

## Truly Well Done

The nine-member committee on the separation of judiciary on Wednesday presented to the Minister of Law a draft of a bill for introduction in the Jatiya Sangsad after the cabinet has gone into it and carried out changes thought to be necessary. The committee very much deserves a well-done pat from all quarters. And the government deserves roundly a buck up to see the bill through all necessary procedures and into law in a minimum of time. The government will then have redeemed a covenant made from time to time by political parties when out of power and fulfilled an aspiration of the people.

The government by its own strength cannot pass the judiciary bill into law. It would need opposition support to marshal two-thirds vote necessary for passing it and amending the constitution. The opposition must seriously consider the draft before deciding what position to take. The best way out for it would then be to give a hand and garner as much credit for that as it can. It can very well say that the new law was a redemption of something the opposition jointly had drawn in the three-party programme of 1990.

Why in this separation of judiciary for the executive so necessary? In its absence there cannot be any rule of law as there isn't any effective check then to the executive's power over the individual, the society and the state. Power is constantly in danger of being abused detrimentally to the interest of all individuals and institutions in the state, inclusive of the state itself — without there being any in-built self-correcting mechanism such as the truly free judiciary.

Is the present draft adequate to make the judiciary supreme in its own realm? What if the purse-strings are so manipulated by the legislature — which is but another face of the executive — as to influence its ways to veer from true justice? Before the cabinet finalises the draft for placing it in the JS let the government seek of our people opinions as to how to modify it into a document delivering to society the best guarantee of a rule of law.

Let the presentation of the draft bill augur early readiness of other bills of equally urgent matter such as the repeal of black laws and the independence of the electronic media.

## KAFCO Concern

The ongoing labour unrest at the Karnaphuli Fertiliser Company (KAFCO) comes as a very undesirable accrual upon a confused and chaotic reality now prevailing in the country over the demand and supply of fertilisers. The latest development of the rather critical situation as reported in yesterday's press hardly offers any relief.

Two of the KAFCO employees who were involved in last Sunday's unfortunate incident — an eight-hour siege of some top officials of the joint collaboration by its union workers and leaders — have been arrested as a sequel to the case filed by the intimidated executives who did their bit to combat anarchy by terminating 12 operators. This two-pronged punitive measure against employees agitating under the umbrella of union for a certain percentage of profit participation does not promise to pour oil over the troubled water. Because the union leaders, fairly switched on about the consequences their violent agitation might bring, had warned beforehand that they would make the plant completely inoperative in the event of any arrest of their workers. So, it will be quite some time before normalcy is restored in the whole KAFCO atmosphere.

From what the management has come up with in print to clarify its position vis-a-vis, employees' demand for pecuniary benefit, rapprochement appears a long shot. Because the company is seemingly in no position to dole out the profit share having incurred huge losses in the current fiscal year in the backdrop of enhanced pressure of internal consumption of fertilisers and other accompanying constraints.

But for people who have gone to the extent of risking their livelihood for the sake of upheaval against the authority, this explanation of financial constraint that too from the employers, is highly unlikely to cool the heat.

For a logical and amicable settlement of the dispute, the parties at loggerheads would do well to go to the labour court, a ruling from where is most likely to address the sense of justice of both. And it should be done as quickly as possible because continued labour unrest would not only further complicate the already messy fertiliser situation but will also send wrong messages to foreign investors about Bangladesh's credential as investment destination. With the interest of the country at stake, we hope the political parties will check the temptation of fomenting support by taking side on this issue and instead use their good offices to normalise the situation sooner than later.

## Tell-tale Signs

The fear expressed by the archeologists over the possible caving in of a fifteenth century mosque in Chanpainaabganj due to vibration caused by heavy traffic plying on the adjacent road is a rueful reminder of the glitch in all our development activities: lack of coordination. Indeed, the threat this mosque of great historical and archaeological interest is now standing is wholly a result of absence of any meaningful communication among different governmental agencies.

If, in this case, the Roads and Highways department had included the archeological directorate while paving the particular highway, the crisis would have not arisen in the first place. The blame for bringing a relic to an avoidable peril falls all the more squarely on the Roads and Highways department in this case because it did not bother to give second thoughts to its plan for the highway even after being forewarned of the disastrous consequences it might bring along to the ramshackle mosque.

