

## President's Pointer

President Shahabuddin Ahmed's words have a way of making one sit up, if only fleetingly, for their non-conventional yet positively thought-provoking reverberations. These must not be taken at their face value but in their deeper shade of meaning illumined by an honesty of purpose of a reputedly conscientious speaker he is.

When he says that the provision for a caretaker government to hold elections is itself an evidence of mutual distrust among the political parties in Bangladesh, he is obviously diagnostically correct. But his emphasis on the word 'itself' is by way of placing the on-going antagonism, in fact an increasing gulf of differences between the ruling and opposition parties in a historical perspective rather than reopening the question by any stretch of imagination.

The dispensation of a caretaker government during polls is a settled fact of our national political life today. This is also something that not a few top intellectuals in neighbouring democracies are thinking about, toying with the idea of modelling their own electoral systems on our caretaker contrivance. So, apart from the dictate of national interest, it devolves on us as the harbinger of the device for unimpeachable neutrality in elections to consciously strengthen the caretaker institution as such. This has been knelt a blow by the vanquished in the elections of 1991 and 1996, both held under caretaker arrangements, who refused to respect the verdict of the people in each case. And, what is even worse, use it as a perpetual handle for keeping alive politics of negativism and mutual hatred down the road. When defeated in the polls of 1991, the Awami League called it the result of 'vote dacoity' by the BNP. And as the latter lost the 1996 election to the Awami League it was dubbed as a BNP victory hijacked by the AL. So, the people's verdict does not interest them, only going to power does. Unless they grow out of these attitudes even the best system in the world will fail to work in Bangladesh.

The present Election Commission's conduct of the 1996 polls earned it and us both national and international accolade. Let its independent image be not the butt of political gamesmanship by any quarter.

We are fully behind the President's call at the Commonwealth chief election officers' meet for getting the political culture right in the first place.

## Support for Palestine

We are happy that Bangladesh has been one of the first countries to have supported a resolution in the NAM for an emergency session of the UN General Assembly to discuss the Middle East crisis. That the NAM represents about two-thirds of the UN membership is its strong point. And if half the number of the total UN members were to agree to call an emergency meeting, the UN secretary-general would convene it.

However, here is a case that deserves to be taken up not merely on the strength of majority members' support, the moral stake involved in honouring an accord, too, is very high. The United States-brokered peace agreement reached between Israel and Palestine is in danger largely due to Netanyahu's reluctance to go by it in letter and spirit. The US support for Israel has often been incompatible with the peace agreement. It has been best illustrated by the American veto exercised twice in just 10 days to stop passage of resolutions critical of Israel in the Security Council.

So, the next option is to seek redress for the Israeli actions pursued unilaterally to undermine both the treaty and Palestinian interests at a forum where the only superpower can no longer block the demonstration of a moral position in vociferous terms. The NAM member-states have demonstrated support in the past for just causes. Palestinian people have friends in almost all the member-states of NAM. The US must recognise this and create pressure on the headline government of Netanyahu to build up on what was accepted by his predecessor Itzhak Rabin. Charges are levelled against the Palestinians for carrying out suicide-bombing but which side triggered the violence by deciding to go for settlement in East Jerusalem? That Israel ignores Palestinian protests and the US lends a hand to the Jewish state in the Security Council leave hardly any doubt that unfortunately extremism is there to stay. This is no way to peace. The problem can only be resolved if the ME agreements are implemented smoothly and on schedule.

## Fantasy Flight

Quite appropriately named as the 'flight of fantasy,' the British Airways's arrangements for flying 210 underprivileged and terminally ill children for an hour were a happy blend between service for the underclass and promotion of a commercial service. Selected for this dream ride were children from slums and orphanages of our country to mark the 25th anniversary of the British Airways's service to Dhaka.

What an innovative move on the occasion! The organisers have proved how alive they are to the fact that every child — irrespective of his or her social and economic position — secretly keeps a dream to fly in the sky one day. By giving the terminally ill or the underprivileged children such an opportunity, the airways has helped a distant dream come true for them.

