

Taliban Shows Teeth

The fall of Kabul at the hands of the Taliban militia has virtually diminished any prospect of Afghanistan turning around. When the Mujahadeens fought Soviet-backed government forces, the country started falling behind while the rest of the world untroubled by any large-scale war was forging ahead. Today Afghanistan has no prospect of making peace with itself. If the Taliban's actions immediately after capturing Kabul are any guide, the country must be ready for its worst nightmares. Dr Najibullah, former communist president, was dragged out of his shelter in the United Nations office before being hanged in public. Reportedly, Kabul's hospitals are proving too inadequate to look after the injured and the dead.

So there unfolds widespread violence, death and destruction which the city can no longer afford. Any possibility of reconciliation between the feuding parties looks dim because the Taliban's record of honouring truce or agreements of any kind is very poor. Now that it has captured power and has the backing of Pakistan, any chance of a concession on its part is even further remote. Indications are clear that Pakistan will hardly lose any time to recognise the six-member interim government. But what about rest of the world?

Already the United Nations and a few other world powers have expressed their dismay at and disapproval of the manner in which the militia is conducting itself. Which means Afghanistan will have to depend on the support of Pakistan. That is perhaps not a good prospect for any government inheriting nothing but ruins and rubbles all around. The worst sufferers will once again be the common Afghans. They have been at the receiving end since the Soviet invasion and the incapacity of the country's political leadership to rule it will simply lead the nation to a dead end. In a situation like this the Taliban leaders, like their predecessors the Mujahadeens, are more likely than not to engage in an internecine feud where the country will fall apart with the possibility of destabilising the region. A national reconciliation looks unlikely in the near future, but international pressure might bring the rival parties to the negotiating table to accept one. So the pressure should be on to go for a negotiated settlement between the contending parties.

VC Appointment

It is any day now that the Chancellor will announce his choice as to who will be the next VC of our premier University. The process that has been followed is democratic, and according to the law. However we are not certain if it is best suited to our needs. Frankly we would have preferred if the choice was less partisan than it is. From what we have seen, it is no longer enough to be an eminent scholar, one has also to be popular to adorn the chair of the VC. That by itself would not have been bad, but for the fact that one has to join one or the other political groups to gain that 'popularity'.

The point we are trying to make is that VC's post today has become as much subject to political 'wind that blows on the day' as any other elective post, and as such does not enjoy the pre-eminence of scholarship that it once did. And that is sad.

We noticed with regret how, as in the case of DUTA election, the choice for the next VC also became a contest between the different so-called 'panels' which are little more than front bodies of different political parties. Like in general elections, to be VC you have to get the 'nomination' of panels. The fact that on previous occasions also the 'panel' candidates were the ones who became Vice Chancellors does not justify that it should continue. In fact the campus politicisation can be directly linked to the politicisation of the election of the Vice Chancellor.

This brings us to the question of another VC, that of the Open University (OU). The current VC, Dr. Shamsur Ali has been both the dreamer (he prepared the original proposal as far back as 1976) and the implementer of the idea of an Open University. As the Vice Chancellor and the Project Director (the University continues to be a project of the Asian Development Bank) since '92 he has been the very heart and soul of the Open University. His term ends next month, and moves are afoot to replace him with one who belongs to the right panel. One of Dr. Ali's achievement has been that he kept politics and 'panels' out of OU. May be for that very reason, the 'panelists' are trying to remove him.

There has been enough of student politics and politicisation of our Universities. Time has come to put a stop to all this. This we could not do at the Dhaka University. The government would be well advised to start this process at the Open University.

Tackling Highway Robbery

The death of a supervisor and injury to about 100 passengers in 52 incidents of dacoity on different routes of the country's south-western zone in just two-and-a-half months are enough to highlight the level of risk and insecurity of travelling by bus. The 200 or so night-coaches and loaded trucks that ply at night on the 18 routes have been identified as dangerous.

Reportedly the dacoits adopt two methods for their unlawful operation: either they board a night-coach pretending to be general passengers and force the vehicle to stop at a point they have planned for; or they lay barricade roads with logs or similar other things and swoop on the buses that come to a halt.

There is no reason why the challenge thrown by the dacoits cannot be taken up by the administration. The government is learnt to have issued an order for the police to patrol the highway. If each thana en route takes responsibility of patrolling its portion of the road, the problem of laying barricade should not be there. Why not make the police station responsible for negligence of vigil, if any? And for ensuring that no fire-arms or lethal weapons can be carried on board a bus, a system of thorough body and baggage search should be introduced before the passengers board a bus. Together that will minimise the insecurity of travelling at night.