Let's face the fact. We never had any reputation as a nation for being particular about maintenance. This streak of callousness in our national character has led to the gradual ruination of many a places of historical interest. But this cannot be allowed to go on like this. The highway that is there cannot be rolled up and laid elsewhere. That is a fact. But some ways can be worked out with the help of experts' opinion to minimise the damage. Besides, this sad consequence arising from coordination should be taken as an eye opener.

# The Painful Power

Power is the most important input in the production of commodities and an important determinant of competitive edge. The painful performance of the power sector not only adversely affects the anvil of growth of the way but also stands with heavy risks of jeopardizing the future viability of our economy.

THE latest news on power plants, gas availability and, above all, on the high load shedding flashed by the national dailies would turn out to be worrisome as well as turn one weary. It is reported that "the country experienced an all-time high load shedding for the last couple of days due to mechanical failure in some power stations coupled with lesser power generation due to gas crisis. While load shedding has been a routine phenomenon over the years, its increase to 750 MW on Wednesday seemingly surpassed all records on load shedding available so far. However, the most adversely hit areas are reported to be Narayanganj, Chittagong, Khulna, Dhaka city and some other districts. Notwithstanding, the good news is that, reportedly, engineers of the BPDB were working round-the-clock to restore power generation while the government has taken action to partially restart the 60 MW Sikabaha power unit and a 40 MW hydro electricity unit in Kaptai.

the supply as and when needed. Needless to mention, perhaps, that due to the very nature of investment and technological considerations, power supply cannot be increased overnight. Power is a non-tradable commodity mainly and even if imports could be managed, it would take a long time to materialize the scheme. So import considerations are generally ruled out. On the other hand, it takes even years to install a plant that would go to supply power. We are told that the government is pursuing both short and long term measures to augment the power supply. But given that the supply constraint is not likely to be eased in the short-run, we can look for some short-run demand management issues that are possibly within our grip to tackle with.

In the short-run, the power-led industries could choose to operate in off-peak operations. Second, there can be some steps undertaken to arrange the load management. For example, power-led irrigation could take place not at night but during the

per cent. Thus price rise that took place very recently would in fact show no effective price rise. The system loss that accrues for about one-third of the total investment in the power sector continues to haunt the power sector. We have been told that the government had been taking various steps in downsizing the system loss but to our utter surprise the same seems to have surged systematically over the years.

The kind of problems that we appear to face in Bangladesh does not tend to be unique. In West Bengal, serious load shedding cramped the economy even few years back. Now the woes are reported to be over. Similar is the situation in the Philippines. The governments in those countries privatized the power sector. We are informed that electric supply in Calcutta is handled by private sector although a Communist Party currently rules West Bengal. It is high time that Bangladesh government adopts the alternative. To encourage foreign investments into the power sector, we

## Beneath the Surface

by Abdul Bayes



The role of the power sector — total energy so to say — in the economic growth and development of Bangladesh is quite understandable. It is said that to increase our Gross Domestic Product (GDP) by one per cent, energy consumption must grow by two per cent. It implies that to increase GDP by, say, 6 per cent, energy consumption needs to grow by 12 per cent. Unfortunately the growth rate of energy in Bangladesh is reported to be only 6-7 per cent and thus posing a big brake on the growth rate of GDP. Against a total consumption of power in the order of 1925 MW, the country has been facing a daily shortfall of 325 MW. The power sector in Bangladesh, historically, displayed a painful performance over the years and as time passes by, the situation seems to turn from bad to worse. Today, we are simply paying the price for mismanagement, corruptions and wrong policies that gripped the sector over the last decades or so.

There are mainly two ways to counter power problems besetting the country. Managing the total demand properly and economically and ushering in

day time. Third, all over the world, especially in developed countries, shopping centres tend to remain closed at night. Can we not explore the possibilities of inducing our people to follow that rule? For, the extravagance relating to marriage, illuminations and other ceremonies should be cut to a reasonable size. And finally, there should be a regular monitoring on energy consumption.

