

Wanted a National Debate

For the whole of this month there has been an array of good signals from across the border. The Prime Minister of India, chiefs of major opposition parties including former PM, Vajpayee, and the eminent Jyoti Basu, heading West Bengal government for two decades, have all expressed their desire to smooth out all outstanding contentious issues with Bangladesh. And their expressions also had a ring of urgency.

The government did a most welcome thing by addressing the water-sharing issue as soon as it came to power. The Indian responses were all in reply to the initiatives Bangladesh took in the last two months — after 262 months of futile and half-hearted attempts to internationalise the Ganges question by the earlier governments. These initiatives have proven very good seeds sown on very fecund soil.

And still, very sadly, the things are moving not as transparently as they should have. With this ground-breaking thing knocking at the door it is strange that no one is talking about these out in the open. Only a full flood of light thrown on an water-sharing and other issues could have insured the government and the projected talks against subversion by opinions and pressures of extremist persuasion. For God's sake, let us start talking publicly about our most important bilateral relationship. The Daily Star invites all its readers, especially political leaders, to use our columns to educate the public as to the pros and cons of the options before us.

Whatever the challenge, Bangladesh first is our motto. And how will Bangladesh's interests be served best? To determine this we must have knowledge based on full and precise facts — and never fixed mind-sets that have been making an isolationist escapism of Bangladesh in a world becoming interdependent every hour. The time is now for regional co-operation and development. The need for an enlightened comprehension of our interests and our neighbours' in the region and how best can they be matched cannot wait any more to be acted upon.

Micro Credit

The introduction and success of extending credit at micro or small scale to help the rural poor in their relentless struggle with poverty is regarded as an imitable economic innovation from Bangladesh. Grameen Bank has blazed the trail, and other non-governmental organisations (NGOs) have followed suit to add a touch of brightness to the gleam of hope for the rural population otherwise resigned to the fate of extreme economic hardship.

But the system implemented is lagging behind in achieving its target, thinktanks, observed in a three-day seminar aimed at the evaluation of the present situation of poverty and finance in the light of last two decades' experience. The hard core section of the poor which consists 16 per cent of the total obolary population has by and large remained outside the ameliorating influence of the highly acclaimed and effective system. It is a depressing truth and it needs to be addressed rightaway.

And when even the micro credit users are having their chances of graduating for the traditional services, devoured or shrunken by the reforms, what chance the 'yet untouched' hard core poor have? Something has gone wrong somewhere. It could be the failure in effective targeting of the poor rural population or it could be variety of the problems detected in the whole operation of the system. However, the shortcomings of the system can in no way undermine its utility in the socio economic reality of rural Bangladesh rather it underscores the necessity of assembling all the invigorating influences behind it.

While the process can undergo some reforms along the prescribed line like cost effectiveness of the credit delivery mechanism, and flexible approaches in the savings of the borrowers to name a few, the government can use its streamlining authority in expanding the credit net to initiate a whole new range of economic activity which is bound to give filip to country's overall economy.

Ombudsman

The annual economic update report of the World Bank has suggested the appointment of an ombudsman to ensure effective civil service and public sector management in Bangladesh. It also prescribed the formation of a national commission for reforming government.

The calls could not have been timed better. Public sector has long been in a mess and efficiency of civil service is more of a matter of savoury nostalgia than an admirable reality in Bangladesh. Partisan and divisive trend in politics have simply played havoc with the concept of government service and its ultimate objective.

Not only this stifling situation has succeeded — most undesirably though — in removing people's faith from anything to do with government but is also aggravating the chronic ailment our economy has been suffering from. Time has come to realize that we cannot allow ourselves the luxury of unabated economic enervation owing to this problem. And this is exactly where the role of an ombudsman in tidying up the public sector management and the efficiency of civil service appears in magnified necessity.

Backed by a national commission he should be able to keep the government focused to its objectives. In a milieu of pluralistic politics as suggested by the spirit of democracy, he will remain apolitical in essence and committed to the task of monitoring the governmental operation.

