

A Positive Gesture

Prime Minister Begum Khaleda Zia has our heartiest congratulations for offering fatcha before Bangabandhu's mazar at Tungipara. The historical import of this conscientious act and thoughtful gesture on her part lies in removing a block of ice that for two decades pressed down a national longing for seeing him return to the place of honour that is his.

Whatever her detractors may say, we consider her gesture to have enormous political significance. It is not only the fact that she paid respect to Bangabandhu, the timing of it is also important. At a moment when the relation between the ruling and the opposition parties is on a slide down, this gesture, we feel, will help to reverse that process. The visit by Begum Zia was not a favour to the memory of our beloved leader. In fact he deserves much, much more. But that fact, in no way, diminishes the significance of the gesture made by the PM. Please do not underrate the event by calling it a 'stunt'. Every gesture of a political leader of the stature of Begum Zia and Sheikh Hasina has some intrinsic value and some publicity impact. One does not negate the significance of the other. In fact the opposition, especially the Awami League, should welcome this move, saying it is better late, than never, and encourage the BNP and Begum Zia, to do more in this direction.

It is not only an honour she has done where honour has been long due but helped start a process which may lead to putting our best face forward to the world at large. A nation that fools around with the memory of its greatest sons, and tries to simulate a temporary amnesia about them gives a poor and confusing account of itself. Awami League, as we said earlier, should greet her gesture wholeheartedly for its worth, infusing in Begum Zia thereby, a feeling of being reciprocated. Even if it is in the line of duty that the Prime Minister has done it, she still stands out for her sense of history and political wisdom.

Our expectations from this point in time onwards will be that this would have a positive bearing on the course of political events in the next few days. There is little doubt, Begum Zia has taken a confidence-building step.

Now what the nation can rightfully expect of her to do, is to take a series of steps that will restore full glory to the name and image of Bangabandhu, and vindicate the honour he so pre-eminently deserves from a perpetually grateful nation.

We Denounce This Terror

All hopes of a terror-free Dhaka University have again been cruelly dashed. Murders such as Joydip Datta Choudhury's — in a sweet wintry noon-tide and amid crowded student residence halls — cannot but leave the DU community in a spell of trauma very hard to heal. The daily academic chores would continue as usual barring some expression of denunciation that would soon die out. But as time will pass the wound that is now on the outer layer of perception would sink into deeper recesses making us all insidiously sick. This is a double-edged scimitar — you go through the motions of being an untrammelled normal and you hurt yourself by that, by posing normal which you are not. And if one steels oneself against such shocks, one will be cut from vulnerabilities that make man a man. The purpose of steeling — keeping one's humanity undented — will be lost. We are in for another life-sapping bout of frustration.

Looking up to the political parties and their bosses has been futile — they have proved unmistakably lacking in moral probity by failing to own up their share of responsibility for the campus murders. Campus killers do not operate without a political umbrella — no isolated goon's work is this.

Shouldn't one after such horrible chastisement of the rational expectations out of the political parties appeal to the good sense of the social forces and the abiding loyalty of the cultural elite to the good of the nation? Both social and cultural forces have long been in the process of being divorced from playing their own role by the pressures of an ever-widening political fissure overtaking the society in all its aspects. No one from any of society's numerous constituent areas dares speak out for fear of falling foul of hardening political positions. It is not the university campuses alone but the whole nation that is living under terror — thanks due mainly to the parties.

The students could set their house right if they themselves weren't living in terror with even the terrorists among them — and those come from outside — living in the same kind and quantum of insecurity. For gunmen, allegedly students, to shoot at a leading student, the only son of his parents and waiting to pass out of university in less than a year, and then to chase the wounded young man, pin him down and drive a bullet in the chest — are something that beats world's worst criminal acts. A sense of repugnance, if nothing else, should unite the students and teachers and others in the university to forge an effective resistance forestalling any future recurrence of such nation-crippling crimes.

Why Lose Public Sympathy?

While the nation has been anxiously waiting for a speedy resolution of the politico-constitutional imbroglio this was hardly the time for an industrial action by the workers of jute, textile and cotton mills. One got killed and 150 were injured in clashes between the demonstrators and the policemen on the first day of the 72-hour strike, and, by the time it comes to an end, the casualty figures may rise.

The workers have a list of demands ranging from a halt to the government's privatisation move to the implementation of uniform wages between the employees in the private and public sector mills.

