

Dhaka Friday, May 9, 1997

# Remarkable Judgement

A Division Bench of the High Court in a farreaching judgement on a writ petition has pronounced that separation of the judiciary from the administration need no constitutional amendment to be effected and that the process for it should be set in motion immediately in consultation with the Supreme Court. In other words, the Constitution is inherently self-contained as far as this unfortunately pending agenda is concerned. The High Court ruling has only served to underline the superfluity of the perceived gestation-period we are supposedly passing through in anticipation of the parliament legislating on the subject.

The judgement has come as a declaratory pronouncement on the separate status of judicial officers vis-a-vis that of those in the administrative service in matters of service conditions, including salary, allowance and other facilities. Although it connotes an administrative separation, the jurisdictional separation between the judiciary and the executive has been clearly underscored when the High Court further directed that judicial functionaries need not go to the administrative tribunals seeking solution of their service-related problems. The courts the former represent are by no means under the jurisdiction of the latter.

We think this is a land-mark judgement that must enable the government now to abandon the path of parliamentary committee referrals or the long-drawn-out process of legislation which in a matter of constitutional amendment would require an endorsement by a two-thirds majority in the Jatiya Sangsad. For, this is something to which the ruling party stands committed in terms of their electoral manifesto since the days of Ershad's fall. The fact that the BNP government could not lay this cornerstone of democracy, which is the independence of judiciary, the AL government should be doubtly obliged to address this unfinished agenda in deference to popular wishes.

\* - - first in proforms need to be carried out in terms of the corpus of laws, both civil and criminal, and in the parameters of judicial procedures recruitment, service conditions, training and accountability hand-in-hand with the process of separation between the judiciary and the executive.

#### A Licence to Continue

The government has been issuing warnings against unauthorised medical colleges and other higher educational institutions for sometime through handouts. The latest of such notifications has only this much to threaten with that the government will neither endorse any degree awarded by unapproved medical colleges nor allow students studying there to avail of the opportunity to sit for any authorised examinations. If an institution has had no authorisation from the relevant authority, how can it continue to exist and function? The operation of educational institutions cannot be a clandestine business similar to that of smuggling or musclemanry. Their existence, if any, has to be in the government's knowledge.

We are indeed confused why the government, instead of taking appropriate actions against the illegal educational facilities, has been repeatedly warning them against indulging in the illegal practice. There are definite laws and frameworks for establishing such facilities in private capacity. One can set up such institutions in full abidance of the rules or else one must not. It is as simple as that. We fail to understand why the government failed to act according to rules. We might not assume there is any scope for manipulation or warped interpretation of the rules and guidelines for establishing such private institutions.

Wonder of wonders, the government cautions prospective students not to get themselves admitted into those medical and dental colleges. Why didn't you close the shop before the customers crowded there? What about the students who are already studying there? These are questions the government must directly answer. Even now it can help save many students and guardians from unnecessary harassment and mental agony by acting promptly. We do not know whether there is any other game in this mysterious exercise of shirking the immediate responsibility. Will the highest authority in the country please look into the matter and bring order to the anarchic situation at the earliest?

# Mobutu's Departure

President Mobutu Sese Seko seems to have left his country for good. His departure from Zaire in the face of a relentless rebel advance brings one of the world's longest serving ruler's reign to a predictable end. Mobutu, not particularly credited for good and just rule, had little option other than doing this. Mercifully the ailing ruler has been able to read the writings on the wall quite correctly. Well, he could hang on and decide to carry on the fight against the uprising against him - as most such rulers tend to do, but that would definitely lead to further violence and more deaths. His peaceful departure has helped avoid any such tragic eventuality. He has the world's appreciation for this.

Now he has to instruct his henchmen and diehard followers to accept the defeat instead of fighting on. Africa's richest country under Mobutu has not been able to harness its resources to give benefits to its citizens in any appreciable manner. Further bloodshed will only jeopardise the country's new-found prospects for progress. A peaceful transition of power is, therefore, the need of the time.

If that is ensured, we must call upon the new administration in Zaire to take up the issue of repatriation of the Rwandan refugees in right earnest and with compassion. The Zairean authorities will not be required so much to do in terms of material support, what they will be expected to do is to create the right opportunities for the international bodies and communities to work smoothly on its territory. This is perhaps not too much to ask.

