

Wise Words

The hour of departure for Abdur Rahman Biswas as the president of the Republic has drawn duly and almost tangibly near. In little over a week's time, precisely on October 8, the unobtrusive but towards the end controversial personality of Bangladeshi politics will relinquish a largely ceremonial role in state mechanism on completion of his five-year term. Mr Biswas it looks like is all set to ensure a savoury farewell to presidency.

In a reception recently accorded to him for the completion of his term in the president's office, Mr Biswas made some very timely observations. They held appeal because they lay and very much lie at the core of our sufferings as a country, as a nation.

While there was a touch of robust optimism in his observation that the notion of Bangladesh being poor is more of a fallacy than fact, there was unmistakable realism in his attribution of our problems to three factors — lack of skilled management, intolerance from myopia about perspective and lack of unity. All three are very relevant in any attempt at soul searching. We lay particular emphasis to his comments that no one party can solve the problems of the country, and that all must work together. This is precisely what Prime Minister Sheikh Hasina has been saying, ever since she assumed office.

Not that Mr Biswas has come with a revelation in realism or ethical consciousness at the hour of his departure. We have heard similar observation on several occasions before. What makes it an utterance of significance is whether such views will be acceptable to the party he belongs to. We hope what Mr Biswas said on that day will not vanish in the ether as ceremonial platitudes but will remain in the air sufficiently to be drawn into the lungs of the politicians irrespective of their party affiliations. Only then we can truly and discernibly march forward.

Towards True Democracy

One supposed that with the return to power of truly elected people in 1991 civil as against military authority was being established over the state and that a relentless march towards true democracy would ensure. The former and a very important part was indeed realised but that cannot be said of the latter of the expectations with equal confidence.

There came another chance in 1996. The new government set about the task of reaching democracy to the doorsteps of the citizenry by forming a Local Government Commission. The Commission has already prepared its draft for a bill to be presented to the Parliament. Good work.

What has been even better is that the Commission circulated a questionnaire on the print media seeking comments, opinions and suggestions from the members of the public on the subject matter of local government. This has been followed starting yesterday by the Commission directly consulting eminent citizens of the land about the merit of their draft or, more generally, to know their mind on the business of developing self-rule by the people from down at the village level. While congratulating the government for the progress that has been made in the matter, we expect the resulting final bill to be placed in the Parliament at the first opportunity. And passed. Directly elected people will thus be administering the society very soon. They will be greatly helped in this by the people of the cadre service who have been trained in administration and are career administrators.

It cannot but be recalled that days back the Rules of Business of the parliament has been raised in the light of the needs of the changeover from a presidential to a parliamentary system. The changes, overdue as they were for five years, formalised the authority of the elective offices over the non-elective or the so-called bureaucracy. The processes of democratising the ways of governance are thus well on way. One only hopes that this pays desirably and handsomely. And also that it infects the whole society and the social limiting factors to man's liberty start definitely to diminish.

To School rather than to Work

The world yesterday observed Universal Children's Day. It is doubtful if this observance contributes anything to the advancement of the children's cause. The cause, nevertheless, has greatly been served by the United Nation's unremitting campaign for getting children out of the hell that is childhood in many existing societies — a monumental and lasting testament to which has the Declaration of the Children's Rights.

It is more the society than the state that represses the child. Man in most parts now lives in a modern world of advancing democratic values. But not children. Not only anachronistic social values coming down from warped worldviews and social norms, but the continuing practice of the Roman *paterfamilias* model of unabated patriarchal tyranny inside the family is stunting the growth of the child. Physical indices of the children's condition is improving generally around the world. What about their mental development? Children deserve a better deal even in the affluent societies — or those that can foot the bill it would entail. But affluence is a product of competition that allows only a few on the top at the cost of the many languishing below. The lower strata comprises the weak. And the child is weak and defenceless even within its family. It is exploited, bullied and tortured in the home and in society irrespective of the economic standing of the society and the family.