The British Airways has an established reputation. This latest goodwill gesture towards the hapless children will help raise its image further. There is indeed a great difference in the approaches to promotional campaigns by various airlines. The approach has to be creative and thematically appealing to yield the desired promotional dividends. This indeed is key to success for airline business or any other commercial service for that matter.

# How Much Water in the Ganges?

by Professor M Maniruzzaman Miah

**The treaty is now a reality, however, whatever its detractors might say. It is now time to see how it is working. And transparency demands that the government release for public knowledge the agreed minutes of the Indo-Bangladesh joint monitoring team as to the availability of water, both at Farakka and at Hardinge Bridge, on a day-to-day basis since 1 January.**

In a popular dictum is dangerous and puts us in the category of a non-discriminating people which we would like to believe the Bangladeshers are not. In any case, in an article published in *The Daily Star* on 7 February last, I wanted to bring home to its distinguished readers that we got a very 'raw deal' in that water-availability was uncertain both at present and in the future under the provisions of the treaty. Some people scoffed.

Whether the water treaty was intended to be a nine days' wonder we cannot say, but facts could not be suppressed for long. On 3 March, *The Daily Star* published a news item under the heading 'Bangladesh got water less than the agreed quantum'. This was followed up by an editorial note the next day asking the government as to 'Why should not the Hardinge point reading be published daily?' I dare say they cannot, simply because so much of the treaty has gone round already. In an article published in the *DS* of 19 March Amjad Hosain Khan asked 'Why the data collected jointly... at the Farakka... and at Hardinge Bridge do not tally?'. He further remarked that water release to Bangladesh has raised some doubts and that 'the claim of India that they are releasing water below Farakka as per agreement cannot be accepted'. But, alas, Khan is wrong. The Indians (I believe) are releasing water as per the Treaty. Why then is the discrepancy?

To get a reply to the above question we have to recall the nature of the treaty itself. Art-II of the treaty clearly states that 'the sharing... of water... will be with reference to the formula at Annexure-I'. Now, the Annexure-I is as follows:

Availability at Farakka	Share of India	Share of Bangladesh
70000 cusec or less	50%	50%
7000-75000 cusec	Balance of flow	35000
75000 cusec or more	40000	Balance of flow

As one can see, nowhere in this formula there is any indication as to the exact quantity of water we expect to get on any particular day of the five-month dry period (January-May) during which the agreement is valid for each year. No month or day has at all been mentioned in the sharing formula. Thus no one can foretell what quantum of water will actually be released for Bangladesh, for the simple reason that it depends on the flow-regime i.e. whether it is more than 75000 cusec or between 70000-75000 or less than 70000. In the last case again one must know the exact flow to find out the 50 per cent share of each. And therefore the statement that we are getting lesser quantity of water than anything except the 3 ten-day periods (11-20 March, 1-10 April and 21-30 April) for which our share of 35000 cusec has been assured as also for India for the other 3 ten-day periods in March and April. Be it mentioned, however, that our share can be determined if the water-availability at Farakka is known. The Government of Bangladesh for reasons best known to them are not releasing any data as to the quantity of water actually flowing into Bangladesh, but unofficial reports suggest that we haven't got even that prefixed quantity of 35000 cusec during 11-20 March last. If that be so, then there is something wrong in the working of the treaty itself. Although in the sharing formula as in Annex-I it has been stipulated that each country will get an assured quantity of 35000 cusec in alternate 10-day periods but whether that will remain operative in case the flow at Farakka falls below 50000 cusec is yet another issue.

for, there is an inherent contradiction between the formula in Annex-I and Art-II (iii). In Annex-I it has been mentioned that '...India and Bangladesh each shall receive guaranteed 35000 cusec of water in alternate 10-day periods during the period March 1 to May 10'. But, Art-II (iii) runs as follows: 'In the event flow at Farakka falls below 50000 cusec in any 10-day period the two governments will enter into immediate consultations to make adjustment on an emergency basis... etc.' Therefore whether the 35000-guarantee for 3 ten-day periods during the driest part of the year is absolutely applicable for all flow regimes or will have no validity in case the flow comes under 50000 cusec is open to interpretation. Experts in interpretation of international law may perhaps throw some light on it.