# Some Exchanges between Jinnah and Gandhi

"Let it be a partition as between two brothers," argued Gandhiji. "I proceed on the assumption that India is to

be regarded as two or more nations but as one family consisting of many members...

N a meeting with Lord Mountbatten, Mahatma Gandhi says: Years ago, Viceroy, Jinnh was the greatest advocate of Hindu and Muslim

Mountbatten: Then what changed him? Jawaharlal Nehru: Blind

Gandhi: No. No. The feeling that Muslims would have no

This is from Jinnah, a film which is being shot in Pakistan. There is truth in the Mahatma's observation because before partition, the economic backwardness of Muslims was part of the grist to the Pakistan demand. Jinnah pointed this out to Sir Stafford Cripps during his visit to New Delhi in 1942 and propagated it when he had the field following the arrest of Congress leaders.

The British response to Gandhiji's slogan, Quit India or Do or Die, was brutal. Thousands of people were detained without trial. Processions and demonstrations were forcibly suppressed. Tear gas, lathi charge or even straight firing was employed to meet the protest, which reverberated from rostrums throughout India. In the absence of leaders, people reacted wildly, at many places disrupting the railway traffic, industrial activity, government business and whatever went in the name of normalcy. None courted arrest. This was what Gandhiji had advised before his arrest

Sardar Patel had envisaged an underground movement. He approached the communists to carry it out. But with the entry of the Soviet Union, their atti-

to be read not with mind al

one but with heart also.

refer to Mahfuz Anam's piece

as well as "Towards SAARC

on the plight of the poor human

masses in South Asia these past

writing.

tude towards the war had changed. Now it was a people's war, instead of imperialists'. The ban on the party had been removed and the communists carried on a war propaganda. Patel was amazed when they said 'no' to his offer. Not only they. M N Roy, a radical humanist, accepted funds from the government and helped war ef-

Congress leaders of socialist leanings went underground. Jayaprakash Narain escaped from jail; Aruna Asaf Ali evaded arrest by hiding at a top government official's residence and Achyut Patwardhan participated in the activity which the British termed as 'sabotage'.

Many years later when I met Patwardhan to commend his role during the 1942 agitation, he regretted it. He said that the 1942 stir was not necessary because the British would have any way left. This turned out to be a correct assessment.

But after the failure of Cripps mission, when the Japanese were slicing through British defences in the East like a knife through butter, India's independence looked a matter of faith. There was an atmosphere of despondency. None knew a way out of the thickets of frustration and cynicism. Gandlini was a ray of hope in the pitch darkness of disappointments.

Nehru and Abul Kalam Azad did not want to embarrass the war efforts which, they knew were directed towards fighting fascism. The Rajaji group was

inactive because it sympathised with the demand for Pakistan without the vivisection of the country. An average countryman, dejected after the failure of Cripps mission, saw in the Quit India call a revival of old days of struggle, which would bring freedom. He did not understand the intricacies of Nehru's interpretation that it was a non-violent revolution, not a non-violent rebellion against the British, the phrase which galled London. But he understood that it was now or

cause British aircraft went on strafing civilians with machine-gun fire for days.

Azad had anticipated that the movement would not remain non-violent. But he had felt that a general upheaval might lead to a deadlock and force the British to come to terms. The manner in which the viceroy rebuffed Mira Ben (Miss Slade), Gandhiji's secretary, by refusing to meet her after the Quit India resolution showed that the British would fight the national struggle like fighting in a war theatre.

## BETWEEN THE LINES

#### Kuldip Nayar writes from New Delhi

The viceroy convinced his superiors that "time has come to stem the flood of seditious and defeatist utterance with which Congress leaders are endeavouring to cover up the failure over Cripps mission." And a reign of terror was unleashed.

According to official figures of that time, at least 340 Indians had been killed by police fire since August 11 and 630 wounded. The Home Department at that time said that the "true total" was "considerably higher". Troops were called out in no less than 60 places; some 57 battalions of British army soldiers were used. There is no record of the total number of dead and wounded in Bihar be-

This was clear also from the treatment meted to top Congress leaders. From jail, Azad wrote a letter of complaint to the viceroy that even criminals were allowed to correspond with their near relations or read newspapers but they had been denied these facilities since their detention. Some leeway was made.

