

### The Same Malaise Everywhere

Violence on Monday travelled to Adamjee. Two persons were killed and at least 50 injured in a 24-hour daylight clash between members of the pro-AL CBA led by Rehan and the Mujib Mandal group, expelled sometime back from the CBA and now led by Shafi Sardar. Violence found there a very familiar locale and many familiar faces too. When group violence was unknown to this land outside of communal eruptions, Adamjee was literally a haunt of such, occurring intermittently but never quite quitting the site. Returning after a longish furlough, violence spread spectacularly over a big area and terrorised all living in the vicinity with reports variously of cocktails numbering about 500 and gunfire of at least 200 rounds. Compared to the fury of the clash the casualty was strangely on a low scale.

The biggest jute mill of Asia it was called with a sense of pride in the first years of its operation. The product, mainly hessian, helped buoy up Pakistan economy and gave employment to thousands of local young men. One unhelpful development issued from the crowded housing of the labour. Districtism soon took over the souls of the workers. Came corruption and power-hunger and Adamjee became a perennial centre for bloody clashes. Bihar vs rest, Noakhali vs rest and CBA vs rest — the Adamjennagar population have been subjected to many kinds of fragmentation. Enter political parties and the fissiparous legacy got on to a new dimension. All this led to one thing: perpetual conflict and frequent clashes.

Adamjee continues to be the powder keg of the nation, getting nasty over and over again as it goes on being a drag on the national exchequer. Why didn't the successive governments care to clean this Augean Stable? For the same reasons that contributed to the brutalising of the university campuses. Each government tries to have a mill or a university as an exclusive preserve of the party in power. The result is, not the party, but a set of goons run over these places, to be replaced in time by another set.

It's the same failure. It's the same malaise. When will Bangladesh be free out of these sapping, degrading spider webs?

### ADB's Pointer

Some positive trends notwithstanding, Bangladesh's macroeconomic stability remains 'fragile', says the ADB in its Asian Development Outlook (ADO), 1998, released in Dhaka a couple of days back.

The foreign exchange reserve regarded as one core indicator of macroeconomic equilibrium has only nominally increased from 1.63 billion US dollars in July 1997 to 1.83 billion by the end of last month. This gives us an import cover for three months only. The factors that brought about a modest improvement in the forex position — namely increases in exports and foreign remittances — may not prove to be sustainable. The economic turmoil in the East and Southeast Asian countries could discernibly reduce the employability of our manpower there and the sharp currency depreciations in that region might well affect the competitiveness of our exports. The answer apparently lies in further devaluation of our currency, but if we go for it then we would definitely risk a higher import bill in the bargain. This might cancel out at least some of the export gains. We are already dreading the prospect of a large foodgrain import because this happening is sure to eat into whatever foreign exchange reserve we now have. This indeed remains the most vulnerable spot in our economy.

Accelerated implementation of foreign-aided projects can help shore up the poor foreign exchange reserve by removing the roadblock to disbursements from multilateral agencies and bilateral donors. The ADB's own disbursement has dwindled purportedly because of a slow-down in the recruitment of consultants, procurement of materials and acquisition of land for the projects.

Mounting losses of the SOEs and over all poor revenue collection very much stand in the way of striking a fiscal balance. The highly volatile DSE affects investor confidence and the banking sector is in a deplorable state with more than one-third of its current loan portfolios being non-performing. We can turn a corner by banking sector and capital market reforms.

### All for Certificates

A leading national daily recently threw light on the rampant corruption that has made a mockery of the exams under the madrassah or the Islamic education system. The report based on spot survey of some exam centres in Jessore showed how students eager as they are to obtain certificates, are desecrating both exam centres and systems in league with corrupt teachers.

Cheating has assumed a new dimension with these 'religious students'. Not only materials for copying like torn pages of a book or prepared answers to questions are carried and used by the students during the exam but teachers and invigilators themselves are also getting involved in assisting them. It is not due to any pressure or compassion that the teachers indulge in such unethical practices. They, as the report delineates, do it for money. What they do in the hall is simply the execution of the deal struck outside and before the examinations. Reportedly, principals and teachers of madrassahs enter 'contract' with students to make sure they get everything they needed to get the certificate. Scruple has been thrown to the winds so much so that even students who have never been to madrassahs are also allowed to sit for the exams. Having enough money to enter the contract is all that matters.

