

Signal for Khaleda

Will the Prime Minister please listen to what is being said in the Parliament. When, in a rare voice of unity, the MPs of both the Treasury and the Opposition benches — save, of course, the Jamaat — were condemning the terrorists belonging to the student wing of Jamaat, the Islamic Chhatra Shibir, Begum Zia was giving the nation her own version of what was going on. Instead of following the extremely serious debate that was going on in the Sangsad, the Prime Minister was addressing the students of Dhaka College and Tejgaon College and telling them that "non-students and outsiders were creating anarchy in the campuses as a part of a planned conspiracy at home and abroad, to undermine the glorious role of the students." If there is a conspiracy, then she took quite a while in realising it. The Chittagong University has been literally under seize by the Jamaat-Shibir forces for more than two years now. There have been several bloody encounters there. Situation at Rajshahi University (RU) has gradually gotten worse over the last year. Students have been repeatedly and regularly attacked, leading to three being killed last February. Clashes with Shibir militants are a regular feature in numerous colleges throughout the country. Here, in Dhaka University sporadic gun battles have plagued the campus time and again leading to deaths and injuries. These tragic events should have served as timely warning to the Prime Minister, that something quite rotten was eating away at the very heart of our nation. Instead of being warned, the BNP government carried on business as usual and indulged in the dangerous game of opposition-baiting, with the occasional outburst against "certain quarters" who were responsible for everything.

The Prime Minister is in the driving seat of the government and cannot play the role of a finger pointing bystander. It is her government's responsibility to uproot all "conspiracies" and terrorism. Security of life and property is the fundamental responsibility of the government, which she is failing to provide to our students, teachers and, in some cases, to the general public. It appears that Begum Zia is not aware of the simmering discontent among her own MPs regarding her government's policy towards Jamaat and Shibir, and about the way she has so far handled the issue of campus violence. Not only the MPs, but also the members of her student wing — JCD — have expressed dissent in this regard.

In retrospect, it is clear that Begum Zia's policy of appeasement toward the so called students has boomeranged with disastrous consequences for her government and the country. It has severely damaged her image as an effective leader, and corroded people's confidence in her government's ability to contain terrorism, especially in the educational institutions.

We welcome the consensus that emerged in the Parliament on Monday. This unity should now be translated into joint efforts at the specific institutions level to contain terrorism. So far BNP and AL were fighting one another, and both were harbouring criminal and "masthan" elements, in the hope of gaining the upper hand. But such suicidal competition actually gave strength to the armed cadre of the Shibir whose murderous attack on JCD and BCL students have increased many fold. Unity inside the parliament will now have to be translated into a massive political force which will defeat the anti-liberation forces. Jamaat-Shibir, as a political force, must be fought politically, and not by administrative or legal fiat, as banning their politics would necessarily imply. In fact such a move will drive Jamaat, as a party, underground, and make their politics, essentially conspiratorial. More importantly, such a move will be fundamentally against the tenets of democracy.

The heartening political unity exhibited against Jamaat, should be used to build a strong pro-liberation political movement, which will lead to Jamaat's complete isolation, and, with public support, eventual political elimination in the 1996 election. That is the democratic way to 'ban' the nefarious politics of Jamaat and Shibir.

Illegal Occupation of Land

The news that more than 100 bighas or 33 acres of highly valued government land at the Tejgaon industrial area have been under illegal occupation for decades is alarming bordering on to the sensational. But when it concerns the endemic problem of as complex a subject as the land entitlement, Dhaka City or for that matter any place of the country appears to be a melting pot — only the degree of disputes is what makes them somewhat different. This is one area of administration that has remained messy ever since Lord Cornwallis enacted a law, making land saleable.

However, the problem with the city land became quite complex after Dhaka had been made the provincial capital of East Pakistan. But it became intractable after the city had assumed the role of an independent country with the *nouveau riche* amassing wealth and getting increasingly hungry for more lands in the city proper. There is a race where means of possession matters little. Naturally, malpractice, irregularities, forgery and every other unlawful means are resorted to in grabbing lands. The practice is continuing with ever more aggression in the city, particularly in the Mirpur area. Chilling stories of dispossession of the genuine owners from land were carried by different dailies and even the television brought to the fore the poignant tragedy of the numerous victims. One industrialist seems to have surpassed all record in the notorious practice of forgery and claiming people's lands acre after acre.