In discussions of the treaty, reference has sometimes been made to the schedule of Annexure-II wherein water-availability and share of the two riparian countries have been defined for each 10-day period. But the nature of the Annexure-II is to be understood clearly. First, it is an 'indicative schedule' (and not a definitive one) and is 'based on 40 years 10-day period availability of water at Farakka'. The average of the treaty knew that average flow would hardly, if ever, occur and it can never be a rational basis for 'sharing'. Therefore, quite rightly a note had to be put at the beginning saying 'If actual availability corresponds to average flows of the period 1949 to 1988, the implication of the formula in Annex-I...' will be as in the schedule of Annex-II. One may note the word 'if' here. Can any sharing arrangement be based on condition of 'if', that is something will follow if something happens. What an international treaty for sharing a precious commodity! To be fair, there is

only one positive aspect of Annexure-II and it is a reference in Art-II that 'Every effort would be made by the upper-riparian to protect flow of water at Farakka as in 40-years average availability...'. But 'effort' does not bind the upper-riparian to any obligation. Annexure-II therefore treads on a muddy ground and as we look at it is redundant. Why then it has been appended to the treaty is a million dollar question! The probable reason may be like this. In Annexure-II water availability has been calculated from the average of a 40-year period. In the 1977 agreement this was based on 75 per cent availability. In Annexure-II of the 1996 treaty therefore availability and consequently the share of each country based on this will be more on paper but something which will not occur in reality. This appears to be the philosophy of putting up a superfluous annexure. Strange thing to do, but why? Those who know may give the answer. Thus from the treaty provisions one cannot tell how much water we will get on any particular day. (This was not the case with 1977-agreement). If that is the present situation what about the future? To reply to this let us consider the following factors:

(1) Water will be shared on the basis of actual availability at Farakka.

(2) There is no obligation on the part of India to maintain a particular flow regime since there is no minimum guarantee-clause (this was there in 1977-agreement).

(3) Water is a provincial subject in India and nothing prevents the people of Bihar and UP to withdraw more and more water as demands continue to grow over the years (remember it is a 30-year treaty).

(4) There is no provision in the treaty for future augmentation.

Considering the above to-

gether one may hazard the guess that there may not be any water for us in the future. For the operation of their own feeder canal they will, of course, have to have some water up to that point and we may expect to get only trickles.

One lacuna (there are many though) of the water treaty is the absence of any tribunal or even a mediation in the event of a difference as to the interpretation of its various articles. Interestingly enough, one notices very highly-placed people saying that a 'third-party arbitration' is unnecessary in a 'bilateral treaty'. With reference to the Mahakali River Treaty between India and Nepal it has also been said that arbitration is provided therein because financial matters are involved. By implication, we don't need it because there is no such thing here. These are very crude attempts, to say the least, to tell the people things that do not represent the correct picture. In fact in the Mahakali Treaty composition of a commission consisting of representatives of the parties has been provided for with the responsibility, among others, 'to examine any differences arising between the parties concerning the interpretation and application of this treaty', and a matter goes to a tribunal for arbitration whenever there is disagreement with the recommendation of the commission. Therefore saying that tribunal/arbitration has been there to decide only on financial matters is farthest from the truth.

The treaty is now a reality, however, whatever its detractors might say. It is now time to see how it is working. And transparency demands that the government release for public knowledge the agreed minutes of the Indo-Bangladesh joint monitoring team as to the availability of water, both at Farakka and at Hardinge Bridge, on a day-to-day basis since 1 January. If that is not done, there will be a lot of questions and resultant confusion leading to some unpalatable debates, however much the government tries to preen itself on its achievement.

# Recovery of Illegal Wealth

**Illegal wealth within Pakistan will rarely be in bank accounts or either in one's own name. It will invariably be held in real-estate, stocks and shares, in industries, etc**

MAKING money illegally has become institutionalised. To break that cycle, a concerted effort must be made to recover illegal wealth so that the acquisition of wealth illegally attracts exemplary punishment. Wealth that is not declared is illegal, or whether it be held in one's own name, relatives, proxies, nominees, dummies, etc., or in the name of individuals/groups, business entities, etc. For any wealth declared there has to be a source of income, an income on which commensurate tax must have been paid. For wealth traced out that is not declared, there can be only one rule of law, confiscation by the State without recourse to any caveat.

