

Public Service

Bureaucracy in Bangladesh has sometimes slipped into the zone of controversy. How much the civil servants themselves have been responsible for it and to what extent the circumstantial factors were to blame for such a general impression to prevail is a matter worth debating at length on, but the truth is civil servants do have a great deal of room for improving upon their work ethic: public service.

Prime Minister Sheikh Hasina's utterances on Friday during the opening of the Bangladesh Administrative Service Association head office were a study in contextual relevance. Routine part of the address aside, the PM devoted a fairly considerable portion of it to the public service atmosphere. She has spelled out that her government attaches importance only to merit and efficiency and not to party allegiance or sycophancy in matters of promotion or career enhancement. This is a powerful commitment made to ensure transparent neutrality in governance.

While only time can give a commentary on the highly commendable call of the country's chief executive and its effect on the civil servants, there are a few steps that, if taken now, will only help decrease the hiatus between the people and the administration.

The resentment about the inter-cadre anomalies is one area, where a quick and pragmatic intervention of the government is sorely needed. Sheikh Hasina seems keen to remove the curable maladies but getting a system in place to acknowledge efficiency and discourage any deviation from work ethic would, one feels, bring a fresh approach to the whole issue.

There perhaps is a thin line between neutrality and partiality. While a little enthusiasm on the part of the functionaries in implementing mandated policies of a government runs the risk of being misinterpreted as an act of currying favour with the ruling party, a little swing in the other direction may not be advisable either. The requirement is a steadfast adherence to what is just and fair, something which the PM has underscored. The civil servants would do their image a great service by absorbing the PM's latest call for public service and performing accordingly.

Bank Loan Recovery

Bangladesh Bank governor Lutfor Rahman has given more of a composite rather than an unambiguous strategy for recovery of bank loans, both outstanding and new, in an interview with the Bangla daily Bhorer Kagaj. One only wishes all the cogs in the proposed mechanism will work without any chink in the armour so that the desired results can be obtained.

The scheduled banks, both in the public and private sector, are being given until March 31, 1997 to slash the size of arrear loans by a half. To achieve this target, which, mind you, has to do with the vestigial hard nuts to crack, each bank is to have a task force exclusively meant for pressuring the difficult bunch of defaulters to repay their loans. The task force will file a daily progress report to the central bank which itself is to have a task force at the apex under command of the governor to monitor things.

The task forces at the scheduled banks might largely prove to be ineffectual bodies unless these are empowered legally to force the defaulters to pay up. Given that they have some four months to impress the central bank with their worth, the legal support should be extended to them at the earliest. It is understood from the Bhorer Kagaj report that the committee on banking reform headed by Kazi Fazlur Rahman, a former advisor of an erstwhile caretaker government, would provide legal advice in the matter, if and when required by the task forces. Since adhocism will be of little help what we are basically looking for are iron-clad banking reforms delivered by the Fazlur Rahman committee.

The banks themselves have a stake in the early recovery of loans. So, they should, of their own volition, ensure a clean slate approach to the new loans by means of an effective credit distribution policy coupled with better overall management based on sound recruitment of personnel. The new government having been expressly committed to keeping political influence-peddling out of the lending operations, the banks should be in a position to give their professional considerations a free play.

Break the Tangle

When the arterial river-crossing routes start getting narrower with the onset of dry season, one fervently prays all concerned had taken precautions against man-made exacerbation of ferry tangles. But if the four-kilometer queue that had formed on Friday from the terminal upwards on the Dhaka-Aricha highway is any guide to what lies in store and where exactly have things gone wrong, then it is the human failure that comes snow-balling to overshadow the natural vagary factor.

It transpires that four ferries had to be grounded due to mechanical faults and the 16 that remain in operation have staggered movements through the constricted river channels. A streak of logic could cross the perverse mind that when the passage is not smooth enough what if some of the river crafts have gone kaput!

Yet the fall in the water levels and the shoaling of river-beds have been such recurrent annual features that we are supposed to have mapped these out, and with prognostication as well to help us keep the routes free by some timely dredging activities. The usual experience has been to see these on the hype after the river-beds have gotten clogged.