In the meanwhile, the Rajaji formula, named after its author, Rajagopalachari, was finalised. He said that he had done it after obtaining Gandhiji's approval in jail. The formula proposed the appointment of a commission to demarcate contiguous districts in the north-west and east of India, wherein the Muslim population is in absolute majority" and to hold there a plebiscite on the basis of adult franchise so as to "decide the issue of separation from Hindustan." If the majority favoured "a sovereign state separate from Hindustan," the verdict would be implemented "without prejudice to the right of districts on the border to

choose to join either state." The Rajaji formula emphasised that in the event of separation, "mutual agreements shall be entered into for safeguarding defence, commerce, communication and for other essential purposes." Jinnah asked: Who would appoint the commission as mentioned in the formula? Would any border districts have the option to join either state or also "those outside the present boundaries"? And what was meant by safeguarding defence, etc? Safeguarding against whom?

Gandhiji, who by this time. had been released on ground of ill-health — he had undertaken a fast in jail - replied: the commission would be appointed by the provisional government. "Safeguarding defence etc. meant a central or joint board of control; and as regards against whom, this would be "against all who may put the

common interests in jeopardy." "There cannot be defence and similar methods of common concern when it is accepted that Pakistan and Hindustan will be two separate independent sovereign states," said Jinnah.

But soon the discussion between them meandered into issues like what the differences between Hindus and Muslims were and whether they constituted one or two nations.

"Let it be a partition as between two brothers," argued Gandhiji. "I proceed on the assumption that India is to be regarded as two or more nations but as one family consisting of many members of whom Muslims living in the north-west zone, that is, Baluchistan, Sind, the North-West Frontier and the part of Punjab where they are in absolute majority over all other elements and in parts of Bengal and Assam where they are in absolute majority. desire to live in separation from the rest of India."

Jinnah said: "If this term were accepted and given effect to, the present boundaries of these provinces would be maimed and mutilated beyond redemption and leave us only with the busk and it is opposed to the Lahore (Pakistan) Resolu-

Both Gandhiji and Jinnah stood poles apart as much in dress as in thoughts. Jinnah was elegantly dressed with a still white collar even in hot weather. Gandhiji wore only a doubled up dhoti. For the one the two-nation theory was a method to solve the subcontinent's independence question, for the other the two-nation theory was the perpetuation of the sub-continent's ills.

# Removing Shackles that Constrain Development Efforts

by Dr M Zakir Husain

People in South Asia have been fed with too many promises for too long. It is time to be low on words and high on action. Otherwise, the future is predictably bleak

2010" in the Focus on Human Development in South Asia in rights will demand much more The Daily Star of 28 April, than rhetorical references to the past glory and future 1997. It was a very timely and almost inspiring piece of promise.

today — and the situation dif-

fers with some countries a little

At the very least, these chal-It is disconcerting to realise lenges and opportunities will demand resolute and discihow colossal is the backlog of plined adherence to very clear, human deprivation in South Asia and that it will not go unequivocal and unwavering policies and actions that prefaway by mere expressions of erentially promote and sustain support and sympathy for huhuman development with uniman development alone. Hisversal access to education, torically, the human development agenda of South Asia health, other basic services probably suffered more by dewith enabling environment of security, rights and freedom. Is fault than any other developit too much of an order? Perment agenda. There has been no haps it is. But where else is the dearth of platitudes and rhetorics nor has there been remedy? lack of profound pontificating From where South Asia is

ahead of others in human dedecades. But there has been a velopment — it is indeed going lamentable lack of convincing action, be it due to the lack of to be a long way to go! The backlog is just too heavy. At the proverbial political courage or to utter disregard for objective minimum, there can be no compromise or prevarication in the five elementary priori-South Asia is on the doorstep of the twenty-first centies: education, health, water and sanitation, nutrition, and tury — a century of promise for the brave and disciplined. It is a family welfare. One would like time of tough challenges and a not to miss right to work and time to seize opportunities. No earn, and enjoyment of security nation or people stifled by so of life and liberties for all and much backlog of human renot some. The less dialectic desource deficit will survive, let bate on elementary human dealone prosper in the coming velopment priorities the better decades by living in the past or it is. This is message to the flaunting memorials to celearmchair academics and the brate misplaced priorities. The media as well, for there has challenges of globalisation of been enough words spoken and written on development but so industry, commerce and technology, the revolution of inlittle political resolve and formation technology, and firm practical action where it counts most. People in South Asia foundations of modern democratic and civil society with rehave been fed with too many gard for universal human

to be low on words and high on action. Otherwise, the future is predictably bleak.