Evidently, these are weighty policy matters with deep financial implications which need to be thoroughly examined and then resolved through patient dialogues and negotiations between the concerned ministries or mills on the one side and the trade unions on the other. Even if the previous negotiations had proved to be barren what was the rationale for timing the industrial action in the thick of the current political turmoil? And then the workers went out of their mills putting up rail and road barricades here and there which not only produced violent clashes but also caused enormous suffering to innocent people.

What good the workers can bring to them by alienating themselves from public sympathy?

RECENTLY a question regarding Supreme Court's judicial authority over Parliament's activities has started bothering the ego of political community. This apparently emanated from two recent rule nisi issued by the High Court Division of the Supreme Court upon the Speaker of the Parliament. The issue raised by two contradicting directions of the Court warrants opinion of a superior court. But the perception that the High Court Division of the Supreme Court acted beyond its scope should be viewed from a legal perspective.

In a constitutional framework, there is hardly any tussle between Legislature and Judiciary to establish one's superiority. Each one acts according to its authority. But now a lot of people are thinking that Judiciary has gone too far to control the Legislature. This perception is generated from English heritage, where the Legislature of the Imperial Parliament is considered supreme. According to Blackstone, "What the Parliament doth, no authority upon earth can undo." This idea was an offspring of monarchy where king was considered as the Supreme and Sovereign power in the state. But in a constitutional republic people are considered the Sovereign authority and the will of the people are expressed in the Constitution. If one looks into the Constitution of Bangladesh

Parliament and the Judiciary

by M M Sunnah

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he can easily see what are the authorities of the Parliament or the Supreme Court.

The first few lines of the Constitution of Bangladesh reads as follows: "We, the people of Bangladesh, having proclaimed our independence on the 26th day of March, 1971 and through a historic war for national independence, established the independent, sovereign People's Republic of Bangladesh."

The declaration that "We, the people of Bangladesh" confirms the people's authority. And this authority was further confirmed by the article 7 of the Constitution which reads:

(1) All powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of, this Constitution.

(2) This Constitution is, as the solemn expression of the will of the people, the supreme law of the Republic, and if any other law is incon-

sistent with this Constitution that other law shall, to the extent of the inconsistency, be void.

The aforesaid expression clearly indicates that the people are the source of all legislative authority. In other words, the Constitution enumerates the powers granted by the people to the Government, Judiciary or Legislature etc. The Legislature or Judiciary cannot exercise any authority that is not granted to it by the Constitution, either expressly or impliedly. Whenever the Government or the Legislature or the Judiciary's right to exercise authority is in question, recourse must be made to the Constitution to determine their authority, either in express words or by implication.

This is also ascertained in article 65. (1) of the Constitution which reads:

There shall be a Parliament for Bangladesh (to be known as the House of the Nation) in which subject to the provisions of this Constitution, shall be vested the legislative

powers of the Republic."

That means Parliament's legislative power is limited by "the provisions of this Constitution". There is no unlimited power delegated to the Parliament.

Again, the constitution defines how the Judiciary shall act. The article 102 of the Constitution reads:

(1) The High Court Division on the application of any person aggrieved, may give such directions or orders to any person or authority, including any person performing any function in connection with the affairs of the Republic, as may be appropriate for the enforcement of any of the fundamental rights conferred by Part III of this Constitution.

(2) The High Court Division may, if satisfied that no other equally efficacious remedy is provided by law —

(a) On application of any person aggrieved, make an order;

(b) directing a person performing any functions in connection with the affairs of the

Republic or of a local authority to refrain from doing that which he is not permitted by law to do or to do that which he is required by law to do;

(c) Declaring that any act done or proceeding taken by a person performing functions in connection with the affairs of the Republic or of a local authority has been done or taken without lawful authority and is of no legal effect; or

It appears that the Constitution clearly defines the role of judges in matters presented before them. It is certainly an Act of Parliament. And this act of Parliament tells the judges how to act while performing their function as a part of Judiciary.

Now the question as to whether a Judge, on application of any aggrieved person, can give direction or order to the Speaker of the Parliament or a Member of the Parliament not to do something or issue a rule asking them to show cause as to why some or any of their act should not be de-

clared illegal or made without lawful authority. Article 102 of the Constitution clearly states, 'yes'. Recently a person who felt aggrieved, by the mass resignation of 147 Member of the Parliament appeared before the Court with an application asking the Judge to declare the mass resignation illegal.

On hearing the person the Judge was satisfied that the person has a prima facie case and then asked the opposite parties to show cause as to why their act of mass resignation should not be declared illegal. After hearing both parties the Judge will make the final decision. The same argument fits into the case where the Speaker was asked to show cause.

