POINT * COUNTERPOINT

DHAKA FRIDAY DECEMBER 15, 2006

(nearly) impossible. From issu-

ance of the notice of election till its

completion, the EC alone has the

power to order inclusion, exclu-

sion, or any other correction. The

EC refers to this power when it

says that corrections can be made

up to the day of the election. The

power is too centralized to be

practicable, except on a very small

the EC to defer the notice until a

reliable electoral roll was pre-

pared; cancellation of the notice

may still allow adequate correction

of the electoral roll, but will delay

the election. The decision would

depend on the relative merits of a

timely election on the basis of a

corrupted electoral roll, and a

delaved election on the basis of an

honest electoral roll. [ERO 15

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scale

ERR 20(5)].

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Take time to fix voter roll

It appears that we are approaching the election with the institutional arrangements, especially in the electoral roll and the EC, in the worst disarray. An election within the time prescribed by the Constitution will fail to return a genuinely representative parliament and government; an election based on appropriate institutional arrangements will return a more representative government but will be delayed.

MASIHUR RAHMAN

HE electoral roll prepared earlier by the Election Commission faced challenge in the court of law as well as the court of intelligence. The High Court had asked the errant EC to follow the procedure laid down in law, and was upheld by the Appellate Division with some modifications. Knowledgeable analysts criticized the initial electoral roll as a demographic absurdity: the number of voters was far in excess of the voting age cohort. The criticism did not have much impact on the EC.

The survey conducted by the National Democratic Institute (NDI) has now identified the pit-falls clearly. The electoral roll has 9.30 crore voters -- about 66% of the population -- which compounds the demographic absurdity noticed before. Excess registration accounts for 13% of the voters registered, including 6% fictitious names and 7% duplicate names. Despite such high excess registration, 2.5% of the eligible voters have been left out.

grosser when the update of 2001 electoral roll and supplemental list that contains the new registration are disaggregated. The supplemental list accounts for 23% of the total registered voters. The voters who are 24 years of age or older constitute 37% of the supplemental list. They were eligible voters in 2001 and already included in the existing roll; they represent serial duplicate registration which falsely raises the number of registered voters The serial duplicate registration

is higher in rural areas (54%) than in urban areas (46%). The ratio of excess and serial duplicate registration in urban areas is disproportionately high, given that there are fewer urban voters than rural voters. The statistical metropolitan area (SMA) has the worst electoral roll, which contains 60% of the urban excess registration and 64% of the serial duplicate registration (i.e. voters 24 years of age or older). SMA comprises the city corporations of Dhaka, Khulna, Chittagong, and Rajshahi.

serial duplicate registration in SMA The irregularities appear even challenges faith in the integrity of the voter list. Normally, city dwellers show better civic consciousness and resist false registration with greater force, and the EC can exercise closer supervision over urban registration. It was just the opposite. This calls for an enquiry to determine the sources and motivation for false and excess registration. The stories in the media (e.g. Mohammadpur, Chittagong) point to the EC.

The survey employed rigorous statistical methods, which makes it highly reliable. The sample included 22,000 persons in 37 villages and mahallas; interviews of 11.000 persons: two-way matching of registered voters to the persons residing in the area and vice versa; and door-to-door checks to identify the reasons for mismatch and the large fictitious as well as serial registration

If people are registered in an area but do not reside there, then it is a case of fictitious/duplicate registration; if the persons are residing in the area but are not The abnormally high excess and registered, then it is a case of omitting eligible voters. The flaws are gross: an election based on the corrupted voter list will lack legitimacy, which will injure the stability at home and acceptability abroad.

The EC has resumed collection/checking of the data for the electoral roll. This will take ten days (December 8 - 15). The EC has not issued clear instructions to the field offices and the enumerators. There are reports that they are striking off names of the deceased but not the fictitious or duplicate entries, and are not registering the eligible voters omitted earlier. The process will produce a mis-corrected electoral roll which will reduce the aggregate number of voters to better demographic consistency but will not do much to correct the excess registration and the omissions

There are enough safeguards in the law which can eliminate many of the errors and irregularities and substantially enhance the integrity of the electoral roll. First, at least 10% of the entries in the initial register must be checked before publishing of the draft roll. The sample may be larger, but it must be designed in conformity with statistical methods and executed with rigour in order to ensure statistical reliability. The time for verification must be sufficient because of the magnitude and complexity of the task. Verification which is not based on a statistically reliable

sample must be rejected. [Electoral

Rolls Rules 1982, 6(2)] Second, notice is issued inviting petitions for inclusion or exclusion within 15 days of publication of the draft roll. It seems that 15 days will be too tight a schedule, and the period may be extended by exercise of the discretion of the Commission. By the same logic, the ten days allowed by the Election Commission for collection and correction of data is inadequate. [ERR 6(3 & 4), 7]