For at least a century or two Bengalees have been no great lovers of children that do not belong to one's very own. The inhumanity inflicted on the children working the coal mines of Britain in the 18th century, continues in modern Bangladesh with no one batting his or her eyelid for once. Until it remains different to reform the individual adult, the task in Bangladesh would be to protect the child from institutionalised or organised exploitation and cruelty. In most families the child is an earning hand. That's how it is tortured and robbed of its childhood.

Towards a Bangladesh then where the child would not be required by its family to go to work rather than to school.

A WAMI League's first hundred days after 21 years have not been uneventful. With opposition walk-outs from the Parliament, palpably threatening remarks inside and outside the House, directed at the new President, the Prime Minister and the Speaker, and finally with the Habiganj election boycott, the civil society seems to get a jolt: remember an exasperated Paul Keating, former Australian Prime Minister, in the Parliament? "Australian parliament is a bearpit... They are perfumed giggles, poppy crims — short of criminals. In suits fly thick and fast on the floor of the House in Canberra..." Sounds very familiar, isn't it? Here the Anglo-Saxon diction has coalesced with Aryan-Dravidian language. A perfect example of parliamentary syncretism!

First the government set its priority on the agenda — governance of the country with transparency and accountability. Bureaucratic responsiveness must correspond to the civil society's expectations. For that the first and foremost attention was focused on history — projection of our correct history with proper resonance to the country's creation:

The propaganda barrage with vituperative name callings by Begum Zia and her top party apparatchik make for a sad story of the largest opposition party in country's history not yet able to accept its defeat on June 12 elections. Who shall bemoan — get the glass eyes, and like a scurvy politician, seem to see the things thou dost not.

Jonathan Swift's *Tale of the Tub* and George Orwell's *Animal Farm* together create the microcosm of opposition actions. In the past five years Begum Zia and per party did almost everything to distort his-

Prime Minister's First Hundred Days

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... changing text-books, planting an alien cultural philosophy on the young 'projarma'... This resulted in distortion of economic priorities — via WB reports, ADB papers and UNDP-USAID critiques. There was an Orwellian imposition of NEWSPEAK with all its derivatives in Doublethink, Thoughtcrime, Plusgood etc. Begum Zia perhaps would have liked us to believe 'all animals are equal but some animals are more equal than the others'. Thus they were shouting, 'bright will shine the fields of England (Bengal), purer shall its water be, sweeter yet shall blow its breezes on the day that sets us free' — only if we were in power.

Sheikh Hasina's government had, therefore, to contend with Himalayan proportion of lies, and the smokescreen of pay-war of the WW-II vintage had to be confronted with firmness and determination.

The Prime Minister has done a good job in giving a sense and service above self to the valiant forces of Bangladesh. She has also reassured the international community that Bangladesh defence services will continue to serve the cause of peace under the United Nations Peace Keeping Operations. Our defence services thus will do what it is required to do, serving the country without getting involved in politics. They will uphold the constitution and democracy and not interfere in the proper functioning of democratic government. Beginning with the tragic events of August 15, 1975, too many precious lives have been lost, thousands of Army personnel have fallen victims at

the alter of personal lust and greed. Morning after morning, in the silence of dark nights freedom fighters were the first victims. It is too much to believe that each time an Army turmoil has taken place — in '75, in '77, '81 or '96, only the freedom fighters have been victims.

Prime Minister Sheikh Hasina correctly told our defence forces in Bogra that the events of August 15th, '75 were the outcome of a conspiracy. The whole Army or Defence Services per se were not involved in those events. Only a misguided section inspired and

abused by the enemies of the state at home and abroad were responsible. Strangely enough, in the book *Road to Freedom* jointly authored by Col Rashid and Col Faruq one gets an uncanny picture about the depth and dimension of the conspiracy leading to the assassination of Bangabandhu and his family.