One should not try to raise an issue of superiority here, i.e. which branch of the Government is superior? The Parliament? Or the Judiciary? Or the Executive? Everyone should work according to law within the framework of the Constitution. Independence of Judiciary ensures balance, so that neither the Executive nor the Parliament acts beyond their scope. The Judiciary not only works within the authority given to it by an act of Parliament, but it also oversees whether the Parliament is acting within the authority given to it by an Act of Parliament.

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Foreign Ministry Fine-tuning : A Press Angle

by Shah Husain Imam

The heads of our missions abroad rely heavily on news and views generating in the host countries to furnish inputs to the headquarters designed to enable them to fine-tune the directions of bilateral approaches, if need be.

HERE is a media person's angle to what

Prime Minister's special envoy is trying to do at her directions to attend the foreign ministry to what are called the needs of time. There should not be any vagueness about the work of the foreign affairs restructuring and reorganisation committee which he heads with his economic credentials that in the first place had made him the PM's special envoy. Basically, the exercise is to prioritise the investment and trade agenda for our overseas missions and make sure they have adequate back up support from the headquarters to deliver.

The Prime Minister's exploratory visit to Japan to garner investment support and the foreign investors delegation coming to Dhaka lately have all revealed how little they knew about the pleasantly surprising attractions Bangladesh otherwise held for investment. Low inflation rate, hundred per cent foreign equity participation, repatriation of principal and profits, profitable investment in the DSE, poised to offer more with prospects for privatisation in virgin areas bound to fall into foreign and local private hands — all go to paint a picture of a highly potential market, still unfortunately on the sideline of business world though.

The information gap yawns furthermore if one takes into account our tactical lackings in presenting Bangladesh overseas. Indian Prime Minister

Narasimha Rao told the US Congress sometime ago, in what was an oblique reference to China, that India is a functioning democracy. The US thought so too otherwise there could not be the unceasingly massive investment in India from that country — the Pepsi Cola, the General Motors, and the rest who are coming in a big way.

What can be to our tactical advantages are the following that have hardly been hammered home to foreign investors:

Our society is conceivably the closest-knit and most homogeneous in the region which makes some pundits privately maintain that this has all the potential to be quite stable. The political culture is not fundamentalist and the people are genuinely friendly and hospitable to foreigners. The way a hartal fatigue has grown in them, and the shine they have started seeing on other folks' lives and living through the courtesy of cable television, in spite of their human frailties like their own, are indicators of a brand new outlook quietly in the making in Bangladesh.

It is against this economic and sociological background that we must now proceed to vitalise Bangladesh's image projection abroad. The press and information wing in our

missions abroad can play a very useful role in coordination with the commercial outfits.

The heads of our missions abroad rely heavily on news and views generating in the host countries to furnish inputs to the headquarters designed to enable them to fine-tune the directions of bilateral approaches, if need be. In liberal countries, the press is privy to what happens in the government and among the parliamentarians; but even otherwise where they are less fortunate, the media do serve as a barometer of public opinions. Hitherto, news, analyses and commentaries of political, diplomatic, regional and international importance have caught the attention of our diplomats, but now the monitoring needs to be of the economic kind even on the political side. In fact, economic intelligence gathering has been persistently a weak point with us.

On the home front, press ought to be regular, press briefings on the economic and commercial performances of our missions abroad. Simultaneously, the political and diplomatic briefings that are given on an ad hoc basis when the situation demands better be replaced by authentic presentations at specified intervals.

Our foreign service cadre

officials are as good as any in the world; in fact, the ingenuity they were routinely required to show by the historical exigencies in country's politics to sell the unsalable abroad should elevate them to a cut above others. All this they did despite being pushed down the ladder through the loss of positions to other people. Partly to please the political boss, a few of them contrived some of the entries, for which of course, the cadre as a whole need not be blamed. Also they cannot be all too parochial not to part with some berths to genuine material with sufficient expertise who can add a refreshing depth and variety to the overall foreign policy functioning.

The missions abroad, most of all, needs team work which the cadre officials by virtue of their education and enlightenment, are capable of inducing and sustaining in their respective areas. Missions are small places of work where human relations, based on mutual respect, can make all the difference between dynamism and sloth. The cadre officials' vertical mobility to positions where they must have been by comparison with the officials of other cadres can be vastly improved through an addition of posts, warranted by the proposed expansion of economy and trade — related

functions.

However, their political and diplomatic role overseas cannot recede in the background; on the contrary this has acquired a new importance in view of the changed context where camp and ideological distinctions have blurred calling for re-fashioning of strategies. They need to have a renewed sense of pride and commitment to their fields of competence which is only

possible by rolling back the demoralization they have gone through over the long haul.