If religious education is riddled with such widespread corruption, it is imaginable what the situation is like generally. It is time the authorities restored the sanctity of academic examinations.

# How Independent is the Judicial System in the Country Today?

Re-establishing the autonomy and independence of the judiciary is a necessary pre-condition for restoration of people's confidence in the country's fragile legal system. Therefore, the government's initiative to make the judiciary independent and separate from the executive branch is a right one, and such a bill should draw supports from across the rows in the Parliament.

NEWSPAPER reports suggest that a draft bill on the separation of the Judiciary from administration (the executive branch) is currently under active consideration of the government. This is, indeed, an encouraging piece of information as the judicial system has long been working in the country without proper autonomy and independence. An efficient and independent Judiciary, as every knowledgeable person understands, is a sine qua non for ensuring democratic governance, people-friendly administration and a market-friendly business climate. Unfortunately, Bangladesh lacks all of the above.

As Rome was not built in a day, we cannot expect to have a robust system of politics, administration and judiciary overnight. Our path of progress, if you will, is strewn with meandering trails and errors, triumphs and debacles, frustrations and exhilarations. Although some progress has been made in terms of putting the nation back on the track of democratic governance, little has been accomplished over the years to make the administration accountable and transparent, and to elevate the Judiciary to its rightful status as the true arbiter of the nation's recourse to justice.

The original Constitution of the country, as adopted in 1972, did grant autonomy and independence to the Judiciary. Articles 115 and 116 of the Constitution explicitly empowered the Supreme Court to appoint, control and discipline all persons employed in the judicial service, including the magistrates

exercising judicial functions. But thanks to the seachange in the political arena in 1975, the Fourth Amendment of the Constitution literally crippled the country's judicial system by stripping the Supreme Court of such constitutional powers and vesting those squarely in the hands of the President. The Presidential power, thus obtained, included powers of appointing, posting, promotion, grant of leave and discipline of judges and all other persons exercising judicial functions. The Judiciary lost its autonomy and independence in toto.

Things, however, improved slightly when the then martial law government, through Second Proclamation Order of 1978, changed Article 116 again by inserting some words in the Constitution to the effect that the President shall exercise those powers — powers of appointing, controlling and disciplining the persons in judicial service — in consultation with the Supreme Court. It is interesting to note that a martial law government, for whatever reasons, showed greater care to sustain judicial independence and autonomy, than a democratic one.

Although there had been no dearth of political rhetoric for restoring the judiciary to its rightful place over the years, it is unfortunate that no serious attempt has been made so far to that effect. As a result, the coun-

try's judicial system remains twisted with the only consolation that the President will exercise his power in consultation with the Supreme Court. Evidently, attempts are often made to circumscribe that 'consolation' as well. For example, only a few years back, the then government made some appointments of Supreme Court judges without consulting, even per-

the President only acts on the advise of the Premier. If the Chief Justice does not come out publicly opposing such appointments or the Bar Association does not make it an issue, the people have no way of knowing whether those appointments are made on the basis of political considerations or merit. In the absence of a judicial Service Commission,

Ministry of Law, as part of the Executive branch, oversees the administrative aspects of the subordinate courts. The ministry prepares budget and monitors the subordinate courts, and shares responsibilities of controlling posting, promotion, grant of leave and discipline of judges of the subordinate courts with the Supreme Court. Worse still, the Supreme Court's own budget is prepared and monitored by the Ministry of Law.

What can one expect from such a judicial system that lacks autonomy and independence, that operates under the financial and administrative rubrics of the Executive Branch, and whatever power the Constitution bestows on it also often becomes subject of executive encroachment. Worse still, the judicial system keeps isolating itself from the people by not opening up its operation to public scrutiny. The threat of 'contempt of court' hangs on anybody that behaves beyond the dotted lines. The judges hardly consider the validity of such a norm and behaviour in a society that officially claims its allegiance to democratic governance.