Undoubtedly, not all the spectacular accumulation of wealth can be attributed to a deal based on justice and fairness. The case in point at Tejgaon is one such aberration and the refusal of the authoritative source in the Works Ministry to give details of the plots under illegal occupation speaks for itself. That influential quarters are involved in the illegal grabbing of government lands should explain why such things could not be brought to light in the past. It is unbelievable that the concerned authorities could be kept in the dark all through. The plausible explanation for leaving the offenders untouched can be that nobody dared risk his life and living in unmasking the so-called elite and powerful. Now that the report on illegal land occupation has come out, let us hope the democratically elected government will without fear or favour take up the case — and with all seriousness — to expose the criminals and reclaim the illegally occupied lands.

COME September, the 1965 conflict between India and Pakistan returns to notice. It conjures up certain incidents — legends — which the passage of time has not been able to obscure. This is one of those wars which both countries claim to have won.

Scores of books have been published in India to prove how New Delhi accomplished its task of destroying the Pakistan war machine. Equally vast is the literature in Pakistan to assert that Islamabad repulsed waves after waves of attack by large Indian forces and did not allow them to enter either Lahore or Sialkot city. The debate will not probably end even in 1995 when all papers relating to the operation are supposed to be handed over after 30 years to the archives for public gaze.

In the meanwhile, one more book, *Ayub Khan — Pakistan's First Military Ruler*, has appeared in Pakistan. This is a 540-page study by Altaf Gauhar, who was General Ayub Khan's top civil servant. He has mentioned the abortive attempt to revive the Kashmir question through infiltration in 1965. At that time the Kashmiris themselves handed over infiltrators to the Indian Army.

The failure buried the Kashmir question for nearly a quarter of a century, as a Pakistani commentator puts it. However, infiltration has resurrected the question and it has assumed far more serious proportion than ever before. Even 400 Islamic militants, according to the *New York Times*, have joined what is described as *Jehad*.

I am afraid the situation may go out of hand. Foreign powers, already on prowl, may complicate the question to the extent

Coming to Terms with the Past

There was a time when New Delhi and Islamabad could have settled the question between themselves. Now the Kashmiris will have to be associated. But touching all the three points — Delhi, Islamabad and Srinagar — at the same time may not be productive or politic. Any two points at one time will make more sense.

where both India and Pakistan may find it difficult to settle on their own. Statements and stories emanating from capitals like Washington and London suggest that they want to have a say.

Although Indian Foreign Secretary Dutt has ruled out America's intervention, his observation that it could "help in the process" indicates that New Delhi is under pressure. His announcement that India will hold talks with Pakistan after the elected government takes over at Islamabad is a welcome statement. But had this sentiment been conveyed to Islamabad before Dutt met US officials in Washington, it would have been interpreted as a good-will gesture. Now the impression in Pakistan may be that New Delhi has done it at America's bidding. Islamabad may also part itself on the back that its effort to raise the question at every forum abroad has yielded results.

Islamabad should, however, ponder over the consequences of internationalising the question. It should have learnt the lesson of foreign intervention from Afghanistan, where America interjected too many weapons and whetted too many tribal ambitions. That country may explode into a civil war.

Now that Pakistan Foreign Secretary Sheriary has also announced in Washington that Islamabad would welcome talks under the Simla Agreement, the

ground has been prepared for a dialogue some time in November or early December. This is an opportunity which the two sides should not spoil by hurling accusations or counter accusations. Both New Delhi and Islamabad agreed at Simla in 1972 to seek "a final settlement on Jammu and Kashmir."

The atmosphere can further improve if the Inter Services Intelligence (ISI) stops the flow of arms into India. New Delhi has already noticed "a considerably decrease" in it.

touching all the three points — Delhi, Islamabad and Srinagar — at the same time may not be productive or politic. Any two points at one time will make more sense.

