

Meeting Power Need

A country-wide power shortfall of 450 mega watts is projected for the coming winter. Every year we routinely have scarcity of power. This time the warning has come quite early in the year. But this does not mean the warning will be enough for us to brace for the powerless difficult days. To tide over the difficulty, actions can be considered on three different levels — power generation, distribution and consumption. Generation of power by setting up new plants within this short period is simply out of the question. Even the minimum time required by a private foreign company is stated to be 15 months.

So attention has to be given to the other two areas for bringing in some improvement. There is indeed scope for rationalising the distribution system, on which token the suffering of the consumers can be somewhat lessened. Similarly our consumption behaviour in relation to electricity leaves much scope for improvement. Discreet use of power can indeed save quite a good amount of energy. But these are just peripheral compared to the actual growing need of energy. Generation of power — preferably from alternative sources — really holds the key to it all.

Generation of power from conventional thermal power plant is just one option but of no help to meet the emergency we are facing now. We should think of bio-gas, wind power, tidal power and solar energy. Particularly the last one can be highly suitable for us as we are fortunate to have an abundance of sunlight. The cost of production of solar power at present may be high but it should be possible to bring it down by duty waiver on equipment import. The advantages of which this source are many, most pronounced of which is that the generation of power is possible locally and does not need a huge network of distribution system.

Our conventional power plants suffer from an endemic indifference in terms of maintenance. On top that, for the last two or three years there has been no investment in them. The World Bank withdrew support because of the failure to stem the systems loss that hovered between 33 and 40 per cent. So the chance of a major breakdown in a number of power plants at a time and a consequent catastrophe cannot be ruled out. Routine overhauling has to be expedited. Irregularities by meter readers along with pilferage of power contribute to a large extent to its shortage, and the cost — which is one of the highest in the world.

The Unwell Cardphones

There are certain universal constants used by the sciences — the most daunting being the second law of thermodynamics relating to all things moving all the while from order to disorder. Or say Planck's celebrated constant for quantum expressed by h. In Bangladesh we have evolved such constants, although these are of human origin rather than of nature. Both our people and government have been constructing things and buildings from the first day of the genesis of this state. But hardly has any of these parties ever planned for maintaining whatever they have built. The absurdity that reigns supreme in the budgets of all institutions here — from government to the mahalla clubs — is the absence of any provision for monitoring and maintenance. Often enough it is told that half of the generators of Bangladesh's total electricity or the fleet of ferries across its rivers have gone out of commission — at a time. Or you may have already seen that the Azimpur Colony, housing those who run the government machine, had for years going without the whole of the low wall that marked both its area and that it was a private zone. This is one Bangladeshi constant.

The cardphone thing was one such typically opened affair. How is it doing before it is even two years old and before it has covered all the important towns? It is not well. Down with the amount of lack of maintenance and because there is hardly any one to look after it. A leading national daily reported on Tuesday that one-third of all cardphones installed in the districts of the Barisal division are out of commission. How will be the picture nationally? What is the situation of the coin-boxes? What was the response in both cases — businesswise?

It is quite understandable that a society not quite past its feudal medievalism, would commit blunders when using the latest technological gadgets. But who doesn't know people have an infinite power of adaptability. It is at the middle and social strata that progress is blocked by inefficiency, incompetence and corruption. Let all cardphones behave appropriately and people will simply adore the government.

Water Crisis in B'baria

A scientist's lab is a universe in miniature. Imagine the ones of Orsted and Hertz, Faraday's or JJ Thomson's. Brahmanbaria is a laboratory case for all Bangladesh. Not many places sell why as they do there — thick with quality. But on the question of water — or potable pure water — little Brahmanbaria on the once mighty Titas is having a crisis, Dhaka-style!

It has been reported that for want of deep tubewells, water supply may close down all together there. Once there had been eight such tubewells there. Four of them have been lying ill and out of work for years. Of the remaining four, two may close down any day moment. There are only 1600 consumer lines there using up to 10 lakh gallons of water a day. But at present only 4 lakh gallons are piped. This is supplying 60 per cent less water per consumer.

Brahmanbaria may be small by Khulna or Chittagong standards. But how many can be serviced with only 1600 lines. An estimate says that it should be forthwith extended to 64,000 houses to cover the town adequately. How will then these present tubewells in their present condition cope?

We can only hope that situation in every town is not as bad as Brahmanbaria's. But what can we hope for Dhaka? Valid and paying consumers are getting only a fraction of their daily need. They constitute again a fraction of who need water in the city. And then there is wastage and pilferage of water on a large scale and with impunity. A desert is a far better place — waterwise. For there everyone understands the value of water. Here no one does — even the water-starved ones.

