

## 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 proffered 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to account for expenditures on medical treatment, birthdays, anniversaries, festivals and wards' education, has been withdrawn.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-off-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 under-performing utilities — shot through with malpractices 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 artillery 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.

REPOSTERIOUS 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 (or 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 house-wives 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-

# The Economics of Political Behaviour

by Abdul Bayes

*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; .*

lor 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 Eligible 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 utility 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

would like to pay some money even!

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 have 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 accept simple majority rule but would demand a landslide swing. In such cases, ratification of constitutional amendment is needed and in Bangladesh this would require the support of two-thirds votes for the motion (in the US, probably, three-fourths of all state legislatures plus two-thirds of Senate and House of Representatives). A jury with a criminal case also requires unanimity. In all of these cases, the minority weight in making social decisions is duly recognized. However, the absence of "floor" crossing might weaken the intensity of preference of the voter and thus even with good grounds, the constitu-

tional ratification may not be forthcoming.

Over Representation of Special Interest may enable the minorities to impose views not liked by the majority of voters. For example, a parliament might be oversized by the members of business or coons representing good and bad investors alike. Now even if people at large want loan defaulters to be punished and economists also advocate that, so as to ensure financial discipline and restore banks' liquidity, the proposal might get a cool reception. The nature of treatment to "Agriculture" relating to protection in the US, EEC, Japan, Korea vis-a-vis that in Bangladesh clearly points to the differential strength of lobbies in the parliaments. In the rather extreme case of Bangladesh this could be attributed to the absence of lobby for farmers.

What can we learn from above? One might tend to conclude that politicians are 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 wreck 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 "economies" of politicians.

## 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 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

other 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.

## Concluding Observations

The judiciary depends for its effectiveness on the public confidence that it enjoys, for as it was eloquently expressed by a distinguished US Supreme Court Justice: "The judiciary has no army or police force to execute its mandates or compel obedience to its decrees. It has no control over the purse strings of government. Those two historical sources of power rest in other hands. The strength of the judiciary is in the command it has over the hearts and minds of men. That respect and prestige are the product of innumerable judg-

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. Venketaramiah, 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 independence of himself. A Judge is a human being who is a bundle of passions and prejudices, likes and dislikes, affection and illwill, 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 possible 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)

## OPINION

# Looking through the Mayoral Election

Dr MTHaq

The partial debacle of the BNP in the current mayoral election is significant. Bangladesh has been blessed with a parliamentary democracy which is very young and has yet to set up traditions but a beginning has to be made now.

The Prime Minister, Begum Khaleda Zia as the Chairperson of the BNP, has pointed out some of the reasons for the BNP failure in the mayoral election and also to the organizational weaknesses and the lack of cohesion in the party. The expectations of some sections of the people from the BNP were very high and some thought that at least in the second general election also the BNP will come to power. But that hope seems to be in doubt in so short a time.

It is a wonder that the Ershad regime ruled for long nine years in a country where even the illiterate people are so politically conscious. I must say again, as I said earlier in my several published articles in the well-known English dailies of Dhaka that Ershad's only policy was to corrupt and demoralize sections of the society, say through bribery, nepotism and misuse of power. The honest sections of the society were small and helpless.

I have to say this because even Sheikh Mujibur Rahman could not stay in power for long. His elimination along with the members of his family was so shocking and deplorable. But then, after his killing, there was a little public reaction to that gruesome killing. As a matter of act, Sheikh Mujib, being surrounded by a group of sycophants, could not realize that, in the few years he had been in

power, powerful forces had been growing against him and his policies.

The late President Ziaur Rahman, although he came from an army background and was an honest man, but may be because of his integrity and incorruptibility, there were factions among the people around him, active against him. He had also to pay, with his own life.

These two examples perhaps substantiate my point that Ershad and his mafia remained in power for long nine years by sheer corrupting sections of people at all levels and in all fields.