Foreign policy successes are determined, as always, by efficient domestic policies. A bipartisan understanding on major foreign policy issues is key to our putting the best face forward to the world in terms of durable stability without which massive investments would continue to elude us. Poor labour productivity, one of our chief weaknesses in attracting foreign capital investment, the other being bureaucratic regulation, will be a thing of the past if the above happened.

OPINION

Financial Indiscipline

Nazir Hayat Khan

Virtually the centrally-controlled banks (nationalised) started the financial indiscipline. They did more so of non-accountability of disbursement of loans whether for trade or for industry. The prime interest seemingly was self aggrandisement both on the part of the giver and the borrower rather than the viability of the project or the profitability of the trade.

Ultimately defaulting borrowers account for the inequitable distribution of wealth in our society. They have money not well earned, therefore, will not spend well, disturbing the buying capacity of the ordinary consumer. This sets a bad precedence before a future borrower who will tend to get the feeling that money borrowed is not to be returned; it may induce misuse of loan. Seeing such bad debts giving rise to social problems, strict disciplinary action ought to be taken both against the person who directs such a loan and also the borrower who is not willing to pay back his loan.

Positive laws should be enacted by law-makers in the Parliament to: (1) Auction at a stipulated time all assets and property including freezing of bank accounts both at home and abroad to realize as much as possible from those non performing borrowers. (2) Bangladesh Bank could have a cell to deal with such cases with the help of a deputed magistrate to speed up the settlement process. Provision for punitive measures to the extent of the concerned bank manager's corruption should be considered at the time of recovering money. (3) No defaulting borrower should be permitted to contest in any election or hold a public office without adjustment of the overdue. To facilitate it, banks must send the list of borrowers who have overdue of or more than Tk. 50 00 lacs for more than one year. Also their names should periodically be published in the newspapers. (4) Trade Unions in banks must be barred from influencing loans and should not interfere in the usual banking activities other than employees' welfare.

Loan for a particular project should not be allowed to be diverted to other business of the borrower. Financial indiscipline to the extent of fraudulently transferring of industry in another name or selling or removing machinery from industrial sites must be checked. And such defaulting borrower should be brought to account like the Indonesian tycoon Eddy Tenzil who had been sentenced a seventeen year term for misusing bank loans after the press reported scandals about State Bank Bapindo losing \$500 million to Eddy as

bad loan. Besides the jail term, he was also ordered to pay a \$139,000 fine and \$230 million in compensation. The government had previously seized much of his assets.

A common stance taken for defaulting industry and working capital loan is that the industry is 'sick'. Even at that time when there are people going to banks for loans for same type of projects with highly profitable profiles for further sanction. And when they are refused by the banks, political power is sought in getting a loan. Nowhere in the world an industry is sick; the industrialist must account for its losses and if the cause for loss is not justified, the borrower is liable with of course all the paraphernalia of liquidation in place including seizure of personal assets.

Besides poor management and marketing, a major handicap of many state-run banks is bad loans. After stricter rules forced banks to increase bad debt provisions in 1990, nationalised institutions as a group have suffered with growing losses when their private and multi-national counterparts have more than doubled their total profits by the fiscal year 1992-93. A good 30 per cent of bank loans in the country are considered bad by some Tk 750 crore. State bank problems may lead the government to keep protecting them. But that only delays the process and makes it more costly like some crop loans which year after year have short falls to carry over to the next year's crop resulting in blocks of debt. It holds back the economic growth needed for the banks to turn a profit.

Unscrupulous entrepreneurs' tact of adjusting one default by another loan from a different bank ought to be strictly checked since over a period the liquidity will decline if the capital is non-productive. Banks in the hope of getting back their money continuously lend money which in all probability they will not get back. Also a practice of drawing large sums reportedly by Directors of banks in different names is putting the ordinary share holder at risk.

With a weak economy such as ours, many lenders cannot find enough sound undertakings to finance thus it would be wise to promote itself as a financial centre for both the ASEAN and SAARC. In 1997 Hongkong will be handed over to China, many there are looking for alternative safe haven. We can at least give a try to be such a place despite greedy business people conniving politicians and bureaucrats spinning webs of regulations and rules forming the 'iron triangle' of political, business and bureaucratic interests that coordinate economic activity and protect big companies.

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.

Resignation of a minister

Sir, Your editorial on Hill Rail Accident has made me laugh. I laughed because in your editorial you have asked the Communication Minister to make a noble gesture by resigning, a gesture undreamt of and totally unexpected of a person vested with some kind of authority in this hapless country of ours.