On other important national issues like the sharing of the Ganges water, supplying adequate energy to keep the wheels of factories moving, framing the rules of business of the government as part of giving more transparency in the governance of the country, in attacking terrorism and *mastaniam* with

moribund and bankrupt BNP era in foreign policy. It was, therefore, pathetic to read Begum Zia's remarks that she would have voted for Japan for the Security Council election against India! It was childish and asinine even to have uttered those words. First of all the voting is secret, and sacred is our national interest. No commitment is made on such vital issues till up to the day of the election. When her candidate Salahuddin Ahmed had bagged only two votes in DG, FAO election, she made a phony UN address on water issue in 1993, totally failed to attract foreign investment, every sector was maimed, corruption

and terrorism touched every segment of society, one instantly concludes that her advisers did very poor homework. In these days of the new government, two visits have added some dimension, particularly in the celebration of our silver jubilee: Dick Cheney former American Defence Secretary and Simon Dring the then *Daily Telegraph* correspondent in Dhaka and now with BBC.

Dick Cheney, who came for investment opportunities of a mere hundred million dollars was largely responsible as President Bush's trouble-shooter in upholding Article 51 of the UN Charter: Defence of small Kuwait against the aggression of stronger Iraq. In my brief chat I told him how he prevented my visit to President Ben Ali of Tunisia by creating a storm in the desert! But I didn't fail to tell him that smaller nations like Bangladesh felt reassured with the US determination to defend the UN Charter.

Simon Dring, *The Daily Telegraph* correspondent in Dhaka, witnessed along with the French journalist M Laurent (also died in 1975 while covering the Vietnam War) one of history's worst massacres of civilians, students, intellectuals by the trigger-happy Pakistani Generals. His was the first reporting that exposed the genocide in Bangladesh. He escaped Pakistani spies, he evaded Siddik Salik's dragnet (witness to surrender fame) to fly out to Bangkok hiding his precious merchandise — photographs are notes — in his socks. The international staff helped him in hiding in various places of the

hotel. My brief encounter with Simon Dring at the Sheraton-staff-reception brought back the memories of the days gone by. With Sidney Shaeborg, Peter Hazelherst, Peter Hess, *Time*, *Newsweek*, *IHT* correspondents Simon Dring will occupy an important place in our liberation history.

While ruminating Simon Dring's visit on the occasion of the Silver Jubilee, one instantly recalls the stories of heroism and treachery in Bengal. The enemies of Bangladesh worked relentlessly on the leaders of the new country Khondakar Mushtaque Ahmed played the role of General Mir Jafar; while instigating both Chasiti Begum of Dhaka and Shaukat Jong of Purnea, two descendants and pretenders to the throne of Alivardi Khan, against Nawab Sirajuddowla. Mir Jafar lasted as a puppet at Murshidabad for three years. The Mir Jafar of Bangladesh lasted for three months, not three years. But the damage he inflicted on the civil society of Bangladesh paved the way for the establishment of semi-army or army rule for long 16 years. The Constitution was mangled with Mushtaque-Zia Indemnity Bill and the amendment of the Preamble to the Constitution.

Begum Zia will do well as leader of the opposition to play her historic role in nurturing the growth of our nascent democracy. Or else Orwell's Winston Smith, the last man alive, may rebel against the party's rules and doctrines!

And with the passing of the first hundred days, many happy returns to the Prime Minister: but she may not forget that 'tis virtue, and not birth that makes us noble; great actions speak great minds, and such should govern...



Waliur Rahman

The Concept of Ombudsman: Some Reflections — II

by Sultan-uz Zaman Khan

(Continued from yesterday)

Need for separate institution: In the circumstances, there is need for a special institution to look into bureaucratic abuses. The Ombudsman system, a tested institution, can largely fulfill that need. While in this country the law courts have been the only available institutional remedy, however inadequate, against official abuses, the role of the Ombudsman cannot be compared with them. It has been stated earlier that the Ombudsman can only recommend remedial measures rather than delivering judgments which are binding on the contending parties. In away, the Ombudsman performs the role of a guardian offering friendly guidance to civil bureaucracy. A redress suggested by him could simply be an apology offered by a public official to an aggrieved citizen or it could be a suggested improvement in the delivery of a service or in the rules that are followed in a particular public organisation.