Tradition has taught us that power corrupts and the promises tend to evaporate as a party goes about ensuring its pervasive presence once having assumed power, hence an ombudsman supported by a national commission can act as an effective vigilant against such possible violation of political power.

The appointment of justice Shahabuddin a person acceptable to all quarters irrespective of ideological differences as the president has hinted the sincerity of the present government in taking steps conducive to country's interest. Ombudsman is definitely an achievable reality.

Non-Economists vs Economists

Economic growth (wrongly) and environment have been perceived as mutually exclusive events. But over the years, concerns on environment and hence on sustainable development brought forth environment to the forefront.

THE Bangkok Post recently published the news of a show-down between economists and NGOs. Each side has always accused the other of failing to understand rural people. The debate is not new in itself and, in Bangladesh also, the debate has long been on air. The most serious attack seems to be on the economists' view that on the whole individuals make rational choices or decisions. The critics of the assumption — mostly non-economist social scientists — tend to allege that such an assumption of rational choice by individuals usually leads to policies favouring individualism at the expense of community spirit. It is interesting to note that such a debate is on in a country like Thailand where economic growth is spearheading and many LDCs are asked to learn from the experiences of Thailand.

The Thai activists and NGOs largely hold the view that Thailand has succumbed to the greed, materialism and consumerism of the West. The activists and NGOs mostly blame the economists for such an attitude. "Wrong-thinking about the problems of production and the determination to generate unlimited (economic) growth are the main causes of environmental problems," says Dr. Yoss, an influential social scientist of Thailand. Dr. Yoss blames mainstream economists and Western materialism for environmental degradation and indignities imposed on the rural

poor. The NGO activists, of which Dr. Yoss is one of the spokesmen, argue that the biggest threat to sustainable development and social justice springs from the lust for generating unlimited growth. And growth always breeds conflict among alternative uses of resources. "For this reason the obstinate pursuit of development that emphasises growth will only worsen never-ending economic, social and political crisis... Folk-wisdoms, such as

and profit." As a result, allegedly, blind exploitation of resources take place and farmers are misled to a system of production that is truly unfriendly to environment. By and large, non-economist social scientists and NGO activists continue to charge economists for much of the ills prevailing in the realm of environment.

However, counter-attacks are also there. Dr. Ammar Siamwala — a distinguished scholar of Thailand accuses

economists vilify the arguments of non-economists and accuse them of failing to read economics literature. Critics from NGOs, allegedly, fail to understand the subject of economics.

The major task of environmental economists is to find ways of putting a value to many things in nature. In order to make the evaluations, they have to understand the various natural mechanisms that are the results of human exploitation or use of nature. Sustainable development, says Ammar, is the cornerstone of all economics. All the allegations that non-economists so far made against economics is just for by-passing environment. It is sheer ignorance about environmental economics. Valuation of environment does not militate against growth but supplements growth. Within mainstream economics, the urge for sustainable development loomed large before and continues to be so in future.

It is true that sustainable development has long been kept under the carpet and surfaced out only recently. Economic growth (wrongly) and environment have been perceived as mutually exclusive events. But over the years, concerns on environment and hence on sustainable development brought forth environment to the forefront. Extension of economic growth philosophies to the frontiers of environment could perhaps resolve the burning issue.

Dr. Ammar and other

Beneath the Surface

by Abdul Bayes



believed in forest spirits that encouraged rural people to respect environmental balance, are being wiped out by economics and Western consumerism."

Dr. Yoss and others tend to argue that the economics is the villain of peace since it treats people and the environment as separate. "With emphasis on private sector growth, natural resources and communities become valueless factors of production, human beings become 'labour', the 'environment' is reduced to land and social institutions are reduced to markets and economic success is measured by growth only, the expansion of production capacity

that the non-economist like Dr. Yoss and others are drawing an inaccurate caricature of economics." He holds that NGO activists' cartoons sometimes distort the shape of neo-classical (mainstream) economics.

Dr. Ammar defends economics by saying that growth is only one among several measurements used to assess economic performance and a large amount of economic study deals with non-business sectors of the economy and the value of natural resources. "I have never seen an economics textbook that treats communities as a factor of production."

