

Malcontent in Residential Area

MUSHROOMING of illegal commercial centres in the capital city's posh residential areas like Banani, Gulshan, Baridhara and Uttara poignantly points at the inadequacy in our urban planning and inconsistency of our city fathers in matters related to plot allocation. We understand that there are demarcated zones in these areas for construction of business enclaves, Gulshan Circle 1 and 2 for example. Unfortunately, but quite predictably though, with more business concerns eager to have outlets in these rich neighbourhoods, more spaces were rent out for commercial use. Instead of discouraging it, RAJUK legalised use of residential plot in return for an added 'conversion fee'. Now, these neighbourhoods are dominated by business centres and civic life of the residents is largely hampered. With the situation having already gone out of control, the city development authorities have taken resort to emergency measures. Evacuation has been ordered to be completed within 15 days, failing which the allocation of plot will be nullified. There are however reasons to believe that such a step has been adopted only to pacify the anxiety and anger of the residents. On the ground, nothing would actually change once the furore over the issue dies down, many believe.

RAJUK looks like being a prisoner of its own device. They should have strictly followed the rules of exclusivity about residential areas. In the first place, it should never have gone for allocation of residential plots for commercial use; nor should it have encouraged renting out of residential buildings to business entities. There should have been a set of strict rules against it. In case of establishment of illegal business centres, the responsibility also falls on the trade licence-issuing authorities. Also, it points to the absence of any inspection mechanism. More importantly, however, the situation speaks of a lack of co-ordination between the city planners and the trade regulators.

RAJUK has earned itself a reputation for giving rise to controversy. Its dismal dealing with allocation of some 300 residential plots in Baridhara left the government's credibility bruised and battered even after the prime minister's judicious intervention and cancellation of its distribution plans. Now that it has taken a decision to rid the residential areas of illegal business centres, it should stick to the plan; for its success in this case would redeem its lost credibility.

Tip of the Iceberg

DRUGS USED in the treatment of cancer, especially those required for chemotherapy are costly because they belong to the life-saving group of medicines. Cancer diagnosed at very advanced stages is irreversible but certain categories of it are treatable with reasonably good results if detected early and taken up under specialist care.

In that kind of a scenario, profit margin would be huge for dealers and traders who can pass off spurious anti-cancer drugs or those that have expired potency dates as genuine ones in the market.

The Daily Star in its last Friday issue front-paged a report titled 'Raw deal for cancer patients' which brought into sharp focus the racket wreaking havoc on cancer treatment in the country. Barring limited local production, most of the cancer drugs are imported under registration with the Drug Administration authority so that the latter ought to be in the know of the procurement level in a given year. The third source of their entry into the local market is, of course, smuggling. And there are reasons to believe that smuggled varieties are outstripping the local and imported supplies of the drugs. The resultant bane is three-fold: cancer patients are being shortchanged topped off by an aggravation of their carcinogenic conditions; not only substandard but dangerous substitutes are flooding the market; and finally, Gresham's law about 'bad money driving good money out of circulation' is coming into play with the locally manufactured drugs receiving a setback through some unsold stocks, ironically where the industries concerned should have been incentivised. Since the sellers of fake medicines can easily undercut prices the marketability of imported drugs, too, is affected badly.

We think this is just a tip of the iceberg. The problem of drug-smuggling or intrusion of substandard medicines is not merely confined to cancer treatment; in fact this has ensnared the entire market of medicines. The Drug Administration is supposed to be the designated central authority but it is clearly losing the battle against the scourge. It needs to be revamped in term of manpower, equipment, including laboratory facility, and enforcement capacity.

A Splendid Convergence

AROUND two million devotees from 45 countries have converged on the eastern bank of the river Turag for the annual Biswa Itjema. Bangladesh is proud to be hosting it. This is the second largest congregation of devout Muslims in the world after the Holy Hajj. In fact the large tract of land covered by a huge canopy becomes a place of pilgrimage every year.