Third, the revising authority appointed by the Election Commission to dispose of petitions for inclusion or exclusion of voters should be given responsibility for one electoral area in SMA and preferably, also in the municipal jurisdictions; the number of areas or constituencies must be kept to the minimum in rural areas if multiple assignments are absolutely necessary. The revising authorities cannot dispose of judiciously the large number of petitions they are

expected to deal with. [ERO 9, 16, Finally, the procedure and the informational requirements for exclusion of names are too ponderous, and will allow much of the fictitious and excess registration to continue. The petition for exclusion of someone from the roll can be made only by a person who is already registered in that area, and has to contain all the particulars

can lead to much mischief because exclusion of some groups or individuals reduces the number of the people who can object to false registration, and it is impossible in virtually all cases of objection to provide information as regards date of birth, permanent and present addresses, etc. False declaration is punishable with imprisonment up to six months and fine of up to one thousand taka. [ERO 10(5)]

As an additional safeguard, the Election Commission may conduct a statistical test using a relatively small sample. Such tests are conducted for population census and the data are adjusted accordingly. This is not prescribed by law, but is not prohibited either. Law is but a poor social institution if it debars use of knowledge for better administration of public affairs.

The procedures for rectification of gross error and irregularity are different. The Election Commission cancels the corrupted electoral roll for an area or constituency, and a fresh electoral roll is prepared. The Election Commission has to determine what constitutes gross error and irregularity. The following criteria are suggested: (i) all deceased persons must be deleted; (ii) all serial duplicate entries (24 years of age or older) must be deleted: (ii) some excess registration on account of migration or change of residence may be

required to be filled in the roll. This tolerated as inevitable. Migration and deceased persons account for 4.6% of the excess registration. Excess registration above 8%, which allows for flaws as well as inefficiency and imprecision, may be taken as gross error and irregularity. [ERO7(7)] On the above criteria for gross

error and irregularity, the following approach may be adopted for cancellation of electoral roll:

- SMA Dhaka, Chittagong, Khulna and Raishahi, where 64% of new voters are 24 years or older.
- All urban areas (excluding SMA mentioned above) where 44% of new voters are 24 years or older. The following administrative divisions which have very high
- new and serial duplicate registration: Rajshahi - 34%; Dhaka -32%, mostly serial duplicate registration; Chittagong and Sylhet - 22%, mostly serial duplicate registration.
 - Specific localities (in above areas) where excess registration is less than 8% and there is no serial duplicate registration may be exempted.
- Electoral rolls for specific non-SMA/non-municipal localities in Barisal and Khulna divisions may be eligible for cancellation; these two divisions have 12% excess registration.

The announcement of the election Masihur Rahman is a freelance contributor to The schedule makes correction of the Daily Star. errors, including gross errors and irregularities, very difficult, if not

When the state turns serial killer

HASANAT ALAMGIR

HE killing extravaganza of the government sponsored carnage squad -- the Rapid Action Battalion (RAB) -- has given rise to serious concern among many of the citizens who sense that this course of action is far short of the principles of the rule of law.

In holding someone accountable for any misdeed, the rule of law and basic human rights must be observed and followed. The law states that in any society everyone should be subject to the rule of law. There cannot be arbitrariness, or actions outside the law. Justice must be seen to be done

If a "criminal" is arrested he must have his day in court. He must have unfettered access to his counsel, and his trial must be seen to be free and in accordance with the law. It is the judicial system which must rule, whether the accused is guilty or not. The rule of law is meant for all, the rulers and the ruled.

In today's Bangladesh, there is

masses to ensure that everyone justice and the time-wasting tactics has the protection of the law. To do otherwise will lead to a nation run by tvrants. Gestapo-type of govern-

ment, and a system that violates people's rights with impunity. Those who violate these rights do so to satisfy the needs of only a certain segment of the population -the educated middle and upper class in this instance. It is not surprising to find that these benefited segments of the society have been noticeably silent about what RAB has been doing for the last two years. The intelligentsia and the media, who in Bangladesh are very vocal in criticizing everything the government does, have been very reluctant to even express mere concern about this extra-judicial serial killing.