Dr. Ammar and other

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.

Statements on personal assets

Sir, It is heartening to note that the ministers and state ministers will submit statements on personal assets to the Prime Minister soon in order to ensure transparency in governance. The accounts of ministers and ruling party MPs' assets would be made public every year. If anybody found possession of wealth in consistent with their declared assets would be severely dealt with.

One cannot deny the fact that it is a good decision of the government to ensure honesty and sincerity in the highest echelon of the government. We cannot but appreciate our government for such a noble decision. But it is our question whether this measure will serve the purpose, whether the desired goal will be achieved.

Mention may be made here that when Mr. Khaleque showed his courage in saying, "what could be bigger lie than submission of reports in the Election Commission showing election expenses within three lakh taka?" In the recent workshop on the law and order problem of the nation, he was harassed by the ruling party MPs and ultimately was cowed into unconditional apology. Nobody lodged any protest against it.

It is needless to say that nobody shows how he earns his money. Even nobody shows the actual figure of his legal income for fear of income tax. This is the go of the day.

When such is the condition we cannot believe that the statements on personal assets to be submitted by the ministers and MPs will be the actual ones. We urge the benign government to find out alternative measures to assess the wealth statements of the ministers and MPs for the interest of the nation.

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Water in exchange of transit?

Sir, We are of the opinion that India never cares as to who comes to power and who goes out of power in Bangladesh. New Delhi always wants to play an upper-hand role in Indo-Bangladesh relations.

Due to our high regards, goodwill and friendship towards India we made an agreement with her for the transfer of our territory Berubari in exchange of Indian territory of Tinbigha for the mutual benefit of two countries. We handed over the territory over to India promptly. But India took more than twenty years to allow us to use Tinbigha as a temporary passage only. India refused to transfer the sovereignty of small territory of Tinbigha although we handed over our big territory Berubari to India long ago.

India took control of our South Talpatty island by force. She promised to settle the dispute peacefully in due course of time but she knows it very well as to how to settle a dispute in her favour through dilly-dally tactics.

We have been graciously allowing transit facilities to India for over last twenty years for carrying goods and commodities through Bangladesh riverways to eastern provinces of India.

Further despite 25-year Indo-Bangladesh Friendship Treaty New Delhi has been de-

priving us of our legitimate right of sharing the Ganges water for over last two decades.

Now India insists that we must allow her road transit and Chittagong port facilities if we want to settle Ganges water dispute with India. Does India want to legalise the illegal construction of Farakka Barrage for good, deprive the people of Bangladesh of the Ganges water and continue to put pressure on us economically and politically?

We strongly feel that if there is really an agreement between India and Bangladesh for sharing the Ganges water in exchange of transit facilities the newly-elected government of Awami League would be the worst sufferer. Public opinion will pillory the sponsors of such agreement. Further the people of our country would abhor and detest the water-transit treaty, if any, more than the 25-year India-Bangladesh Friendship Treaty.

We ask India: Why link and juxtapose the Ganges water with transit? We would request our Members of the Parliament both in the government and opposition benches to kindly examine the relevant matters and to arrive at a national consensus for the realisation of our rightful share of the Ganges water.

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BIRDEM episode

Sir, We are avid readers of reports, post-editorials, columns and editorials, those deal with our degenerated medical and educational institutions. Headlines on these two subject matters that appear in newspapers do not escape our attention for reasons of our untoward experience of personal nature affecting our family irredeemably. All these news, views, and presentations are mostly discouraging and sometimes nerve-wracking.

Never did it occur to us that the name of BIRDEM will ever be smudged by the self-surviving trouble makers not interested in the job and who never forget to receive monthly pay cash/cheque. Their destructive stance was later to be (inadvertently?) encouraged by a bureaucrat-cum-politician sitting at the pulpit of our Prime Minister's office. The impact of this unsavory situation had dawned on us through two successive detailed reports that the DS published so accurately and partly just the other day. Through these two reports you have warned the nation of the portentous situation existing in BIRDEM. Thank you for promptly taking up the issue in right earnest.

