

Judicial Freedom

WHILE congratulating Chief Justice Mostafa Kamal on his assumption of the highest office in the judiciary we take note of the very cogent observations he has made at a reception accorded by the Supreme Court Bar Association only the other day. The new Chief Justice has underlined a fundamental deficiency in the system. When the Supreme Court has to knock the doors of three ministries to recruit a peon or even buy a type-writer, the judiciary's freedom of action is impaired in most fundamental way — from the very word 'go'. We are fully supportive of his view that the Supreme Court should have financial and administrative freedom for quick and effective administration of justice.

It is noteworthy that despite limitations the supreme judiciary has had a track-record in delivering milestone judgments in constitutional cases and in matters of public interest litigation. The historic verdict on the 8th Amendment to the constitution is a case in point. One can cite a number of recent instances where the high judiciary has shown a remarkable degree of activism in stout defence of human rights and public interest. While responding to the concern voiced by the bar representatives over someone being detained afresh after his release on bail by a court order, the Chief Justice observed that the framers of the constitution did not keep any jurisdiction of the Appellate Division on the point. In this vein, he has rightly advised the lawyers to bring up cases relating to the constitution before the Appellate Division.

If the executive fetters on the judiciary are removed structurally then there is a lore of traditions and a reservoir of professionalism on the bar and in the judiciary to make dispensation of justice a powerful instrument of rule of law, democracy, governance, public welfare and equity.

The judiciary's role having expanded hugely in today's world, it must have the logistics and wherewithal to be able to cope with it. We are hoping that this aspect would receive priority attention of all concerned. Simultaneously, the demands for greater transparency on the path of the judiciary and the clearing of the back-log cases need also to be addressed.

In the ultimate analysis, what seems key to judicial independence is the separation of the judiciary from the executive, a pledge that has remained unfulfilled.

Set a Date for Delhi Talks

INDIA'S 'no' to Pakistan's offer to send its Foreign Minister Sartaj Aziz on June 7 for talks towards defusing tension in disputed Kashmir certainly bodes ill for peace in the trouble-spot. New Delhi's reluctance to fix a date for a dialogue has been interpreted as an attempt to buy time to "turn the ground situation in its favour and negotiate from a position of strength". The directive to journalists to leave the battle zone lends credence to the interpretation. On the whole, end to the escalating tension looks disturbingly distant.

Pakistan's proclaimed "moral, diplomatic and political support" to the militants in their struggle for self-determination does not quite corroborate its peaceful intention. However, it has certainly taken the first step by releasing Flight Lieutenant K. Nachiketa, the pilot of the downed MIG-27, and by extending the offer to send its foreign minister to New Delhi for talks. India should immediately reciprocate the gesture at least to the extent of being forthcoming in fixing a date and getting the talks underway.

Bitter neighbours though, both countries have shown in the past their capacity to settle matters across the negotiation table even under extremely volatile circumstances. The Lahore summit and the joint declaration that issued from it stand as a glorious example in this regard. For peace and stability in the region, it is imperative that India and Pakistan behave responsibly. Now equipped with nuclear weaponry, their responsibility has intensified manifold. However, recent developments do not quite suggest that the realisation has dawned upon them.

We earnestly hope that both sides will shun bellicosity and pave the way for a dialogue immediately by fixing a date for it. At the same time, we would expect Pakistan to show restraint by not resorting to provocative language aimed at its neighbour.

Clinics and Cuts

TO the woes of the simple and ordinary patients failing to get admission into government hospitals, have been added the tyranny of the middlemen (in certain cases women also) who are whisking them off to so-called clinics in the city which are not registered with the Health Directorate. Since there is hardly any supervision from any quarters such business goes on unabated fleecing simple people in the name of specialised treatment.

Working for these death traps (about which we wrote in these columns on 25 February '99) are a large group of people known as brokers who in collusion with unscrupulous nurses and doctors of government hospitals are peddling them into the so-called clinics. As there is always a rush of patients at the hospitals thousands of patients unable to get berths in them fall easy prey to the guiles of these go-betweens who convince the ailing people of prospect for better treatment in private clinics at reasonable cost. Everybody who 'helps' them into these 'morgues' (without doctors, nurses and equipment) get a cut from the takings. The doctors receive the lion's share while the others get their share according to the rates already prescribed by the clinics. Many of these middlemen have taken it up as a profession and earn reasonable amounts a month to be able to run their households. But they are not bothered at what cost they are doing this disservice to their compatriots capitalising on their miseries.

