

## Stifled Private Initiative : Need for Corrective Action

Tuesday's dialogue between Finance Minister M Saifur Rahman and leaders of the business community — with the Governor, Bangladesh Bank, Chairman, NBR, and senior Finance Ministry officials being present — turned out to be different than a routine exchange of views. It was a stock-taking of the investment situation made the more meaningful as the private sector representatives pointed their fingers to where things are precisely going wrong and how these can be remedied.

There was a clear mention of the fact that the painful phase of macro-economic readjustment over, we should have seen signs of the reforms starting to bear some fruits now. On the contrary, what we see is the persistent gap between expectation and realisation. It is the work of the systemic weaknesses. These are appearing in sharper relief by the day as serious entrepreneurial attempts are made to turn a corner.

Bureaucratic apathy makes a havoc of the professed de-regulation and liberalisation. Policy-makers and decision-givers betray a lack of appreciation of the critical time and cost factors in the growth process. The business leaders felt that some of the actions of government departments and agencies went against the privatisation and free market policies of the government. For instance, the harassing complications being presented by the tax authority are stifling private initiative. It is good to know though the recent notification to account for expenditures on medical treatment, birthdays, anniversaries, festivals and wards' education, has been withdrawn.

At any rate, if the slow-down in the vaunted commissioning of the STOL service is any guide we have a glaring example here of a systemic indifference. Rather than a tug-of-war between the Civil Aviation Authority of Bangladesh and the private companies, provisionally licensed to operate STOL, what we expected was actually the readying of the six airstrips for the service to begin as scheduled, on 31 January.

In the present state of the economy, demand-driven growth ought to have received utmost priority from the banking sector. The biggest paradox is we are eulogising ourselves on the structural reforms while the banks as an integral part of the overall structure are acting in a disjointed fashion.

A less highlighted stumbling block to new investments has been the dysfunctional or underperforming utilities — shot through with mal-practices of all sorts. Erratic supplies topped off by disgustingly inflated bills make these appear more like a disservice and a misnomer for utilities.

It is not therefore just a question of macro-economic success not finding its expected extension at the micro levels but also a puzzle of non-rhythmic functioning between the various structures within the broader systemic frame. Partly it is lack of fine-tuning, worsened by old fashioned ego-play, and partly it is dearth of professionalism that form the rock-bed of our systemic woes.

## Taming the Serbs

The North Atlantic Treaty Organisation (NATO), a military alliance of the West, has succeeded in impressing the Bosnian Serbs with its resolve to use air strikes for non-compliance with the demand for withdrawal of heavy artilleries from Serb positions. The Serb forces laying siege around the Bosnian capital have agreed to move their more than 500 heavy arms to at least 20 kilometres from Sarajevo. To do this they have been given just 10 days. The NATO's new assertive role seems to have been possible in response to United Nations Secretary General Boutros Boutros Ghali's request for a stern measure against artillery batteries around Sarajevo.

This time both the UN Secretary General and the NATO had to skirt around the UN Security Council — because of the fear of a possible Russian veto — for going ahead with the plan. That the Serbs have readily agreed to beat a forced retreat may have both good and bad implications. If they withdraw according to the agreed formula, it will prove the widely-held view that a tough stand would have brought the Serbs to their knees long ago. But given the Serbian records of broken promises, there is no knowing what a last-minute mischief they are upto. The recent mortar attack on a market-place in Sarajevo only gives rise to an apprehension of more such tragedies. The next ten days' proceedings should be closely monitored so that there is no alteration in the objective conditions and clear signs of progression in withdrawal are shown by the Serbs.

The option for NATO's limited use of force may have several pitfalls but it surely is a move — and a bold one at that — in the right direction. If the Western allies are ready to prove themselves a hard customer only to be appeased through a fulfilment of their latest demands on the chief culprits of the feuding parties, there is a real chance for extending the good work into enduring peace. The Serbs are well aware of the NATO's superior striking power both on the ground and in the air. The threat of this fire power must loom large on the offenders whenever they will think of breaching any agreement.

In case of any defiance or breach of the agreement, the NATO will have to be prepared for pressing for an aerial and territorial advantage and by doing so force the Serbs to concede to UN-brokered peace terms. One fervently hopes that before coming up with the resolution to use air strikes, the West has thought of such an eventuality and made provision for meeting it on the allies' own terms.

REPOSTEROUS though it may appear at the first blush, economists are bashed everywhere in the world (may be more in developing societies) for economic mismanagement. If any economists are frequently questioned about and charged with government's policy failures which, in most cases, are assumed to be not in consort with sound economic reasoning. One standard recipe for a rescue could be, as opined by a famous economist, that the policy prescriptions of economists are not for may not be politically acceptable.