Ayub Khan, at the helm of affairs in 1965, never liked the idea of infiltration. When I asked him about in 1972 — he was then living in retirement at his house in Islamabad — he said "Ask Bhutto, it was his doing". Subsequently, I checked with Zulfikar Ali Bhutto, then the Pakistan President. He made no secret of infiltration

terms, and come to a settlement. It has been an unfortunate thing, so that is why up to 1965, I thought that with this edge that we had we could have morally justified it."

Little did Bhutto realise at that time that the infiltration strategy would work 28 years later. There has been infiltration in reverse in the sense that many Kashmiri youths have gone to Pakistan to get training and arms. True, Pakistan's assistance has helped them but so has India's denial of basic democratic rule and economic development in the State.

Not on the political aspect but on the military assessment of the 1965 conflict, a book, *Behind the Scene*, by retired Maj Gen Joginder Singh has appeared in India. I do not know why he had to run down Lt Gen Harbaksh Singh, then commanding the Punjab front, while analysing the pluses and minuses of the conflict. When personal reminiscences try to lower them Joginder Singh has converted facts into fiction.

He has controverted Harbaksh Singh's main strategy of making the Ichhogil canal, outside Lahore, as India's basic defence line. His idea, as Harbaksh Singh says in his book, *War Despatches*, was to convert the canal built by Pakistan as an impediment to his use to save troops. "I had no reserve in Punjab," he says. The course of war has proved his strategy right.

Still worse is Joginder Singh's assertion that General J N Chaudhary, then Chief of Army Staff, did not suggest the withdrawal of Indian forces behind the river Beas. Harbaksh Singh recalls a meeting with Gen Chaudhary at Ambala on September 10 in the wake of early reverses in the Khemkaran sector. According to Harbaksh Singh, Chaudhary told him to withdraw behind the Beas as the security of entire army was endangered. Harbaksh Singh said he refused to do so and wanted orders in writing. The matter ended there and then. He never got any orders. After 28 years, Joginder Singh says that the withdrawal story is "baseless".

Joginder Singh has quoted Maj Gen Narinjan Prasad as his main source of information. But Prasad has had the distinction of being dismissed from the front twice, once in 1962 during the India-China war and then during the India-Pakistan conflict in 1965. "Joginder Singh's is a biased account," says Harbaksh Singh.

There is still controversy who in the army initiated the move to cross international Punjab border. This was meant to relieve pressure in the Akhnoor sector in the J&K where India was at disadvantage because of UN restrictions. Harbaksh Singh says that he requested Gen Chaudhary to seek the government permission.

Once I asked Lal Bahadur Shastri, then Prime Minister, who gave the actual orders to cross the international boundary. "I did," he said. "Chaudhary and others were taken aback when I asked them to march into Pakistan." Harbaksh Singh tells me that the Army can never forget "this tallest decision by the shortest man" (Shastri was about five feet tall).

BETWEEN THE LINES

Kuldip Nayar writes from New Delhi

Washington and London have also informed New Delhi about the lessening of inflow after hearing from Islamabad. But the use of arms should also stop. The cult of gun is taking over and the subcontinent looks like sitting on a power keg.

Talks with Kashmiri militant outfits, particularly the Jammu and Kashmir Liberation Front (JKLF) and Hizbul Mujahideen, are as necessary as is the dialogue with Islamabad. There was a time when New Delhi and Islamabad could have settled the question between themselves. Now the Kashmiris will have to be associated. But

and defended it. His logic was that the various ordinance factories, which New Delhi had established but had not yet gone in full production, would make India too strong to be beaten; therefore, Pakistan had to act soon.

