

## Justice Thwarted

Four policemen accused in the Shima rape and murder case have been acquitted by the Judge of the Nari-o-Shishu Nirjaton Damon Adalot women and child repression Prevention Court. But the judgement did not only pronounce the accused free in the absence of proof beyond doubt of their crime, it also categorically said that the prosecution case was so made out as to make conviction impossible. More than one witness almost testified to the innocence of the accused. How could this be possible, the judgement wondered. The verdict — a big document of 46 pages — in so many words answered the query. Police were the complainant and police were the accused and again the selfsame police were the investigators in the case. The rest followed logically — the complainant so managed the investigation that little was left for the judge to do — there was simply no case there. If the judgement has acquitted four police individuals, it has at the same time convicted the whole police institution of Bangladesh. The observations, very much a part of the judgement, are enough to throw to the dust the image of the police as the protecting hand of justice and keeper of the peace. The freedom of its personnel, the police have bought at a very great price — a big dent in its integrity and fairness.

Perhaps the government should not be faulted for this. But how far can it justifiably distance itself from what one of its arms does? The Shima case is going to put a black spot on the government — very black and very hard to wipe out. It is now a fit case for all women's organisations to denounce the government's ineptness in handling its police. It may be as well they would move the court for re-trial and sue police for conspiracy.

If the Home Minister is most deservedly congratulated for the arrest of Sweden Aslam, Bikash, Sanullah and Nasir, he must also be strongly asked to discipline his police into not repeating the Shima case performance. And he must also be told that we, with the whole of the nation, did not like the police lathicharge on the DEPZ garments workers hurting hundreds, mostly women, and some of them seriously. The essential difference between governments comes out in its use of the police force. We expect police to perform differently now. This must not be wrecked or the government will be harmed.

## Let's See the Results

Chips seem down on unpaid bank loans amounting to a staggering Tk 15000 crore contracted both in the public and private sectors. Unfortunately as the battleline is drawn between the government and the defaulters many of whose collaterals are untraceable it is the former which ironically has to prove that the latter really have their backs to the wall. The big loan defaulters have been throwing their weight around the corridors of successive governments with such unchallenged ease that the public mind seems set to believe somehow they might never be brought to book. This government therefore, has the onerous responsibility to remove that impression being held not only by the citizens of the country but also by the World Bank and the donor community at large.

We are heartened by the news that the present government has a serious looking drive in the offing to recover overdue bank loans by means of: (a) asking banks to file suits against defaulters in an enabling environment of reformed laws; (b) getting the pending money loan cases out of the way through the instrumentality of special courts; and (c) auctioning out mortgaged property in the last resort wherever warranted. These steps have been long in coming and that they have neared finalisation makes us only happy now, but we want to see results early enough.

We have three specific suggestions to air for the recovery drive to acquire some no-nonsense underpinnings. First, the law debarring loan defaulters from assuming the position of directors in the banks' boards must come into immediate effect. Secondly, as part of the clean-up, could we expect actions to follow on officials who in connivance with bank directors and at the political dictates of the time sanctioned those loans most unethically as some corrupt cronies rather than professionals? Finally, the much-spoken bankruptcy law, due for promulgation on August 1, would require administrative rules to be framed. In this particular exercise concerning application of the law delay will be simply self-defeating.

## Spirit Eternal

Few incidents have transcended the limits of time, place and people as has the mob storming of Bastille, the medieval fortress in eastern Paris deemed in the seventeenth and eighteenth centuries as the epitome of despotism.

Compared to the powerful and pervasive connotation it has acquired, the act itself was a fairly insignificant one. The edifice where dissidents and defies were imprisoned by the *lettre de cachet* or the direct order of the King had only seven inmates when revolutionary zealots took it over on the morning of July 14, 1989. In fact, the *eboulement* would have been delayed, if not forever at the least for the time being, if only the prison governor Bernard Jordan, Marquis de Launay had joined the agitated mass. His non-co-operation made sure that it was no other day but July 14 to mark the manumission of man from fellow man. This little dramatic act of the few French proletariats went on to be etched in human consciousness as a day that established the concepts of egalitarianism and equality once for all.

The civilised, democratic imagination feels obliged to French National Day because without the sacred spirit of this day, our dear planet could have very well been a domain of a few despots with common man reduced to the level of mere brutes.

It is to the glory of the day and shame to the man in general that its spirit reigns in relevance today as much as it did two hundred eight years ago. It is all the more applicable to the countries like us that are still caught in the welter of problems in their bids to give democracy a firm footing. It comes to remind us how many more miles we still have to traverse in order to establish the basics of human rights in our society.

