

Dialogue & Hartal

PRIME Minister's renewed dialogue offer to the Opposition on Friday with an assurance that any wise counsel from them would be accepted by her government may be conciliatory, but only tactically so. This is not to say she does not feel the need for engaging the opposition in talks to settle differences with them; it is only that she has yet to choose the right way to go about drawing them into a dialogue. True, the offer for a dialogue is an act of politics but it does not necessarily have to be politicised to an extent that it falls flat on the opposition sensibilities.

The timing of the offer is a very important indicator of the sincerity and aplomb with which it has been made. If it were announced just before a hartal and not at a time of less stress and strain, it could be regarded as a non-serious overture as it is being regarded now.

If the purpose behind making an offer for talks is to do some points-scoring against the opposition in public rather than seeing it actually happen then what the ruling party ensures is the freezing of dialogue prospects along with a public disapproval of its method. At the BFUJ-DUJ reception the PM laid a misplaced stress on running the country with 'wise suggestions from the opposition' retraining her steps to 1996 when she had unsuccessfully invited the opposition to join her government to administer the country on a basis of consensus. Then on, much has happened in the relationship between the ruling party and the opposition to have rendered that utopian idea completely obsolete by now. That a sense of realism is very important for making an offer stuffed with such elements as would be difficult for the opposition to shrug off seems lost on the ruling party.

For a dialogue offer to materialise with the opposition it has to be made by the ruling party or the government through its official channels rather than being just tossed up at public meetings or professional gatherings as if meant for others than the opposition. The businesslike way to invite the opposition to talks will be for the AL General Secretary to approach his counterpart in the BNP meaningfully enough to arrive at a set of moot-points principally weighted towards the opposition to engage then in a dialogue process.

We would like to believe the Prime Minister has meant what she has said. Now she has to make good on her words by her action to initiate a dialogue to rid the nation of the damaging hartals.

Safe Haven for Abductors

ACCORDING to some recent newspaper reports, abductors find Dhaka University premises a safe haven. Journalistic investigations have revealed that around 8 to 10 gangs carry out kidnapping missions from inside the campus despite the noticeable presence of policemen. In the last 35 days at least seven cases of abduction and ransom-seeking were recorded on the DU campus. In all cases they have been able to extract money from the guardians of the victims making good their escape. The gangsters usually take their victims to some of the residential halls noted for the influence of cadres allegedly belonging to the ruling party's student wing and their different factions. The leading newspapers have also expressed suspicion about connivance of leaders of these organisations and groups and also the police in all this. Outsiders residing at these hostels are also alleged to be actively involved in the kidnappings. In spite of the actions taken by the DU authorities a few weeks back to dislodge the predators the incidence of kidnapping has not declined.

The most recent is the story of two brothers having been taken to the campus and ransom extorted from their parents. Some of these cases are not even reported to the police for fear of reprisal with the victims suffering in silence.

Recently we have seen photographs of gun-toting plainclothesmen in action during hartals published in the national press. Why can't the authorities deploy these plainclothesmen on the campus for nabbing the abductors? The DU authority, in its turn, should take stricter measures to end the intrusion of outsiders in the halls. It should carry out regular checks at the staff quarters to flush out suspected characters. Having said that we want to ask the police what are they doing to make credible the claim of the government that law and order situation has improved? A panic has already set in the society, particularly among the guardians of school-going children who are fast losing confidence in the way the administration is being run. The government may soon find itself in deep trouble if this is not taken care of.

Sad Story Retold

THE National Institute of Cancer Research Hospital (NICRH), with its woeful conditions, certainly represents the appalling state of specialised medicare in the country. With no medicine and important equipment out of order for days it is simply the sadly familiar tale of lack of administrative attention and mismanagement retold. We have seen similar situation at the Dhaka Medical College Hospital (DMCH), National Institute of Cardiovascular Diseases, Bangabandhu Medical University and where not. Put together, they all cry out for a speedy overhaul of the medicare system.