This business of enticing patients from hospitals to the so-called clinics is dangerous for the unsuspecting patients in dire need of medical attention. The authorities must find out means to clamp down on such brokers of death immediately for the safety of simple people.

THE fierce conflict between the Sri Lankan military and the Liberation Tigers of Tamil Eelam (LTTE) has been classified as one of the 16 major armed conflicts of the world but in intensity, brutality and bestiality it has perhaps no parallel. What had started in the form of sporadic violence by assorted Tamil youth groups as spontaneous reaction to their perceived discrimination in 1972 when the country's new constitution was adopted proclaiming the republic of Sri Lanka, has now evolved into full scale war. The war between the battle hardened Tamil guerrillas and the Standing Arm of the country which was beefed up to tackle the insurgency — has so far claimed the lives of about 65,000 combatants and civilians apart from 40,000 more who died as an indirect result of the war. The country's tradition of civil society and democracy has been seriously subverted and its booming economy ruined. Its claim to being the proverbial Serendib has been overtaken by the numbing reality of the deep anguish of a war ravaged country.

The initial disaffections among the Tamils during the seventies were met with unduly harsh response from the Sinhalese authority in Colombo. The prevention of terrorism act was introduced and massive repression unleashed. A state of emergency was declared and army rule imposed in Jaffna. The military was given order to 'wipe out terrorism in all its form' by Jayawardene, the newly elected President. Some of the opportunities for financing accommodation between the two hostile communities were slipped out of the hands during this period. The Tamil militants who were pushed to the coalition course with the authority gradually assumed a separatist hue. During those fateful days the die was, in fact, cast for a never ending confrontation of which the first physical symptom occurred in

July 1983 when in an ambush by Tamil separatists 13 Sinhalese soldiers were killed. It triggered off nationwide carnage against unarmed Tamil civilians.

The 1983 anti-Tamil violence was a watershed in the history of Sri Lanka's ethnic war. 'Eelam' — an independent homeland for the Tamils in Jaffna Peninsula in the north and the eastern province of Sri Lanka where they are in majority was already a goal of the LTTE which by 1980 emerged as the most dominant Tamil militant group under the leadership of Verupillai Pravarakan. He, now, vowed to attain the 'Eelam' through an armed struggle marking the beginning of the first phase of 'Eelam war with the authority'. The government response was again predictable. Through a constitutional amendment the UNP (United National Party) government outlawed any act of separatism and started strengthening the armed forces to crush the Tamil dissidents militarily. After a series of 'massacres' enacted by both sides the Tamil militants indeed succeeded in conferring the army within its 'camps', and the peninsula of Jaffna assumed semi-liberated status for the separatists.

Retaliating heavily when the Sri Lankan army was about to flush the militants out of the peninsula the India factor loomed large. After having gained a locus standi in the conflict with the influx of 2,30,000 Tamil refugees into its southern state of Tamil Nadu, India, duly influenced by its domestic politics intervened in a peacekeeping role according to a Peace Accord signed July 1987. As a result of the developments, not only the distance between the conflicting parties of Sri Lanka further increased any prospect of the future resolution of the

The Ethnic Conflict of Sri Lanka

Receding Prospects for Negotiated Settlement

There is hardly any instance in the history of conflict that a problem which is basically political in nature was resolved through military means.

crisis was rendered complex with the involvement of a third party.

The India brokered peace during 1987-90 was short-lived and its end came with 'IPKF' (Indian peacekeeping force) increasing clash with LTTE who never wanted to abdicate its freedom of action and policy before the outsiders. Violating the clauses of the peace accord 12 LTTE members including its senior leaders were, with the help of IPKF, sent to Colombo for questioning. All took cyanide and died on the way. The fragile ceasefire broke as a

etc. The LTTE was also able to streamline its military machine during the period. Its tentacles could reach out even to be able to assassinate President Premadasa in Colombo. When any prospect for peace looked bleak during this period, Chandrika Kumaratunga of People's Alliance campaigned on a platform of peace and emerged triumphant in November 1994 presidential election. In January 1995 Kumaratunga and Pravarakan entered into a ceasefire agreement thus ending LTTE's second phase of Eelam war.

year the army could cover only 44 of 76 km distance to the target in the face of stiff resistance from the Tigers who appeared to have again infiltrated in the region. The military inability to achieve its much publicised goal was indeed demoralising for the government.