Vue le 14 juillet for the freedom from the conceptual confinement of man's treatment of fellow man as a commodity.

UNFORTUNATE though the question as to who wields the real power of the government, the minister or the secretary has been made an issue that is baffling many a people in our country.

The politicians, i.e. the elected representatives of the people and the ministers, are expected to reflect the wishes and aspirations of the people in the governance of the country. The bureaucracy and the secretary, on the other hand, constitute the machinery for running the government and are required to implement the decisions of the political masters i.e. the prime minister and the Cabinet of ministers who are the executive authority of the government and collectively responsible to the parliament.

Various groups of people and individuals have various perceptions about the roles and responsibilities of the politicians and the bureaucracy, their relationship, and how they perform in the conduct of business of the government.

The other day, while talking to me on the subject, a member of parliament expressed his frustration by saying that the minister never means what he says. Ministers very often give false assurance of doing this or that but hardly fulfil their promises. In actual fact, the MP said, the minister is a prisoner in the hands of the Secretary. If the secretary says that a certain proposal is not accepted because it is not permissible under the rules, the minister feels helpless. The MP further says that if the bureaucracy does not support a case it will die a natural death.

Secretaries and bureaucrats on the other hand often complain that the ministers interfere in the proper conduct of administrative process and also usurp the powers and authority that belong to the attached departments and subordinate offices under the ministry. A chairman of a corporation told me that he could not fill up the post of a few junior officers even though a panel had been selected on the basis of open competition by written test and viva-voce as per rules. The Minister told the Chairman that none other than the ones sent by him should be appointed

in those posts even though the chairman was the appointing authority. A director general of a department complained that even though the government speaks of decentralisation of administrative powers to the departments under the laws and rules, the heads of department are not allowed to exercise such powers and files on administrative matters are required to be submitted to the minister for decision/approval.

Some ministers, on the other hand, complain that the secretary/bureaucracy does not follow his instructions or implement his decisions. Contrary to this a joint secretary expressed his disappointment about a secretary who was always too eager to oblige the minister and would not write anything in the file unless the minister gave indications of what he wanted.

One secretary claimed that he was the administrative head of the ministry and was responsible for conducting the business of the ministry. As such he was not required to submit cases to the minister except those which are specifically required to be submitted to the minister under the rules and laws. The minister was responsible for policy matters only and should not ask for files for taking decision on executive and administrative matters. The minister, on the other hand, was frank enough to say that he would be glad enough to hand-over the policy matters to the secretary and himself deal with administrative and executive matters which really touch upon the people in their everyday life. It is for these matters that the people approach the minister for redress of grievances or for grant of favours.

A Secretary when approached for a grant for some

## ADMINISTRATION

# The Minister or the Secretary?

by Mohammad Siddiquer Rahman

*The question is not whether the power lies with the minister or the secretary but how the minister and the secretary work as a team for the public interest. It is their attitude and dedication that really matter.*

public institution or organisation said that all such grants are now given by the minister personally without processing such cases through administrative channel. Government fund may not in such cases be utilised for the purpose for which it is sanctioned, the secretary opined.

It is any body's knowledge that if the minister and the secretary are at loggerheads on a particular matter, the decision is delayed for months and years and the case is lost in the shelf.

The issue who is more powerful, the minister or the secretary was recently highlighted in the columns of an esteemed Bangali national daily under the captions "bureaucrats still in control of powers" and "who is in possession of the Republic."

The main theme of the writer is that even though the new Rules of Business gives more powers to the ministers, in actual fact the bureaucrats have retained the actual powers of conducting the activities of the government because of their knowledge, skill and technique on the one hand and the lack of quality, cowardice and vested interest of the ministers on the other. At one point it is stated in the report that the history of the last 50 years of our country is in a sense a history of struggle against the civil and the military bureaucracy. As days are passing bureaucrats are extending stronger grip over the governance of the country.

This view in my opinion takes the matter a little too far in so far as the bureaucracy, both civil and military, has been painted as an enemy against which the whole nation has been fighting. The question arises, is it a fight against the members of the civil and military bureaucracy or it is against the system of bureaucracy. If it

is against the bureaucrats, it has to be remembered that the bureaucrats are also sons of the soil and except for a few *rajkars*, all bureaucrats fought for the freedom of Bangladesh by giving all possible support — physically, intellectually and morally, and also by taking part in the war of liberation; how could they be enemies of the people? Bureaucrats hardly take any important decision without the approval of the minister and as such ministers are also a party to the "anti-people" decisions taken by the government. On the other hand, if the so-called fight is against the bureaucratic system i.e. the rules and procedures of administration, is it not the responsibility of the ministers and the elected representatives of the people i.e. the politicians, to take steps to rectify the anti-people provisions of the rules and procedures? After all, executive authority of the state is vested in the prime minister and his/her cabinet of ministers. Another writer comment on the same report in the same newspaper contended that the minister also does not show any concern about public complaints and grievances and may not even know the rules and procedures under which the bureaucracy is required to work.