The grim scenario at the country's lone specialised government hospital on oncology needs intervention for a quick turn-around. With the supply of chemotherapy drugs cut off for the last two years and its only cobalt-60 teletherapy machine inoperative, the NICRH would have very little option but to frustrate, and enrage, more than 70 patients who go there every day.

One cancer hospital for some 80 lakh patients who, according to a Cancer Society of Bangladesh count, suffer from 'some form of cancer in various degrees' is evidently an untenable proposition; more so, when that, too, is virtually no more than a lame horse. We would like to have answers from the health ministry to a couple of questions: why was the money sanctioned for procurement of necessary drugs not utilised by the Central Medical Store Depot (CMSD)? Why the tender for purchase of a teletherapy machine was suspended? We expect the government to pay attention to the situation at the cancer hospital and improve it sooner than later.

Erosion of Values in State Organs Including Judiciary

by Muslehuddin Ahmad

While making comments on the present system of justice we must also bring in the important roles played by the lawyers. It's the lawyer who helps the judge in arriving at his decisions in a case.

IN my last article (*The Daily Star* October 5) under the caption *Values, Democracy and Development*, while commenting on Nobel Laureate Amartya Sen's view that the pre-eminent development of the period [20th century] is the rise of democracy I said, "But I believe another pre-eminent development during this century is the intolerable erosion of human values that have not only harmed democracy and civil society through ballot rigging, vote buying, bribing etc., but also adversely affected the economic development world-wide." While sitting in Johannesburg and reading *The Daily Star* through Internet it was not surprising to see the headline on October 24 saying — "Judiciary facing questions for erosion of values" it continues: "A senior judge of the Supreme Court and a former judge at a seminar yesterday acknowledged that erosion of values has gripped the country's judicial system giving rise to questions of accountability."

As children we used to hear a famous story about a judge. A neighbour went to meet his judge friend who was sitting in his drawing room which had no light. He entered the drawing room and sought the permission of his judge friend to switch on the light. The judge went to the other room and returned with his shirt on. Not that it was a hot day and the judge friend was enjoying the evening with a bare body; he was indeed against excessive use of his shirt and was also wanted to reduce the electricity bill. These costs the judge could not easily afford. It's a story that tells the level of honesty and the respect for the position a judge used to have in those days.

It's very important to note that a very senior Justice of the Supreme Court Justice Latifur Rahman said in a seminar that "The judges are also not above board." The other day the Justice Minister of South Africa said "The judges are not the holy cows in the way of reorganizing the judicial system. Therefore the judges are now under scrutiny everywhere."

Though some people have apparently started feeling that gone are days when the judges used to occupy a very special place in the society, however, the general impression is that the judges still occupy their rightful place in the society but the problem appears to be in respect of only some and particularly some of those at the level of the lower courts.

The World Bank PREM notes — Oct 1999 No 30 by Pierre Ladell-Mills mentioned that the survey of Transparency International, Bangladesh chapter "revealed that 63 percent of households involved in court cases had bribed the court officials.... Some 89 percent of the respondents believed that it was almost impossible to get a quick and fair judicial judgment without money or influence. Such findings outraged lower court judges. But their protests were dismissed by the media."

Two points need to be highlighted here: i. the households should also be held responsible for bribing — may be they were forced but public must start resisting such pressure if changes are to be brought about and ii. once money and influence were used these could be quick but

not necessarily fair judicial judgements.

However, speaking in the seminar Justice Latifur Rahman clearly acknowledged that "When the credibility of all institutions appears to have eroded, we cannot ignore the reality that the image of the judiciary is also tarnished to a substantial extent in Bangladesh." Undoubtedly, this is the result of intolerable erosion of values at all levels of the society including the judiciary. Justice Naimuddin Ahmed unequivocally acknowledged that because of the erosion of values the judiciary is facing questions of transparency and accountability. Justice Latifur Rahman, however, very rightly recalled the people by saying that "We all must endeavour to restore confidence of the people in our system of justice, making our judiciary a viable, honest and effective institution of the State."