The apologists for this statesponsored terrorism are driven by the callous desire to see quick dispensation of street justice. without hindrance or strict adherence to procedure. They consider the seemingly unending judicial

that we employ as fueling further indiscipline in our nation. Oftentimes we forget that the observance of the rule of law also

comes with its responsibilities. Do we have the supporting structure in place? Are the police serious or qualified or equipped to investigate and then produce quality evidence in the court? Are not delays in trial

parliament members, politicians,

the order of the day in our system? Do not lawyers orchestrate these delays in collaboration with the bench? Why does the Supreme Court remain on vacation for most of the year while thousands languish in misery? How many thousands of cases are pending there? Are not the high-ranking criminals shielded from prosecution by these wilful delays? Are not people bypassing the judicial system and resorting to self-help remedies? Are not the high profile criminals, who often have liaison with ministers,

police officials and bureaucrats, immune to prosecution? process as a disservice to the larger Those w ho are arquing society. They see the slow wheel of

rather focus on the breakdown of the structures that support its compliance, instead of finding a quick fix by creating and supporting

a trigger-happy killing machine. How has RAB's operation improved the quality of life of the rural people? Are the farmers getting the right price for their commodities now? Do the poor widows, divorced women and single mothers in villages and slums have better access to job, earning and security? Has RAB been able to kill any high profile criminal backed by our political parties? How many thana or district level political leaders-cumcriminals have been killed in crossfire, forget about the higher-ups? Has RAB been able to check corruption?

Who is a bigger enemy of the society -- the petty criminal of Savedabad bus terminal who is mugging to feed his children starving in a slum and helping his ailing parents at his village home, or the corrupt politician or civil servant who just keeps on amassing more

public? Our people, despite all the evidence, continue to see the same culprits controlling state finances and disbursing funds as they deem fit. Yet they can do nothing about it. The supporters and opponents

both have points. But it is extremely important to examine why the strict observance of the rule of law seems to be so difficult in Bandladesh. First of all it is essential for the progress of our nation that the people should not think that the traditional criminal justice system is not functioning any longer. Whatever rule of law we still have

in society, we must not all join hands to destroy it by devising a system of by-passing it. We must not devise a system that will exterminate the petty criminals but save their godfathers and the big shots. Rather than focusing on povertybased crime, we will do better by focusing on habit-based or greeddependent crimes

poverty for the misdeeds of the powerful and corrupt few. Some are crving for help to receive health

children in school. Every year during Monga in North Bengal, hungry people faint on the streets. In our schools, there are classrooms without desks or roofs, and are fit only for cattle. How many of our people sleep in open places in winter months?

All this happened because some of those whom we entrusted with public funds have appropriated these resources for their personal use. Yet, when they are to be prosecuted we talk of full compliance with the rule of law. While, for street criminals, we feel good by just eliminating them.

"Extraordinary problems require extraordinary solutions" say those who support the RAB mission. The extraordinary situation has been created by financial crimes in the country. The street criminals have very little impact on national security, social security, and GDP growth.

Dr Alamgir is a freelance contributor to The Daily

A manual of 19 fool-proof steps for sure success in election

MANZOOR AHMED

- 1. Increase retirement age for the chief justice to ensure that the chief of the care-taker government (CTG) will be a party lovalist.
- 2. If step 1 fails because of outcry from the public, ask the party-selected president of the country to take over as chief of CTG, sidestepping other constitutional options.
- Appoint party loyalists as the chief election commissioner, commissioners and secretary to the Election Commission.
- If public protest becomes too noisy, the chief election commissioner and one or two commissioners may go on leave. still leaving the Commission in the hands of loyalists
- 5. Encourage the Election Commission to prepare a favourable voter list -- leaving out suspected opposition supporters and including extra fake names to allow ballot box stuffing.
- Encourage the Election Commission to defy court orders and public protest about voter list preparation. Deny any errors initially and then slow down and delay correction steps, thus leaving no time for full correction.

Our people are wallowing in

an acute need to protect the

observance of the rule of law should and more wealth by deceiving the

care. Some cannot keep their

Speaking without thinking

HUSAIN HAQQANI

AKISTAN government spokesmen have made it clear that General Pervez Musharraf was not making a unilateral offer when he told NDTV that

Pakistan would give up its claim on Kashmir if India also agreed to selfgovernance. "The president at no point said that Pakistan is unilaterally ready to give up its stance on Kashmir," Maj. Gen. Shaukat Sultan said.

An interview to an Indian television channel would have been the wrong venue for announcing the most significant shift in Pakistani foreign policy in 58 years. More significant, Pakistan does not have a "claim" on Jammu and Kashmir that can be unilaterally given up by a Pakistani ruler.