The Concept of Ombudsman: Some Reflections

by Sultan-uz Zaman Khan

The concept of Ombudsman is not new in Bangladesh. On this subject, Article 77(1) of our Constitution states as follows: "Parliament may, by law, provide for the establishment of the office of Ombudsman." Article 77(2) further states that: "The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate any action taken by a Ministry, a public officer or a statutory public body."

followed later by other Scandinavian countries. Subsequently, many other countries across the world have set up similar offices, though with different nomenclatures. However, the basic object of this institution is the same everywhere, that is, to take remedial measures against bureaucratic abuses adversely affecting the human rights of citizens.

In the Scandinavian and other countries such as Bangladesh, the Ombudsman is an independent, and presumably impartial, arbiter between government and the individual. No-one may interfere in his substantive functions as those relate to handling of individual grievances. The scope of his authority usually covers all types of government agencies, though in some countries municipal and local authorities are excluded from this jurisdiction.

In spite of the fact that the Ombudsman's operational authority covers a wide jurisdiction, his powers in most countries remain solely recommendatory. While he may suggest wide-ranging actions to be taken by the government and its various organs, he has no means to effect compliance. In our case, for example, if the Ombudsman's recommendation is not complied with to his satisfaction and if he considers that the case so deserves, he may make a special report to the President. However, it has not been made clear as to what kind of action is supposed to be taken on such report.

Role of public administration: During the modern times, especially the 20th century, the state has assumed a growing number of functions which touch nearly all aspects of life and property of citizens. This phenomenon has been noticed in almost all countries irrespective of their political system.

tem — be it democratic or totalitarian. With each addition to the state functions, extra powers have been conferred on the various administrative organs of the government. These powers are appropriately located at the central, provincial or local levels, together with their numerous departmental arms and special agencies created to discharge specific functions or deliver particular services to the citizens.

It should be noted in this context that in the field of commerce and business, the current trend is to reduce to the minimum or altogether do away with governmental role and involvement. The government is gradually divesting themselves of commercial activities leaving them to be more efficiently performed by the private sector. Even in the changed scenario of fast expanding role of the private sector and privatisation of public sector business enterprises, the governments are still required to perform numerous essential functions which have no counterpart in private activity.

While the most basic responsibility of the government lies in the maintenance of public order and social stability, and this cannot obviously be relegated to the private sector, there are many other functions which the state must perform. Provision of municipal services, ensuring preventive and primary healthcare, environmental protection, land-use planning, fire services, socio-economic development of backward communities, eradication of widespread illiteracy, traffic management etc., are some of the random examples which may be cited to illustrate this point.

Purpose and powers of bureaucracy: In carrying out the essential administrative functions of the state, its executive

arm and the many organs controlled by it are assumed to represent the collective will of the community and to be acting for their common good. These agencies are conferred with such powers as are not normally given to private persons. Such powers may authorise public servants to require citizens to submit their property rights and restrict their freedom of action in many different ways.

To govern the conduct and functions of civil bureaucracy under executive arm of the state, various rules and regulations have been framed over many years. As a body these are referred to as "Administrative Law," which is quite different from private law governing the actions, interests and obligations of private individuals or their organisations. The civil bureaucracy and its members do not normally serve on a contractual or 'hire and fire' basis. They are permanent officials who enjoy a special status distinct from those appointed by private agencies.

It should be noted that there are two different aspects of "Administrative Law," viz. "internal" and "external." The former comprises such matters as the relationship between the government and its officials or between the central government and the local authorities and so on. It is indeed the "external" aspect of "Administrative Law" that guides the relations between the civil administration on the one side, and the rights of private citizens, on the other.

The executive organs of the state are empowered under various laws and regulations to perform specific duties for the citizens' benefit. Conditions are laid down for public servants to act in a particular situation, but many laws give them scope for exercising discretion. Safeguards are therefore re-

quired that discretionary powers are not misused and the genuine interests of citizens are properly served.

Any system of public administration which impedes or frustrates public good is clearly undesirable and so, too, would be one that results in injustice to citizens. All states, irrespective of their political or economic philosophy or their stages of development, have been preaching the intention to reach high rates of economic growth and eradication of poverty. The level of popular expectations are steadily rising in every society, particularly the developing ones. Given the commitment of governments on these issues, it is an efficient, clean and accountable public administration that can help attain these goals within acceptable timeframes.

Obstacles to good administration: It is quite evident that with expanding roles of the government in public affairs, there has been a proliferation of the administrative machinery. The civil bureaucracy has spread its tentacles everywhere in as much as the number of officials of all ranks has greatly increased which has not necessarily conferred corresponding benefit to the public.