You have also cited the examples of few such cases in other countries. So what? Bangladesh, however, famed it may be for its abundance of the people engaged in intellectual or scholastic pursuits, does not have any precedence in its long history where a ruler or a member of the ruling clique did ever relinquish its authority unless and until it had been forced.

Rejaul Karim, Malibagh, Dhaka

Khilgaon crossing and our traffic sense

Sir, Traffic laws are set to control vehicles of all kinds in order to prevent the lawlessness on the roads and to save the valuable lives of the citizens from road accidents. We admit that hardly there is any country that does not see loss of lives owing to the road accident; however, the roads and tracks remain open there all the times so that a passer-by and the passenger reach his/her destinations in time.

Dhaka is a city where traffic jam is a regular feature and it is very hard to say that an employee, or a student, or a trader shall reach his destina-

tion and return home safely and undisturbed. The death of passengers in the road does not pain us because we have become immune to it by reading about it in newspapers everyday. Many day passes without the loss of a life. It will amaze us because the traffic situation is so worse that only the hands of miracle can do that.

The Khilgaon road junction too is not free from the blame of unnecessarily delaying people on the road; but, at least, there is hardly any report of death due to road accidents. It means there is loss of time but no loss of life.

Khilgaon road junction connects Khilgaon, Goran, Madetrak, Ahmadbagh, Basaboo, Sabujbagh and adjacent areas with the main city, as a result of which, hundreds and thousands of the dwellers in and around the area use this point everyday. Uncountable rickshaws/pullers, and drivers of all kinds of transports too, use this point.

As the construction plan of the road is defective, it does not become possible on the part of the traffic police to keep the roads free from 'auto-blockade' all the time. No doubt they work tirelessly; eight hours a day under the sun and the rain but they are not properly co-operated by those who use the point. The rickshaws/pullers park their vehicles on the roads with much disregard to the traffic laws, and drive occupying the entire road at their whim. The drivers of other vehicles too do not care about the inconvenience caused to the passers-by, the citizens and fellow drivers because they seem to show no respect to the law of

the land.

In such a situation how it can be possible on the part of 7/8 policemen to ensure traffic laws to work effectively. I am not telling that they are free from errors; but frankly speaking, I watch them to exercise patience and presence of mind in keeping the Khilgaon traffic point open for all. In fact, for traffic jam, the drivers and the rickshaws/pullers as well as the passengers are largely responsible. The passengers wait for transports standing on the road frequently. They do not vacate the road no matter whoever requests them to do so.

Law and morality is interrelated. One without the other cannot be fruitful. Laws are defined in the books of Political Science as a set of uniform rules to control the external human actions while morality are to develop the sense of right in a man. If a man is driven by the heart to do wrong, fear of law may not be able to prevent him always. The law-breaker does not fear the measures of punishment, nor have any short of good sense. Whoso is devoid of morality, is also devoid of the sense to abiding by the law. I think our traffic laws are sufficient if we develop our morality.

To conclude we would request the concerned authority to spend a little of their time to the development of morality in the heart of people. Otherwise law-breaking would become law itself.

ATM Nurunriabi, Tilpapa, Khilgaon, Dhaka

Sanchaypatras

Sir, In this country there is no social security net. Every individual (except government employees who have pensions) have to carefully save for his retirement days. So long there was one savings instrument which was widely used by the fixed-income middle class and

that was the Sanchaypatras. If one started to buy Sanchaypatras early in one's career and regularly reinvested the proceeds over, say, 30 years, one could have a reasonable and secure income for his retirement days.

It is, therefore, with great dismay, that we watched the government snatch away even this little window of opportunity that we had. From this year the government has decided that Sanchaypatras will no longer be eligible for investment tax rebate. Instead, company shares traded in the stock exchange market will be eligible for tax rebate. We wonder if the full implication of this has been realised.

First, playing the stock market is essentially a gamble and those with limited and fixed income cannot afford the risk.

Second, for being eligible for tax rebate, one is required to hold on to his shares for at least five years. What happens if the share value starts to drop? Does the government expect the person to hold on to his shares and watch its value disappear? Will the Government or the Income Tax Deptt compensate him for the loss? If not, does the government have the moral authority to force him to take the loss?

Third, the government may have decided on this line of action to boost the capital market. Probably it will and that is good for the country. But why coerce the citizens into it? Let the market attract its share by its own merit. In the meantime, why not give the small investors a wider choice?

We all recognise the good intentions of the government but this decision has failed to protect the interest of the small fixed salaried earners. We would, therefore, request that the government allow both Sanchaypatras and company shares for investment for tax rebate and leave the citizens to choose as they see fit.

One concerned Dhaka