It seems to us that so far we have been putting our all out efforts in augmenting power and energy supply rather than putting a bit of these in managing the total demand. There is very little doubt that we have the notorious habit of misusing the scarce resources. If the demand management policies could be tuned properly, the peak hour shortage would be maintained between 200-250 MW. There are few other areas where the government could possibly step into to curb the crisis. For example, there needs to be some changes in the overall tax policy. Energy is grossly underpriced in Bangladesh. The last price rise in electricity is reported to have taken place in 1991. In the mean time, fuel price went up by about 22 per cent and inflation went up by 19

believe, two important steps should be afoot immediately. First, a separate incentive scheme should clearly spell out the issues relating to tax holiday, remittances etc. second, the pricing policy for energy should be delineated so that private investment can duly take cognizance of the future trend. By and large, if incentive schemes are properly drawn and if pricing policy is before us, there should not be any dearth of private investment in the power sector.

In the race for industrialization the most powerful is the power sector. Power is the most important input in the production of commodities and an important determinant of competitive edge. The painful performance of the power sector not only adversely affects the anvil of growth of the way but also stands with heavy risks of jeopardizing the future viability of our economy. In this world of competitiveness, the least we can afford to lose is the efficiency in the power sector. We hope that both demand management and supply augmenting policies should be afoot immediately. Let power remain as the powerful engine of our growth.

# Hebron Deal: Distant Cousins Decide to Live Together

The most important thing that comes out of Hebron deal is the emergence of some form of confidence between Arafat and Netanyahu which was at zero level when Netanyahu took over as Prime Minister.

WHEN brothers fall out it is bad; it is worse with cousins but worst with the distant cousins. This is what has been happening with the Palestinian Arabs and Jews — the distant cousins who emerged from the same root — Patriarch Abraham (Hazrat Ibrahim Alaihi Wasallam) through his two sons — Ishar (D) (Isaq for Jews) and Ismail (D). They pray around the same location though areas are distinctly divided. Obviously they lived together for thousands of years but as the story goes, because of their excesses at a particular point of time of history the Jews were thrown out of the holy land and they wandered around for ages but later got relocated in parts of the same land. If that was the situation, there is no alternative for these two people but to

live together. Those who visited West Bank, Jerusalem and Israeli areas of this holy land must have seen the way these two communities are distributed in the land. My wife and I had the opportunity to visit these areas as tourists only last week when negotiation on Hebron reached a critical stage. (Details of author's recent visit to Palestine — Jerusalem, Bethlehem, Jericho, etc. — to come in subsequent articles).

After three months of tortuous negotiations the peace process nearly came to a halt and the American facilitator of the negotiation Dennis Ross being frustrated, decided to return to Washington on January 12. As we were in Amman at that time, we could feel the frustration that was evident all over. But credit goes to King Hussein of Jordan who took the initiative, met Egyptian President Mubarak and Israeli Prime Minister Netanyahu. King Hussein had long discussion with President Arafat and convinced him of the need for flexibility on dates for final withdrawal from the rural areas of West Bank. His approach was right; when the deployment was already delayed by one year, some fur-

ther delay would not make the sky fall. The final goal is to have Israeli forces out of West Bank. Pragmatic Arafat became flexible. Dennis Ross stayed back. In the meantime President Clinton reportedly spoke to President Mubarak, Prime Minister Netanyahu and then to President Arafat. The deal was struck. Israeli withdrawal was to take place in stages completing the deployment from West Bank rural areas by mid '98. American and European security assurances were given to both Palestinians and Israelis. This arrangement led to final Hebron deal — 80 per cent of Hebron city to go under Palestinian Self-rule Authority and 20 per cent involving Israeli settlements would remain under Israeli security control. According to the deal, 450 Israeli settlers would stay in He-

bron among 1,30,000 Palestinians and Israeli security forces would continue to provide security to the Israeli settlers.