Without sounding too prescriptive, it is suggested that :

 the political institutions prepare clear economic and development agenda showing where their priorities are in relation to fair and equitable human development. And their performance should be evaluated by the electorate and internationally on this score as in other areas of national de-

· the institutions within sectors and planning and finance departments prepare concrete development targets and allocate commensurate resources. These institutions and their functionaries should be trained to acquire literacy in the planhing and mechanisms for human development and their performance measured on this score of human development

achievement. mere book allocation of resources would not suffice; these should be seen to be disbursed and expended in the human development priorities. This may be a difficult thing to translate into action. But net transfer and increase of resources to create the basic quantum of services universally available is a precondition for realising higher index of human devel-

· this will obviously hurt many, most of all the privileged interest groups who will be the most articulate when hurt. They would like to maintain status quo or business as usual

This is where the political courage and will be most tested a courage that has to come as equal to the daunting task

• the pervasive tradition of mutual suspicion, of exagger ated sense of nationalism ar isolationism, of evading ac countability, of populism, and fanning orthodoxy and bigotry and shunning scientific and rational beliefs are all impediments not to be underestimated. These are best relegated to the past and replaced by scientific, secular and objective approach.

State institutions today

wield excessive power; their accountability to the public minimal. The tyranny of majority party in democratic polity can become unbearable and divisive. In the wake of the twentyfirst century there is even greater need for some reforms in the political process of nascent democracies, large or small. There is need for more consensus and less confrontation; more bi-partisan support in policy formulation, especially on issues of human development to exclude the possibility of reversal with change of government every time there is

democratic process. A culture of science and objectivity should permeate throughout administrative and civic affairs and certainly in planning across the traditional development sectors — education, information, commerce industry, health, communication and local government This will remove many of the

a change which is a part of

shackles that constrain the human development efforts.

A great deal of action research and development innovation at the operational grassroots level will be needed. Related training in human devel opment i mning and evaluation will be extremely useful Scarce resources for research and develoment should flow first and foremost to problem based research and innovations at the delivery level in preference to academic research into dialectics of development alternatives or more research into definition and discovery of problems without any reference to solution.

A shift from the present adversarial relationship to a partnership relationship between government and nongovernment organisations, and between the public and the pri-

relationship may be governed more by comparative advantage and strength of each and their demonstrated competence and performance.

South Asia is soon entering into the twenty-first century a century where even to remain at the same place on the scale of human development, countries and people have to be running. Of the five or six stated minimum priorities, education particularly of the females and primary healthcare to all particularly to the poor and the disadvantaged will most likely give higher returns, and indeed support the fulfilment of some of the other elements. But there is hardly any room or excuse for compromise or prevarication on the minimum human development priorities in the coming decades if South Asia is to be counted.

The writer is former Director of Programme Management at the WHO South East Asia Regional Office in New Delhi.

in childhood

leukemia." The same newspaper

# OPINION Cigarettes Today, Burgers Tomorrow

Bruce Herschensohm

It's just a question of time. Since heart disease is the great est killer and high cholesterol is the leading cause of heart disease, some day soon there will be a class-action suit against McDonald's and the entire fastfood industry. Someone will claim that McDonald's is to blame for that terminal condition. There have been no health warnings on their hamburgers. Worse than that, the suit will say McDonald's has been targeting children in their ads and with attractions like playgrounds on the premises and special meals complete with toys. The chief villain is, of course, Ronald McDonald, who makes Joe Camel a piker.

That's going to be the quick consequence of state government and the federal government establishing the precedent of supporting hate campaigns against a legal substance. Tobacco is chicken-feed.