The number of devotees has increased year after year. Those who arrive late don't mind putting up outside the shade of the vast canopy. Hundreds of buses, a good number of trains and steamers and launches were engaged in carrying and ferrying the devotees to the place of the Itjema. The sheer scale of human mobility, bonding and religious fervour makes Biswa Itjema a truly world-class event. A huge number of policemen have been detailed for duty to maintain law and order and prevent any unfortunate incident in the area just as a temporary hospital has been set up to cope with any medical emergency. Let the arrangements work without a glitch.

The main attractions of the Itjema is the Akheri Munajaat on the last day of the meet. That is when divine blessings are sought for the safety, security and well-being of the Muslim world. Political leaders of the country also take part in the Munajaat. We only wish that they practise what they seek. That can save the country from many ills and spare the people of confrontational politics.

Shoot at Sight: An Appraisal

by Zaved Hasan Mahmood

Our society is currently hostage to terrorism and violence. Giving police the authority to 'shoot at sight' will never solve these problems. Enacting new repressive laws or empowering the police with more lethal arms will not even begin to address the deeply rooted problem of violence.

Right to Life

Recent studies indicate that extra-judicial killings by law enforcement agencies are one of the main causes of violation of international human rights guarantees, including that of the right to life.

All four major human rights treaties underscore the obligation not to derogate from the right to life under any circumstances, even during an emergency. Article 3 of the Universal Declaration of Human Rights states that: "Everyone has the right to life, liberty and security of person", while article 6 (1) of the International Convention on Civil and Political Rights clarifies the meaning and scope of the right to life and states: "Every human being has an inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

The UN Human Rights Committee, which is charged with monitoring the implementation by states of the ICCPR, interpreted the scope of Article 6 of the ICCPR in two of its general comments. In the first, it stated that the right to life is a right which should not be interpreted narrowly. The Committee considered that states should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security and police forces. The deprivation of life by state authorities is a matter of the utmost gravity. Therefore, "the law must strictly control and limit the circumstances in which a person may be deprived of his life." The Committee also state that where a deprivation of life purport to be justified under international human rights stan-

dards, certain principles may be invoked to assess such a claim.

Permissible Deprivation of the Right to Life

Firstly, the deprivation of life must be a proportionate response in the circumstances. A killing can never be justified solely by proof that it resulted from the application of force for a purpose permitted by law. The deprivation must be in the circumstances necessary to accomplish the purpose(s). As the European Court of Human Rights noted in the Handyside Case (1976), the concept of proportionality is inherent in the idea of necessity. All international human rights instruments accept the principle of proportionality in the use of force. The application of proportionate force, which may cause deprivation of life, should be judged by the circumstances of a particular case, and must be based on an assessment that no lesser degree of force was possible to achieve the requisite and lawful purpose. However, the concept is directed to the notion of force as continuum, ranging from no force to the ultimate degree of force. Because the laws grant the power or authority to use force it does not entail that any degree of force may be used to apply that power. Thus, it is argued that in some cases it may be unjustified to use any force whatsoever, for example, where a suspect willingly submits to arrest but is physically assaulted and manhandled. In the Farrell Case (1982), the European Commissioner of Human Rights observed that "the 'end' of arresting could not justify a deliberate decision to kill, unless the circumstances were

such that there was an immediate threat to life, whether the soldiers' life or some other life".

Secondly, deprivation of life may be justified only in defence of life. The standard which should evolve at the international level, if the right to life is to have the status intended in the international instruments as the supreme right, is that life may only be lawfully taken to protect life. It is not permissible under international human rights standards to subordinate the value of life to other values such as protection of honour, property, law enforcement or national security. Thus it is not permitted to shoot causing deprivation of life of alleged or suspected muggers or robbers trying to escape. Deliberate killing of another and use of lethal force is justifiable only in principle when it can be shown that this was a response to the imminent threat of injury or death from the victim or victims.

Thirdly, the question of justification of a deprivation must be subject to an independent judicial process. It is recognised under international human rights that a minimum requirement must be that all killings are subject to an independent judicial process, wherein if a trial of a person who has killed is possible, a decision can be made as to whether it was justifiable or not. If the killing was not justified, the person responsible should be punished. If the use of deadly force by security or police personnel is not a subject to prosecution, all such killings must be treated as arbitrary. International standards preclude the concept of Acts of Indemnity or Immunity, where they

result in the non-prosecution of officials for acts violating the right to life during emergencies or otherwise.