The Ombudsman system, to be effective, should be easily accessible to the aggrieved citizens in comparison to our courts of law. Since the Ombudsman does not deliver judgments, it is expected that he should adopt simple procedures toward investigating complaints and suggesting appropriate remedies. This would hopefully provide relatively quicker relief to the affected persons. The process of dealing with grievances should be straightforward and inexpensive, unlike the institution of litigations under our existing judicial system.

Sri Lanka and Bangladesh systems compared: In Sri Lanka, the office of Ombudsman was created by the Parliamentary Commissioner for Administration Act, 1981. The provisions related to the manner of his appointment and

the procedure of his removal, his powers, the nature and mode of functioning, organisational structure, etc, under the respective laws of the two countries bear some similarities as well as differences. Some of the important features of the two systems are briefly dealt with here. The Sri Lanka law is considerably more detailed than the one of Bangladesh. The former has also undergone a major amendment in 1984.

The Sri Lanka law does not provide any qualification for the post, whereas in our case the person to be appointed should be of 'known legal or administrative ability and conspicuous integrity.' As far as his tenure is concerned, it is open in case of Sri Lanka. In our case, the tenure is initially for three years and can be extended for one more term. No age-limit has been prescribed in Bangladesh but in that country, the incumbent cannot serve beyond 68-year of age.

In both countries, the President is the appointing authority. However, in our case the candidate is to be recommended by Parliament. As regards removal from office, in Sri Lanka it can be done 'by an order of the President made after an address of Parliament.' In our case, the Ombudsman cannot be removed except by an order of the President passed pursuant to a resolution of Parliament supported by a majority of not less than two-thirds of the total number of members on the ground of proved misconduct or physical incapacity. It can thus be seen that the status of the office is not only very high but quite se-

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curable. In Sri Lanka again, the Ombudsman is required to take an oath before entering into office. There is no such requirement in Bangladesh.

Regarding jurisdiction and powers, there are some differences in the two countries. In Sri Lanka, the Ombudsman is essentially linked with the Parliament. The Public Petitions Committee of Parliament sends complaints to him for investigation and report. He is barred from entertaining complaint directly from aggrieved parties. In case of Bangladesh, however, the Ombudsman can take up any case on the basis of a petition made by any citizen. He can also do so on his own based on information received by him from any sources, otherwise than on a complaint.

The jurisdiction provided in Sri Lanka appears to be wider than that in Bangladesh. The Sri Lanka law mentions a public officer or officer of a public corporation, local authority, or other like institutions. In the Bangladesh law, reference has been made to 'a ministry, a statutory public authority or a public officer.' In our case, 'local authority' or 'other public institutions' have been excluded.

In case of Sri Lanka the subject matter of action could be an infringement of a fundamental right or injustice done by the bodies mentioned above, whereas in Bangladesh action can be taken where a person 'claims to have sustained injustice' done by any of the bodies specified above. It is important to note that the 'infringement of a fundamental right' is not jus-

tifiable by our Ombudsman. The Sri Lanka law appears to provide a very detailed and rigid procedure for conducting investigations as compared to the one include in the Bangladesh law. In the latter case, the Ombudsman has been given wider flexibility in terms of determining the manner of investigation depending on the circumstances of a case.

As regards procuring and receiving evidence for the purpose of conducting investigations, the laws in both countries are quite elaborate. They have many common features because those have adopted the relevant provisions of their respective penal/civil laws which are substantially similar in both countries.

In both the countries, as has been mentioned earlier, the Ombudsman has only powers to recommend remedial measures and not to enforce them. In this important aspect, the power and functions of the Ombudsman are fundamentally different from the law courts whose judgments are mandatory.