Budget by Ordinance and Constitutional Impropriety

by Mohiuddin Ahmed

Two budget ordinances, one with doubtful legitimacy...

On June 22, 1996 — just a day before the Prime Minister took oath the Government issued two ordinances dealing with budget. One of the Ordinances (Ordinance 25, 1996) made advance grants and appropriations so that the Government can carry on its functions in financial year 1996-97 commencing from July 1, 1996. Obviously, the new elected Government would not have time to go through the usual parliamentary process for approval of 1996-97 budget. The other Ordinance (Ordinance 24, 1996) approved excess and supplementary expenditures for 1995-96 — the supplementary estimates or the revised budget as it is more popularly known. The Government has to obtain Parliament's approval for the budget ordinances in its first session which begins on July 14, 1996. The Ordinance making advance grant and appropriation is clearly in conformity with the provisions of the Constitution [Article 93(3)]. The constitutional propriety of the other Ordinance making supplementary and excess grants for 1995-96 is not so clear. In fact there are strong reasons to suspect that the supplementary budget ordinance lacks any constitutional authority. The supplementary budget ordinance too is issued under the same provision of the Constitution [Article 93(3)]. The Government has to make sure of the constitutional propriety of the supplementary budget ordinance (Ordinance 24, 1996) before seeking Parliament's approval. If our doubt about its constitutional impropriety has the slightest validity, the Government will be seeking Parliament's approval to an Ordinance issued without valid constitutional authority. Such a wrong step early in its administration will haunt the Government for the rest of its course in office.

Limited exceptions to parliamentary control over budget: The basic principle of the constitutional provisions relating to budget is control of the parliament over expenditure of public money by the executive branch of the government. There are, however, occasions

when the government cannot wait for Parliament's approval and has to incur expenditure to meet some emergency needs. While Parliament is the supreme authority to approve taxation and expenditure, the President has power to authorize expenditure in three specific conditions. First, when the Government has submitted the proposed budget to Parliament and the House cannot approve the budget for meeting expenditures of the new financial year before its commencement, the President, on recommendation of the Prime Minister, can authorize withdrawal of money from the Consolidated Fund (an account into which all receipts of government are deposited) for meeting expenditure for a period not exceeding 60 days; the expenditure so authorized must be contained in the annual financial statement already submitted to Parliament. This applies also to vote on account and Parliament fails to pass the budget before the period covered by the vote is over. [Article 92(3)] This provision was inserted by the 12th Amendment which replaced similar powers enabling the executive President to act on his own.

Secondly, the President can authorize withdrawal of money from the Consolidated Fund to defray expenditure under the following circumstances: (i) when the amount voted by Parliament on a service or activity is insufficient; (ii) when the need for expenditure on a new service has arisen; and (iii) when expenditure in excess of the amount approved by the parliament has already been incurred. Supplementary or additional expenditure can be incurred on authorization of the President only on services which already feature in the

approved budget or obligation for which expenditure has been created by law. The Government has to place before Parliament an estimate of additional demand for supplementary grant. Excess expenditure is allowed only on services or activities for which approved budget but is insufficient. Excess expenditure is not admissible for services or purposes which have not been approved by Parliament; the reasons for spending more than the amount authorized in the approved budget have to be reported to Parliament. In this case also the Government has to place before Parliament a statement setting out the amount of excess expenditure. All these expenditures are to be incorporated in the revised estimates which Parliament has to approve. [Article 91]

The distinction between supplementary grant and excess grant derives from the principle of parliamentary control over public money, though more honoured by breach than observance. The Parliament must know the purpose of expenditure and the amount if there is an under-estimation in the original demand for grant, the President can authorize additional expenditure but only if the purpose has been approved. Thus, the authority for excess expenditure is confined only to purposes already approved by the parliament in the form of demand for grants or some substantive law. Supplementary expenditure can be incurred only with prior approval of Parliament. The Government may place even incomplete and rudimentary estimates for obtaining initial approval for the purpose to be followed by more firm estimates later. If the Government could spend as it wished and then present the

bill to Parliament, the legislature would have little effective control over the executive's financial discretion.