A couple of months ago the Chief Justice Mustafa Kamal himself hinted at a very important aspect of the limitations that the judiciary faces in terms of its relations with the Executive organ of the State. If I then correctly he observed that even for buying a type-writer (the system needs to be computerized) several stages of executive authorities were to be crossed. Such a situation not only thwarts proper and quick disposal of cases but one could also detect direct or indirect control of the Executive organ of the State on functioning of even the highest Court of the State let alone the lower courts. The people feel that often there

are political pressures that disturb proper functioning of the judicial system. Often there are stories that if the judgement goes against 'someone's own man' the judge would be transferred to Banderban. All these may be stories but these do lead one to press for immediate separation of Judiciary from the Executive organ of the State. "An independent judiciary is the conscience-keeper of the state" — so rightly put by Justice Latifur Rahman.

These important remarks from very senior Justices of the Highest Court of the country may turn out to be the landmarks in the way of reorganization of the judicial system in Bangladesh, which is overdue. One could detect fuming dissatisfaction over the deterioration that has been taking place in the judicial system and particularly in some of the lower courts but no one openly came out with such honest criticism. The people do not comment openly about the judiciary because of the age-old concept of "contempt of court".

Sometime ago I asked a senior lawyer who said that the question of contempt may arise only when someone makes prejudicial comments about a case which is under consideration of the court; otherwise there should be no harm if a judgement is criticised on merit without having any intention of maligning the concerned judge. If I have understood it correctly Justice Rahman also gave similar impression when he said, "... As long as the newspapers do not impute improper motives, they should have free-

dom to criticise Magistrates and judges.... the criticism of a judge and his judgement is permissible provided one does not scandalise and malign a judge."

However, the clarification made by Justice Rahman that "We all must endeavour to restore the confidence of the people in our system of justice" should be heeded by all concerned and that will make all the differences and indeed restore full confidence in the entire judicial system.

While making comments on the present system of justice we must also bring in the important roles played by the lawyers. It's the lawyer who helps the judge in arriving at his decisions in a case. Therefore, the issues of sticking to values, ethics, principles and code of conduct laid down for the lawyers become all the more important but unfortunately here also serious erosions are being observed in many cases and hence the multiplier effect on the judiciary as a whole.

Incidentally, on the same day Prime Minister herself said, "If the executive and legislative branches are to be accountable and to function transparently, it is to be expected that the judiciary, as one of the three organs of the state, should also be doing so." She added, "I know that my comment could generate articles in the press and I may even be summoned even by the Court, but I feel strongly about this, and I feel I should create public opinion on this subject." Should the people now take for granted that when the Prime Minister

herself has challenged the Judiciary on the issue of transparency and accountability, she would ensure proper transparency and accountability in the other two organs of the State. This will be the real revolutionary and absolutely necessary step for the Prime Minister in order to clean up her administration. She also said, "... I feel strongly about this and I feel I should create public opinion on this subject." This clearly means she is serious about the transparency and accountability of all the State organs. Indeed, she is in position to put the challenge into hard action and create history in Bangladesh. She can take for granted that the people will be with her in such noble efforts.

1. Let POLITICS be cleaned first as the politicians bear the major responsibilities to run two main state organs.

"Cleaning up operation" should begin at the level of all political parties.

There should be enough "clean people" in different political parties to support such actions.

Similarly, let there be a full competition on "cleaning up operations" in all Executive branches too. When the Prime Minister has brought the media and the journalists into the picture and asked them to "observe transparency" she should go for full transparency of the TV and Radio. Broadcasting should be taken out of the Ministry of Information and put under an Independent Broadcasting Council consisting of some non-political independent citizens. The Council should have the approval of the Parliament. 3. Ombudsman should be appointed without any further delay and the Anti-Corruption Bureau be placed under the Ombudsman.

The Bofors Issue in Indian Politics

The coming months will witness a lot of heat on the Bofors issue as the relations between the government and the main opposition, Congress, will revolve around it. The findings of the trial and the ultimate conclusion will definitely have tremendous impact on Indian scenario.

Bofors Mr. Martin Abdo has also been charged in the case.