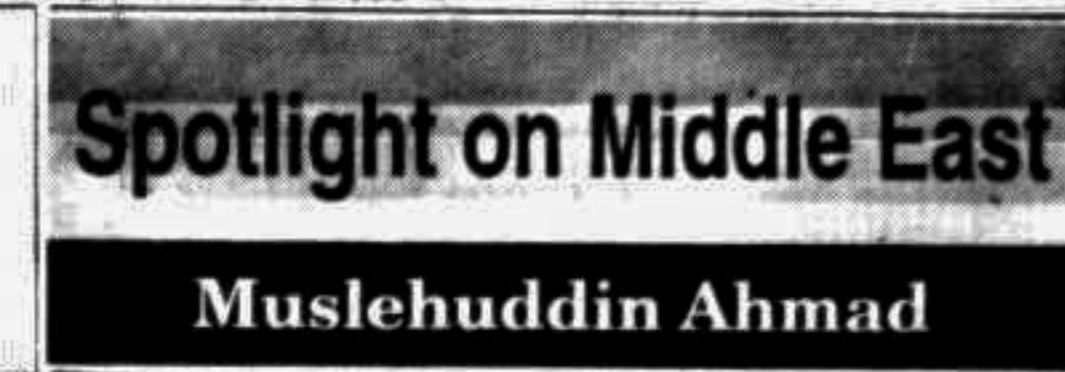
Hebron deal established a number of key points for future negotiations. Hebron city stands divided at least for some time to come. This gives Palestinians the materia to continue to claim division of Jerusalem with East Jerusalem as the capital of Palestine. In any case, East Jerusalem is a Palestinian city. The impression that we got during our stay in East Jerusalem is that East Jerusalem has all along been a Palestinian city and would continue to remain so. Even the Jews still consider East Jerusalem as a part of Jordan as it was before 1967. This was evident from the talk of Jacob — my tourist guide who repeatedly told me while making our travel plan that he would leave Jordan in about two hours time and then go to West Jerusalem and then to Bethlehem. What he apparently meant was that we would stay in East Jerusalem including Al-Aqsa mosque for about two hours and then go to other areas. Indeed the division between East and West Jerusalem is very deep, distinct, and historical. It would be a futile exercise to try to change this and bring East Jerusalem under Israeli control. This would never work.

Another important thing that Hebron deal established is that the present peace process now stands formally recognized by the ruling Likud Party thus bringing formal and full support of the Israeli people which one Jew of Labour Party put at over 90 per cent. Arafat himself said — this was a turning point in the peace process as now peace with Lid means peace with all Israeli people. Arafat landed in a helicopter amid victory celebration as Hebron was "liberated" after 30 years of Israeli rule. Arafat said — Hebron deal ended confrontation and brought reconciliation, but some of the Hebron settlers called Arafat "a mass murderer". Netanyahu also said that Hebron was a city of confrontation and enmity — now a city of peaceful co-existence. The idea of peaceful co-existence could well be applied to East and West Jerusalem. He also suggested that Palestinians and Jews at Hebron should sit together from time to time and work for proper reconciliation. Indeed, the statement of both leaders were very encouraging for creating the peace environment but hard work remain to be done as most of the 450 Jews are radical. They not only call

Hebron deal led to split in Netanyahu's cabinet — 11 in favour and 7 against — thus setting the stage for further trouble in the cabinet when further negotiations would be underway in about two months time. The encouraging part of the recent episode is that Netanyahu has somewhat reconciled, though under US pressure, with the idea of peace process and he may indeed depend heavily on Labour Party in the Knesset for overall support. If the negotiated decisions on peace can at least have bare majority in Netanyahu's cabinet, approval of the same in Knesset could be taken for granted as Labour Party would continue to support Netanyahu on his initiatives in the peace process. Indeed, he could even look for a coalition or a national government with Labour Party if he commits himself seriously for permanent peace with the Palestinians. Indeed, the radicals are losing grounds — the settlers lost in Hebron as deployment which they opposed has already taken place and the radicals in Netanyahu's cabinet could not stop Hebron deal.

The idea of a sovereign Palestinian state is already in the air. Netanyahu has already started talking about specifics of a sovereign state that may endanger Israel. He said, Palestinian state signing agreement with a country like Iraq may threaten the very existence of Israel; sovereign control of underground water by the Palestinians would be totally against the interest of Israel; division of Jerusalem out of question etc. These are issues that must come up for negotiations and there should be ways to deal with them for peaceful solutions with enough guarantees to the Israelis and also to the Palestinians by the US and Europeans.

Some top leaders are also reportedly thinking in terms of possible confederation of independent Palestinian state with Jordan. The idea is nothing new. As about 60 per cent of the population in Jordan is Palestinian, it might be easier for them to work out a deal with Jordan. King Hussein's relation with Arafat appears cordial. His latest direct moves for advancing the peace process is indicative of his deep interest in recovering Jordanian land that he lost in 1967 war. Once the land is recovered, working out some form of confederation should not be a serious problem. The idea of a confederation with Jordan may pave the way for a permanent peace agreement with Israel.