Despite the existence of these international standards, globally thousands of people are reportedly arbitrarily killed every year by security, police and law enforcement officials. Many organisations, groups and individuals concerned with human rights have become more and more aware of the extent and gravity of inhuman practices perpetrated by governments and other organised forces in many parts of the world. The arbitrary application of special legislations, which empower the security forces to use force and to shoot to kill, without providing necessary safeguards against abuse of such powers, is an immediate cause of many such killings.

On several occasions, the UN Human Rights Committee has urged states to amend such repressive laws. In the De Guerrero vs Colombia Case (1982), it asked the Colombian government to amend the laws which empower the law enforcement authority to use force disproportionately, and provide immunity from any judicial action. In its recent comments on India's periodical report, the Committee also asked the Indian Government to change the laws (such as the Armed Forces Special Powers Act 1958) which became a continuous threat to the right to life citizens. In my view, the DMP Commissioner's remarks seem totally inconsistent with international human rights jurisprudence and principles.

Other International HR Instruments
The DMP Commissioner's proposal is also inconsistent

with UN document regarding law enforcement authorities. In 1979, the United Nations General Assembly adopted the UN Code of Conduct for Law Enforcement Officials, Article 3 of which states that "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of the duty."

The UN's Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990 sets out clear conditions when the use of force and firearms permitted. Principle 9 states: "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against imminent threat of death or serious injury, to prevent the perpetration of such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, lethal use of firearms may only be made when strictly unavoidable in order to protect life."

Rule of Law Not of Force

Our society is currently hostage to terrorism and violence. Giving police the authority to 'shoot at sight' will never solve these problems. Enacting new repressive laws or empowering the police with more lethal arms will not even begin to address the deeply rooted problem of violence. Rather this kind of initiative will only serve to invite and initiate more violations of human rights. We strongly believe that such an initiative should not be taken. As we face the challenges of the twenty-first century, we need rule of law not rule of force.

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Confidence-building Measures in South Asia are Difficult

Confidence-building Measures (CBMs) can work when thrust is given at bilateral and multilateral levels in the ambience of the SAARC. CBMs are difficult in the region, in some ways, both politically and otherwise, but not impossible and beyond reach. Greater political will is necessary for this and one can only hope that it should be in the offing despite problems.

CONFIDENCE-building measures in South Asia constitute an important element in the development of political, economic, social and other multi-faceted relations in the region, which is afflicted by bilateral differences and even animosities between some countries that unfortunately retard the progress of developing co-operation among the seven nations. The South Asian Association for Regional Co-operation (SAARC) that formally came into being as a boost to the fledgling economic and social co-operation among the nations of the most populous region in the world is unquestionably making progress.

However, there can be no denying that the political environment in the region as a whole often puts a brake on the assiduously nurtured SAARC and this is somewhat evident from the fact that the last SAARC summit had to be postponed due to certain reasons. The fact remains that calling the summit off which was to take place in Kathmandu dealt a blow to the regional body's organisational activities since the event was expected to take a number of decisions at the highest level to bolster economic, and particularly trade, activities.

The fresh tensions between two principal players of the South Asian scene - India and Pakistan - over Kargil and later

a change of government in the latter were largely responsible for worsening the situation in the region. While the two countries traded charges in their traditional manner accusing each other for the deteriorating conditions, the smaller nations in the region watched rather helplessly this undesirable downswing of the political climate among the SAARC member-countries. The issue that arises is the question of how to get rid of this situation as far as possible and promote healthy environment for the welfare and betterment of the vast multitude living in the region most of whom are mired in abject poverty.

I am writing this column from Colombo where journalists, columnists and scholars from the SAARC member-nations assembled to discuss different aspects of the confidence-building measures (CBMs) - potentials and prospects in the region. Clearly, the discussions that lasted for four days spread over several sessions were devoted on both pious and innocuous kind of matters as well as on vexed issues. Not surprisingly, the contentious subjects drew more deliberations be-



cause of the complexity of the matters and their seemingly intractable nature. Nonetheless, the hopes that emerged from the conference which was also attended by scholars from some other countries like China and the United States was that CBMs could be carefully promoted and developed to the extent that the region succeeds in overcoming the inhibitions and mistrust. The region should be put on a collective endeavour of progress and development.