It remains to be seen how the Indian government deals with the persons who are either not Indian or outside the country while dealing with the case. It is possible that the government will ask for extradition of these persons or follow some other course so that they could be made available before the court. But how far the government would succeed remains a big question mark.

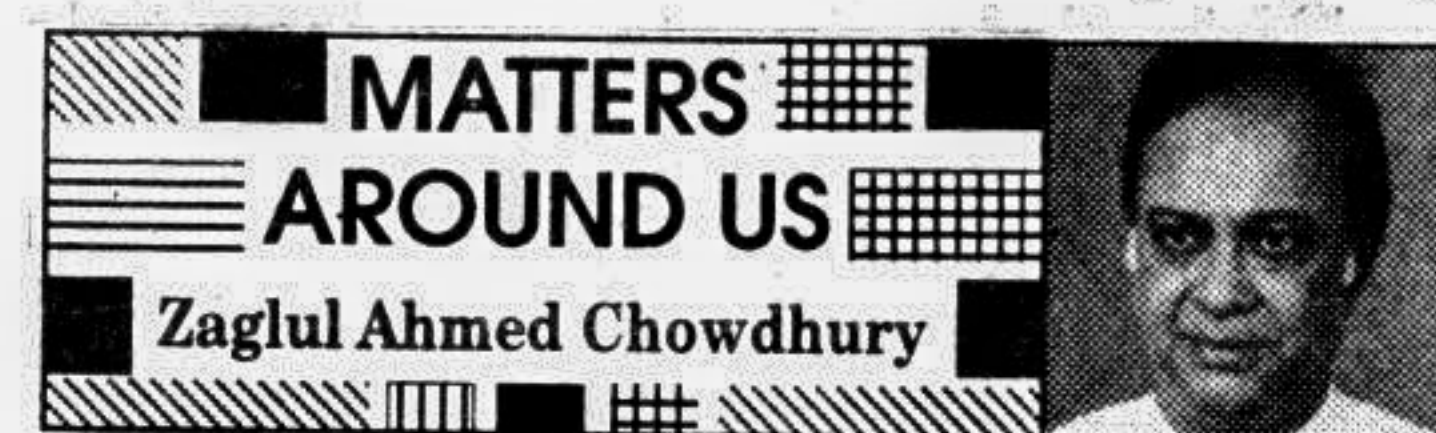
But the political fall-out of the Bofors scandal is interesting since the charge-sheet has been submitted soon after the multi-party National Democratic Alliance (NDA) led by Mr. Atal Bihari Vajpayee returned to power in the elections. Mrs. Sonia Gandhi, widow of slain former Prime Minister Rajiv Gandhi, was chosen as the Leader of the Opposition in Lok Sabha (lower house of the parliament). The main needle of suspicion in the case is obviously at the Italian businessman, who has been alleged by the critics as 'kingpin' in the deal. It has also been alleged that Sonia influenced her husband Rajiv to get involved in the deal, but it is not known or who and how many people have been financially benefited by it.

The Swedish company had beaten firms from different countries to secure the contract. Mr. Gandhi had steadfastly denied his involvement or knowledge about any wrongdoing in the whole exercise, but he suffered due to this — badly. He lost

power in the 1989 general elections. Rajiv was earlier known as "Mr. Clean" because of his integrity but the Bofors changed that image. He was trying to stage a comeback to power but was killed by bomb blasts of Tamil separatists just before the 1991 elections while addressing a rally near southern city of Madras.

Why has the Vajpayee government chosen to take on the issue within days of getting back to office? Does it stem essentially from moral point of view or is any political vendetta also playing a role here? How

and gossips on the controversy at rest. Secondly, a political angle may also be working, as Mrs. Gandhi has now emerged as the main opposition leader following the elections that saw her winning from both the constituencies she contested. She was elected from southern Bellary by more than 50,000 votes while her victory in Amethi was really thumping as it was by more than three lakh votes — the biggest margin in the polls. During the hectic and often bitter campaign before the balloting, the NDA focussed on Mrs. Gandhi's "foreign origin" and



Mrs. Sonia Gandhi looks at the whole thing and what is her strategy to face the issue which may have far-reaching impact on her political career, since she has now found an important political position after the elections?