## Spotlight on Middle East

Muslehuddin Ahmad

## NEWS ANALYSIS

# The Judgement of Solomon

Ikram Sehgal writes from Karachi

The Honourable Justices could well decide that the President was right in sending the government packing but he over-reached himself when he dissolved the NA. But could the President send the government packing without dissolving the NA?

THE Chief Justice of the Supreme Court of Pakistan has confirmed that the judgment in the former PM's case against dissolution of the National Assembly of Pakistan would be given on or about Wednesday January 29, 1997, less than a week away. As the nation waits with bated breath, it is time to take stock of the various scenarios that could emanate from the verdict and the options available with permutations and combinations thereof. While it is expected that the Honourable Justices would go strictly according to the letter of the law they cannot remain isolated from society or oblivious of what is happening around them, the aspirations of the people of the country and their perceptions, evidence of malfeasance or lack of it notwithstanding.

If the world is a global village in this information age, the nation is not more than a village meeting hall. In the first scenario, we have the National Assembly (NA) being restored. Like in the Nawaz Sharif case in 1993, the Ms Benazir government comes back into power and the Caretaker Government goes into oblivion as if it never existed, confined to being an aberration that lasted less than 90 days (81 days to be exact, 43 days more than Balakh Sher Mazari Caretaker Government that never was). Because of the many more days that the Meraj Khalid Caretaker Government has been in place, many more changes have taken place than during the 38 days Mian Nawaz Sharif was out of power. Furthermore there was much more wrong to right this time than in 1993. At the same time public defections have taken place from Ms Benazir's camp registering the widespread anger within the PPP about Asif Zardari and his cronies. For Benazir to reverse major decisions of the Caretaker regime would be next to impossible, just putting loyalists back in place in government will take some doing.

Remember what a supposedly chastened President could still manage to do in 1993 after the Supreme Court virtually admonished him? Ghulam Ishaq Khan (GIK), helped by the likes of Wattoo and Muzaffar Shah, managed to paralyse Mian Nawaz Sharif's Govern-

ment in all but name. An elected PM armed with the Supreme Court judgment was made to abdicate from his post as PM despite the fact that he had an overwhelming majority in the NA. We were not wallowing in the throes of an economic disaster as we are now. While the present Chief Justice voted against restoration of the NA in the Mian Nawaz Sharif case and could apply the same principles, the two cases are very dissimilar because of the wealth of evidence of deliberate violation of the Constitution.

The next scenario is the one that we are on course at this time, i.e. having the February 3 elections by denying the former PM any relief on the grounds that the President was right in his application of Article 52(2)(b) of the Constitution.

The NA would remain dissolved and the Benazir government remain dismissed, elections would be held in less than 10 days. Unlike Khalid Anwar's submissions in the Mian Nawaz Sharif grounds in 1993 whether the President could exercise such absolute powers in a democratic parliamentary governance, the plaintiff's counsel had been resident to fighting the case mostly on the merit of evidence, most of it overwhelmingly against the plaintiff. There are technicalities that invite the Court's attention but would trivialities be enough to stay the hand of the Honourable Justices in the face of widespread public knowledge about wrongdoing? An independent poll conducted in 93 cities and towns of Pakistan barely 20 days before the elections shows that 45 per cent of those who responded when the case was on the merit of evidence, would vote for Benazir before elections, while 31 per cent of the 55 per cent majority asking for elections first feel corruption was a most important issue but that elections should take place first.

One may well ask, why is such a major part of the electorate demanding accountability unless there was good reason to believe that wrongdoing on a massive scale took place? Why was there no election when the Moeen Qureshi Caretaker Government took office after the Nawaz Sharif regime? A majority of the public believe that the Benazir regime indulged in systematic criminality and misuse of office, that is

why they are keen to have accountability in such numbers. The only reason that PPP is surviving, even though as a semblance of itself, is because Asif Zardari is not on the scene and Ms Benazir remains a very potent electoral force.

What if the Supreme Court should decide that while the Benazir Government can be held responsible for violating the Constitution and criminal acts thereof on a number of courts, dissolving the NA amounts to giving collective punishment to the whole lot of elected which goes against the norms of natural justice? Their contention may be that since only a few black sheep MNAs were actually involved in malfeasance, a handful from among the ruling party, how can the others be held responsible for the acts of corruption and criminality?