He said: "... There was a time when militarily, in terms of armour, we were superior to India because of the military assistance we were getting and that was the position up to 1965. Now, the Kashmir dispute was not being resolved ... So it would, as a patriotic prudence, be better to say, all right, let us finish this problem and come to

Refugee Law and Refugees: Root-causes Need to be Addressed

by Advocate M A Mutaleb

THE problem of territorial asylum cannot be solved by the 1951 Convention. In case of a convention refugee, there must be a "well-founded fear of persecution." Millions of people have been forced to leave their region or country of origin owing to many other causes which don't come under the recognized methods of persecution. 1951 Convention can not cover majority of world's refugees. But the fact remains that they have been forced to flee. In the case of de facto refugee, a term accepted by the experts all over the globe but unacceptable to the governments of the Western countries is there should be existence of "events seriously disturbing public order".

In 1957 and 1962 there were Chinese refugees in Hong Kong, majority of whom were not qualified as Convention refugees. Upheaval in Hungary in 1956 produced refugees. Exodus from the African region started with the Algerian war of independence, followed by situations in the Horn of Africa, in Tchad and under the apartheid regime. By the end of December 1987, there were nearly 400,000 Mozambicans in Malawi alone, with, on the average, an additional 10,000 arriving each month. There were thousands more Mozambicans in Zimbabwe, Swaziland and other neighbouring countries.

The General Assembly or the ECOSOC of the United Nations adopted more than 40 special resolutions on ad hoc basis to face the new refugee situations in different parts of the world recommending the member states to extend to these up-

rooted people protection and help and putting these people under the mandate of the UNHCR. The definition of refugee enacted by the 1969 Organization for African Unity (OAU) Convention governing the Specific Aspects of Refugee Problems in Africa ratified the definition of the 1951 Convention and expanded the meaning of refugee in Article 1:2. "The term refugee shall also apply to every person who, to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality". The importance of the African definition of the de facto refugee has been recognized by the General Assembly of the UN, the Report of the Working Group on Current Problems in the International Protection of Refugees and Displaced Persons in Asia, the conclusions adopted in 1981 by the UNHCR Executive Committee concerning the problem of protection in cases of mass influx of asylum-seekers, and the Cartagena Declaration by ten states in Central and South America in 1984.

In the developed countries of North America and Europe, thousands of asylum-seekers have been expelled, forcibly repatriated or prevented from entering without having had adequate opportunity to present their cases. Some of the problems can be attributed to the

understandable dilemmas of Governments who see their generosity abused by numbers of migrants without "refugee credentials." Restriction measures adopted by a number of developed countries have often had the effect of prevention of bona fide refugees from finding safety. However, in actual practice, in parts of the world other than North America and Western Europe, large groups of refugees have been able to find protection and assistance under the UNHCR mandate without first having to prove that their individual situation conforms with the convention definition.

There is growing "restrictionism" and increasing immigration control in the developed First World countries. Despite these measures, the numbers of refugees and asylum-seekers are growing. All human beings are born equal, we hold this view not from any philosophical point, but from the Article 1 of the Universal Declaration of Human Rights. The developed First World countries are giving shelter to a scanty number of world's population. But they are consuming a major part of world's resources.

In the aforesaid backdrop, the world community, especially the rich first world countries, should develop a definition of "refugee" taking the 1951 Convention, the cases of de facto refugees and the prevailing situation into consideration. No economic catastrophe in the Third World ever resulted in any notable increase in number of asylum-seekers in the first

world. Every such increase has been directly related to a political strain and danger for people concerned. Examples are many: Hungary, 1956; Prague, 1968; Chile, 1973; Lebanon since 1975; Eritrea since about the same time; Afghanistan since 1980; Iran and Iraq since about the same time; Turkey from September and Poland from December 1981; and later conflicts and disturbances in Central America, the Punjab in India, Myanmar (Burma), Chittagong Hill Tracts in Bangladesh and Sri Lanka. More than 90 per cent of the world's refugees have been driven away from poor countries in the Third World to neighbouring countries, equally poor or even poorer. More than 90 per cent of them have fled from armed conflict of one kind or another. Less than 10 per cent of the weapons with which these battles are fought are manufactured in the Third World. The Iraqi regime has long had a very bad human rights record, but despite this, has been equipped with the tools of death and torture, including those weapons under international ban. Iraq was not thus equipped by Third World countries. The relationship between the rich countries and the regime illustrates how Western business and export practices directly support violation of human rights and cause millions of new refugees. There is particularly evil aspects to this which can be called the militarization of the Third World. The rich Western countries by their export of weapons

have not only fuelled a number of horrible armed conflicts violating human rights and humanitarian law and creating floods of refugees in many poor parts of the world, but have also managed to pervert and reverse the process of development itself.