In addition to all the constitutional problems mentioned above, the country's judicial system is also plagued with archaic legal framework and cumbersome procedures. Currently the legal system is bogged down with more than 500,000 cases, of which more than

85,000 cases are pending in the High Court alone. It may take 10, 15, or even more than 20 years before a case is finally heard or resolved. Such a slow judicial system tends to be inefficient and increases the costs of litigation with far-reaching consequences for business and economic development.

Timeliness of a judicial system is closely related to justice — a slow judicial system is essentially an unfair one. If the judicial system cannot guarantee property rights and impartial setting to hear cases, due process under law is effectively denied. Such a system is ambiguous and unpredictable, that may breed corruption and discourage both domestic and foreign investment, therefore economic growth. Investment is attracted to environments where the rules are clear and transparent, and the transaction costs — in terms of time, efforts and money — for enforcing law are low.

Overall, the court system in the country lives in the past, it is almost totally out of joint with the needs and demands of a potentially fast growing market-oriented economy at the threshold of the 21st century. Re-establishing the autonomy and independence of the judiciary is a necessary pre-condition for restoration of people's confidence in the country's fragile legal system. Therefore, the government's initiative to make the judiciary independent and separate from the executive branch is a right one, and such a bill should draw supports from across the rows in the Parliament.

## CROSSCURRENTS

by CAF Dowlah



haps not informing, the Chief Justice of the Supreme Court. When the Chief Justice, backed by all other judges of the Supreme Court, challenged those appointments, the government had to make fresh appointments in consultation with the Chief Justice.

Although this episode has further strengthened the constitutional convention of consulting with the Chief Justice before appointing judges to the Supreme Court, the Constitutional provision remains fragile. Under the current system of governance, the power of appointing judges remains effectively with the Prime Minister,

which could handle the constitutional responsibility of selection and appointment of judges, chances are great that this problem will exacerbate further in the future affecting the credibility of the entire judicial system.

Unfortunately that's not the end of the story with the judicial system in the country. Constitutionally, the Supreme Court remains the court of last resort having the power of 'superintendence and control over all courts and tribunals subordinate to it'. But in practice, the Supreme Court supervises the performance of the subordinate courts on judicial matters only.

# BJP Government: Too Compromising

Whether or not the BJP will succeed in its effort is still in the realm of conjecture. But what its leaders do not seem to realise is that by retaining ministers who have been criminally chargesheeted, the party or, for that matter the government cannot talk about standards.

BERNARD Shaw said once that people living in glass houses should not change clothes with the lights on. Those who do so, apparently know what a sight they may be. AIADMK Chief Jayalalitha realises the comical aspect of her uproar against corruption. Her own record as the state Chief Minister or as an aide to the late Chief Minister M G Ramachandran was by no standard clean. But the demand for ousting the tainted Union Ministers she has raised cannot be brushed aside only because there are cases pending against her too. In fact, she set a precedent when she ordered S R Muthiah, her nominee in the Central cabinet, to quit after he was chargesheeted.

Whatever her motives, she is correct to demand the resignation of all those ministers who have been chargesheeted or face criminal investigation. Buta Singh is only one of the many. He had rightly argued why he should quit when others were staying on. When Prime Minister's political adviser Pramod Mahajan, probably kept for such assignments, took the letter, Buta Singh had no course except to submit his resignation. Even then Jayalalitha's point is not met. Buta Singh's name has been mentioned in the purchase of votes by the Narasimha Rao government to win the no-confidence motion in 1995. But Home Minister L K Advani, Human Resources Minister Murlidhar Joshi and the State Education Minister Uma Bharti have been chargesheeted in the Babri Masjid demolition case. Jayalalitha did not name them but it was clear to everybody that

she meant all the three. Some defence has been offered on their behalf that the three are not involved in corruption cases. But this does not hold water because the charge against them is no less serious. Crime is after all a crime. They have been accused of complicity in the destruction of a structure that represented India's pluralistic society, its composite culture. And how can anyone forget the enormity of Hindu-Muslim riots in the wake of Babri Masjid's destruction? According to an Intelligence Bureau report, the killing and the looting were the worst since partition.