Then there is always an awkward incident to fester the sore-point. In the present case, truck drivers took control of the booking counter at Nagarbari that forcing the inter-district coaches to stand still while they allowed only trucks to board the ferries after allegedly being stranded for three days.

The first among the several imperatives that need to be addressed there is to restore discipline near the ferry terminals.

Need for Transparency in the Government Sector

THESE days transparency has become a matter of common concern in the management of various sectors to the economy and the polity. Whether it is the management of stock markets, state-owned enterprises, financial institutions or government administration something basic seems to be lacking and hence the concern for transparency. It is high time that a careful analysis of all important aspects of transparency is done. This article addresses itself to the following questions: i) What is meant by transparency and what are its implications? ii) Why is it needed? and iii) How can it be improved?

Transparency is nothing but the clearest possible vision of anything that one is dealing with. Whether a person is dealing with his own job, or his/her own marriage, or the sale or purchase of a good or property, or payment of taxes to the government, or electing someone to a public position to perform a specific job, he has to have an absolutely clear idea of what he is involved with. Since every individual is a social being, and almost all his acts involve other individuals, one can formally say, in game theoretic language, that every individual act involves at least two parties. If not more (ie two party or multi-party game). Transparency, in a two party or multi-party context, therefore, implies (a) a clearest possible knowledge of the terms and conditions and the expected outcomes of the explicit or implicit contract (social or private) that the two or many parties are entering into, and (b) a most effective communication of these terms and conditions and the expected outcomes to both sides of the contract. For obtaining a fair outcome of any contract, these two implications should be clearly borne in mind.

A sceptic may ask why the concept of a contract is brought in her. A little reflection shows that when one is talking about transparency or clear visibility of what some persons are responsible for or are expected to perform, one is necessarily talking about an explicit or

implicit (which may not be formally written) contract between two sides of the issue under consideration. There cannot be any escape from it. Why is Transparency Needed? From what has been explained above, it clearly follows that it is needed simply because if one party to the contract is not clear about what the other party is currently doing and what it is expected to do, then misunderstanding, tension, conflict and breakdown of the contract can take place whereby the expected outcome is not going to be materialised. Then the social and the contracting groups will be in a non-optimal (or Pareto-inferior) position which can be called inefficiency in the ordinarily understood language. If one looks around in one's environment, one can find many examples of such breakdowns of contracts causing inefficiencies. One such burning example in Bangladesh economy is the extension of a vast amount of industrial loans given to the private entrepreneurs in the past decade or so which were not paid back whereby the entire banking system has been driven to almost a state of collapse. It is kept going by infusing fresh capital. The economy and the country is now paying heavily for it.

However, a word on the effects of economic inefficiency would be appropriate at this stage. Once inefficiency creeps in, it gradually builds greater inefficiency into the system and it becomes difficult to eradicate it later on unless something drastic is done. But if it continues for long, it becomes the source of economic, political and social decline. One simply cannot build a high rise building on a weak and fragile foundation.

How can Transparency be Improved? By simply making the two sides agree to act according to the terms and conditions of the contract they have explicitly or

implicitly entered into. In the context of public sector management in Bangladesh, either the Constitution or special laws and Ordinances passed by the Parliament have given the political leaders and the civil servants some responsibilities to perform certain jobs. Although ordinary citizens of the country have accepted the assignments of these constitutional and legal responsibilities to the politicians and the civil servants, the latter seem not to be fulfilling these responsibilities to the satisfaction of the ordinary citizens. This is where the root of the problem is. Inefficiencies and misallocations of resources are