Thirdly, when Parliament stands dissolved and the President is certain that authorization of expenditure is necessary so that the Government can continue to function uninterrupted, the President can authorize withdrawal of money and incidence of expenditure by issuing an ordinance. The Ordinance has to be placed before Parliament as soon as possible and compliance with the constitutional provisions relating to the budget [Articles 87, 89 & 90] is to be ensured within thirty days of the reconstitution of Parliament [Article 93(3)&(4)]. The articles cited in the clause [Article 93(4)] relate to annual financial statement i.e. the annual budget [Article 87], distinction between charged expenditure and voted expenditure [Article 89], and appropriation of money from the Consolidated Fund for meeting expenditure approved in the form of demand for grants [Article 90].

Issues Government must consider: Please note carefully the restrictions on President's power to make budget by ordinance and the time-limit for obtaining parliamentary approval which raise three issues: first, whether supplementary and excess expenditures (i.e. revised budget or supplementary estimates) can be authorized by ordinance; second, how much time the Government has to obtain Parliament's approval to the budget ordinance; third, whether the budget ordinance for advance authorization and appropriation can be amended by Parliament. The Government has to examine all the issues carefully in order to avoid the slightest opportunity for any misgiving that some

constitutionally questionable procedures were adopted.

Supplementary budget ordinance not constitutionally valid, at best questionable: There are three critical constraints on President's power to promulgate budget by ordinance. First, Parliament must stand dissolved, no budget ordinance can be issued while Parliament is in a position to function. Second — and this is a corollary to the former — the President must be satisfied that a budget ordinance is necessary to allow the Government to meet expenditures necessary for its functioning. If Parliament could function and accord approval to Government's budget demand, the President cannot exercise the authority for making budget by ordinance. Third, the Government has to place the budget ordinance before Parliament as soon as possible and ensure compliance with the constitutional provisions for budget [Articles 87, 89 & 90] within thirty days of the reconstitution of Parliament. [Article 93(3) & 4)]

The constitutional provision relating to parliamentary approval of budget ordinance [Article 93(4)] makes reference to three Articles of the Constitution specifically — namely Articles 87, 89 and 90. These articles require the Government to prepare an annual financial statement — i.e. budget — for each year showing receipts and expenditure [Article 87]. Charged and voted expenditures are to be shown separately. While Parliament can discuss charged expenditure, it is not subject to vote. All expenditures other than charged expenditures are submitted in the form of demand for grants and are subject to approval by vote in the House. No demand for grant can be submitted to Parliament without recommendation of the President. [Article 89] Charged expenditures and grants made by Parliament in respect of all voted expenditures are incorporated in an appropriation act (i.e. legal authority to take money out of Consolidated Fund) which authorizes the Government to withdraw money from the Consolidated Fund to meet the expenditures contained in the approved budget. [Article 90]. There is no reference to Article 91 which deals with supplementary and excess grants in the constitutional provisions empowering the President to issue ordinance for authorizing such expenditures. [Article 93(3) & 4)]. The

only way the omission can be interpreted credibly is that supplementary and excess expenditures incurred in the past cannot be legitimized retroactively by Ordinance issued under Article 93(3). Apparently a constitutionally questionable procedure was adopted in issuing an Ordinance for legitimization of the revised estimates for 1995-96. The Government needs to examine this carefully before placing the Ordinance before Parliament. The Ordinance may lapse without any difficulty in running government, a constitutionally appropriate bill can be brought to the House later for approval. It is interesting to note why such a questionable procedure was adopted for approval of the supplementary estimates which, in any case, have to be placed before Parliament. The new Government will do well to satisfy itself on the validity of the ordinance (Ordinance 24, 1996) and the motivation of the bureaucracy advising the caretaker government.

Time for approving advance appropriation ordinance: The Constitution requires that budget ordinance be approved within thirty days after reconstitution of Parliament. The Constitution does not say anything clearly as to how and when Parliament is reconstituted, or for that matter constituted. This is a matter which the legal experts will have to debate and settle. We suggest the following alternative interpretations. First, Parliament may be considered to have been constituted or reconstituted when the general election was completed and the number of members validly elected were sufficient to amend the Constitution, assuming that constitutional amendment is an essential function of Parliament. Secondly, when the President appoints the leader of the majority party as Prime Minister and asks her to form a cabinet — Unless the President judges that Parliament has been constituted or reconstituted, he would not appoint the Prime Minister. Thirdly, when the session of Parliament is called — but a session would not be called unless the President judged that constitution or reconstitution of Parliament has been completed. On these interpretations, the Parliament presumably has been constituted on June 23 or June 28, being respectively the date when the Prime Minister took oath and Parliament was summoned. This requires that the Government gets the budget ordinance [Ordinance 25, 1996] approved by 23 or 28 July — preferably 23 July, 1996. Unless the Ordinance is approved on time, expenditures incurred under its authority will be constitutionally wrong.