In fact, the three should have themselves refused to join the cabinet, knowing well that they had been chargesheeted. Advani acted commendably well in an earlier case. He resigned from the Lok Sabha when he was arraigned in the *hawalas* case. Why did he falter this time? Those who claim to stand by values cannot afford to compromise for the sake of office. He, and for that matter, the BJP itself, have lessened their credibility. The President also cannot run away from his responsibility. He tries to give an impression that he is not a rubber stamp. But he tends to go along. He was not bound to accept the list of ministers that Prime Minister Atal Behari Vajpayee had submitted. He should not have administered oath to such persons who had been chargesheeted. The nation

would have been saved from the embarrassment it faces today. In her letter to the Prime Minister, Jayalalitha has also named Rama Krishna Hegde and Rama Jethmalani, apart from Buta Singh among the ministers she would like to be dropped from the cabinet. She has cited how Hegde was found guilty in a land sale case and how he pocketed Rs 2.5 crore from a state public sector unit,

tion with the confidence motion with a narrow margin of 14 votes. She may be making new demands practically every day. The BJP and its allies are trying to differentiate between those who have been chargesheeted and those against whom the cases are pending. How does it matter as long as their crime has been delineated? The rest is the bureaucratic procedure. At least Advani, Murlidhar Joshi, Uma Bharati should quit because they have been chargesheeted.

## BETWEEN THE LINES

Kuldip Nayar writes from New Delhi

Regarding Jethmalani, her allegation is that he admitted before a Mumbai magistrate the illegal receipt of Rs 80 lakh. She has a point when she says that Muthiah should be brought back if the corrupt were to be retained. Vajpayee is trying to buy time by seeking the comments of Hegde and Jethmalani. They can attack Jayalalitha, as they have already done. What else they can do? It is the Prime Minister who has to tell Jayalalitha that 'enough is enough'. But for that he has to stake his government.

There is no doubt that Jayalalitha is exploiting to the hilt her 27 Lok Sabha MPs, who helped the shaky BJP-led coal-

ition with the confidence motion with a narrow margin of 14 votes. She may be making new demands practically every day. The BJP and its allies are trying to differentiate between those who have been chargesheeted and those against whom the cases are pending. How does it matter as long as their crime has been delineated? The rest is the bureaucratic procedure. At least Advani, Murlidhar Joshi, Uma Bharati should quit because they have been chargesheeted.

Agreed, political cases should not be linked with those relating to corruption. But how do you define political cases? The general understanding is that such cases as are filed against protesters, agitators or processionists, relate to politics. During the entire history of national struggle, the civil disobedience and the acts to defy British authorities were political crimes because they violated the pernicious laws. Surely, the crime committed by Advani and the co-accused does not fall in that category. The definition of political crime

does not cover those who, despite the Supreme Court's order to protect the Babri Masjid, are involved in its destruction.

In fact, my fear is that the government may not pursue the cases on the Babri Masjid destruction, at least not as vigorously as before. It is difficult to imagine a CBI officer dragging his boss, Home Minister Advani, to the court or interrogating him to testify how the destruction took place. Officers have already got the message when the persons they chargesheeted are sitting in the chairs of authority. I shall not be surprised if the CBI takes the initiative in the next few days to tell the court that there was very little to proceed in the case. When the Law Minister and the Revenue Minister are being suspected of scotching cases against Jayalalitha, there is no reason to believe that the attitude would be different of the concerned ministers on the Babri Masjid demolition case.

Placed as the BJP is, it has only two options. Either the party comes clean or makes compromise. The BJP appears to have gone for the latter. The first one would have spread the message that it is cut above the rest in toughness and credibility. The second shows that the party has been sucked into the vicious circle of power. It is a sad spectacle because the party is blamed for pursuing communal policy, but not for compromising on principles easily. The way in which the BJP is

going about mollifying Jayalalitha gives me the impression that it may concede on the mother of demands: The dismissal of DMK Chief Minister Karunanidhi in Tamil Nadu. The Centre is committed not to misuse Article 356 to oust the Tamil Nadu government. But it may impose such conditions on the state government, after the visit of central teams to assess the law and order situation, that might find it humiliating to accept them.