Under these circumstances, there should be embargo on arms sales. Crisis management mechanisms should be established internationally and regionally for conciliation or mediation in cases of ethnic conflicts.

In 1980 Canada took initiative within the United Nations Commission on Human Rights to examine human rights and mass exoduses with a view to the elimination of the causes of exoduses. There was a concurrent German initiative within the General Assembly of the UN to consider measures to avert mass flows. These two initiatives have since been joined together under the item "Human Rights and Mass Exoduses" which is now on the agenda of both the General Assembly and the Commission on Human Rights. In the debate in the Commission on Human Rights, Canada urged: to assure protection and assistance and to share the burden place on countries of first refugees, and to contribute to the elimination of the causes of exoduses. The Canadian proposal broke significant new ground in the post-war Western thinking on the refugee issue. In its observations to the Secretary-General on its own proposal, the German government said, the

efforts of the international community had until now centred on the humanitarian task of mitigating the consequences of flight and expulsion, but measures to eliminate the causes of flows of refugees were not seriously considered. 1986 report of the group of experts set up by the General Assembly of the UN under the German initiative included two key provisions: (a) States should do all within their means to prevent new massive flows of refugees; and (b) States should co-operate with one another in order to prevent future massive flows of refugees. The UNHCR in conjunction with the Institute of Humanitarian Law at San Rameo, convened in 1989 a round table of experts to examine the issue of the solution of the refugees problem and the protection of refugees. One of the conclusions for further study and consideration adopted by the round table is as follows: In broad terms, the problem of the refugee was basically that of the denial of freedom of movement to the individual by reason of conditions in the country of nationality which compelled him to depart from that country or to stay abroad and the inability or unwillingness of the individual to avail himself of the protection of the country of nationality.

The above mentioned facts should be kept in mind while considering the proposal to work at the root causes of migration.

The writer is President, *Liberty International and Director, Asian Legal Research Institute (Japan)*.

To the Editor...

Letters for publication in these columns should be addressed to the Editor and legibly written or typed with double space. For reasons of space, short letters are preferred, and all are subject to editing and cuts. Pseudonyms are accepted. However, all communications must bear the writer's real name, signature and address.

Trade fair in Bulgaria

Sir, In a recent advertisement, manufacturers and businessmen in Bangladesh have been invited to participate in a proposed trade fair to be held in Sofia, capital of Bulgaria, in December 1993. It has been claimed that the trade fair has been sponsored by the Bulgarian Chamber of Commerce and Industry in co-operation with Messrs Ninagan Bulind Services Limited.

On enquiry, a Bangladesh national living in Sofia informed over telephone that he ascertained from the Chamber of Commerce in Sofia and they have expressed their ignorance about the same. He further informed that there does not exist any firm in the name of Messrs Ninagan Bulind Services Limited.

In spite of requests made by willing participants, the advertisers M/s. Rajtimpex could not show any proof of genuineness of the trade fair. On the contrary, they demanded a huge amount of money to be paid in Bangladesh as the rent for the stalls at the fair.

Interested businessmen in Bangladesh have to carry a huge stock and it is not ex-

pected that all materials will be sold out. Whether the organisers will buy the unsold stock and pay cash to the participants from Bangladesh is a question they could not answer. Sofia is not a big city and the economy of Bulgaria is not very flourishing.

A trade fair to be held in a foreign country should be the area of responsibility of the Export Promotion Bureau of the government. Why a private firm inserted such an advertisement should be enquired and looked into by proper authorities. Through the columns of your esteemed daily, I urge all willing businessmen to ascertain all facts before paying any money to any local agents.