There can be two-pronged strategy of the government in dealing with the issue. First, it genuinely wants to unearth the scandal that has remained unresolved for an unusually long time. Probity in public life constitutes a key element in politics and Vajpayee government is keen to put the speculations

her alleged links to the Bofors arms purchase. But these did not seem to have cut much ice among the electorate as she romped home easily.

True, the Congress party, which she leads, cut a sorry figure by bagging lowest ever seats in the independent India. But Sonia was not rejected, although she could not show any "magic touch" in the voting as far as the party is concerned. It's a fact that members of the "Nehru" dynasty have often demonstrated such influences. Had Sonia shown poor performance from two seats, she

might have been dismissed from politics. But that did not happen even though Ballary is an old Congress stronghold and Amethi is a family bastion.

The NDA has a comfortable majority in Lok Sabha and is set to rule for a longer period this time. But problems within the government cannot be totally ruled out since it is a platform of 24 parties. The Congress suffers from leadership crisis and Mrs. Gandhi is firm in the saddle in absence of any other charismatic figure outside the "Nehru" family. It is possible that Rajiv's daughter Priyanka or son Rahul may enter into politics at an appropriate time, but for the time being, it is Mrs. Gandhi, who is set in the pattern. If her links with the Bofors scandal is proven, then this will certainly have an adverse effect on her career. It may be assumed that her opponents have an eye on that and, in the process, may force her to be in slippery ground. After all, there is no denying that most Indians are convinced of serious wrongdoings in the multi-million dollar arms deal and want to know the financial beneficiaries.

The Congress and Mrs. Gandhi have demanded that Rajiv's name be deleted from the charge-sheet. But the government has rejected this, saying it will have no control on the investigations by the CBI and legal proceedings. The government, on the other hand, wants Mrs. Gandhi's co-operation and she may be called during the

trial to explain her links with the Italian businessman. Sonia has castigated the move to implicate her late husband and said she would not bargain on the issue.

"They are protecting big business houses many of whom are engaged in wrong-doings but have involved the late prime minister", Sonia retorted to have said angrily. Sonia says

there is not a shred of evidence against Rajiv, but the government did not hesitate to name him in the charge-sheet. Clearly, she appears to be in a mood to fight it out rather than "co-operating" with the government. The situation is also embarrassing for some people on different counts. For instance, the Railway Minister in the new government Ms. Mamta Banerjee, who was in the Congress party and was close to Rajiv Gandhi but broke away with Sonia, preferred to remain silent over mentioning of Rajiv's name in the charge-sheet.

West Bengal Chief Minister Jyoti Basu said Rajiv's name in the charge-sheet should not come as a bolt from the blue, since he was the prime minister at that time but it does not necessarily mean that he was guilty.

The coming months will witness a lot of heat on the Bofors issue as the relations between the government and the main opposition, Congress, will revolve around this issue. The findings of the trial and the ultimate conclusion will definitely have tremendous impact on Indian scenario. Only time will tell whether Congress or the government would benefit or lose from this.

Half Empty, Half Full

Of the 52 million registered voters (out of a population of 130 million), barely 40 per cent would go out to vote, i.e. about 20 million people. Barely 5 per cent or about 2.5 million people are likely to make the effort for a referendum despite overwhelming support for military rule presently.

AS I SEE IT

Ikram Sehgal writes from Karachi

tration.

Barely a month into military rule, self-servers totally distinct from the military rulers have begun to function on their own agenda. Some are the incorrigibly corrupt, who are asking for double the normal bribes in this new environment, using it to terrorise the innocents into submission. Then there are vested interests who want the military rule to fail and thus employ the "judo

blatant lie but some sort of monitoring unit at the district level on the pattern of Citizens Police Liaison Committee (CPLC) that can identify such cases and bring swift retribution is very necessary.