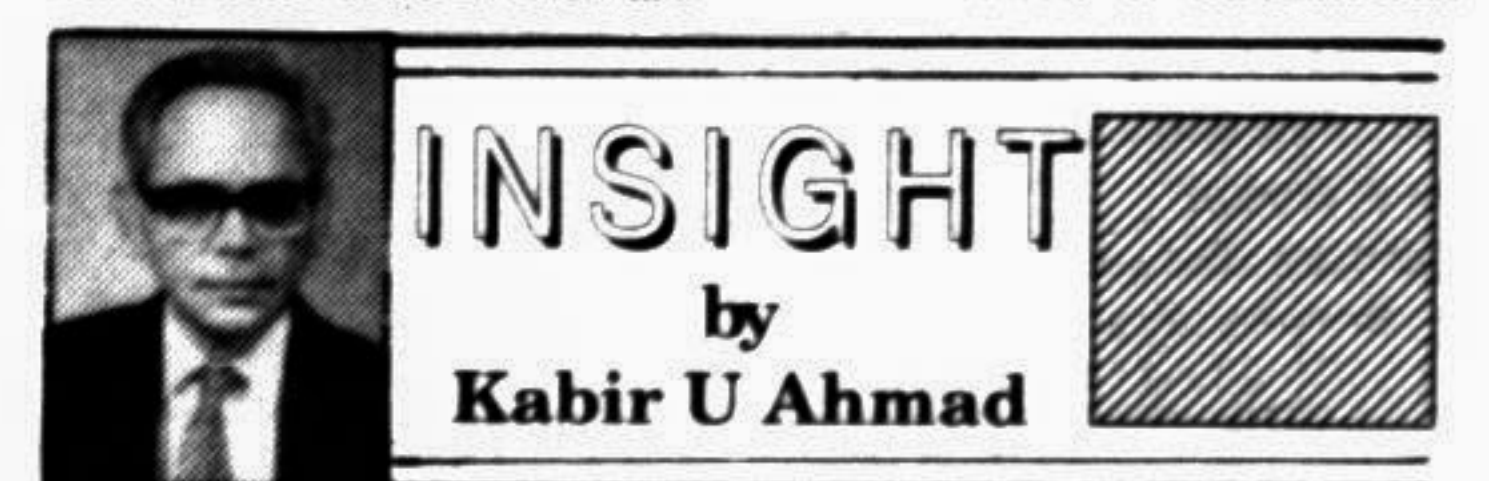
found to be widespread. The World Bank's recently published book 'Government That Works-Reforming the Public Sector' dwells on this aspect of Transparency quite exhaustively when it points out (a) the reasons why the bureaucrats do not perform well, and (b) what can be done to improve Transparency. (a) It has pointed out that 'many civil servants lack professional knowledge and thus have little confidence in their own decision-making abilities.' Specific laws and rules which explicitly make it a criminal offense for civil servants to disclose various kinds of information without authorization, and 'bureaucrats believe that revealing too much information undermines the trust and confidence between civil servants and their political master.' Quite surprisingly, it also notes that 'despite the explicit secrecy rules and prohibitive laws, peddling secret and confidential government

papers has become quite a lucrative vocation amongst Bangladesh's civil servants.' Government that works, page-65) From this finding, it can be easily inferred that the civil servants are violating their terms of social contract with the people of the country. (b) For improving Transparency it has recommended the following: 'Announce a public policy on Transparency.' 'Establish a Task Force on Public Sector Transparency.' 'Publish the earnings and tax payments of all elected officials as reported in tax returns.' 'Regularly publish a list of bank defaulters' and 'enhance dissemination of information

members of parliament go to their constituencies to hold meetings with the public almost every month which helps them maintain their vital links with the people at the grassroots. In Bangladesh, the members of parliament and hence they are remote from their voters unless some emergency situations develop. They go only when some occasions to distribute food or local contracts come up. They hardly go to the nook and corners of their constituencies to meet the people. Parliament should require their members to visit and hold public meetings in different areas of their constituencies regularly so that a regular exchange of views take place, people understand what they are currently doing and thereby maintain a living link with the people at the grassroots. This will not only enhance transparency but also will strengthen the basic foundations of democracy in the country.

Finally, the dynamics of economics and politics of any society brings various unexpected issues and problems, which might be simmering under the surface, into the open and might need to be discussed with the opinion makers of various sections of the people particularly the media and other professional groups while the Parliament may not be in session. The Prime Minister, who has already started some parliamentary meetings with the media, should establish the tradition of regular monthly press conferences with the media and the other important sections of the society to communicate, exchange and disseminate her policies on various issues with the public. This step will improve the transparency of her government and strengthen the democratic practice in the country.