In the mean time the Chandrika government's much vaunted devolution package remains a non starter. The Eelam war III rages since April 1995. It points to the fact that the Tigers give the package simply no credence. On peace and settlement the perceptual gaps are so wide and the hopes and expectation on either side are so divergent that it was difficult to make the package acceptable to both sides with their full satisfaction. For the Tigers the Eelam is the point of departure for any settlement with the government whereas it is the last thing that any government can concede to the LTTE. Even when the relatively moderate Chandrika government works out the package the chauvinists of both opposition and its People's Alliance decry it as the handiwork of 'peace mercenaries'.

On the LTTE side, in the name of 'Eelam' its mystique leader Pravarakan has mesmerised his followers into submission to his whims and dictates. His survival hinges to this adherence to the creed of 'Eelam' he indoctrinated his cadres with. Unless he is physically removed from the leadership no compromise on Eelam is possible. For the present none of his 12,000 cadres can come out of his cult. Embodying the LTTE cadres' resolve to sacrifice their lives for their cause is the potassium cyanide capsule they wear around their necks. It is impossible to tackle with the cyanide guerilla fanatics of the LTTE with conventional approach of peace mak-

ing. As the conflict has progressed since 1983 the stakes have been raised by both the sides. Both have built up huge forces and formidable arsenal, of course by their own standard. Both sides have the capacity to prolong the war indefinitely. According to one estimate Sri Lanka currently has the 34th largest army in the world with a strength of 1,22,000 men. This figure does not include the 17,000 navy and 15,000 airforce personnel. There is a special task force of police commandos numbering around 10,000 which is separate from regular police force of 50,000. Together, the array of forces facing the LTTE number around 200,000. The numerical strength of the LTTE is at the best a tenth of that. A 1995 estimate puts it at 23,000. Because of high rate of casualties as well as dwindling recruitment their number may not be more than 14,000 now. But their real strength lies in their quality.

The LTTE man is a soldier, guerrilla and a terrorist — all rolled into one. In addition he is a master of hijacking government arms and equipment with impunity and can bomb the central bank and World Trade Centre right in the heart of Colombo. The LTTE has two formidable units: Leopard and Panther. Both are emotionally schooled and physically trained for kamikaze type attacks to a high degree of sophistication.

Obviously all these buildup of the forces as well as expert trainings on either side are not for nothing. It is to use the military options to their optimum in resolving the crisis. However, there is hardly any instance in the history of conflict that a problem which is basically political in nature was resolved through military means. In Sri Lanka with the military option enjoying the primacy on both sides the same historical error is going to be committed.



PERSPECTIVES

by Brig (Rtd) M Abdul Hafiz

result and a vengeful LTTE went on a killing spree. In the end in a remarkable change of role the IPKF turned against the LTTE. Rajiv Gandhi, India's prime minister who signed the peace accord, was killed in 1991 in its consequence.

The LTTE's war with the government troops broke out as expected after the withdrawal of IPKF. It reentered the northern peninsula and eastern provinces and began reasserting its dominance over the Tamil area. During the second phase of Eelam war that started in 1990 it was mainly the consolidation of LTTE control over what it thought to be the Tamil territory. It set up a parallel civilian administration both in the north and east by establishing a land route to Jaffna but suspended at the end of 1998. During one and a half

The ceasefire, the first of its kind in the hostility between the government and the LTTE had been the most deceptive one and lasted for only 100 days after which the Tigers treacherously violated it starting the current phase of the Eelam war which proved to be the most brutal of the phases of war between the parties involved. Following some initial setback the government was able to recapture and consolidate its hold in the North — replay of a similar operation conducted by the IPKF. Colombo's writ ran in the North after nearly a decade. The government subsequently launched another operation, Jaya Sikuru (certain victory), in May 1997 in the Wanni region with the purpose of establishing a land route to Jaffna but suspended at the end of 1998. During one and a half