In this matter, Bangladesh is no exception. In the course of her quarter-century existence, a bloated bureaucracy has grown, exerting a demoralising influence on public governance. The purpose of this discussion is not to deal with this particular issue, although it heavily impinges on the provision of an efficient and just administration to the people. A recent World Bank report has focused pointed attention to this dismal state of affairs and suggested many practical actions, including the setting up of the Ombudsman system. It has been experienced that

even in those countries which have relatively clean and efficient public administration systems are also dogged by malaises which adversely affect the rights and interest of ordinary citizens. Bureaucracy everywhere tend to show overdevotion to precedents and procedures, remoteness from the rest of the community, accessibility, excessive sense of self-importance, inflexibility in action, procrastination, misuse of power and reluctance to admit mistakes. It has been observed that a strict application of the "Administrative Law" can be valuable in terms of providing an instrument to control or redress bureaucratic injustices to citizens.

Judicial review as a remedy: A judicial review of administration is the centrepiece of administrative law. Such a process brings alleged bureaucratic abuses and administrative decisions under judicial scrutiny and those can be invalidated on grounds of unfairness and inappropriate use of legal or discretionary powers.

The nature and extent of judicial review of administration as well as the institutional arrangement for such review vary widely in different countries. In this country, the courts of law have virtually been the only avenue for redress of citizens' grievances arising from breaches of law, including administrative injustice. The experience in this regard, however, is not at all satisfactory. Our judicial system suffers from many inadequacies, including, among others, numerous outdated laws, lack of easy accessibility of the common man to judicial recourse, and high expenses and inordinate delay involved in the judicial process. Our law courts are by and large unable to deal with complaints under the civil, criminal or the land laws. Only a handful cases are lodged by citizens against bureaucratic excesses.

(To be concluded tomorrow)

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NGOs : A Case of Fortune or Misfortune?

by Shafi A. Khaled

The NGOs silently bring competitive pressure to bear upon the government and political parties. However, it is not clear whether the party in power, the opposition parties, the bureaucracy and the military are going to respond positively to this form of pressure. That is, they are not going to change their ways.

By the mid-1970s international agencies and donor nations had acknowledged that, in developing nations, the bureaucracies relative to other sources of authority had grown vast, inefficient and corrupt. So, they sought to decentralize power by diverting funds to non-governmental organizations (NGOs). The governments had grown disproportionately big because they were the sole recipients of foreign funds. This was possible because there was an absence of other private, domestic organizations in newly independent nations to handle large sums of money and there was the idea that centralised and planned governance would pull developing nations quickly forward in the path of progress. Occasional military coups made these governments even worse. And not a few of those coups were foreign instigated. Now, efforts are being made to repair the effects of those failed policies by establishing foreign funded NGOs. Although, in some immediate ways, this is a positive step, it has its demerits.

However, good the NGOs may be, with a vast number of foreign funded NGOs, it is collec-

tively possible for them to undermine the sovereignty of a nation — an economic, instead of a military coup. In many instances, the NGOs supply services substituting the government.

Thus, they become more than a shadow government, they become a parallel government, causing tremendous and unpredictable shift in alliances in a traditional society. There is nothing wrong in substituting government services so long it is privately funded with domestic capital or the proportion of foreign funding is limited. Moreover, the continuation of public provision of private needs via the NGOs violates the principle of smaller government role in people's lives that is now being widely advocated and adopted in North America and Europe. In this scheme, the government is expected to act as the facilitator of private, profit oriented busi-

nesses that are trying to meet private demands for goods and services, not primarily as a tax revenue manager. The question arises whether the NGOs as we know them today pass this test. Do they facilitate private businesses? If not, then they are acting more as monitors or loan officers overseeing the proper dispensation of public goods. However, it would be surprising if in this role they were unable to outperform the vast and more remote central government.

True, the NGOs silently bring competitive pressure to bear upon the government and political parties. However, it is not clear whether the party in power, the opposition parties, the bureaucracy and the military are going to respond positively to this form of pressure. That is, they are not going to change their ways. Also, there is no reason to believe that some form of accountability

will be established in business practices owing to the presence of NGOs. Although it is not their professed agenda, it is difficult to foresee and NGO movement that will be equivalent to a movement of courageous intellectuals who will fundamentally alter governmental practices. Today's NGOs, with their proliferation, are an extraordinary development in the lives of contemporary developing countries. They mean well, and there are many decent and capable citizens involved in them. However, there is no reason to believe that, gradually and in general, they will not be co-opted by the same forces running and ruining the countries outside of the NGO framework.