This is an abridged version of the Keynote Paper on 'Enhancing Transparency and Reducing Corruption' presented by the author in the workshop held last week on 'National Workshop on Governance' jointly organised by the World Bank and the ERD, Government of Bangladesh.



INSIGHT by Kabir U Ahmad

and reports.' A few observations on these suggested measures are in order. First of all, although the World Bank document has recommended the publications of 'earnings and tax payments of all elected officials,' one has to understand the tax payment and accounting culture of Bangladesh. Most people especially the highups in the society maintain two different account books, one for tax purposes which despicably underestimates their incomes and over estimates their expenditures, and the other for his own self which is usually far different from the first one. No amount of appeal to his conscience will persuade him to reveal his second account book to the outsiders. This is a difficult problem of disclosure. What can be done to persuade the elected officials, bureaucrats and business people to publish their real income-expenditure accounts? There is a need for much serious thinking on this

Hidden Crimes and Criminal Impunity Boost Offenders

RULE of law, political crime, preventive detention, terrorism and law enforcement have, by and large, constituted agenda for current public and private discussions in Bangladesh. The Doctrine of Rule of law has been a legal and political slogan since long but its pristine glory has not yet had any sway in the realm of law enforcement. Under the doctrine, no person can be convicted and punished except under due process of law for an offence. The doctrine does not recognise discrimination in the application of law.

In this context, we may refer to the Preventive Detention Law of Bangladesh and its application, and highlight the norms which in Britain set up in 1908. In Bangladesh, the Preventive Detention law is different in respect of norms and principles of application. It may be used as an instrument of law on subjective considerations also against persons not involved in crime and breach of public order from which society would normally seek protection. It may be noted that in Britain, the law applied to mature, hardened recidivists guilty of serious offences. Its aim was to protect society from the activity of such criminals by segregating them in prison for a long period. The sentence of Preventive Detention was awarded in addition to the sentence for specific crime. The length of the Preventive Detention sentence was between five and fourteen years. A prisoner could be released on license to the supervision of a Probation Officer. Any breach of conditions led to recall to prison. The British Preventive Detention Law was abolished in 1967 in favour of Extended Sentencing system to be used in the case of persistent adult criminals.

The concept of political crime is par excellence a feature of one-party states and other dictatorships in which people are killed at will and persecuted openly or in secret cells for holding opinion or belief considered unpalatable by the ruling regime. A half-mark of tyrannies is that attempts one made to reduce the judicial process to an obedient instrument of persecution, and to allow the bureaucrats to indulge in arrogance of power. In democracies, such killing, persecution and obedience are abhorred in the name of justice.

In our experience, we have had the most cruel killings of political leaders. In the present democratic system of government, Bangladesh has to take very strong steps to prevent the trend of killing, maiming and otherwise injuring persons known as political entities. Such crimes on political persons may lead to political disorder. In our generation, people are afraid of fellow humans who resort to assassination, cruel murder, kidnapping, mass sexual assault, extortion with extreme violence, bombing and acid throwing, looting and highway dacoity, with impunity. People are mortally afraid, particularly because these crimes are being committed by dangerously armed criminals in presence of helpless crowd of citizens. In the United States of America, terror overwhelmed cities and education campuses in the 1960s. The ethnic element was predominant in the heinous riots, burnings and killings. A deep probe was made under a National Commission of Enquiry which identified the causes of the state of terror. Strong steps were taken to contain the crimes of violence. Miscreants were put under trial expeditiously.

There is a well-known dictum in logic: Nothing happens out of nothing. In Bangladesh, the cumulative effect of moral decline, desperate craving for

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wealth and enjoyment, increasing use of alcohol and drug, general disrespect for law and authority, lack of discipline, lack of moral content in education, acute poverty and unemployment, aggressiveness in politics and lack of effective enforcement of law, illegal possession of fire arms, absence of fear of law and punishment etc, have been sadly reflected in the present law and order situation to the utter horror and terror of citizens. To add to this state of terror we have the menace of outlawed radical political elements. These elements are also terrorists as per legal definition of terrorism.

In many parts of the world some regimes have used mass terror as a routine method of mass control, and treated political opponents as terrorists. Ultra-revolutionaries and religious zealots have used terrorist methods to achieve their objectives, such as publicity, ransom, concession, release of associates etc. Since Bangladesh does not have statutory definition of terrorism, the serious types of violence-related crimes are popularly called terrorist crimes.