Among those running the government, most were not even elected members but a cabal of Zardari cronies who operated with impunity under the Constitutional cover of an elected government. The analogy would be that of a shot fired from a village, does one burn the whole village down if one cannot trace out the individual who fired the shot? On the same analogy, since we know "who fired the shot", i.e. the Benazir Government, why not hold the government responsible and absolve the elected representatives in the National Assembly who were powerless to stop Zardari? The Honourable Justices could well decide that the President was right in sending the government packing but he over-reached himself when he dissolved the NA. But could the President send the government packing without dissolving the NA? How could he Constitutionally separate the two when he knew that the government by virtue of the perquisites and privileges it could dish around, enjoyed a comfortable majority in the NA and could easily acquire a vote of confidence if asked to do so by the President or ride out a vote of no confidence, if one was asked for by the Opposition?

In fact the Catch-22 is that the Constitution binds him to take the extreme step of collective punishment since a singular punishment cannot be administered. While the first two

scenarios are pretty open and shut as regards options and consequences thereof, the third scenario envisages a Solomonic judgement, in fact akin to the argument given in "The Merchant of Venice" by Shakespeare about Shylock taking back the pound of flesh without spilling a drop of blood. One can restore the NA but can the government be held to be illegal and having acted in violation of the Constitution without suo-moto taking action against the perpetrators of the illegality thereof? Should the government be held culpable and brought to trial, who could fill the void in the vacuum? A turmoil could well result in the absence of clear disqualification of number of NA members. It is within the realm of possibility that from this confusion a consensus candidate may emerge, a nominee of the PML perhaps but one acceptable to the PPP (someone like Ch Nisar Ali Khan in the absence of the man who could have been an ideal PM but who lies helplessly ill, Malik Naem Khan). With elections only 5 days away on February 3, the court could also decide that while the NA could be restored and the government held culpable because of their illegal acts, it would be better to let the people exercise their right of adult franchise and give a fresh mandate to their leaders.

Given that we are less than a week from the fait accompli of elections and to avoid "a clear and present danger" (as announced by US Supreme Court Justice Oliver Wendell Holmes) of confusion leading to instability, the Supreme Court could suspend the verdict and allow elections to be held on schedule in the face of 55 per cent public opinion that says elections should be held as compared to the 45 per cent who want accountability first. After all what can be judged to be a more "clear and present danger" than the obvious fact that the former PM, a potent political force, still closes her eyes to the more than obvious follies of her husband. Should this nation be held hostage so that a marriage can prosper?

The Supreme Court may well be required to give a verdict on the lines of Solomon but may well have a Hobson's Choice on their hands.

## Load shedding

Sir, Load shedding has become a regular feature in Sirajganj town. Power goes as soon as the sun sets and stays till 9 or 10 pm. For this, students suffer most.

The authority concerned is requested to try to supply power at least at night time, if not in day.

Kudrat-e-Khuda Rajib  
B A College Road, Sirajganj

## UNGA and Ganges treaty

Sir, It is true that the aims, objectives, principles of the United Nations charter do not have any provision for the ratification of any bilateral agreement between two countries. It is also true that many UNGA and UNSC resolutions have been flouted in the past and are still being flouted by some countries. Further, it is also an admitted fact that the PLO-Israel peace accord, initiated by the lone super-power US, is lying in the cold storage.

So what is the idea to do? Should we simply keep quiet with our fingers crossed?

helplessness due to lack of care. The crying need of the time is to think anew, find out ways and means, infuse a new blood, make specialised treatment and to undertake pragmatic reforms before it is too late, before this world body succumbs to its injuries.

Sharing of the international river water is a universal human right. Better late than never, Bangladesh and India have been successful in resolving the Ganges water dispute after long 20 years. This 30-year treaty should be honoured, respected and preserved for the time to come. The treaty should also serve as an eye-opener to all peace-loving nations to resolve their international river water dispute, if any, in the future.

It is, therefore, imperative that the UNGA should ratify the Ganges water treaty. In this connection, it may be mentioned here that necessity is the mother of invention. If there is no provision at the UN to ratify any bilateral treaty, it should now make one. And if any UNGA ratified bilateral treaty is violated the UN should impose economic sanction on the violating country without any fear of favour or ill-will against any country.

O H Kabir  
6, Hare Street  
Ward, Dhaka 1203