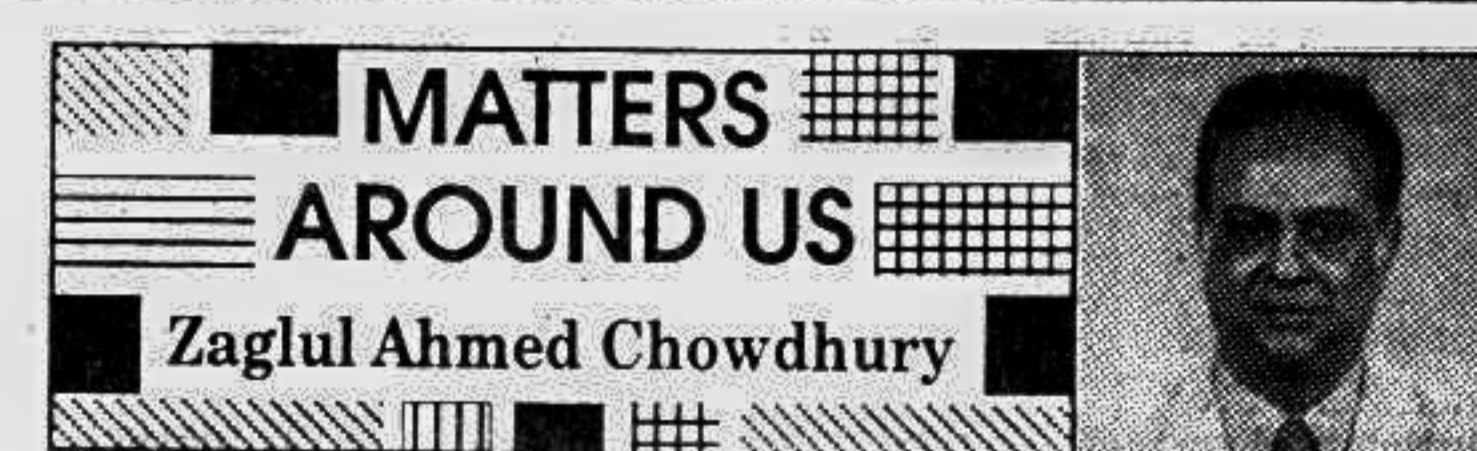
Cricket: Towards Regional Integration

Development of cricket in the region and the progress made in recent times, manifest in Bangladesh's stunning win over Pakistan in the current World Cup, will go a long way towards further regional integration. The region is bedeviled by many differences and disputes but cricket would hopefully bring the South Asian nations much closer.

joice over our sporting feats. The win in the ICC trophy in 1997 or gold medal earlier in shooting at the Commonwealth Games or reaching the finals of the SAF football championship may have given the nation varying degrees of satisfaction and pleasure but the attainment in the World Cup eclipses all. Conversely, Lanka's failure has been a terrible disappointment not only for the country but also for the South Asian region.

South Asia is often hogging headlines for wrong reasons. Natural disasters, over population, poverty, unabated tension between two of the key players in the regional scene are some of the areas where the region of more than one billion people finds international media coverage and at discussions in international forums.

Currently, the war-like situation between India and Pakistan is the source of concern for the international community and the region is being talked about in that context. Last year, it was the nuclear explosions of the two countries that remained a major issue of



international anxiety for a long time. However, it will be too naive to say that there is a total lack of positive developments or healthy gestures in the area. The growth and development of the SAARC, several other co-operative efforts and peace efforts like the 'Lahore summit' between the prime ministers of the arch-rivals India and Pakistan not too long ago are some of features that present some noteworthy sobering aspects of a not otherwise scenario conducive for a happy and healthy environment.

The addition of another South Asian team in the realm of international cricket may further enhance the sporting image of the region to the outside world. The region is not much known in the sporting

arena in disciplines barring cricket, hockey and squash. Once widely seen as a game of the elite, this game has gradually gained acceptance among the common people. On the contrary, football was very much a popular discipline in South Asia but failed to make any mark at all for the region in the international arena. As such, cricket has become the 'game of the region' regardless of the percentage of people who are deeply involved in it. Now, even a rickshaw-puller in Dhaka or Chittagong, a farmer in a village in India or Pakistan or a labourer in Sri Lanka are keen to know about the results of the matches in which their countries are involved and even discuss the game without knowing its nitty-gritty.