The signs are ominous for the BNP only after about three years. The Chairperson of the BNP may justifiably blame others for her party's defeat in the mayoral election in Dhaka and Chittagong. But then, in the ultimate analysis, it is also the Chairperson herself who has to bear the responsibilities for the consequences with which her party is faced today.

that what has been decentralized must be coordinated at the central level. And for this lack of coordination, perhaps also the Chairperson herself and her immediate lieutenants are responsible.

In view of what I have tried to say, the urgent action of the BNP high command perhaps is to locate or identify the exactly concerned ministers who are primarily responsible for this failure and ask them may be to resign. This is necessary for the setting up of a tradition of precedent, in the interest of the future of the young democracy in our country.

Lastly, there are victories and defeats in elections, and the parties must take and accept their positions in good spirit. But in the aftermath of the election, what happened in Nawabganj of Lalbagh area beggars all description. These gruesome murders remind me of the killing of my distinguished and dear student Tajuddin Ahmed along with other leaders in the Dhaka Central Jail. The nation demands a full inquiry into the Nawabganj incident and severe punishment to the culprits whoever they may be. The whole nation feels aggrieved about these tragic murders, on top of the inappropriate and injudicious economic and social policies, may be under the pressures of the World Bank and IMF and the donor countries.

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## To the Editor...

### Traumatic telephone

Sir, The other day I was coming back from Dhaka to Narayanganj by bus. Passengers, as usual, were discussing various topics of present interest. Some were talking of the telephone problems in Narayanganj. I felt curious and listened to them.

First passenger: My phone is out of order for 15 days.

Second passenger: Haven't you complained?

First passenger: I have, and for six times. But the phone is still dead — no dial tone.

Second passenger: My phone is useless for a month. Now I have stopped complaining.

Third passenger: Your phone is useless for only a month. My one is out of order for three months! I have complained perhaps for a hundred times. But till today it is not back to order.

Fourth passenger: Horrible, may be your exchange is one of the wonders of the modern world!

Third passenger: Excuse me, where do you put up, brother?

Fourth passenger: I have been living in US for 16 years and now I stay in Gulshan. I'm going to Narayanganj to see my old uncle.

Second passenger: But, brother, this is not America. In Bangladesh the situation is completely opposite.

complain even a thousand times but ...

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### People's welfare

Sir, In a welfare state the people owe a responsibility to pay taxes and duties to help government run the day-to-day administration of the country smoothly. Unfortunately there has been a trend in recent years not only to increase rates of rents, taxes and duties etc quite exorbitantly with least regard as to the capability of the tax-payers, but also impose taxes on new items. In view of the increase in the prices or charges of the utility services the people in the lower income strata have been most hard hit.

It should be the objective of the government to provide a calm and congenial atmosphere for the common man to live at least and undisturbed life by pursuing a policy of punishing the culprit and rewarding the good and noble persons and thus ensuring peace for the innocent. No government or any other authority should increase rates and taxes to an extent which causes hardship to the people of average means. In the past, any particular proposal for increase in the rates or taxes was to come in the form of a bill and underwent a process of scrutiny in the Parliament before it was implemented. But from the time of Ershad's autocratic rule, that system has been changed. And in the normal execution of business, various authorities are found to impose or increase taxes and

charges most frequently.

For the sake of instance it may be cited that Municipal tax was increased 10 times in 1983. In the face of wide resentment against that, the provision for appeal was made. But it was ultimately noticed that the relief granted by such appellate authorities was very meagre and after that the rate of increase stood at an irksome level of seven times. During that regime, particularly in the last five years of JP rule, in every utility service viz electricity, gas, WASA, telephone, land revenue etc, the increases were not only abnormal and exorbitant, but also highly distressing. It was perhaps because the people were launching movement against them they also mercilessly increased taxes. Persons who were then instrumental for such arduous increase had little anxiety for the people of limited means or their capacity to bear the burden of increase.

It was strongly believed that the democratic and accountable government, on assumption of power, would at least do away with the last increases in all the utility services to provide an immediate relief to the people of lower income strata in particular. But contrary to people's expectation, charges on certain items has been increased. Recently water rate has also been increased with effect from 17.12.93 and that too bypassing the Parliament — an action which may be reckoned as unfair on the part of an accountable government.

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