The question is whether these confidence-building measures are possible in the given situation when not only relations between the two main countries - India and Pakistan - have touched almost lowest ebb at the moment because of the near-war condition during the last few months. Does the scenario look to be that ominous that the South Asian region cannot make progress in their vaunted objective of economic progress in a collective spirit? Is it possible to overcome this perilous situation for the sake of peace and prosperity in the area?

of the spirit that was desirable at the time when fear of a war was lurking. May be such spirits contributed even if in a scant manner - to the lessening of the tensions.

The participants in the conference on CBMs differed on many matters as they sought to touch the crux of the main problems when India and Pakistan have, in a way, Herculean tasks to reduce tensions and some other nations have bilateral and other differences on trade and other issues' at times stemming from mistrust and lack of confidence. But the message that was loud and clear: the willingness and zeal to work together for collective betterment despite problems are essential. Here, it is also pertinent to mention that bilateral co-operation are also important to promote overall collective progress. For instance, Dhaka-Colombo co-operation in different sectors need to be further strengthened although such co-operation is on the increase in some areas in the recent times. The formation of the business council by the two countries last year graced by their foreign ministers here was a step in the right direction. So, was the re-

OPINION

This Bill is Dangerous: Another View

Shah AMS Kibria

It was taken aback by the editorial in your paper of 28 January, 2000 on the Public Safety Bill tabled in the Parliament. I am taking the liberty of addressing this letter to you because I have confidence in your fairness and objectivity. I would leave it to your readers to decide whether your remarks are ill-judged but these are certainly biased observations.

The problem of law and order is not new. It has plagued the country for a long time and both the last government as well as the present government tried to deal with the problem in their own ways. One of my first columns in your esteemed paper was written on this subject in 1992. The BNP government enacted the Anti-Terrorist Act to cope with this menace. The present government has introduced a similar law but with

significant difference. I would have been happy if you paused and pondered on the rationale for such successive efforts before launching a bitter attack. Obviously you failed to notice the difference between the present bill and the Act which was passed and used by the previous government. Nor have you given adequate thought to the human rights of those who lose their life or limb or their property.

I would like to submit to you that the present bill is a remarkable improvement over the earlier effort made by the BNP government. You are no doubt fully aware of the circumstances in which both the BNP government and now the Awami League government felt the need to strengthen the provisions of the law to effectively deal with the law and order situation. Criminal activities in general but terrorism, mugging and extortion in particular have become a serious problem for the law abiding citizens of the country. The business community has been clamouring about it. The present government has taken the initiative to smash the criminal gangs which were operating with impunity in the southwest districts of the country. The bold and thorough cleansing operation in those districts had earned the government appreciation and gratitude of the millions of citizens who were helpless hostages to these criminal gangs. The government moved firmly and achieved remarkable success. There can thus be no question about Prime Minister Sheikh Hasina's commitment and determination to combat this evil. She

is equally determined to root out crime from the urban centres but the nature of the problems are different and there are a number of difficulties in the way. The most important of these difficulties is the delay in the trial and punishment of the accused criminals. Notorious terrorists with several murder charges are set free on bail. Regardless of the seriousness of the crime, the trial takes years and years. Guilt is never established and the guilty goes unpunished. On the one hand, the authorities are frustrated because criminals cannot be punished and on the other hand, criminals are encouraged because law-enforcing agencies are seemingly helpless either to keep them behind the bar for any length of time or to get the trial completed within a reasonable time. This is, undoubt-

edly, the crux of the problem. The bill introduced by the government in the House addresses these problems.

I wish to invite your attention to some of the significant features of the bill. We can surely judge these points on the basis of the common yardstick of our understanding of public interest.