Furthermore, in many ways, the NGOs potentially bind the ordinary citizens closer to foreign funds and values than government agencies were bound in the past. This is because it is

easier to influence individuals and small groups. Today's foreign patronage is as value-laden as it was in the past. Now, the values of the foreign benefactors are no longer simply economically, militarily and politically defined, they are also life-style dictated. This is certainly unfamiliar territory for the recipient nations. Even in the foreign nations, the new life-style's merits are under intense scrutiny and their general population are very much shell-shocked by it.

In summary, the NGOs are a fact of life today. A large number of them were set up out of a perceived failure of existing governmental forms indisputably foreign resources. Because the governments have been unaccountable for their actions for so long, the strategy was to circumvent governments and not alter them. By creating NGOs, international economic forces have added micro-man-

agement of developing economies to their existing tool of macro-management. If the political forces do not recognize why the NGOs came about, then there may come a time that national values and goals will become so diluted and compromised that there will not longer be a single entity or nation to serve. Like the East India Company in Jahangiri's time, the NGOs may be political bombshells waiting to explode. This statement may be too strong for a Christian, South American or African nation, but it is not such a strong statement for an impoverished, predominantly Muslim nation. For Bangladesh, perhaps the now defunct decentralized administrative structure could have proven to be the correct vehicle for micro-level response by the government and its increased accountability. These two factors have been missing for more than five decades. They truly concern international donor organizations as they should. That is why we observe the proliferation of foreign funded NGOs.

Moral : All that glitters is not gold.

To the Editor...

Cellular saga

Sir, The past BNP government claims that they have done enough towards development, market economy etc. The effect of development can be felt by the deterioration of civic amenities, law and order, unemployment, terrorism on the campus, and breakdown of electricity production and consumption balance. In the field of market economy one basic factor is competitiveness and not monopolistic policy.

During the last 5 years one company was allowed to play with monopolistic business to amass huge amount of money. In both India and Pakistan there are four companies who have been given the license to operate the cellular telephones. These are really cellular phones as several transmitters are operating to provide multiple cells of coverage. In Bangladesh, it is called cellular phone but in fact has provided only one transmitter thereby making it a UNICEL system.

Moreover in India the charges are : a) a refundable security deposit of Rs 3,000; b) one time non-refundable connection charge of Rs 1,200; c) a monthly line charge of only Rs 150 per month; d) Off peak call out and call in charge of Rs 0.70 per 10 sec which makes minute charge of Rs 4.20.

For the telephone sets the companies are not forcing the customers to buy a particular make. They can buy any set from any company at the current market price. After buying the set, the customer goes to any of the companies for connection. At the above mentioned rates which are almost same for all the companies.

Our cellular phone users can compare these charges and see how, due to this unfair monopolistic policy of the past government, our company was amassing huge amount of money. Only from the monthly rental of Tk 1,700 their company was probably making over Tk 70 lacs per month from the 5,000 and over phone owners. For call

charges he is paying Rs 1.70 to BTB irrespective of the duration but charging Rs 8 per minute from the customers. For in-coming calls he is paying nothing to BTB but charging the customers Tk 5 per minute.

I am glad that the new government has decided to break this unfair monopoly by giving the permission to 3 more companies to do business. My suggestion is to analyse the regional rates of similar services and then fix their rates so that foreign investors who will come to Bangladesh and will use these services may not say that the operators are swindlers. They should also make the service really cellular and not a UNICEL system.

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Interview of Mr. Arefin Siddique

Sir, At first I thank Mr. Anwarul Mahir Azim for his write-up titled "An Appeal to Begum Zia, and then I want to add something more. I am a student, so I limit my horizon within the educational institutions. All of us are aware of the JCD-called indefinite strike from August 20 and I am affected by that strike, because my exams were again deferred which was scheduled on September 12. This exam according to the academic calendar of DU should have started in April 20.

The Daily Star (14th Sept) published an interview of Mr. Arefin Siddique. I want to highlight, according to Dhaka University Ordinance and regulations (as amended up to June 1986) published by university in 1986, no student of university individually or collectively shall declare a strike, nor shall a student prevent another student of university from attending the classes, laboratories or libraries. A student found guilty of violation of any provision of

this section will be liable to punishment up to expulsion from university. (The proctorial system; Sec-6; page 6).

In the light of this regulation, "should not the university authority expert them instead of patronising them into signing agreement?"

In reply Mr A Siddique did not give any clear answer rather he called for a legal expert. Thank you Mr. Siddique. When we were admitted to Dhaka University no one gave us the 'light' of the Ordinance, but as a human being I have some questions.