There are reasons to feel that the cricket is increasingly becoming a vehicle of greater communications and understanding among the people of South Asia, for their passions for cricket bring them closer. In most cases, when there is no participation of their own team, people of South Asia feel

inclined to support a team of the region. In the 1996 final between Australian and Sri Lanka, South Asians overwhelmingly supported the latter. Development of cricket in the region and the progress made in recent times, manifest in Bangladesh's stunning win over Pakistan in the current World Cup, will go a long way towards further regional integration. The region is bedeviled by many differences and disputes but cricket would hopefully bring the South Asian nations much closer.

OPINION

No More Only One Side of the Coin

A Zabr

As an elder citizen, it appears to me that the country will not push forward unless the two mighty Ladies recede from the political scene; and retire voluntarily from 'active' service, after getting the message from the people — not from the politicians, who are biased and see only one side of the coin, depending on the party alleged.

There is no neutral politician — unlike a statesman — and his first allegiance is to the party self-interest, then for the country and/or the people. In most cases; provided the two stands are not contradictory. The terms 'country' and 'people' might not be interchangeable in some heads — to add to the confusion in which our politicians thrive; or contrive. Neutral politicians exist theoretically, where the first and last priority is for the country. Perhaps that is the reason why floor-crossing is so popular in Bangladesh!

What we are witnessing today, since the early 1990s, is crab-politics, that is, the movement is sideways, not forward, thanks to charismatic allegiance, feeling more secure and expansive than the events of the past, than in the uncertainties of the future. The crabs have strong pinners, and the victims are not discriminated against. Crabs hole up when on the defensive.

The other reason politics is not moving forward is that the very base of a party is challenged by others, because the party support and fragile stability comes from the past charismatic aura at the top, and not built up from the people's earthly base. Thus a rootless party, drawing inspiration from above, cannot stabilize the party, the country or the society.

Lately the media has been full of analyses and sharp criticism of the state of politics in the country, and more and more critics (who are not politicians) are voicing their concern to the effect that even after long 28 years, we are still unable to get out of the cocoon of idealism, and face the stark realities of the changing times and the changing generations.

Before the political leaders and workers can help others, the stable base or foundation of self security has to be established first. Since the pulpit is always shifting or changing, the question of sending out clarion calls do not arise. All are swimming, there are no rescuers. The politicians would not admit it, but their intransigency has to be validated properly.

One confirmation (and

weakness) is that there had been breaks in the governance by the politicians, at least twice, for a period of 16 years. The leaders of the society cannot ignore analysing the cause and effect of such intrusions in the political climate of a nation. What we observe is mere condemnation or synchophany, repeated over and over again by the aggrieved parties. There are lessons to be learned and unlearned, but this unpleasant exercise is being avoided for expediency. We still have to learn the trick of going for solutions that work practically.

The other aspect of the political culture is that the political leaders have to learn to fend for themselves and stand on their own feet, instead of taking cover under past names. It is time we reverently deposited charisma into the sacred pages of history, and then turned around forward to face the changing times.

Adaptability has to be nurtured and cultured. The cycles of history, as in nature, have to be allowed to flow. Man-made interference introduce complexities and delays, as the successive generations are observing today since the late 1960s. Egoism is an invisible wall to progress.

There are several projects waiting to be taken up by the society. The first one is self-cleansing. After the dry or wet cleaning, the incompetent leaders have to be side-tracked (the majority of such characters are ruling the society today). The second is to clear up the blocked areas, and start the flow towards normalcy. The third is reorientation to universal practices. We have queer politics here; and the players are not protesting seriously (what's my commission?).

Political reverence is a product of the society, hence the mass followers have to share the responsibility for the omissions and commissions in leadership (the grass-root support). The latter is unfortunately subjected to exploitation due to build-in handicaps, mainly the economic and illiteracy factors. To get out of this vicious trap is the perennial problem in the Third World countries.

Charisma inhibits democratic play. Democracy is diffused like the air we breathe, not centered as the rays from the sun. We are still working at the foundation level, and dreaming about the structure. Some dreamers even claim that we are building super-structures. To be able to dream is also a function of liberty; but the movement needs room at the top.

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.

Rajuk, the Raj

Sir, The public is well aware that Rajuk has not yet closed the pending cases under the Baridhara-Gulshan 1986 scheme for allocation of plots for residential accommodation. Many approved applicants are waiting for the last 13 years for the allotment letters. The funds deposited also not being refunded; and reminders to Rajuk remain unacknowledged or unanswered. The money is also not being returned to the unsuccessful applicants. What is being done with others' money by Rajuk? There is no explanation. I cannot afford to fight a court case. The government appear to be abetting with its silence over a public scandal.