Illegal wealth is usually kept either in a real estate within the country, though abroad it is mostly in numbered accounts or under the cover of offshore companies in UK and elsewhere. After years of fruitlessly chasing after people in the traditional way of searching for assets of the rich who had the money to finance the use of smart tax lawyers and accountants to keep money in safe tax havens, the US Internal Revenue Service (IRS) has now switched over to collecting information about the lifestyle of individuals and calculating tax thereof. This change in *modus operandi* has made it increasingly difficult for people to enjoy their wealth without coming under the scrutiny of the tax man. Theoretically, this could be possible in Pakistan but our Income Tax Department which has checking of tax evasion as their primary reason for existence has more individuals within the department with illegal wealth than any other commensurate group of individuals, except maybe in comparison officials of Customs and Excise and/or Immigration.

Without fear of discovery our retribution thereof, the show of wealth is so blatant that one tax-man displays at least four 'Chughtai's' miniatures prominently in his house, each painting worth over Rs. 2-

3 lacs. Obviously we cannot expect our tax-men to blow the police whistle on themselves or on whom they consider their own (for a price, off course).

There has to be priorities in the chasing of illegal wealth. Illegal wealth must first be classified into: 1) mega-wealth, i.e. those who have acquired wealth far in excess of their declared income, above \$ 12.5 million (Pak Rs. 500 million approximately), (2) super-wealth, between \$ 5-12.5 million (Pak Rs. 200 million to Rs. 500 million) and maxi-wealth, upto Rs. 200 million i.e. \$ 5 million. A few are in the super-mega class i.e. \$ 1 billion and beyond. Illegal wealth within Pakistan will rarely be in bank accounts or either in one's own name. It will invariably be held in real-estate, stocks and shares, in industries, etc. A far greater amount is invariably held abroad through various sleight-of-the-hand structuring, however Pakistanis (and Indians and Bangladeshis) tend to keep a substantial amount in banks and other financial institutions in numbered accounts. Many corrupt bureaucrats lost their ill-gotten life-savings when BCCI crashed. Different teams must go after priorities set, within Pakistan and abroad.

In Pakistan, the FIA made an excellent headway in tracing out the wealth looted by the co-operatives, finance and investment companies in the 80s but the poor depositors did not get even a fraction, most went into the pockets of corrupt FIA officials. The lifestyle of our Income Tax, Customs, Excise and Immigration staff can be assessed from the real estate records in the posh areas in Karachi of KDA Schemes 1 and 5, PECHS, Defence, Bath Island, etc. One will find an inordinate amount of property in their names of females and children. How can they justify the type of income that can afford such valued real-estate? Laws have to be framed to

include freezing and confiscation of all assets if wealth is found to be declared incorrectly. Government agencies can only carry out their duties in a sincere and honest manner intermittently.

Performance depends upon the individuals and their motivated and/or vested interest. We must employ chartered accountants to trace the linkage between defaulting loans and acquired wealth. Most of those having illegal wealth have some 'connection' due to relationship, friendship, patronage, etc. which has to be overcome. With some influential person or agency, whoever gives them protection, it is necessary to get private sector enterprise to do the needful, when the incentive is lucrative

twelve or more properties listed in his name and/or the names of his wife and sons (who at that time at no such means of income).

Armed with the fact he was cheating in his real-estate declarations, towns and cities country-wide were researched for information. Real-estate showed up in many towns, including huge 200-500 acre farms in Sheikhupura, Jahanian, etc. When the list of properties went over 40, the exercise was terminated because the point had been made. If a dedicated team of professionals is given a good enough incentive (maybe 10-15 per cent of what they trace and government manage to recover) as full payment for services rendered, they can perform far beyond the

earmarked by the government to employ credible investigators. This is only a calculated risk, information being much more easily available abroad than in Pakistan where a database is almost non-existent. The government should make out a list of 50 to 100 of the most known corrupt, whether in the public or private sector, and earmark funds for an all-out 'asset search' as it is called in forensic investigation circles.