M A Hafiz
14, Bangabandhu Avenue,
Dhaka-1000

Carelessness

Sir, In the last SSC result (1993) as published by the Controller of Examination of Dhaka Board showed a few students having scored letter marks only in four subjects. The same students when collected their marks found that they have scored letter marks in another subject also. Initial results as published by the Board

had really upset my son because he did not get letter in a subject about which he was very confident. But on receipt of the marks he found that he has scored letter marks in that subject.

This is really very upsetting as it reflects on the sincerity and responsibility bestowed upon the officials and staff concerned. Will they wake up and take pains to avoid such gross mistakes in future? Will the education authority look into such negligence and take appropriate corrective measures?

A Father
Purana Paltan
Dhaka.

Guests in DU halls

Sir, Guests in Dhaka University halls is a common affair. The guests are living here as if they are also legal resident students and enjoying all facilities as such. Is it a desirable phenomenon? Of course not. But why is this practice continuing? Who are responsible for this? It seems that students and the concerned authority both are equally responsible. The authority can't control it or allows it to go on.

On the other hand, the students can't exempt themselves from this allegation because a guest takes shelter into a legitimate student's room who is a recognized boarder and known to the authority.

As a residential student of a hall, time to time I have to go to TV room, dining room, canteen and reading room, but hither and thither guests are seen

moving and occupying the genuine students' locus. Now the question comes, who will solve this problem? Of course, the authority must take strong steps.

At long last, I would like to offer some suggestions to overcome the situation:

(1) Guests should not be allowed inside the hall for any length of time.

(2) Meetings between the resident students and their guests shall be allowed only at the hall guest room.

(3) The authority should issue a few rules and regulations in this regard.

(4) House tutors shall have to inspect into this regularly.

(5) The students also shall have to cooperate with the administration in this.

And only then, congenial environment at the halls as well as on the campus can be ensured for the hapless residential students.

Nur Mohammad Ansari
MSS final year,
Deptt of Political Science, DU.

Abandoned property

Sir, With a view to avoiding nuisance and lessening the burden of the abandoned buildings, the Government has already set up two courts: Court No. 1 for houses within Dhaka district and Court No. 2 for

houses outside of Dhaka district.

The objective of the court of settlement is known to all. The main function of this court is to find out the real owners of the so-called abandoned property, listed in the Gazette, so that the same may be restored to them.

When the rightful ownership is ascertained, the Court directs the Ministry of Works by its judgement to restore the possession of the house in question to the real owners forthwith.

It is unfortunate, however, that the Ministry of Works, as alleged, does not take cognizance of the court order. The Works Ministry is not the owner of the houses, it is merely a trustee. The illegal occupants are taking undue advantage of the inaction of the Government.

They are not only putting the owners into harassment but are also putting the Government into great loss in the case when the real owner sues for damage for the malfeasance, misfeasance and non-feasance of the officials of the Government. The whole scheme of PO 16/72 and Or. 54/85 is to give succour to the owner of the property listed as abandoned and not to create bottleneck in the process of restoration of the houses to the owner.

There are a huge number of cases pending in the High Court Division of Supreme Court. The writ petitions filed by the Ministry of Works add to that number, besides that unauthorised occupant/DN holders files 'false' cases to add to the miseries of the owner. The so-called Writ Committee of the

Ministry of Works becomes an appellate authority over the Court of Settlement which was not contemplated in the Ordinance No. 54 of 1985.

In many cases, the Government is ignoring the ratio laid down in cases decided by the hon'ble Supreme Court and unnecessary delaying restoration of possession of the houses released by the Court on this plea or that.

I appeal to the Hon'ble Prime Minister to put an end to this sort of wrong action taken by the Ministry of Works.

Pasha
77, Motijheel C/A, Dhaka.

Help the new Palestinian.....

Sir, Your 'Commentary' in the issue of 16th September is timely and should be heeded to without loss of time. It appears that you have worked out some finer details which shows your personal feeling for the subject i.e., assisting our long suffering brothers in the new state. I would propose that a non-governmental organization be constituted to channelize the assistance proposed.

Your feeling, experience and knack for details as disclosed in the commentary qualifies you to head such an effort. Though that would deprive us of some good readable materials for the duration.

M A Haq
Green Road, Dhaka.