"Now, wait a minute," someone will say. "Big Macs don't create an addiction, like cigarettes!" Oh, yeah? I'm addicted. I have at least one cheeseburger a day and have done that throughout most of my life. How did this terror start? I hate to admit it, but it was when I was a kid. I'm not to blame. "They" did it to me. How was I to know? There's something else I feel compelled to bring up on behalf of all those who have been ensnared into this pit of disease: The costs to society for all these hamburgerrelated ailments are tremen-

That, of course, is the consequence of programs that are socialistic. Once the taxpayer is compelled to pay for the choices made by another, the government can take jurisdiction over the entire industry that the government feels is responsible for those costs.

In sympathy with those, like me, who were hooked into all this by a legal substance, I hope the president mandates heavy restrictions and regulations regarding the advertising of those fast-food horrors, restrictions on T-shirts, comic characters, logos, posters at sporting events and color advertisements. The devil with the 1st Amendment! Health should always supersede the Constitution. And this shouldn't be the end of it; it should be the beginning of it. The evidence of many other legal substances causing disease is overwhelming. Leading journals continually confirm this. The London Times printed that "research has linked high con-

sumption of hot dogs with an

also reported that "it has been recognized since 1970 that licorice taken in quantities can cause high blood pressure, sudden cardiac arrest, congested cardiac failure and more." To be consistent in the terminology in smoking-related diseases, we should say that leukemia is a hot dog-related disease, and cardiac arrest is licorice-related. What started all this, of course, was government's involvement with anti-smoking campaigns and regulations. have a confession. I'm not only a cheeseburger addict, I smoke. started smoking when I was 18 and it wasn't because of advertisements or logos or posters or cartoon characters. It was because, like millions of others in the military in those days, a representative of the US government encouraged me to smoke. "Smoke 'em if you got 'em!" was the phrase yelled out by my commanding officer. The first time he said that, while I was standing in formation with nothing to do, I didn't have them. The next time he said that, I made sure I did. In this litigious society when everyone is being sued because of a "smoking-related" disease, some day the US government may well be the subject of the biggest class action suit of all. Are my addictions commen-

chain-smokers, who quit smoking and every one of them did it by stopping "cold turkey," while hard drug users generally have to go to a rehabilitation center. Cigarettes do not alter the mind or cause hallucinations or make the users drive or act recklessly. When cigarette prices were above my budget, I didn't think of stealing to get a cigarette, let alone murdering someone. In fact, no matter how much I may have wanted a cigarette, I wouldn't even have walked a mile for a Camel. It wasn't worth it. (It must be kept in mind, however, that as a Californian, I would have driven a mile, but I wouldn't walked more than a couple blacks at most.) Anyway, think I'll sue someone. I've been taking terrible risks by my eating and smoking habits. In truth, I've taken much greater risks in my life than those two habits, but I can't think of anyone to sue over them. Do you know a good lawyer?

surate with addictions to hard

drugs? Please! I know countless

people, even those who are

Courtesy The Los Angeles

Times The writer is a distinguished fellow with Claremont Institute

#### Poor English, poor education

Sir, Standards are slipping away everywhere in Bangladesh and one of the most noticeable of these areas is the educational arena. Bangladesh is noted for its jute, tea and Sundarban tigers among many other things, but we are unfortunately not noted for our achievements

in education. One can read for and secure a great variety of degrees at various Bangladeshi universities these days but the problem is that these degrees do not seem to hold any value in other coun-

We can take for example the large number of Bangladeshis now entering the United Kingdom. Many of them hold degrees upto masters level but find it hard to do anything with them as they are not of the same standard of degrees awarded in other countries. There was a time when people from this part of the world were given chances for further education in the United Kingdom having completed only their entrance/matriculation (now SSC) exams but now, in some cases, not even a Bangladeshi masters degree is worth the pa-

per it is awarded upon. Even in neighbouring India we find quite a different story in that the degrees awarded are valuable and can be put to use in attaining jobs as well as entering for further education in countries other than India.

The crux of the problem is that standards are slipping away at the most basic level of education with very little emphasis on teaching English in a fully comprehensive manner. One cannot hide the fact that English is a world language and so it stands to reason that it ought to be taught fully well.