Still the BJP knows that its alliance with Jayalalitha may not last long. It also fears troubles with Mamta Banerjee of Trinamool Congress in West Bengal and Chandrababu Naidu of the Telugu Desam in Andhra Pradesh. Therefore, the BJP is frantically looking for support from other quarters. It needs some 50 members. This is possible only if there is a split in Congress. After Sonia Gandhi's take-over, a few state leaders are not too happy, particularly when they believe that she wants to be the prime minister. The BJP is trying to woo them.

Whether or not the BJP will succeed in its effort is still in the realm of conjecture. But what its leaders do not seem to realise is that by retaining ministers who have been criminally chargesheeted, the party or, for that matter the government cannot talk about standards. Power is necessary but so is the image. Jayalalitha has her own agenda. The BJP-led coalition should not jettison its own programme for the loaves of office. Already the Vajpayee government looks too compromising, too nimby-pimby, too willing to leave out.

## 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.

### Denounce patronisation of armed cadre

Sir, The political parties should strongly support the DS editorial of April 21. Why the politicians are not responding publicly to President Shahabuddin's appeal? The political leaders, maintaining deep silence, of course this 'disarmament' or exception needs consensus, with apolitical outside pressure. The latter has to be built up spearheaded by the teaching cadre, and the academic bodies. But there is bipolarity everywhere.

Politics cannot improve in this country until the political parties reveal inner transparency. The situation will not change during the have-not phase of social development in the society, when money and power are more misread.

The politicians have to face moral and social issues, besides keeping an eye on the seats of power.

### Sunday holiday? No way...

Sir, A lot of ruckus has been raised on the above subject especially after Sunday was made the weekly holiday in Pakistan. Immediately afterwards, some of our religious political parties (particularly those who still do not want the existence of independent Bangladesh) came out with 'Fatwas' on the subject in support of Sunday as the weekly holiday. Ironically these same parties were on the brink of

declaring 'Jihad' a few years back, when there was a move to change to Sunday as a holiday after the fall of Ershad, as at that time, Friday was still the weekly holiday in Pakistan.

It seems like we have not yet been able to, as the saying goes in Bangla, 'get rid of the Pakistan ghost (bhoot) from our shoulders.' Is Pakistan our role model? A country which carried out genocide on its fellow citizens in the name of religion in 1971; where even now sectarian violence between members of different Muslim sects claim hundreds of lives each year can hardly be a model for any country.

While it is true that Islam does not mention any particular day as a holiday, i.e. a day for abstention from work as is mentioned in Christianity or other religions; for Muslims around the world, Friday is considered a 'holy' day when believers gather in congregation for the midday or Juma prayers.

It is a fact that the greatest source of foreign exchange for the country are the countless Bangladeshi workers (majority of whom are in the Middle East) who sweat and toil abroad to send money to their near and dear ones at home. It certainly is convenient for them to send remittances from the Middle Eastern countries where Friday is also the weekly holiday.

It is also a fact, that since the mid-'80s when Bangladesh introduced Friday as the weekly holiday, Garments exports — which is the main source of foreign exchange for our country after manpower — had increased manifold, than the times when Sunday was still a weekly holiday. This may be mainly due to the fact that most

Bangladeshi companies do business with private firms or companies instead of state enterprises, and in these days of facsimiles/e-mails/mobile phones — people are bringing the office into their homes. It does not matter therefore which day is kept as a holiday, one can establish contact with interested parties 365 days in a year round the clock.

Finally as Friday is a 'holy' day for the majority of the citizens in this country, let us also keep it as a weekly holiday if it does not hurt the religious sentiments of the followers of other religions amongst our citizens.

SK Sayeed  
Dhaka

### Drive against criminals

Sir, The DS editorial titled 'Drive Against Criminals' on 11 April, 1998 was very timely drawing the attention of the public to an urgency for tough measures against the criminals in the country. It is most unfortunate to record that peace-loving people are now silent spectators to anti-social activities of the criminals.

Are we strong and serious enough to take tough measures against the criminals? Or our legal system, police, students' bodies and political parties would continue to accept the crime of the criminals as normal.

It is now a big question for all of us to answer. I request to express your views on the said subject for the security of the present and future generations.