Private foreign investigation companies usually charge very reasonable fees but then tend to spend a colossal amount under the head of 'expenses'. They have to be monitored by professionals. Such expenditures may be 'capped' by giving whoever is selected a 'flat price contract with adequate mobilisation expenses. For recovery of the traced out wealth, an incentive scheme can be worked out which gives a percentage of the actual wealth recovered as service charges if recovery is actually made as full payment for services rendered. This would cover the expense for private security investigators, lawyers, chartered accountants, etc., in actual recovery.

A 'Commission for Recovery of Illegal Wealth' must be set up on the lines of the 'Presidential Commission on Good Governance' (PCGG) made by the Philippines President Corason Aquino as her first act (Executive Order No. 1 dated Feb 28, 1986) as President, an act that showed her sincerity and consistency with her commitment for meaningful accountability. A full-time Chairman of the Commission, a number of Commissioners were appointed, and the PCGG tasked with the recovery of illegal wealth (1) within the Philippines, and (2) abroad. The primary focus of their campaign were clearly defined by name while adequate funds were placed at the Commissioners' disposal. Other than immunity under the law, the Commissioners had the power to force

anyone to testify on threat of getting them incarcerated under contempt of court laws.

They had the power to apply the same contempt laws to seek relevant information from any government agency which would have such information.

They had the legal cover and the authority to seek the help of foreign governments to help recover assets illegally held abroad. They had the power to freeze all assets of the targeted people and confiscate such assets if found of all individuals suspected of coming or associated with those living beyond their means of income. The Order had to be amended a number of times to be perfected because Corason Aquino was venturing into uncharted territory. The world environment today encourages governments to try and recover looted by their citizens, whether in the public or private sector. Despite the travails of going into the unknown, the Filipinos have recovered several billions of US dollars and this re-injection of liquidity into the economy has had tremendous effect. With the Filipino precedent as a strong beacon, why cannot we venture to recover our illegal wealth within and outside the country?

After all, most of the people rumoured to have made millions and billions have declared their income and submitted their wealth tax returns showing their total worth as being relatively very little. A law must be made that makes it obligatory for all Pakistanis to sign over all wealth in excess of their declared wealth to the Government of Pakistan. No one (inclusive of foreign governments) will be able to object when it is proven that wealth that was accumulated was not from any known source of income.

The PM recently spoke about his firm commitment to recover the looted wealth, we must take him at his word and wait for the necessary laws to be framed and given due constitutional cover, sooner rather than later!

## AS I SEE IT

**Ikram Sehgal writes from Karachi**

enough one will be surprised as to what wonders can be achieved. Private sector enterprise seldom foregoes profits for 'connections', not that it cannot happen but it is that much less likely. A private sector company engaged in carrying out due diligence and credibility reports for and of corporate entities as well as investigating insurance fraud was given a particular individual's wealth tax returns to verify as a test exercise recently. The test target was an industrialist, a major force also in the financial sector. He was the beneficiary of consistently obtaining tax refunds based on tax deduction at source, with the result he was hardly paying any taxes, in fact the public exchequer was paying him! He had listed nine properties in real-estate all over the country but even a cursory check on his real-estate holdings showed that in Karachi only he had

capabilities of the public sector. The government agencies neither have the means, the knowhow or the motivation and if they did they would be more inclined to go into 'business' on their own. Government having decided to allow detective agencies to function in the private sector, test cases of individual bureaucrats who are clearly living beyond their projected livelihood as persons of limited income may be taken up may be taken up as test cases.

For tracing out and recovery of illegal wealth abroad, local private security companies can be hired by the government and given the task of employing counterparts in foreign countries instead of governments getting involved in the act themselves. There are two phases to this exercise, one is the tracing out of wealth and the other is of recovering it. For tracing out wealth abroad, sufficient funds will have to be

would request you to kindly clarify your news story.

Geetendra Safiya Choudhury  
President  
Aly Zaker  
Hony General Secretary  
Advertising Agencies  
Association of Bangladesh

## Replies

Sir, With regard to the article published in the 22-31 January 1997 issue of Business World Magazine of India, Mr Nirvik Singh was wrongly quoted as claiming 60 per cent share holding in the Bangladesh company.