Where was Mr. F. I. Chowdhury (who conducted the interview when BCL had called the strikes) May be the whole nation then went to hibernation. Why the "light" does not illuminate every conscientious person every time when any individual or collected person deprive us from our right to study.

In Bangladesh democratic culture, the opposition and its wings call hartals, strikes, non-cooperation and so on, and what not in this case. But, BCL broke the record calling indefinite strike at CU. May be in CU Ordinance "no one will be liable to punishment up to expulsion from university for calling strike."

We read the story of Aadu Bhai and all of us know about today's Aadu Bhaies in DUCSU. But who made them Aadu Bhaies. As far as I can remember whenever the DU authority declared a date for the submission of nomination papers for DUCSU election, we treated the day as holiday, because we were sure that BCL was going to call students' strikes on that days.

No ordinance illuminated them (for the nation). Then the strike was democratic right. (Obviously then; but now?) Also the strike was for the unconditional freedom of Arun Bhai, Tamuk Bhai, demanding the implementation of Gano

Adaloter Rai etc. Oh I can't remember more.

We (the students) had a bleak chapter in March 1996. Everybody was sure that we would be trapped in session jam, and that is the reality. We could not attend classes, laboratories and libraries just for a power aspirant political party activists.

Where were then the so-called Budhijeebs (Intellectuals) who always speak in the seminars "Shikkhat Jaitir Merudanda" (education is the backbone of the nation), and for whom bad people always says "Sobsheler Ak Ra"? Who are the beneficiaries when we are trapped in session jam, (be serious not traffic jam).

I know, only Almighty Allah can answer my questions. Let Him give us light.

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Responsibility of associations

Sir, I fully endorse with the views of a letter published in your esteemed daily on 2.9.96 under the caption 'Responsibility of Associations.' The writer has rightly said that the leaders of the associations and unions work in favour of offenders in exchange of something. Most of the leaders lead luxurious life. They enjoy all sorts of modern amenities. Question arises: if they do not earn 'something' from the offenders and do not perform other business how can they lead such a luxurious life in these days of hardships where fixed-income groups and day labourers are suffering to a great extent?

The leaders do not attend office regularly. If they attend office they do not perform official function though they enjoy wages, overtime, promotions, transfers, and other facilities. They remain busy in the office for gossiping and politics.

There is an association of the superintendents and inspectors of Customs and Excise and

VAT under Dhaka Commissionariate. The leaders of this association and their supporters throughout the year enjoy 'good posting'. Here good posting means earning of higher amounts of money. A superintendent and an inspector generally earn sufficient amount to maintain his standard in comparison to other departments. Despite this the leaders of the association and their supporter want to enjoy 'good posting' even replacing their opponents. To exhibit their leadership they express their artificial sympathy for Mr. X by saying that this fellow is suffering very much for not having good posting for a long time. But they never surrender their postings for Mr. X who is their opponent. The leaders interfere on the activities of administration for their transfer and posting to suitable places.

We expect that the leaders of the association and unions will attend office and perform official work regularly. They should give up the practice of enjoying 'good posting' all the time. They should not influence the administration for transfer and good posting. However, they should look after whether one is transferred before due time or not. We hope the leaders will work properly leaving meanness for the greater interest of the association and union. This will help enable to achieve success in any movement in times of need. They should realise the practical situation of the day.

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Shantibahini

Sir, In recent days the diabolic and maleficent activities of so-called Shantibahini (Peace Army) of Chittagong Hill Tracts have increased manifold.

Following the cold-blooded murder of 64 people in 1986 and recently 28 woodcutters have been slain by the outlawed Shantibahini.

It is more or less an open se-

cret that the members of the so-called Shantibahini with their headquarters in Tripura, India, have been entering into Chittagong Hill Tracts and creating law and order chaos for over last two decades.

We are stunned and shocked that why despite our 25-year friendship treaty with New Delhi the members of the Shantibahini are being patronised by our neighbour?

We would request the Awami League government which has returned to power with people's mandate after 21 years to take up and discuss the relevant matter with New Delhi with courage and patriotism without further loss of time.

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Something fishy?

Sir, Twenty-five years has passed since we achieved independence and during this long period we could not get the due share of Ganges water from the part of our side. No matter which party was in the driving seat of the Indian government, except the government of Mr. Moraji Deshai's Janata Dal, they just did not pay heed to our request for a just solution to the problem. There are other bilateral issues with India which also remain unsettled for quite a long period of time.

India always evaded the question of settlement on various issues. But now all on a sudden India has become very much friendly with us and conspicuously enthusiastic for settling of all outstanding issues including that of sharing of Ganges water within the short period of time. We are apprehensive of this sudden change of Indian attitude. Surely, there is something fishy about it, is not there?

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