company, and also rejection of the proposal by Tata (12/5/06, Prothom Alo). Yes, we need investment, but not at the cost of our national interest. Our energy security is of prime importance. The interesting point is that the energy ministry is still considering

further consultation at the "expert's level." "But the irony is that those who were involved in evaluation of the first proposal have not been consulted about the revised proposal from Tata. They are somehow in the dark" (12/5/06, Janakantha).

Happily, from time to time, the media has made many valid and justifiable comments about the inappropriateness of the evaluation process of the government of such a sensitive investment proposal of national importance. Mere elucidation of some of these views will indicate to a common man what is our Achilles' heel.

The considered opinion of the

round table discussions, sponsored by the Institution of Engineers of Bangladesh (IEB), has been that "the proposals from either Tata or Asia energy will not usher in any benefit to the country. Natural resources of the country needs to be utilized as raw materials for our future industrialization" (17/5/06, Prothom Alo).

A round table conference, (held on 27 May 2006) sponsored by the National Committee for protection of oil, gas, mineral resources, electricity and ports, demanded rejection of the proposal received from Tata on the ground that it will severely hamper energy security as well as create environmental hazards in Bangladesh. It was also noted in the meeting that "the amount of loss just for gas supply to the projects of Tata will be 1.5 lac crore taka (one and half lakh crore taka)." Some speakers in the meeting commented: "the government would open another losing concern like Kafco while implementing Tata's proposal. The speakers further added: "gas is as good as mother's milk for the country. If it is misused, people will agitate on the streets against those who would dare to sell that gas rendering mother nature a desert."

It is surprising that Ms. Dua

Hua, ADB representative stationed in Dhaka, has been lobbying strongly in favour of Tata's proposal. This was exacerbated by an diplomatic remark by Ms. Patricia Buteinis, US Ambassador in Bangladesh. These unwarranted statements have created a ripple, no doubt, but isn't this interference in the affairs of a sovereign country? Would anyone of their status dare to utter similar comments in our neighbouring countries? Faced with volleys of complaints against the investment proposal, and the indecision by the government, Mr. Elan Rosling, the executive director of Tata, in a press conference declared the

taph. The National Committee for protection of oil, gas, and mineral resources emphatically stated that by fairly seeking about the foreign investment by Tata and Asia Energy, no wrong signal is being given. In fact, it has merely flashed the blipping-yellow light: take heed. Foreign investment that is detrimental to national development, threatens energy security, renders vast arable land to destruction, along with open pit mining, is not welcome in this country. To recapitulate, it may be mentioned here that the discussions of the expert committee, set up by the government, on the initial proposal ended without any conclusion and Tata went back. In the said discussions, there was no indication that the government would consider a revised proposal. Yet Tata came back with a revised proposal. The reasons for breaking of the initial negotiations have not been recorded. Interestingly, it also transpires that no minutes of the discussions had been made. The experts who contributed significantly to these meetings were conspicuously absent during consideration of the revised proposal. The committee, under the leadership of the industries minister would deal with the recommendations of the secretaries committee and frame recommendations thereon which might be placed before the cabinet of ministers for approval. Under these circumstances, the people are getting more suspicious about the real intention of the government. The rumour is that if a vicious circle within the government was not interested in gaining from corruption then there was no need to conceal the proposal of Tata from the people of the country. If there would have been adequate scope to examine the proposal, and evaluate its pros and cons, then there would have been no need for phrases like 'emergence of new horizon,' 'win-win for both the parties,' 'best proposal of the century,' and so on.

No one is apparently serious enough to encourage the policy planners of Bangladesh and Tata to work towards a course which recognizes the importance of such an investment proposal to the

future of all of us -- a course which above all should propel us to seek a peaceful and just settlement of conflicting viewpoints. The government also has failed to take the main stakeholders (the citizens of Bangladesh) into confidence but they could neither stop the debate nor blockade it to continue in an uncertain direction. Such an attitude is likely to do irrevocable and permanent damage to any investment package. Harangue cannot be harbinger for development.

Let's now review how and where the tensions have been built. BOI is apparently becoming impatient and exceedingly nervous about the complexity of the proposed investment. People are now convinced that the government had brought its energy crisis on itself by mismanagement of energy policy and it is likely now to draw the crisis to a long drawn affair. The proposed stand-alone policy on coal, highlighting export is unacceptable. Tata's investment package based on scarce natural gas of Bangladesh would hurt heavily the economy of Bangladesh. We appreciate the role of media. It has exposed the verbal battle between the people and the BOI with zeal and dedication. People, at times, found themselves awash in a tidal wave of conflicting opinions, mostly coming from the BOI. Some, however, commented that the conflicting opinions were not real but had been created by an axis for an unknown objective. Some even maintained, it had been contrived by the government to divert attention from other irresponsible policy options. Indeed, the government has not responded to the people's demands for action.

The people's movement on the subject will continue, as was done in the past to stop gas export, till the time existing investment proposal of Tata is formally responded; export of coal, gas or any such product necessary for national need are banned through enactment of law ; and the conspiracies to handover these energy resources to the foreigners are unearthed and those involved with inappropriate dealings are stopped in their track forthwith.