In its recent review of General Musharraf's book In the Line of Fire, the Wall Street Journal described him as a person "accountable to no

one, elected by no one, and trusted forgotten that Pakistan has consisby no one." Musharraf's many interviews

with the media that generate conconstitute "massive human rights troversy -- ranging from comments violations.' that: "A lot of people say that if you Since 2001, Musharraf has want to go abroad and get a visa "misspoken" on far too many times.

from Canada or citizenship and be a millionaire, get yourself raped." to ing statements about where Osama his latest remarks on being willing bin Laden might be, after becoming to give up the claim on Kashmir -the toast of the international circuit. confirm that Pakistan's all-powerful as the man who might deliver ruler sometimes tends to talk with-Osama bin Laden for the US in the out thinking through the conseaftermath of September 11. An quences of his words. entire book can be compiled on the

Musharraf also justified the killing of Baloch leader Nawab statements on domestic issues. Akbar Bugti in his NDTV interview. implicitly acknowledging that Bugti was deliberately targeted -- a position at variance with the previous official version that the Baloch Nawab was killed unintentionally. He also compared his action

against Bugti with India's actions coup maker, notwithstanding how against militants in Kashmir and long they manage to hold on to elsewhere. He appears to have power

On more than one occasion, Musharraf has described Kashmir tently maintained that India's actions in Jammu and Kashmir as the most important issue for Pakistan. Considering that he attaches greater importance to Kashmir than to internal consolidation. democracy or human development. He has given divergent and confusone expects Musharraf to at least

well By saying what he said to NDTV, Musharraf seems to be suggesting that the Kashmir dispute is now a matter to be resolved between India and Pakistan, and for his part basis of Musharraf's contradictory Musharraf is willing to "give up" the Pakistani "claim." The international Like his predecessor as community has no role in resolving Pakistan's military ruler, General the Kashmir issue. If it is a bilateral Ziaul Hag. Musharraf seems to matter between India and Pakistan. think that charming foreign journaland as far as the Kashmiri people ists with frequently given interviews are concerned, they can negotiate might somehow make up for the their future with India. That is what lack of legitimacy that haunts a India has argued for years.

> That runs contrary to Pakistan's official position on Kashmir, that it is the unfinished business of partition.

Pakistan's entire stand has been based on the argument that the Kashmiri people have not yet exercised their right of selfdetermination in accordance with United Nations resolutions. Pakistan has consistently guestioned the accession of Jammu and know Pakistan's position on Kashmir Kashmir to India "unlawful." If the issue is the Kashmiris' right

of self-determination, Pakistan has no claim to give up. If, on the other hand, the UN resolutions are no longer relevant then India can negotiate self-determination with the Kashmiri people in territories under its control and Pakistan ought to do the same. There is no locus stand left for Pakistan in the matter in relation to Indian controlled parts of Jammu and Kashmir, which are the State of Jammu and Kashmir for the Indians

under India's constitution. India has hinted at solving the Jammu and Kashmir dispute by accepting the Line of Control as the

international boundary since the 1960s but Musharraf has also said repeatedly that this is not the solution he has in mind.

> The latest Musharraf comments, which outright reject Kashmiri independence, are close to accepting the de facto division of Kashmir, but fall short of accepting the LoC as the border between Pakistan and India.

The problem is, Musharraf lacks the authority to solve the Kashmir question, but insists on continuously talking about Kashmir, as if to justify his status as army chief and absolute ruler. Kashmir is too important an issue to be left to verbal sophistry of a man untrained in the craft of a wordsmith but insisting on acting like one.

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Discourage the Election Commission from taking measures to introduce voter ID with photograph.

- Ensure that the Election Commission rejects offer of transparent ballot boxes, if such an offer is made (free-of-cost) by the European Commission or any other party.
- 9. Ensure recruitment of returning officers and polling officers from party's student front cadres.
- 10. Follow a systematic plan for five years prior to election to ensure that all recruitment for police, Ansar, Village Defence Force, and primary education officers and teachers who may be involved in election duties is done strictly on the basis of party loyalty.
- 11. Encourage loyalist law enforcement and election officials (see step 10) to dissuade suspected opposition sympathizers, especially members of the minority communities, from registering as voters, coming to polling centres, or voting,
- 12. If members of the CTG advisory council show a tendency of being neutral, ask the president-cum-chief adviser not to consult them on vital decisions, ignore their advice even if they are consulted, or take unilateral decisions.
- 13. If actions of the president/chief adviser are challenged in court, ensure that the proceedings are suspended, preferably before the hearing starts.
- 14. In case, the advisers find it too demeaning to continue and resign, advise the president/chief adviser to replace them forthwith, and subject the new advisers to the same treatment as in step 12
- 15. Plan carefully and long in advance to ensure that senior and mid-level positions in the civil service -- especially those in home affairs, education, law, establishment division; and posts of DC, UNO, SP, Thana OC, and district and upazila primary education officer -- are staffed with lovalists by careful recruitment, promotion and deployment, and by denying promotion, and/or placing as OSD all whose loyalty may not be above any doubt.
- 16. To placate public outcry regarding partisan civil service placement, CTG can move personnel around, which will be of little consequence since most positions will have been filled with loyalists in the previous five years.
- Invoke the Constitution frequently and loudly as the argument against measures that might be proposed for making the election fair and free, especially in respect of Election Commission reconstitution, election schedule, voter registration, extending the CTG tenure beyond 90 days, and any other measure that may unravel the meticulous election "sure-success" plan.
- 18. Discourage the Election Commission from applying and enforcing rules about disclosure of income and assets of candidates, reporting election contributions and expenses. and observing campaign rules.
- 19. Encourage the president/CTG chief to call the military for law and order duties which will serve two purposes -- create psychological pressure and anxiety in the citizenry, and dissuade them from protesting election rigging.