With regard to the photo article featuring Mr Syed Manzur Elahi and Mr JE Fox which appeared in your publication on the 28th of March 1997, we regret the error in the information communicated to you. As stated earlier, Trikaya Grey Advertising Bangladesh Limited is a 100 per cent Bangladeshi company where

Mr Syed Manzur Elahi is the Chairman and the company is a 100 per cent wholly owned subsidiary of the Apex Tannery Group. At present TGABL uses its access to the worldwide Grey network in order to provide higher levels of service to its clients, and Mr Fox's visit was intended to further improve this networking.

Regarding the legal status of the four expatriates, they have been issued valid work permits by the relevant authorities, as employees of TGABL after due diligence and process was claimed out by various government bodies.

We hope this will serve to clarify any remaining confusion about TGABL.

Syed Nasim Manzur  
Trikaya Grey Advertising  
Bangladesh Limited

Sir, I have been informed that the Advertising Agencies Association of Bangladesh has

## To the Editor...

**Ad Agencies Association's Query and Replies**

Advertising Agencies Association of Bangladesh's letter was received by us on 31 March, which was forwarded to the party concerned. We received the replies yesterday.

### Query

Sir, On the 28th March 1997 issue of your newspaper, you published a photograph of Mr Syed Manzur Elahi and Mr JE Fox along the news that Trikaya Grey Advertising Bangladesh Ltd is a joint venture between Apex Group of Companies and Trikaya Grey India whose CEO Mr Nirvik Singh accompanied Mr Fox during his visit to Bangladesh. On 19th November 1996, your newspaper carried an advertisement by Trikaya Grey Advertising Bangladesh Ltd in which they claimed to be a 100 per cent wholly owned sub-

siary of Apex Tannery Group whose Chairman is Syed Manzur Elahi and that it is a 100 per cent Bangladeshi company. The advertisement also said Trikaya Grey Bangladesh Ltd has hired four people from India as consultants. The advertisement was ostensibly published for transparency with regard to the status of this company.

In the 22-31 January 1997 issue of Business World Magazine of India, in an article on advertising agencies in India, Mr Nirvik Singh is quoted as claiming 60 per cent shareholding in the Bangladesh company and that Trikaya Grey India had posted four people in Bangladesh. Copy of the article is enclosed.

The question now is which is fact, your news report, Mr Nirvik Singh's statement, or Trikaya Grey Advertising Bangladesh Ltd's claim? If the latter is true, then your news item is not factual and you should give a correction. As you are aware, the Advertising Agencies Association of Bangladesh is opposed to for-

ign investment in the advertising sector and we have stated our position through press releases which was also published in your paper. As far as we are aware from the investment policy, service sectors such as advertising have not been opened to foreign investment and are surprised how a joint-venture company can be legally formed.

On the other hand, if Mr Nirvik Singh's statement and your report is correct, then we would like to know whether the shareholding in Trikaya Grey Advertising Bangladesh Ltd is legal and whether the four people posted to Bangladesh have the requisite work permits to work in the advertising sector. If they do not have permits to work in advertising, then Bangladesh companies working with these people may be breaching the law.

The implications of your photo/news item can have far reaching consequence for the advertising sector in Bangladesh, and therefore in the interest of transparency, we

referred to the Business World Magazine of India where in an article on advertising agencies in India, I was quoted as having said that Trikaya Grey India owns 60 per cent shareholding of Trikaya Grey Bangladesh.

I wish to go on record and state the Trikaya Grey Advertising Bangladesh Company and is promoted by Syed Manzur Elahi and his associates. Trikaya Grey India does not hold even one share in the company.

When Mr Elahi was setting up his agency he had asked me for help with people in a personal capacity and four ex-employees of Trikaya Grey currently work for him.

Since these rumours keep surfacing time to time could I please request you to put this letter in a prominent section of your newspaper.

Nirvik Singh  
Chief Operating Officer  
Trikaya Grey Advertising  
India Limited