The economics of politicians, in some cases, differs from that of the text book variety. To bear this out, a few examples can be cited e.g. establishment of a jute or Sugar Mill where everything goes well excepting the supply of raw materials; the employment of 300 people in a mill where 100 would be cost-effective; the buying of a Boeing when a country does not have proper aerodrome; the continuation of protection to an industry 20 years old, producing wheat or rice at a price 8-9 times the international price, so on and so forth. In all of these cases, economists usually place proper arguments keeping in view the global ramifications but politicians might have the local context in mind. Ultimately the politicians win the battle and poor economists have to behave like good housewives who, after some nagging, tend to accept the viewpoint of the adamant husband. This "service rule" of economists are not well-publicized for which politicians play the game, economists bear the shame.

The study of political behav-

ior from an economic perspective is relatively a new phenomenon and owes much to the works of James Buchanan and Gordon Tullock. In the following paragraphs, an attempt would be made to highlight some of the economics-politics behavioral nexus which, to tell the truth, barely scratches the surface of this rapidly growing area. (For more please see ECONOMICS by Byrns, R. and Stone G.)

Let's consider Why Many Elected Voters Don't Bother. Not only in Bangladesh but also in developed societies a turnout of 60% in a national election is considered relatively high. The fact that 40% don't bother is explained by the fact that these people tend to think the private benefits of voting is outnumbered by the personal costs (e.g. rickshaw fare, possible terrorism, long queuing etc) assuming that the results of an election would be a public good. But suppose the forecast is a 50/50 split between candidates of parties "A" and "B" and there are only 100 voters, the equal strength maximizes the probability that your vote could be decisive. As such, the marginal disutility of going to the centre could possibly be lower than the marginal utility of being the 101st voter to make, say, the President of the country. For such a golden offer, many

# The Economics of Political Behaviour

by Abdul Bayes

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Now consider the nexus with regard to Public Choice. Any body's behavior in the private sector, as economists would argue, is unlikely to be different from that in the political arena and vice versa. In other words, according to economists, this goes to imply that "We may observe equal proportion of saints and greedy sinners among voters, consumers, business tycoons and politicians. In private sector activities consumers vote their dollars for what they want but not all consumers have the same number of dollar votes. In politics, all adult voters have only one vote!"

What about the Rational Political Ignorance? If you had voted in the last general election under the care-taker government, how much did you know about candidates (be it BNP, Awami League or any other party) position on VAT, trade reforms, privatization, duty free cars or agricultural subsidies? Definitely not much, if at all. Producers and consumers are called rationally ignorant when they operate in a regime of imperfect market information (especially when the information is very costly) and hence tend to submit to uncertainty or to the vagaries of the state of things. So is the case with voters. It is close to

loving without seeing. Why voters behave like that? May be the cost of acquiring in-depth information of each and every candidate would far outweigh the benefits out of such information. For example, suppose under the care-taker government a commodity of your daily necessity was subject to import duties so that the customs duty amounted to Tk. 100,000. If there are 1000 consumers including yourself, then your sacrifice would be Tk. 10. Is it worthwhile to judge every candidate's position on import liberalization of this commodity and ask them to liberalize trade? Because of the public goods aspects of the outcome of the vote, many voters in our country (even in developed societies) select their voters on the basis of charisma or certain attributes e.g. sober, dependable, freedom-fighter, flashing smile, religious etc. Which has little relevance to economics.

Problems of Majority Rule is another area where the economics-politics game shows up. Economists have the rare virtue of not agreeing with each other but politicians sometimes have the opposite virtue mostly driven by some "vested" interest or interest of the "constituency". Even there, a simple majority vote for a decision imparts a loss to the minority. Majority voting may

breed economic inefficiency if and only if the minority's losses outnumber the gains to the majority. Example: A project with a benefit-cost ratio of 1.15 may fetch 2 "yes" and 3 "no" votes and be rejected against a project with a Benefit-Cost ratio of 0.85 bagging 3 "yes" and 2 "no" votes. To a person associating democracy with good governmental decisions, such inefficient outcome might appear disappointing. But the crux of the problem is that the intensity of preference can only be exposed in the market-place but not in the parliament through voting preference.