I and my family members, the beneficiaries of BIRDEM, strongly believe that the government of Sheikh Hasina will do everything possible to save this institution by restraining her bureaucratic machinery from interfering with the internal affairs of BIRDEM. The government should let and if it is needed offer help to the BIRDEM administration to deal with its unruly employees effectively within limits of the existing law of the land, and finally provide necessary support to the authority of BIRDEM in meeting ever increasing demand on its limited capability of rendering their nationwide services. The government will thus demonstrate to the nation that it means business and no amount of 'Joy

Bangla' and 'Joy Bongobondhu' slogans as raised by a few hoodlums will be enough to sway government from its official role. To a regular observer these trouble makers once adorned Ja-Safari, now wearing Mujib Coat and in between they had Ershad's closed-neck-coat.

We believe the Awami League government can survive and serve the nation well enough and for long if they are guided by the principle of what is ethically correct and follow their own pre-election pledges in good faith for the greater good of the people.

S Waliullah & the family
Dhaka

Who will save Diganto?

Sir, Some years back, I read a short article, written in earnest with humour, by an American professor of English Literature. It was about the word 'cohort'. Quoting the correct use (in the original sense) of the word by a member of the poetry of John Milton and Lord Byron, the author showed how this beautiful word was now being used by novelists, journalists and others to mean any group of people, and appealed to the authorities, even to the President of the United States of America for saving the word from degradation. But the President is also busy with his cohorts, he remarked disappointedly at the end.

Going through the recent issues of Diganto the in-flight magazine of Biman Bangladesh Airlines, I have been surprised to see so many mistakes in the articles by a member of the Editorial Board, ugly colouring of the pages and use of distorted pictures with repetition. Just turn over the pages of the three issues of the magazine, which have been published this year and you cannot but ask like me, "who will save Diganto?"

One article will suffice, and I would like to give some examples from the article entitled "INANI SEA BEACH", published in the January-March 1996 issue of 'DIGANTO'. The very title is incorrect, for the word 'beach' itself means 'stretch of sand or pebbles along the edge of the sea or a lake'. Therefore, 'sea' is redundant.

From beginning to end, the article is best with grammatically incorrect sentences, wrong use of prepositions and words, etc. For lack of space, a few sentences have been cited here.

1. Let us start with the sentences which are placed just below the title. "Tucked away into, a part of the world's longest unbroken sea beach along the Bay of Bengal is actually stretches from Cox's Bazar down to Teknaf, the southern most tip of Bangladesh. It's not by being far away that Inani has managed to remain a recluse from tourist crowds, but by simply being off the beaten track. The approach road to Inani is easy to miss. But it's certainly while NOT TO." Again 'sea beach' has been used twice. In the third sentence, it is really interesting to know that a beach (not a bitch) has managed to remain... "It simply 'remains'. Worth while' is one word.

2. "One is over the beach from Cox's Bazar." Here 'one' means 'one way' in reference to the previous sentence. But 'along' is the correct preposition in place of 'over'. In the next sentence, how can the word 'risk' fit in, when it means 'it may happen without any danger'. In the same sentence, 'waters', not 'water', is appropriate.

3. "A natural fun thing to do here is to try 'stepping stones'." A natural fun thing — what does it mean? Quite unidiomatic and an incorrect usage too. Is there any need for putting stepping stones in inverted commas? Doesn't that

seem to mean a sort of staircase? But does it mean that here?

4. "It's the place to jump into the splashing fun wind and spray." It's means of it and it's means 'it is'. It may be a printing mistake. But what about the 'splashing fun wind'? What does it mean? Again the same incorrect usage.

5. "There are the simple everyday use things of a simple people who live close to nature." In a sentence like this, the word 'simple' has been used twice unnecessarily. On the other hand, 'the simple everyday use things' is another incorrect usage.

6. "The tribal women were colourful a Hires even at work." Does this sentence make any sense?