Bangladeshi schools need to address the problem by beginning to teach the very basics of English so that comprehension of the language builds and grows. Maybe re-education of teachers is also very important as they are the passers-on of

knowledge. If this is done, this will hopefully lead to a higher regard for degrees awarded in Bangladesh by other countries.

promises for too long. It is time

Miss Anowarun Nessa Ali Ist yr, Behavioural Sciences Nene University of Northampton, USA

#### Commission on national loss

Sir. As a citizen it is proposed that the government may be pleased to appoint a high level and independent national commission to access and record the loss to the national conomy (and other positive and negative outcomes) during the street political movement during the period 1994-95 leading to the last general elections.

There is a difference of opinion on the motivation of the campaign. The agitating groups claim it was a fight (regardless of the national losses) for the establishment of democratic culture in the country; while the group under attack cite the movement as wholly unnecessary against a duly elected regime, and term it as a sabo-

tage to the national economy. The present regime is also using the word 'sabotage' frequently. The public need enlightenment on the conflicting versions — the local definition of 'sabotage' has become rather loose politically. It may be noted that the western world contemptuously labelled some Muslim states as 'terrorist' for political motives.

There is a basic question which has to be faced by all of us: should the society allow the politicians to have the last word on any national issue? International history does not confirm this presumption. Whatever the reason, some-

ture; (the AL government has

undertaken a similar project to

normalise the alleged distor-

thing happened, and the facts and figures have to be recorded for history, research, and the future generations; otherwise there will be a gap in the litera-

tion of history of the Liberation War and of the governance in the 1970s).

The motivation of this proposal is not to look for scapegoats or to find fault with the differing groups, but for the facts, figures, and the data to be recorded officially for future

A Zabr Dhaka

opment.

### Communication system

Sir, The country's Railway communication system is on the verge of collapse, particularly in western zone, due to poor passenger service, irregular movement of trains, safety inadequacy, pilterage etc. Bangladesh is probably the only country in the world where no new railway line was set up, rather many branch lines were closed and rails were uprooted. Due to heavy siltation, most of the river routes have been permanently closed. The resultant effect of this has now pressurised the country's road communication system. Several hundreds of thousands of different kinds of vehicles have been now plying the limited roads and highways of the country. With the increased number of vehicles, there is a dearth of experienced drivers and as such gruesome accidents occur all over the country al-

most every day. In face of such a situation, traffic rules and regulations have completely collapsed. Nobody bothers about load capacity of the vehicles. In passenger coaches tons of goods are loaded with as many as passengers on the top. Most of the trucks carry the load of about 3-4 times more than actual capacity. If such overloaded vehicles move all the time, country's newly-constructed roads will be damaged. In this context a news item, published in an English daily on March 3, may be cited as an example - 16 people killed and

52 injured. The reason of acci-

dent was overloading and driver's addiction as alleged by the passengers. Nowadays, to be in the vehicles on road is most unsafe and dangerous.

To meet the communication challenge of the people in this small country, Railway service should be renovated and strengthened, otherwise road transports will be most hazardous and dangerous.

M A Jalil 372/B, Khilgaon, Dhaka

## Save the teak trees

Sir, I have been at my village home for three days during Eid ul Fitr vacation. The name of the village is Abu Nagar. It is under Mirsarai thana Mithachara Bazaar is very close to the village. Most of the villagers are simple, easy and poor. Some young people of this area are now cutting down and selling teak trees freely from the nearest hills.

They are also selling and drinking phensedyl openly. General people do not like it but they are not able to prevent these anti-social activities. My village suffers a lot because the miscreants and the black-marketers have taken it as their main route and distribution station.

It is also widely believed that there is a close relation between stealing teaks and phensedyl. The local administration and the police are not carrying out their duties properly. The miscreants are divided into groups and now they are in a tug of war to establish domination. The peace-loving poor people are doubting and fearing of a immediate bloodshed. The innocent people will suffer in the long run. People want its remedy soon.

So would I be able to draw the attention of the PM and the state minister? Hopefully, I will be able to draw their attention on behalf of general mass.

Md Nurul Mostafa Chittagong