- First, the accused will have the right of appeal to the High Court. The right to appeal to the highest court of the country removes in one stroke whatever reservations one may have had about fundamental human rights.
- There is no death penalty in the present bill. The law passed by BNP had provisions from death penalty.
- Bail can be granted under the proposed law though it has been made more difficult.
- The enquiries must be completed within one month which can be extended by 15 days and by another 30 days under special circumstances. Once the trial begins, it will continue uninterrupted till the verdict is given.
- The trial must be completed with 90 days but under certain special circumstances, within 120 days.
- The punishment for false accusation will be 7 years of jail term.
- You will see Mr. Editor, that the thrust of the bill is on speedy enquiry and trial. It addresses a precise weak point of the existing law which tends to prolong the proceedings and causes inordinate delay. Having considered these features of the bill one would inevitably come to the conclusion that the net result of the changes made in the new law will shorten the enquiry and trial period. You will no doubt agree with the adage that justice delayed is justice denied. The bill aims at ensuring justice within a reasonable period of time. Apart from shortening the enquiry and

trial period, there are really no basic changes from the existing law.

The letter will become too long if I go into all the features of the proposed law. I am certainly not an expert on the subject but we all know that while crime remains embedded in human nature, the manner in which it is committed changes with the passage of time. Extortion by using terror tactics is a somewhat recent phenomenon in our society. Destroying cars and other vehicles by setting them on fire is also a recent phenomenon. Throwing acid on women by men was unheard of when we were young. The new bill proposes to deal with all these rather recently devised forms of crime usually found in urban centres in Bangladesh. It is also an attempt to ensure justice to those who are victims of terrorism, extortion and wanton violence. I hope your readers will not form a hasty opinion on a bill which has been drafted with utmost care in order to deal with the urban crime which seems to have become a major constraint in our economic and social development effort. Why should it be seen as an attempt to muzzle the Opposition? Surely you are not suggesting that we should permit opposition activists to commit terrorism in the name of democracy? Should the present ruling party go into opposition, they should not fear this law because this law is aimed at terrorists and not on lawful activities of a political party. I shall be grateful if you will be kind enough to publish this letter in your esteemed paper. This will, I hope, give your readers an opportunity to see the other side of the coin which your editorial seems to have neglected. Why should you not believe that the government is making a sincere and genuine effort to give the people respite from the terrorist? The author is the Finance Minister of Bangladesh.

To the Editor...

Water table forecast

Sir, The 200-page World Watch report for world 2000 is apprehensive of underground water problems during the coming decades in India and Bangladesh (DS, Jan 17).

In Bangladesh, too many deep tubewells have been installed as part of development projects, and the local press carried occasional reports of concern on the negative implications.

We have a survey report for the next one or two decades? The government should be aware of the long-term implications of usage, processing, disposal and development projects. The technical departments do have scientific forecasts, but the overall picture may be made available to the planners, and analysts outside the core area, for wider publicity and awareness.

Water tables play important geological role, and interactions in nature are complex in the micro and macro areas. Therefore, the public should be kept informed about issues like these.

A Husain Dhaka

Standard of the questions

Sir, I have some objections regarding the questions set for Bankers Recruitment Test held on December 31, 1999. This is a very important test. Therefore, the questions should have been of worthy standard. However, this test did not maintain such criterion. Some of the questions asked in the test were "where is Dhaka University Science Faculty," "From which department did Dhaka Univer-

sity V.C. secure his degree and so on.

Is this test meant for Bankers Recruitment or Dhaka University admission? How will the newly recruited bankers be benefited from knowing where the DU vice chancellor secured his degree?

We request the concerned authorities to be more prudent and use their better judgement in such matters.

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Increasing house rent

Sir, I would like to thank the DS for bringing out the details of the Consumers Association in Bangladesh survey, which was published in your esteemed

daily on January 20, 2000. I am a retired person and have been living in a rented flat at Uttara for nearly four years. But I wasn't aware that in our country there are laws to control house rent.

I hope that the CAB authorities would come to help me if there is an increase of my house rent this year. After all, I am a retired teacher having no scope to meet the increasing cost of living now.

If the people are conscious about the implication of laws helping people in distress, much of our discomfort and inconvenience will be solved. We never try to fight for a just cause because of fear of insecurity and helplessness.

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