There are several other significant features under the two laws which have not been discussed in this write-up. One such matter is the staffing of Ombudsman's office. The Sri Lanka law has made an express provision for appointment of one or more Deputy Ombudsmen, which is absent in the Bangladesh case. However, there is enough flexibility in both the laws to set up suitable organisational structures for assisting the Ombudsman in the proper discharge of his

functions. It may, however, be stated here in passing that while the size of the office will generally be guided by the expected workload, the quality of work to be accomplished, every effort should be consciously made to avoid another bureaucratic structure which might defeat the very purpose of the institution.

Concluding observations: On the basis of the foregoing discussions, some general observations can be made as follows. First is the question of need and justification of setting up the institution in Bangladesh. As was stated earlier, 'Administrative Law' which governs the conduct of civil bureaucracy has two different aspects. The first has to do with the 'internal' relationship between the government and its servants. The second aspect concerns the 'external' relationship between the citizens and public administration.

Bangladesh established Administrative Tribunals several years ago, as provided for in the Constitution, to deal with the cases arising out of the 'internal' relationship. There is no reason why the office of Ombudsman should not be created to take care of the 'external' aspect, especially because of absence of a remedy for an alarming and growing number of citizens' grievances against administrative abuses.

Secondly, in introducing the system, great care needs to be taken from the inception to avoid creating an overly bureaucratic structure. The hallmark of the new institution should be its easy accessibility, simpler procedure as well as inexpen-

sive and prompt action. It is only then that the system would have the desired impact.

Thirdly, the institution should be placed under the leadership of a personality of high eminence and unquestioned integrity. It is indeed a challenge to our Parliament to find such a figure.

Fourthly, although our law is much less elaborate than the one in Sri Lanka and some other countries, it has an advantage of simplicity and flexibility, say, for example, in terms of procedural matters, organisational framework and so on. Necessary improvements can be gradually introduced as operational experience is gained over time and, if necessary, on the basis of experience of our neighbouring countries.

Finally, it should be admitted that introducing the Ombudsman system alone is not going to be a panacea of our administrative ills or injustices. Over a very long span of time, our civil administration has earned the stigma of low efficiency through an oversized growth and an ill-reputation for insensitivity to public sentiments. Removal of these maladies no doubt call for very drastic, urgent and concurrent measures in the form of executive, judicial, legal and other appropriate reforms. While there are cogent arguments for reducing the number and size of the government and the public sector organisations, it is also worthwhile to try innovative institutional systems to improve our public governance.

In the above circumstances and given the political commitment recently voiced by the government... in this regard, the Ombudsman system, which has been profitably tested elsewhere, should also be introduced in our country without further delay.

(Concluded)

When our world crumbles

Sir, I am a resident of Kalabagan, Dhaka, on 16th September 1996, at around 3:30am the 7 storied building next to our house was completely destroyed due to faulty construction. I am quite shaken by the incident.

It sounded like a terrible thunderstorm. Then we came out fearing an earthquake — nothing could be seen due to the thick dust and smoke. A lonely voice was waiving from the dark 'ektu raham koren go' — again and again. The bewildered residents of 18 Bashiruddin Road saw that the seven-plus storied building in front had tumbled down to the ground. It seemed as though the whole structure was neatly cut at the ground floor. In confusion everybody yelled at everybody — there was no electricity, and the telephone lines were all out of order. The police came, then came the fire brigades and we learnt that five persons were killed — trapped under the debris and two were injured — all of them were construction workers. Looking at the fallen building, only a few feet from our house and at the dead bodies — we thought how quickly disaster struck and how near we were to it.