Besides, some pages of the magazine are so coloured with odd contrast that it looks ugly and odd. Pictures are not also worthy of high quality and have been repeated. For example, the pictures of the cover pages of the April-June 1996 and the July-September 1996 issues of 'DIGANTO' are hazy, and are not so colourful as that of the January-March 1996 issue. In the July-September 1996 issue, three pictures out of five in the article on Kuakata are almost the same.

It seems that the authorities concerned do not pay any heed to the internationally standard magazine of our national airline; otherwise it would have been at least free from trash. We expect 'DIGANTO' in a better shape in the days to come. But whom do we appeal to for that? To the Editorial Board, to which the author of the article 'INANI SEA BEACH' belong? No. Then to whom? To the Managing Director of Biman Bangladesh Airlines? Or to the Prime Minister? Could they make time to look into the matter? Probably not. For they are busy with their cohorts.

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OPINION

Feb, 1992 Mass Promotion

Abu Imran

Mr. Dherendranath Shambhu, MP on 31.7.96 narrating the corruptions during BNP rule was kind enough to narrate the cruel and illegal practice of promoting hundreds of juniors superseding hundreds of seniors to the posts of Deputy Secretary and Joint Secretary to the government in violation of usual promotion practices, rules and constitutional provision. In Feb, 1992, this caused tremendous humiliation, deprivation, and social disgrace to the senior superseded officers. This was protested. As such the then State Minister for Establishment, Mr. Nurul Huda in a meeting held at Usmāni Memorial Auditorium in early February 1992, admitted that irregularity was committed where the then PM was also present, assured for review of the cases. A committee with him as chairman was also formed for the purpose.

But the assumed review was not done so, some officers took initiative and knocked the door of the High Court for seeking justice. Meanwhile the said gentleman above was sacked probably for being involved in corruption and irregularities and another person succeeded him. But he also did no good to the deprived seniors, reportedly saying that the case was under judicial decision although there was no legal bar in giving promotion to the illegally deprived officers. A lot of time elapsed during which a good number of the aggrieved officers had retired.

But though late, yet the High

The Indemnity Ordinance, 1975 — Its Legal Implications-II

by Barrister Rafique-ul-Huq

The said Ordinance has not become a part of the Constitution. It is one of the many Ordinances which were passed during that period and like any other law or Act is subject to the plenary power of Parliament of amending, altering or repealing...

(Continued from yesterday)

It may be noted that all laws including Ordinances made between the 15th August, 1975 and the 9th April, 1975 (both days inclusive) were confirmed and ratified by this amendment of the Constitution. It is stated that such laws are validly made and are ratified and confirmed by this Constitution and all acts made, done or taken under such laws shall not be called in question in or before any court, tribunal or authority on any ground whatsoever. The amendment declares that those laws were validly made and this forecloses any challenge to the said laws on the ground that those were not made by the authority and procedure prescribed by the Constitution.

So, this is how the Indemnity Ordinance, 1975 was protected in the Constitution. It does not, however, mean that any such law cannot be altered, amended or repealed by Parliament. The paragraph quoted above nowhere affects the plenary power of enactment and repeal of laws by subsequent Parliament. There are dozens of such laws and Ordinances passed during the Martial Law period. Such laws can always be amended. Here lies the fallacy or misunderstanding of the whole situation. Government, press, various writers and journalists are under the impression that unless the Constitution is amended for which two-third majority in Parliament is required the said Ordinance cannot be repealed since it is part of the Constitution. This is absolutely wrong. The said Ordinance has not become a part of the Constitution. It is one of the many Ordinances which were passed during that period and like any other law or Act is subject to the plenary power of Parliament of amending, altering or repealing such laws. For such amendment simple majority is enough. So, I do not agree with Mr. Anam that co-operation of Begum Khaleda Zia is necessary for the purpose of repealing this Ordinance. But if he meant all-party consensus on an important issue, namely, for repeal of a black law, then he is right. But legally and jurisprudentially this Ordinance can be amended or repealed by simple majority in Parliament, which the present Government commands in Parliament.