The other day I was passing through Kuala Lumpur and had a chance meeting with a dynamic Bangladeshi entrepreneur who had set up a joint venture company in Bangladesh with Malaysian collaboration. He praised the fast growth and success story of Malaysia in economic development and asked me, "Do you know, who is actually responsible for the spectacular achievement of Malaysia? It is the secretary and the bureaucracy." he said, "which is the main instrument that has

changed the face of Malaysia under the dynamic leadership of the prime minister and his cabinet colleagues. The people of Malaysia have great respect for the Malaysian bureaucracy."

The relationship between the Minister and the Secretary should be based on the following principles:

1. Minister is charged with the responsibility for the over all directions of business of the ministry and secretary is the agent and responsible for the management of the ministry and its programmes.

2. There must be full sharing of confidence and trust between the Secretary and the Minister and respect for each other to establish harmonious relations in the discharge of their respective roles.

3. There has to be mutual understanding about their respective roles and an accepted pattern of the structure, the means, and the approach through which the business of the Ministry is to be conducted. The objectives and priorities of tasks should be identified through mutual understanding and consultation.

4. The Minister and the Secretary have to give leadership to the bureaucracy as a whole including the departments and subordinate officers for achieving the objectives and implementing the programmes of the Ministry for the efficient performance of the public service.

The question therefore is not whether the power lies with the minister or the secretary but how the minister and the secretary work as a team for the public interest. It is their attitude and dedication that really matter.

The writer is a former Cabinet Secretary.

The next article will deal with Rules of Business and their application on the roles of Minister and Secretary.

## OPINION

# Rules for Allotment of Nikunja Plots: A Critical Review

by Dr M Masum

ALMOST everyone among us dreams of having a house of his own. The affluent class in the society — "successful" industrialists and businessmen, officials and employees of the public sector (including autonomous bodies) and politicians belonging to both the ruling party and the opposition — normally face no problem in realising the above dream. However high the price of a piece of land may be, they are in a position to buy that and build a house of their own. The others, however, eagerly look forward for announcements by RAJUK and the Housing and Settlement Department of Bangladesh Government for allotment of plots in their residential projects which are undertaken from time to time. For a limited number apply in prescribed application forms along with necessary papers including an affidavit that they already are not in possession of any piece of land in Dhaka. They also deposit a sizeable amount of money as demanded, ranging from Tk 40,000 to Tk 50,000 which however is refundable in case of non-allotment of any plot. Normally it takes several years to finalize the list of allottees and a few more years to actually handover the plots to the allottees.

The latest residential project of RAJUK has been "NIKUNJA" which was announced five

years ago in 1992. As the project was located within the air funnel, near the Zia International Airport, certain restrictions were imposed e.g. on some plots only one storied buildings while on others only two storied buildings could be constructed, and the total number of plots were around 500 each measuring 5 kathas only.

The initial response to the announcement was high. However, with the passage of time, a large number of applicants withdrew and got their deposits refunded. Others held on, and their number is also quite sizeable even today.

At long last, we hear that the rules for allotment of plots at NIKUNJA has been finalized. As reported in the daily *Ittefaq*, dated June 30, 1997, they are as follows :

In total there are 411 plots available for allotment.

2. Quotas have been fixed for 11 categories of applicants.

3. Against their respective quotas, all applicants will be considered for allotment of plots.

4. On the basis of certain criteria, some will get automatic allotment while through lottery the remaining plots will be allotted to the remaining applicants.

It has been stated that since politicians received relatively smaller number of plots in RAJUK Projects, all applicants who were MPs at the time of

application i.e. in 1992, or are currently serving as MPs will be allotted a plot each. Total plots earmarked for this category number 86.

170 plots have been earmarked for allotment to officers of government and autonomous bodies. The Secretaries, Additional Secretaries and Senior Joint Secretaries (currently Additional Secretaries) will receive automatic allotment and the remaining plots will be allotted to the rest of the applicants belonging to this category through lottery.