The underconstruction building got ample attention

Paralysed Generation

Sir, These are the questions of the questions of unending solution and not the answer of the questions which have been raised by Mr Shahrul Shohel in *The Daily Star* dated 16.9.96 referring the above captioned piece written by Dilara Begum and published on 10.9.96. She mentioned that we had a leader. She mentioned neither the name of Ziaur Rahman nor the name of Sheikh Mujibur Rahman. Has it been a distortion of history? Does the history of Bangladesh lies only in the naming of leaders? Regarding patriotism, it is questioned that when Ziaur Rahman killed thousands of freedom fighters, then how he could be a patriot? Now how I question when millions of innocent people were killed for the reason of one man, then how could he be a leader? May be — answered — it was for the noble cause of independence. Agreed, it is for independence that can be called a pink petal of a rose or which can be said the lovely cheek of a beautiful child in a poem. But practically what do we see? We see it as a fight between two political parties where one party wants to dethrone the other only to retain power. We also see when one party is in governance they are the most

Assessment of our share market

Sir, The booming situation prevailing in a share market always indicates that the investment situation of the country is healthy. But the signals that our share market is projecting are rather disturbing. Speculations are dominating the market. Positive speculations may be good. But fabricated ones are nothing but gambling. The real investors are in a fix. The prices of share units are going upwards continuously alluring the buyers to buy shares from the secondary market.

Nur Hossain, 151, Bangshal Road, Dhaka-1100

When our world crumbles

from all the neighbours because of the peculiar foundation and its wickered looks. It was quite often, that we mentioned to one another about this 'leaning tower' and when it might fall. Being an architect, I noticed the intentional disregard of the RAJUK rules but as a 'civilised' citizen kept quiet about it. Now, as the building crumbles only a few feet away from my house — I can only imagine what might've happened if the building fell on the other direction and if it was day time when children play on the adjacent land or if it happened one month later when seven families would have housed in it. Innocent lives were lost and weather it was due to irresponsible construction or whatever, is yet to be known. No matter what we say or do can compensate such loss. We can only hope that this makes us to regard our construction works with a bit more seriousness — and fairness. Such incident brings the realisation that our most advanced technological achievements are doomed at the very beginning if this trend of ignorance is not overcome.

Until that we have to live with the wailing of the injured carpenter — 'Ektu Khani raham koren ma go'

Abu Sayeed Saleh, 18/2 Bashiruddin Road, Kalabagan, Dhaka.

Assessment of our share market

efficient, appropriate and good governors and when they are in the opposition they are the chaos maker.

Why the student community be termed as paralysed generation? Rather paralysed are the politicians who 'paralyse' the country to the perils of nation's economy, who use student community to fulfil their illegal will, who undertake destructive activities in the name of people's cause and the students do not hesitate to sacrifice their blood for the cause which do not have any relation to people's interest.

Mahbubul Haque Chowdhury, DGM, Sonali Bank Head Office.

US attack on Iraq

Sir, Power corrupts. The superpower USA's missile attacks on Iraq on September 3 and 4, 1996 and the former's continuous threat to independence and sovereignty of the latter is a matter of grave concern for the

peace-loving people all over the world.

In the disguise of the UNSC the USA has imposed crippling economic sanctions against Iraq since 1990. The United Nations' Special Commission on Disarming Iraq (UNSCOM) chief Rolf Ekeus is reportedly creating mischief with Iraq for over last six years on the ill-advice of the USA. The USA has made 'no-fly zone' over southern Iraq since August 1992 which is a direct interference in the internal affairs of Iraq. The USA is also creating impediments in the implementation of the UN oil-for-food deal with Iraq. The sufferings of twenty million people of Iraq know no bound.

When we compare the US President Monroe's doctrine of 1823 with that of US President Bill Clinton's foreign policy of 1996 we find those are most contradictory to each other.

Iraq has already paid a heavy price and undergone untold sufferings due to its insane invasion of Kuwait in 1990 which has been liberated by the USA and its allies in 1991.

We would request the democratic-minded, freedom and human rights-loving people of the USA to urge their leadership to follow a humane and friendly policy towards the people of Iraq.

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