But there are some cases

where the society does not necessarily bad and that democracy or majority rule is plagued by a lot of negatives as shown above. But, believe it or not, democracy also has the least costs as compared to other alternative forms of state management. The wreath exists everywhere and is principally derived from the ignorance of voters and their apathy to election. To minimise it, political awareness and education of masses, transparency in policies, the openness of news media are probably the answer. And like it or not, economists can hardly be blamed for the unhappy outcome caused, in most cases, by the ignorance of voters and "economics" of politicians.

ments and decrees, a mosaic built from the multitude of cases decided. Respect and prestige do not grow suddenly they are the products of time and experience. But they flourish when judges are independent and courageous.

To earn public confidence judges must in the last analysis have the moral and intellectual fibre which must sustain their own spirit of judicial independence, as is wisely acknowledged by a Supreme Court Judge of the South Asian region (J. Venkateswara, India):

"But if the judiciary should be really independent something more is necessary and that we have to seek in the Judge himself and not outside. A Judge should be independent of himself. A Judge is a human being who is a bundle of passions and prejudices, likes and dislikes, affection and ill will, hatred and contempt and fear and recklessness. In order to be a successful Judge these elements should be curbed and kept at under restraint and that is possibly only by education, training, continued practice and cultivation of a sense of humility and dedication to duty. These curbs can neither be bought in the market nor injected into human system by the written or unwritten laws. If these things are there even if any of the protective measures provided by the Constitution and the laws go the independence of the judiciary will not suffer. But with all these measures being there still a Judge may not be independent. It is the inner strength of Judges alone that can save the judiciary."

(Concluded)

## Independence of Judiciary-II

# The Power Rests in People's Mind

by Dr Kamal Hossain

public justice ... the question in every case is not whether the publication in fact interferes with but whether it tends to interfere with the due course of justice ..."

But in the same judgment the judges, anticipating the danger posed by the power of contempt to legitimate public criticism and comment, quoted with approval the following observations of Lord Atkin:

"But whether the authority and position of an individual Judge or the due administration of justice is concerned, no wrong is committed by any member of the public who exercises the ordinary right of criticising in good faith in private or public act done in the seat of justice. The path of criticism is a public way; the wrong-headed are permitted to err therein: provided that members of the public abstain from imputing improper motive to those taking part in the administration of justice, and are genuinely exercising a right of criticism and not acting in malice or attempting to impair the administration of justice, they are immune. Justice is not a cloistered virtue: she must be allowed to suffer scrutiny and respectful even though outspoken comments of ordinary men."

### Pressure on the Independence of the Judiciary in the South Asian Region

In recent years the independence of the judiciary has

come under pressure in different countries of the South Asian Region.

In Bangladesh, the independence of the judiciary was seriously assailed during the period of authoritarian rule which had deprived the judiciary of all safeguards. Following the proclamation of Martial Law on 24 May 1982, the Constitution of the People's Republic of Bangladesh remained suspended till 11 November 1986. The position that prevailed during the Martial Law period has been described thus: "The Chief Justice and other judges of the Supreme Court are appointed by the Chief Martial Law Administrator. No consultation with the Supreme Court is necessary with respect to any matter relating to appointment of persons to offices and control or discipline of persons employed in the Judicial Services. The Chief Martial Law Administrator may appoint the Acting Chief Justice and additional judges or ad hoc judges to a Division of the Supreme Court; whenever necessary, for a specified period ... The Chief Justice of Bangladesh, whether appointed before or after the proclamation of Martial Law holds office for a term of 3 years unless he attains the age of sixty-two years, and thereafter retires from office. After promulgation of the 1982 Martial Law Proclamation (First Amendment), containing

this provision for retirement, Mr Justice Kemaluddin Hussain, Chief Justice of Bangladesh retired from his service abruptly ... A person holding any judicial office may be removed from office by the Chief Martial Law Administrator without assigning any reason."

Even though under Martial Law no consultation was required for appointment of judges, the practice of consultation was however observed in practice.

This power of removal was, however, used to remove a Judge of the Appellate Division, and two serving judges of the High Court Division without assigning any reason.

While the Constitution remained suspended, the Martial Law regime in the name of decentralisation of the judiciary fragmented the High Court Division of the Supreme Court, the permanent seat of which under the Constitution was in the capital, by setting up "benches" of the High Court Division in six places in different parts of the country. Judges were summarily transferred without their consent to these benches. Transfer of judges from one bench to another without their consent became usual.

It required the historic judgment of the Appellate Division of the Supreme Court to hold the fragmentation of the High Court Division to be unconstitutional and indeed to be beyond the powers of constitutional amendment. The Supreme Court as originally established and the principles of the independence of the judiciary and separation of powers were recognised to be part of the basic structure of the Constitution of Bangladesh which could not be altered even by constitutional amendment.

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