This includes the problem of false accusation and fabricated cases. This is an endemic problem in Pakistan. One does not doubt that the CE is sincere about a free press and its help in the accountability process but

names to what they write, but persist in labelling others under pseudo and false names. The CE has to clearly spell out a procedure for uncovering those making false accusations or bearing false witness. They should face the same quantum of punishment that those whom they target would have got if their evidence/charges had been true. The whole edifice of credibility of the military rule will collapse unless firm measures are taken to control such opportunists, particularly those who have the capacity to exploit the media.

The end game of accountability ensures that the guilty must get punishment. Unfortunately, those who have money have the means and clout to escape retribution. In

Twelve or so years of democratic rule had driven us into the wilderness without a compass. The incumbent process will only be successful if it takes us back to a meaningful democracy in which all the people will participate as equal partners and not simply become pawns on a giant chessboard. With the economy in such doldrums that even easy credit has no takers, primary focus should be on the economy.

cent go out to vote, i.e. about 20 million people. Barely 5 per cent or about 2.5 million people are likely to make the effort for a referendum despite overwhelming support for military rule presently. They will continue to get the support. The military rule continues to remain "people-minded" and not fall prey to special interest groups. A low turnout in any referendum, even heavily weighted in favour of military rule, will undermine the credibility of the CE and his regime. Motivated interests, mostly those wanting to escape retribution — will exploit this for all its worth. The whole process will become an exercise in frustration.

ploy" i.e. use the deterrence of military might to achieve their own objectives while bringing a bad name for the rulers by harassing the average citizen into a state of anger and resentment. Banks, financial institutions, leasing companies, etc., are working on their own agenda, going after those who may be relatively small and may only be overdue, not even defaulters according to the SBP instructions. After the first shock, the un-Godly have started to come out of the woodwork. GHQ has ordered all military personnel not to interfere with governance, some are already alleging receiving telephone calls. This is probably a

within the establishment there are past masters of misinformation and disinformation, people exelling in the planted news items against "perceived" enemies. In fact they are the ones who deliberately create rift and then thrive in it as it gives them some reason for existence in the eyes of their superiors. Those who deliberately create rift need exemplary punishment. Some reveal in the "highlighting" of articles and news items in such a manner that objectivity is taken out of it and the message slanted in a one-sided manner to suit their nefarious purpose.

There are others who do not have the courage to put their

the first instance, they ensure that their cases are never investigated, that if it does get to the enquiry stage they manage and/or manipulate facts. If that fails and their case comes to trial, they have the best lawyers and accountants to bring down such a "fog" around the truth that justice cannot penetrate. Given that somehow the fog is cleared and the case comes to trial, their lawyers will bring all technical hitches available to delay the process. In the end, the buck will stop at the judiciary's doorstep. With all due respects to the superior judiciary, they have to contend with the ground reality of raising the reputation of individual judges

down the line that seems to have fallen in public perception. A self-cleansing process is possibly required which will bring back the trust and dignity of such office, as it once was.

There exists a reason for doubt in the public mind, an element of uncertainty creating confusion whether the rich, with all their wealth and influence, will ever be brought to justice. For the sake of the country, one humbly requests the judiciary to face up to this reality. We can only gently and respectfully bring this to the notice of the superior judiciary.

The CE is a soldier. His forthright manner will definitely impress civilians, whether actions will continue to match his words will be very easily discernible in the coming days. What was impressive was something one has not heard any leader in Pakistan ever accept, that as a human being he or his team may make mistakes, and when these mistakes are discovered, these will be rectified. For a nation that never accepts its faults or even learn lessons from its mistakes, the CE's assertion was refreshing and welcome. It added to his credibility. The ultimate legality of the CE's rule rests in the goodwill of the people of Pakistan who presently see him as a human being like them, not as an omnipotent dictator who professes he can do no wrong. There is no reason to try and justify military rule, there can be no legality for it in the technical sense. In the moral sense, people have accepted it and have aspirations that will lead to a better system than what they lived under. Whatever timeframe is set out, the referendum on military rule should be part of the ultimate transitional electoral process. If military rule has been good for Pakistan, the people will say overwhelmingly so and if it is not, one doubts there will be a natural transition.