If all the steps designed and systematically implemented over a period of five years fail, it must be seen as an "Act of God" against which there is no recourse: or it is time to throw in the towel and admit that the days of election engineering are over and that citizens are determined to win their democratic right to vote freely and fairly.

Golden Bengal?

MANZUR RAHMAN

ERHAPS one shouldn't be surprised that the centennial anniversary of our national anthem is about to pass by, largely without any commemoration. Looking at the pages of The Daily Star each day -- death of innocents, evisceration of the judicial process and the constitution, rigging of the electoral rolls in a naked bid to monopolize power, ad infinitum -- Amar Shonar Banala is not the image that most readily, or naturally, comes to mind. But isn't it a shame?

When we fail to celebrate the origin of our national anthem, surely we lose a bit of our nationhood. A lament and a protest

against BongoBhongo, the anthem is not merely pastoral, evoking a long lost idvll, but also a vivid call for unity to preserve an idea of a Bengali motherland. The new year is about to usher

itself from. in two additional anniversaries that lay bare the wages of our division. Two hundred and fifty years ago, along the river banks of the Bhagirathi in the small hamlet of Palashi, the last Nawab of Bengal went down in defeat to a small British contingent, despite outnumbering the foreigners by princes and zamindars. over sixteen to one

Mir Jafar's treachery, our disgrace, on that day in June paved the way for the Anglo-Saxon empire, resulting in nearly two centuries of servitude by our

forebears, and, it could be argued cle: unlike the case of present day -- viz. the composition of the Lebanon and Iraq, our current occupying forces in Irag -- a chain fissures cannot be attributed to a of servitude that the world hasn't divide and conquer strategy of a quite yet been able to extricate foreign power, as liberation made us, for better or worse, an ethni-Next year also marks the huncally homogenous nation of one dred and fiftieth anniversary of the people.

rebellion by the brave sepoys of No, instead of perfidious Albion, the Bengal army, a rebellion that the divide and lose strategy curwas ultimately squashed with the rently being followed in our land is assistance provided by their own entirely of our own making, with brethren in the Punjab and greed, avarice and contempt for Madras armies, as well as the one's fellow man being the order subcontinent's many self-serving of the day.

Whatever the historical iniustices were that led us to ignore the I bring up these wretched episodes from our people's recent common weal in the past, here on history not because they can the eve of the 35th anniversary of explain the current elec-Victory Day, we can no longer rely toral/judicial/constitutional debaon that convenient bogeyman,

viewing ourselves as hapless victims of a foreign hand's Machiavellian machinations. Today's defeat -- and make no mistake that every day that the electoral/judicial/constitutional farce continues, it is Bangladesh that loses -- can be laid at the feet of a perverse political class engaged in an utterly reckless pursuit of a corrupt spoils system. The lessons of these anniver-

saries, the first three (BongoBhongo, Palashi, and the Sepov Rebellion) of division, and the last (Victory Day) of unity, is evident to us all. If we continue on the divide and lose strategy, Amar Shonar Bangla will be replaced by Amar Bhongo Bangla. Is there a "prince among patriots" who will

deliver us from the inevitable servitude that, history shows, will follow the current trajectory?

To realize our shonar bangla, we need more Sheik Mujibs, the many unsung heroes of the Mukti Bahini. Muhammad Yunuses: it is only the Mir Jafars that do not share that dream which Rabindranath so eloquently evoked a century ago.

To those of you that have the power today to right the electoral process, restore judicial integrity, and honourably discharge your constitutional duties, we say, you have a choice: Which Bangla are you going to be for?

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