Bangladesh has not yet statutorily defined hijacking also. In international forum, hijacking has been used to mean illegal seizure and diversion of any mode of transport with a view to blackmailing, winning concessions by threatening lives of hostages and collecting ransom. In recent years, some international conventions have reached accord to prescribe counter-measures like body and baggage search of passengers, and extradition of hijackers. We have experience of bus, truck, motor launch hijackings but have not yet made

use of search procedure. In our criminal vocabulary the use of the word 'hijacking' has been popularity mixed up with violent robbery and extortion.

I have so far talked of crime without introducing its legal and jurisprudential definition which means acts or omissions that are specifically proscribed by law, the proscriptions always involving sanctions on punishments. The key element in the concept of crime is the connection between crime and punishment. Criminality of an act or omission has been further enlightened by the doctrine of age and state of mind of the offender to form evil intention with understanding and knowledge of the consequences of his act or omission because he is too weak, too young and too deranged. The necessary elements of crime are: actions or omissions proscribed by law, evil intention and prescribed punishment.

Before conclusion, I would address myself to a few critical problems related to crime control: Crime statistics published for public information and

phenological analysis do not show up all crimes that actually occur. Quite a lot of crimes go out of focus because these are kept hidden in the reports.

These hidden crimes encourage criminality. It may be remembered that (1) police may not take notice of petty violations of law such as, traffic offence, picking of pocket; (2) people may not bother to report petty offences like a simple assault by slap; (3) the law permits police to ignore the investigation of trifling offences; (4) people do not like to report sex-related offences except in serious cases for fear of social and family scandal; (5) reprisal from the offender and others discourages reporting of some crimes; (6) police may refuse to accept complaint with motive to show lesser number of crime in the record as mark of efficiency in crime control; (7) long tendency of trial of cases in court discourages zeal in reporting crime.

Recently Bangladesh, police has come under serious criticism (a) for commission of atrocities and heinous crimes;

(b) for minimisation and aggravation of offence to serve motive; (c) for failure to control the law and order situation to the satisfaction of the people, and to ensure politically non-partisan performance of duty.

I conclude and suggest some immediate measures in the light of the prevailing law and order situation:

- (1) Recovery of illegal fire arms by deployment of armed forces; (2) Enhancement of punishment for kidnapping; (3) Posting of Detective Police Units in all Metropolitan Police Stations; (4) Quick trial of chargesheeted cases and publicity of the convictions and sentences in order to create fear of law; (5) Application of the GPC Sections 107, 108, 110 and 117 against some select criminals and desperate characters to bind them down with surety and personal bond under orders of Magistrate to keep peace; (6) Enactment of anti-terrorist legislation with provision for exemplary punishment; (7) Political accord in writing on a national basis to ensure public peace; (8) More visibility of superior police officers in cities and districts.

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OPINION

Family Planning Department

Abdul Latif Molla

More than a month ago the news item 'Transfer without posts' appearing on the front page of The Daily Star on 24th October, '96 provided us with the information of a rather capricious formation of a transfer order, a whimsical reaction of a Director General and the working condition of the Family Planning Department of the government.

As it was reported, the transfer order of the officers concerned itself contained a direct threat of dismissal from jobs by the transferring authority if the transferred officers failed to go to the new stations by August 26 last. The officers were transferred to the stations where there were no posts for them and therefore no work and no salary at all!

As a normal practice, transfer orders are as usual official orders which contain instructions to the officials mentioning their new places of posting where they are required to join within a certain date. It is heard for the first time that a transfer order itself carried a message for the transferred officials of following a path to undo them. It may simply be termed as a wonderful new invention of the Family Planning Directorate where officers can be transferred under threat of being dismissed from their posts. Indeed this Directorate has experience of introducing such innovative administrative theories and norms in the past also. The administrative mess it has created at the thana level of the department is simply unique of its nature. No other department at that level has such a heterogeneous and cumbersome administrative set-up. The malaise and morbidity it has generated there is encumbering on the progress of the population control. Ultimately the

nation may have to bear the extra burdens of overpopulation and inflated spendings from the public exchequer due to this wonderful innovation. Any one interested may find it out from his own thana anywhere in the country or see the opinion published in The Daily Star on 7th July, '96, to realise the depth of the problem.