Three regimes, including the present one, are involved in this decision making. It would be in public interest if the government issue a policy statement on the pending cases, and close all hanging cases.

The present regime is proud of its transparency. Therefore, it is hoped that the issue would be amicably settled. Once a question was raised on the payment of interest on the amounts held by Rajuk, Rajuk should commit itself and come out with a public notification. Anyway the image of Rajuk is not at all enviable, judging from the spate of press reports.

An Applicant
Dhaka

"Of Day dreaming and ..."

Sir, This is what Mr. Ahmed wrote in his column (DS 29-5-99): "I do not know if her words

on this score could be a complement to the muskulls coming to the Biswa Jitema or could it be construed as a debasing comparison particularly when we consider the objective of the millions of Muslims joining the Biswa Jitema. This holy congregation, second only to Hajj, is held to seek divine mercy from Almighty Allah."

Mr. Ahmed may like to write bashing the opposition but hasn't he gone a step forward here. Did Khaleda Zia said that the crowd she observed during the road march came to get religious blessings or did she compare the crowd in a quantitative way. For a normal person with some common sense it is evident that the comparison is a quantitative one and not qualitative one.

May be Mr. Ahmed is one of those people who support the government position no matter what. Not realising that their sense of intellect has shifted from head to their knees, they are ruining the country for the sake of supporting their beloved government. I am ashamed to see it.

Rashed T. Islam
Austin, Texas.

"What is your father?"

Sir, I went through the letter entitled "What is your father?" written by Md Motiur Rahman from Sobhanbag, Dhaka. My conscience, prudence and reason compelled me to explain the matter in the following way:

(1) As you are a human being, your father is undoubtedly a human being. Moreover, it is a truth universally acknowledged

that other than human being no other creature in the world can talk. By the question "What is your father?" your English teacher wanted to know the profession of your father not his being a human being or an angel.

(2) "What is your father?" and "What does your father do?" express different meanings. The first sentence means your father's profession while the second one indicates his present position, whether he is reading or writing or working or sleeping or gossiping etc.

(3) Since English is a foreign language, we should follow its rules. In some cases, literal meaning or literal translation is not enough. Every language has some colloquial, idiomatic and semantic meanings and usages. I think, you will be able to know all these in course of time.

Mrs Johura Ashraf Shapla
Rajoir Degree College
Rajoir, Madaripur

Harnessing the potentials

Sir, Presently the whole nation is swinging with the World Cup festival. The outburst of this mood can be seen from street decoration, wall paintings, graffiti and scores of individual display of choice items. On the contrary, other cricket playing nations (with the exception of our sub continent) have different approach altogether. When most of us flock together with our eyes glued to the TV sets and follow the game ball by ball, expressing, anticipating, praying, even cursing and ventilating all our emotions, they carry on with their business as usual. I doubt if England — the venue of the World Cup, is overtaken by cricket phobia as is the case with us.

Now, if this is the spontaneity and reality in our case, why not convert this outburst into energy of wealth. With proper approach, can we not harness

this exuberance and convert it into something which will reflect our quality of thinking and make us proud?

Tanzia Choudhury
Chittagong

Rape of public roads

Sir, It appears that due to carelessness, inefficiency, inattention and negligence of the authorities concerned asset and property worth crores of taka — the public roads, streets and footpaths of Dhaka metropolitan city meant for the welfare, necessity, benefit and use of over eight million members of public are being fast turned into unavailing, unproductive, useless and worthless utility civic service for the people.

Day by day a handful of unscrupulous persons with the help and assistance of some law enforcing agencies are illegally and forcefully occupying and encroaching upon public thoroughfares for their personal gain and profit causing untold difficulties and sufferings to members of the public.

Most of the public roads and streets which are under the jurisdiction, supervision and control of DCC and DMP are chaotic, disorderly and anarchical. Everywhere there are traffic jams, crowds of hawkers and vendors storage of merchandise goods and commodities, varieties of workshops, indiscriminate parking of motor vehicles and rickshaws, 'U' turn of buses and piles of garbage are littered all over.

Do the public roads, streets and footpaths of Dhaka guarantee the Article 36 of our Constitution which reads "Subject to any reasonable restrictions imposed by law in the public interest, every citizen shall have the right to move freely throughout Bangladesh?"

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