Regarding Barrister Amirul Islam's contention that since this Ordinance was not laid before the next Parliament which had its session after 9th April, 1979 it has lost its force with the expiry of thirty days from the sitting of the next Parliament, I cannot agree with him because in the meantime on 6th April, 1979 by amending the Constitution the said Ordinance was confirmed and ratified and as such it was not necessary to place it before the next Parliament.

I have tried to explain under what situation the said Ordinance was promulgated, what is the legal status of that Ordinance and to what extent it has been incorporated in the Constitution and how it can be amended, so that the public in general may examine whether it is necessary to amend the Constitution for the purpose of repealing the said Ordinance. I cannot make any comment

whether the Government should repeal that Ordinance or whether the killers of Bangabandhu should be tried or not. That is for the Government to decide.

The next question is whether without repealing the said Ordinance, the killers of Bangabandhu can be tried — my answer is 'Yes'.

Section 2 (1) of the said Ordinance provides that no prosecution or other legal proceeding shall be taken in any court against any person for any act or thing done or taken by such person in connection with or in preparation of execution of any plan for change of Government of Bangladesh and Proclamation of Martial Law on the morning of 15th August, 1975. So, if the killing of Bangabandhu is regarded as an act which was necessary for the alleged change in the Government and/or Proclamation of Martial Law on 15th August, 1975, then the killers of Bangabandhu cannot be prosecuted. But to prove this fact the person concerned has to produce a certificate, as provided in Sub-Section (2) of section 2, issued by the President or a person authorised by him in this behalf that he killed Bangabandhu in pursuance of the purpose of preparation of the plan to change the Government of Bangladesh and/or for Proclamation of Martial Law as stated above. But can such certificate be obtained by those killers if the Government decides to prosecute them? I think the answer is 'No'. I do not think that any President of this country, whether present or the next one, will ever issue any such a certificate in the present situation. Secondly, under the present constitutional provision even if any President wants to issue such a certificate he cannot issue the same without the advice from the Prime Minister. This is absurd to think that the present Prime Minister or her Government may advise the President to issue any such certificate to protect the killers of Bangabandhu. So I am of opinion that there is no legal bar even today, without repealing the Ordinance, to try the killers of Bangabandhu. In any view of the matter, they cannot claim any such indemnity for killing other family members of Bangabandhu.

My view may be summarised as follows:

(i) The Indemnity Ordinance, 1975 may be repealed by simple majority vote in Parliament;

(ii) Even if the Ordinance is not repealed, there is no difficulty in prosecuting the killers of Bangabandhu in the present situation;

(iii) And in any case the killers of other family members of Bangabandhu can be prosecuted without any legal impediment;

(iv) Any aggrieved person or a conscientious citizen may challenge the validity of the said Ordinance in writ jurisdiction of the High Court Division of the Supreme Court of Bangladesh or the President may refer the matter to the Appellate Division of the Supreme Court of Bangladesh under Article 106 of the Constitution for its opinion whether this Ordinance is a valid law under the Constitution.

Concluded

simple things one needs not be a lawyer.

If one thing is spelled out in clear terms, it is comprehensible to average man of prudence. Incidentally in the above case the High Court decision since reported in almost all the local dailies then was categorical, clear and unambiguous. Relevant extract from one of the dailies is reproduced below for information of all concerned.

"HC declares promotion of 642 government officials illegal: A special division bench of the High Court Division on Wednesday by two third majority declared that the promotion of 192 officers from the Deputy Secretary to the post of Joint Secretary and 450 from Senior Assistant Secretary to the post of Deputy Secretary by two notifications dated 8.2.1992 were illegal and without lawful authority, reports BSS" (The Financial Express, Dhaka, Nov 17, 1994). The above newspaper report negates the observation of Mr. Sirkar and it is regretting that instead of being apologetic, he tried to defend his government's illegal actions even by resorting to untrue and misleading statements.

Many comments on the illegal promotions appeared in the newspaper during the past regime but in vain. It was a cry in the wilderness. It was for the first time that Mr. Shambhu was kind enough to discuss the problem in the parliament. He deserves congratulations for this since it may lead to solution of this long outstanding problem.