The stark reaction expressed by the Director General of the Family Planning Department regarding the transferred officers that any one feeling uncomfortable with the transfer order is free to quit the job, sounds heroic though, yet seems to have been made out of his official decorum. It does not appear complacently ethical to the officers under his subordination. Apparently the Director General seems to have forgotten the demands of his position that he bears the responsibilities to see the affairs of his department going through the right tracks. He has been placed in that position to provide right input to get right output, place right man for the right job and coordinate everything to the right direction. It is as important for him to be guided by law, rules and regulations as for his subordinates. In case of any infractions by his subordinates he is required to follow the procedure to deal with them and no way guided by whims or sentiments.

It is learnt that the officers and employees of the Family Planning Department are far below the level of satisfaction with the handling of the affairs by the Director General. They are believed to be demanding his immediate removal which is not a palatable affair.

It is alleged that at the flag end of the earlier regime, Ministry of Health and Family Welfare issued the office Order No Par-4/Misc-11/95/8, dated 11.1.1996 by which the drawing and disbursing authority of the thana level Family Planning Department has been split between the Thana Family Planning Officer and the Medical Officer, Mother and Child Health (FP). This order disgruntled the Thana Family Planning Officers and in anticipation of indiscipline and dislocation of progressive performance they put up their appeal with arguments to the then Prime Minister for maintaining the status quo through proper channel. They also urged the Director General to defer the order till their appeal was set aside. But the Director General disregarding their request unilaterally issued the Notice No FP/58-1/2-E-113/91/603, dated 29.2.1996 for immediate implementation of the said order. This order again enraged the Thana Family Planning Officers and consequently many undesirable incidents occurred in the thanas, districts and even in the Directorate. In reprisal the Director General reportedly issued repressive transfer orders against the Thana Family Planning Officers.

As a result, it reported that a complete pandemonium was prevailing in the thana level of the department. The progress of the population control has virtually gone down to a stagnating state. In the context of the alarming population growth of the country it is desired the present government takes immediate corrective measures to eliminate all anomalies from the Family Planning Department in order to invigorate the population control and family planning activities.

To the Editor

Bangladesh-China-India-Pakistan

Sir, It appears that the Chinese President Jiang Zemin has conquered India.

Jiang Zemin is the first Chinese President to visit India. He succeeded not in conquering the land for which India and China fought a bitter war in 1962 over their dispute of 51,200 sq miles of land but Jiang Zemin won the heart and love of 900 million people of the country in 1996. Jiang Zemin visited Pakistan with a view to further strengthening the exemplary ties and cooperation between the two countries. Further the Sino-Pakistan relations stood the test of all times.

We wonder why the Chinese President did not include Bangladesh in his tour itinerary of South Asian countries. Our bond of friendship with China is very strong and historical. We hope that the Chinese President would make it convenient to visit Dhaka at his earliest convenience. Bangladesh, China, India and Pakistan occupy a very important geo-political position not only in Asia but also in the whole world. They are also des-

Load-shedding

Sir, Load-shedding has become an everyday affair in the port city of Chittagong. It is frequent during the day and the duration is maximum at the

peak hours continuing for about 2 hours at a stretch. This erratic power failure and systematic load-shedding have been causing untold suffering to the residents of our locality (Sugandha). The students are the worst sufferers.

This is the year-end and we are taking our final-term school examinations. It seems we would not be able to do good in the examination for not being able to study during the day. We, therefore, request the authorities concerned to redress our sufferings.

Yamin Tauseef Jahangir 122/123 Sugandha Municipal Housing Estate, Chittagong

BTV - play cricket!

Sir, BTV (Be-taal Vison) won't listen to your editorial (Dec 3), as they are: a) unsporting and b) do not know how to play cricket! Replace the captain and the manager. Who are they? Nobody knows! No transparency in the distant vision. Myopic leadership at the TV level. Will the proposed second channel be different? Hal

A Zabr Dhaka

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