(To be concluded tomorrow)
The writer is a publisher (UPL) and newspaper columnist.

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.

Change the name of Nilkhet Road

Sir, The road starting from the south-east corner of the New Market and ending at the TSC road island, is called Nilkhet Road. When and how people started to call it so is not known, but the nomenclature now has lost its rationale.

So, I like to suggest a new name for the road, at least for the portion running through the DU campus. I think it is about time for the concerned authority to change the name of the road after Dr Muhammad Shahidullah, one of our pride personalities.

Dr Shahidullah's contribution to Dhaka University goes back a long way. Since 1921, from the very beginning of the university, he started working for it. This great personality whom Acharya Suniti Kumar Chattergy once called the greatest Bengalee of the era, was inseparably involved with the activities of the university throughout his life.

Dr Shahidullah was the chairman of the First East-Pakistan Literary Conference which was held on December 30, 1948. In his speech on that occasion, virtually he first sowed the seed of Bengalee nationalism.

We celebrated his birthday on July 10th. I hope, the authority concerned will pay its tribute to Dr Muhammad Shahidullah by resolving to alter the name of Nilkhet Road after this great soul.

Abul Kalam Mahmud
18/A, Road-16, Dhanmondi
R/A, Dhaka-1209

"Never Underestimate"

Sir, My attention has been drawn to a letter on the above subject published in *The Daily Star* on June 29, 1996, written by Mr A M Mahmood of Dhanmondi, Dhaka. The writer should had been more elaborate, specially with reference to his observation of the division of this country in two distinct camps and how and with what type of people these camps are manned.

I fully agree with him that the Awami League should not allow itself to be involved in any controversial issue that leads to the eruption of turmoil in the country before they take a firm grip on the reins of the government. However, his terming of the step that the present government might take for amending the school text-books to stop distortion of the history of the country as an ominous one is not acceptable.

There is no denying the fact that all-out efforts were made by the ruling cliques during the last 21 years, sometimes cleverly and sometimes in the most shameless manner, to rewrite the history of our

DU central library

Sir, The DU central library is the most important place for the students. So for the sake of our study there must be pin-drop silence in the reading room. But there is no such environment there. It is now a very noisy and crowded place. Many of the students study there in groups, most of them gossip loudly for nothing, as if it is a place of gossiping, specially from 9:00 am to 3:00 pm it seems, it is nothing but a fish market. The situation in the seminar library (commerce faculty) is the same. In this circumstances, studying there attentively is not possible at all.

Moreover, all necessary books are not available there, and most of the books which are available are back-dated. I request authorities concerned to solve these problems as soon as possible.

Md. Mostafa Kamal
Dept. of Accounting,
Dhaka University

Tale Of Telephone No. 328035

Sir, I take the opportunity to draw the attention of the Minister for Telecommunications of the People's Republic of Bangladesh and other officials concerned and responsible for maintenance of the telephone system.

I subscribe for Telephone No. 328035 from 24/4 Tajmahal Road, Mohammadpur, Dhaka. A phone going out of order is a normal phenomenon in my country and that has been happening in the case of my phone all along. But on 1.1.93 when it went out of order it never came round. However, to my ardent appeal, the area officials concerned did something to appease me by providing life signal to the phone maximum for two weeks in November '95, but then it has been out of order and dead so far in terms of tele-functioning. I can understand that, but as to the billing the phone showed ever brightness and moved well ahead with sound meter reading till March '96 that I do not understand. However, bills showed no meter movement from April '96.

Hundreds of verbal and written complaints were recorded with the area SDE, DE, GM and finally with the newly introduced one-point service centre to no avail so far.

taken lightly and that each of us has to bear the disrespect of being branded as a villain.

I agree with Mr Mahmood that AL should not underestimate the strength of BNP as it has been able to capture 116 seats in the JS even after five years of misrule but at the same time BNP should accept the fact that this time they have lost the election and the people want them to sit in opposition playing a constructive role in a democratic set-up.

Rezaul Karim
36, Malibagh, Dhaka

I request the Minister to kindly take appropriate action against those responsible, and mitigate my suffering and restore my phone perfectly in order with whatever the number.

AM Youssif
24/4, Tajmahal Road
Mohammedpur, Dhaka

Bribe that suffocates a nation

Sir, The demon of bribe rides on us so strongly that none is being able to exorcise it. It goes without saying it does a great bane, causes us much tribulation and blinds the prospects of the country. It is mercilessly true that there is hardly any office where there is no exchange of bribe. It is quite rampant. It seems to me that it has become one of the fundamental rights of the employees and we must have to protect their rights by giving them bribe!