Abul Ashraf Noor  
Uttara, Dhaka

### The bangs bust!

Sir, Grameenphone first started off with the proverbial bang. And it is about to make its third bang too very soon. All of a sudden Grameen lowered its prices and practically gave

away sets to thousands of customers for a very short time just to earn some fast money. Then they realised, to the customers' horror, that they do not have as many lines as they thought they would. Ever since then more and more companies came into the picture, and gradually Grameenphone was pushed away down the line.

That was Grameen's second bang.

Now Grameen is coming out with its third bang, and this might be the last one as well. Grameen is about to introduce incoming charges! They started off claiming that they never would charge for any incoming calls, which placed them above their competitors straight away. How much extra cash is Grameen planning on ripping off before they go bust? Is it that difficult to become number 1 and remain there? There was a very bright future for Grameen, but if this is their policy then I for one feel very sorry for them.

Masroor Ahmed Deepak  
Dhaka

### The Solution Lies...

Sir, In response to CAF Dowlah's argument I strongly believe that the only way there can be is by strictly and honestly banning the Trade Unions not only in banks but also in factories, and also eradicate student politics from educational institutions.

Trade Unions so far have done nothing for the workers of the institutions (commercial and financial) except perhaps have been a tool for the political parties to abuse whenever they wished. It is because of the fact that this cancerous practice has been out of control e.g. the incident at the Bangladesh Bank. In an institution like the Bangladesh Bank which is at the very heart of the development process of Bangladesh, these sort of behaviour has to be dealt with stringent actions regardless of the parties in concern (I wonder whether it is

possible for any of the current political parties in Bangladesh) and set an example.

Everything has to start somewhere.

Mahbub Rashid  
12100 Wilshire Blvd., Suite 1800  
Los Angeles, California 90025, USA

### Death of Shazneen

Sir, The brutal killing of Shazneen Tasnim Rahman has shocked me and many others in Montreal. I could not believe what was reading in your web page. This type of killing is common in North America but not in Bangladesh. Is this the beginning of an ominous phase in our life? We have to ponder right now, what may be the reasons of such decadency in our social life? Is it because of the influence of our films which sometimes unabashedly instigate that a servant can get his master's daughter at any cost? Or is that a result of sex, violence and crime shown in the western movies?

Rape and killing which are increasing very fast in Bangladesh is mostly limited in the lower level of the social strata, but now it is attacking the upper class also.

We may debate and accuse one another for not making logical argument but we will never ever get back Shazneen who had a life to live, to bloom and contribute to our social life. It is not the pain of Mr. and Mrs. Latifur Rahman alone. It is the pain of all of us who are in Bangladesh or abroad.

What sympathy can we offer! We have no words to express our deep sorrow. I will request the readers to imagine the unspeakable pain Shazneen had gone through during her last hour. She was totally helpless in her own home. The trust was not only betrayed but a heinous crime was committed. Keeping that in our mind the legislators, law enforcing agency, politicians and above all the social workers must start a new battle, a battle to save the help-

less women of our country who may at anytime, anywhere become a victim like Shazneen.

We pray for her. May Allah take her to heaven.

Rezaur Rahman  
Immigration Counsellor  
524 Jean Talon West  
Suite 8, Montreal  
Quebec H3N 1R5, Canada

### 'The Lobon-Gur Story'

Sir, We wish to congratulate 'An ex-BRAC worker' for writing the above story (April 23). Indeed, the writer has narrated an excellent example of how a development programme carried out for a decade over a decade ago has brought benefit to the common people of Bangladesh. As the writer and thousands like him who worked to make the lobon-gur programme succeed know an important objective of the BRAC programme was to make treatment of diarrhoea through oral rehydration therapy (ORT) a part of Bangladeshi culture. His example shows how it is being done in such an effective way.

Congratulations to all our former colleagues, including the writer of the above story, who made history. As it was seen in the letter, the toil of that uphill task has bore fruits. In the words of former Director of the International Centre for Diarrhoeal Disease Research, Bangladesh (ICDDR,B), the recent drop in infant and child mortality in Bangladesh owe much to the effort of BRAC in popularising ORT in the country. We are happy about the work but we are not complacent. Much more remains to be done.

M Tajul Islam  
Director Public Affairs & Communications  
BRAC, Dhaka