10 plots have been earmarked for officers of the armed forces.

60 plots have been earmarked for industrialists/businessmen. Those enlisted as CIPs will receive automatic allotment and the remaining plots will be allotted through lottery.

For the remaining categories of applicants, specific quotas fixed are as follows :

Affected persons (18), Judges (10), Private sector officials/employees (30), Journalists (7), Artists (2), Freedom Fighters (8), and others (10).

We deeply appreciate framing of rules for distribution of any public resource, and surely, RAJUK plots belong to the category of scarce public resources. We, however, expect that those who are responsible

for allotment of plots to the allottees

have their respective constituencies, and are expected to stay in their own areas and look after the interests of residents of those areas. During parliamentary sessions, they are expected to travel to Dhaka where they are provided with accommodation in the MP hostel.

If it is decided that all MPs will be provided with residential plots in Dhaka then it may so happen that they all will turn out to be permanent residents of Dhaka city losing contact with people in their respective constituencies outside Dhaka and in the process people living outside Dhaka will suffer.

Surely, the government officials and those working in the autonomous bodies deserve special treatment. But allotting plots first only to Secretaries and Additional Secretaries (already at the time of application, and currently) and then allotting the remaining plots to others through lottery is unfair. There are many e.g. professors at universities, professionals working at nationalised banks and other institutions etc. receiving a salary in the scales of Secretaries and Additional Secretaries but in case of allotment of plots it is not clear where they stand. For allotment of plots they should also be treated at par with Secretaries and Additional Secretaries.

CIPs are economically successful people and that is why

they have been recognized as CIPs. They can very well afford to buy a residential plot at the market price. If they are allotted plots at NIKUNJA, they should be charged at market rates.

We find no reason for earmarking 10 plots for officers of the armed forces. They have their respective DOHSs where plots are allotted to them at nominal prices. As they never allot any DOHS to civilians, why should they be considered for allotment of scarce RAJUK plots?

Finally, it is extremely important to point out a procedural flaw. Allotment can be made only on the basis of status of an individual applicant at the time of his application. The implication is that, even if it is decided to allot plots to all MPs and Secretaries/Additional Secretaries, only those who held such positions at the time of application i.e. in 1992 are eligible for direct allotment. Unless current status of all applicants are ascertained, through appropriate notification by RAJUK applying the relevant rule for selected groups i.e. non-MP applicants in 1992 but currently MPs, and Joint Secretaries in 1992 but currently Additional Secretaries, if would be grossly unjust.

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## To the Editor...

*Letters for publication in these columns should be addressed to the Editor and legibly written or typed with double space. For reasons of space, short letters are preferred, and all are subject to editing and cuts. Pseudonyms are accepted. However, all communications must bear the writer's real name, signature and address.*

### Israelis in Arakan?

Sir, There is no denying the fact that the Rohingya problem is one of the most man-made ones of the world. Over the last many decades, the Muslims of Arakan who are known as Rohingyas have been suffering from the inhuman tortures and persecutions at the hands of the Burmese forces. As a result, thousands of Rohingyas have already been killed and over the last few decades tens of thousands of them have been driven out from Arakan and pushed into neighbouring Bangladesh. At present, over 18 lakh Rohingyas are living as unofficial refugees in different countries like Bangladesh, Pakistan, India, Saudi Arabia, Malaysia etc.

Over the last few months, the Rohingyas have been pouring again into Bangladesh at an alarming rate. The new arrivals reported of severe human rights violations at the hands of the Burmese forces. They also said that the Israelis are now assisting the Burmese forces in the present drive-out operations. Some refugees who came recently said that there is a far reaching design of the Israelis behind the drive-out of the Rohingyas to Bangladesh and other Muslim countries. They want to drive the Rohingyas to

another government servant. The government servant who makes enquiry makes nepotism and favouritism to save the government servant who commits crime. This has become a tradition and in most of the cases a government servant who commits crime does not get the due punishment he deserves.

We strongly feel that side by side with the announcement of the pay commission report for the benefit of the government servants it is imperative that our people's elected government should also announce the much needed administrative reforms for the benefit of the people which we have been waiting for decades together to run the civil administration of the country efficiently and smoothly with accountability and transparency.

We also feel that for the sake of welfare of the people a senior, honest and educated citizen of the country may be included in each and every enquiry/investigation commission/committee formed by the government to conduct free and fair enquiry/investigation into the various allegations of misconduct, corruption, negligence of duties and irregularities committed by government servants.

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### PM on TV

Sir, The PM fared well at her first appearance. She said nothing