It is heard that the inadequacy of wages compel the employees to take bribe. But I think they should not want to lead a luxurious life living in a poor Third World country like Bangladesh. In fact, we always rush for our self-convenience but are never anxious about the sorry condition of the country. As long as we cannot change such type of mentality, none can exempt us from the curse.

Through a parliamentary election conducted in a free and fair manner under a non-party caretaker government, Awami League emerged as the single majority party in the Parliament. Sheikh Hasina, the daughter of Bangabandhu Sheikh Mujibur Rahman, has assumed power defeating the BNP. So it is the hope and aspiration of all of us that our new Prime Minister would take necessary steps to eradicate the curse of bribe from our society and that would be a very much important action to turn the Bangabandhu's dream of 'Sonar Bangla' come true.

Shahidul Islam Khan
46/1 Ashkona, Uttara,
Dhaka

Contract service and retirement age

Sir, Of late, we have been watching that the different ministries are appointing the retired personnel on contract basis. Re-appointment on contract basis is not harmful as both the parties are gainers. The office concerned is getting an expert service for some time more. And the person on retirement is getting a chance to serve some more time. But the practice of appointment on contract basis is not appreciated by all. Because only the persons who can manage it are getting the chance or re-appointment. Other employees who allegedly do not have the proper connections are not getting the chance. So it is better to increase retirement age, instead of keeping the provision of re-appointment on a contract basis.

Mahbubul Haque Choudhury
153, Lake Circus, Kalabagh,
Dhaka

OPINION

Priorities for Politicians

O H Kabir

We saw the election manifestoes of both BNP and AL. We also saw how the leaders of the two political parties criticised each other. The general elections being over, the AL emerged as the single largest party in the parliament and formed the new government, and the BNP which ruled the country for last five years, became the strongest ever opposition party in our Jatiya Sangsad.

It is inappropriate and ridiculous to talk and dispute as to whether we have now a coalition or a government on consensus. What advantage or benefit do the people derive from the controversy?

The fact is that the universally acclaimed general elections held on June 12, 1996 have given our people a tremendous sense of pride and we are excited to uphold democracy in our country. Moreover we are now moving forward towards a two-party system like in the USA and UK to further institutionalising and consolidating our hard-earned but yet nascent democracy.

The 12th June 1996 mandate of the people have bestowed upon the AL a fresh lease of life after 21 years. However, the electorate have not totally rejected the BNP but rather 'warned' and given it a chance to rectify and modify itself. The JP has done well or at least not bad in the elections because perhaps of the growing image of HM Ershad and the JP has fallen flat on the ground perhaps because it tried to misuse religion vis-a-vis politics.

There is a great awakening among our people. Day by day our people are getting more and more conscious of their socio-economic, political and human rights. Our public leaders as well as public servants must accept the reality and change their mentality, old habits, manners and conduct. The people of our country want alleviation of their perennial sufferings and hardships and stop wastage of their time, energy and money any more.

The BNP which was in power yesterday, today it is in opposition. And the AL which was in opposition yesterday, is in power today. Both the parties are allegedly guilty of committing many lapses, omissions and errors. We strongly feel that the days of government for just govern-

- Maintenance of law and order and eradication of terrorists and extortionists of sorts.
- Realisation of our due share of the Ganges water from India.
- Realisation of our due share of assets and property from Pakistan.
- Reparation of stranded Pakistanis from Bangladesh.
- Reorganisation and reform in the Civil Service of Bangladesh with a view to doing away with irregularities, corruption and negligence of duties committed by public servants.
- Improving medical facilities in government hospitals and health complexes.
- Banning holding of public meetings on busy public roads and streets.
- Disposal of pending cases in courts.
- Rehabilitation of hawkers and vendors of metropolitan city of Dhaka and divisional headquarters of Chittagong, Rajshahi, Khulna, Sylhet and Barisal.
- Rehabilitation of landless people.
- Rehabilitation and care of destitute women and orphan children.
- Entry of FIR at police stations for the aggrieved members of the public without any obstruction.
- Sale of fertiliser to the farmers at subsidised rate.
- Checking of price hike of essential goods and commodities and ensuring unhindered supply of rice, lentil, flour, milk, sugar, fish, meat, oil, egg, spices, salt etc in the market.
- Checking smuggling and safeguarding local industries.
- Following an independent and self-reliant foreign and economic policy without any fear or favour.
- Ensuring food, shelter, cloth, employment and justice for all by the year 2001.