

SKS and the Buriganga

WE expect Sena Kalyan Sangstha (SKS) to lead the way in saving the Buriganga from the encroachers and not to be a part of the vested group that is obstructing it. SKS is one of the most respected and well-run organisations in the country. It has a high profile and credible managing body with the Chief of the Army Staff as its ex-officio chair.

Therefore we expect, and the country expects, that the highest standards of not only financial management but also of ethical concerns will be upheld by this premier national institution. When the Buriganga is being gradually choked and all sorts of illegal encroachers are contributing to its death, we expect the SKS to be with the people working to revive the city's lifeline. We do not expect SKS to be a part of anything that will hurt public interest, leave alone be a part of a nefarious plot to occupy land from the very river on which the survival of the city depends.

However, an unfortunate gap is emerging between the public's expectation of SKS and its activities. When this newspaper reported about the massive encroachment on the river caused by SKS's construction of a godown and berthing facility, the SKS promptly denied it. Then faced with evidence it changed its position and said that if survey by BIWTA, which is the official custodian of the river banks, proves that its construction site is beyond permissible limit into the river then it will withdraw. Now the survey has been conducted and the SKS has accepted its findings last Wednesday, but has refused to budge from where it now stands — encroaching 600 by 160 feet of foreshore and 97 by 160 feet of the main channel of the river at Postagola.

There is a conditional agreement of moving away from the main channel if BIWTA dredges the river. But no word of moving away from the foreshore yet. SKS can easily shift its godown elsewhere. As for its berthing facility, it can easily be constructed in a way that does not encroach on the river. What we need here is placing public interest above narrow organisational interest.

The Chief of the Army Staff in an interview to the BBC clearly stated that if the survey should prove SKS was encroaching then it would be removed. The survey is now at hand. We expect action as promised. We urge the SKS to become a symbol of a corporate body that sets examples by placing environmental and public concerns above its own interest so that we can urge others to emulate them.

There are too many who are destroying our city, our environment and our river. We are greatly in need of others who are committed to resist it. We want the SKS to be with the people, not with the encroachers.

How Dare?

THE coldblooded murder of a local leader of the ruling Awami League at Armanitola in the old part of Dhaka city has been an act of barbarism. We express our condemnation of the gruesome incident and offer our sincere sympathies to the members of the bereaved family. Young Kamal Hossain, a vice-president of Awami League ward committee No 67 had reportedly objected to the hoisting of Pakistani flag on the rooftop of a house belonging to Jahangir Mohammad Adel, an influential Jatiya Party leader and a son-in-law of the infamous former governor of erstwhile East Pakistan, Monaem Khan. The hoisting was done on 14 August, Pakistan's independence day. Kamal not only protested verbally to that but also organised a procession which chanted anti-Adel slogans and marched up and down the roads around Armanitola.

This was undoubtedly the most logical and patriotic reaction one could expect from a citizen of independent Bangladesh. This had purportedly angered Jubaed Mohammad Adel, son of Jahangir Mohammad Adel, and the former accompanied by his friends and riding a car caught up with Kamal at around 11:30 in the night and allegedly shot at point blank range killing him instantaneously. We salute the spirit of this young man who did not flinch from demonstrating his loyalty to the country when others seemingly trifled with the outrageous aberration. We are rather surprised that despite newspaper reports of the flag hoisting incident with photograph appearing on 15 August, local administration had done nothing throughout the day until Kamal gave his precious life protesting what amounted to an act of treason by his neighbour.

We demand an inquiry into the inaction of the local administration that let the flag flutter for a long time and also exemplary punishment for the killers of Kamal according to the law of the land.

HSC Results

UNCERTAINTY looms over the publication of Higher Secondary Certificate examination results. The board authorities may not be able to declare the results in time because employees of the five boards of education in the country have gone on a strike from Thursday last, putting forward their four-point demands. But, however much justified their demands may be, the strike will, no doubt, impose unwanted complications on students' further tutorial pursuits. However, the chairman of Dhaka Board has expressed optimism that "results would be published by August 27, that is within the 90-day stipulated time after the date of the examination." Earlier, on August 9, at a meeting of board chairmen presided over by the education secretary, it was decided to publish the results by August 21. We do not know whether this is at all possible now, given the strike by board employees.

Meanwhile, the parliamentary committee on accounts has directed to form sub-committees in each board of education and scrutinise salaries of employees since the time of their appointment. These sub-committees will examine whether the employees are getting more salaries than what has been featured in government rules. It is worthwhile to mention here that according to 1961 board ordinance, board employees do get better pay than those in other government offices. Our point, however, is that administrative intricacies must not delay publication of the results. For, if it so happens, it would simply delay the students' next educational steps. The board authorities or employees must not be catalyst in jeopardising their career.

Prime Minister's Remarks on Judiciary and Contempt of Court

An Attempt to Secure Supremacy of Executive over Judiciary?

It is not only modification of the law, but also uniform application of law to similar cases and provision of logistic support to the Judiciary that deserve due consideration. But until such measures have been effectively taken, the judges are obliged to operate within the existing framework of law and procedure. Anything to expect beyond that would be asking the judges to break the rule of law.



Currents and Crosscurrents

by M M Rezaul Karim

lawyers of the land issued a statement, condemning Prime Minister's recent statement and provided grounds or advice for institution of a case for contempt of court against the Prime Minister.

The Supreme Court Bar Association deliberated on this issue at length and authorised its President and the General Secretary to institute contempt proceedings. The Minister of Law, however, took a worthwhile initiative to settle the matter amicably and out of court. He succeeded in arranging a meeting of the distinguished lawyers with the Prime Minister, who decided to issue a statement to clarify and water-down the issue in order to ward off the need for instituting a proceeding. The lawyers expected Prime Minister's proposed statement would tantamount to the withdrawal of her earlier disparaging remarks or contain expressions of regret for those remarks. But to the disappointment of many, the Prime Minister reneged on her pledge the very next day on the 15th. Instead of the Prime Minister, the Prime Minister's Office will issue a statement to the press. This, according to the eminent lawyers concerned, was not sufficient and would put the problem back to square one. The Supreme Court Bar Association is likely to take up the matter of filing the contempt case again soon.

Meanwhile, the principal opposition party, the BNP and its allies, decided that all their Members of Parliament numbering about 131 in total, would institute collectively a contempt of court proceeding against Sheikh Hasina. This is scheduled to take place on the 21st August. Although it may not be necessary for so many signatories to do so, the proposed measure may have been taken in order to manifest a show of parliamentary force of the opposition political parties. It may be recalled that the Prime Minister had made similar unsavoury remarks against the Judiciary, resulting in the filing of a case of contempt of court against her. Consequently, the Chief Justice himself reprimanded her and advised her to use caution in making remarks about the Judiciary.

Although the entire issue arose out of the need for, correctly or not, revising the procedure and practice of granting bail to criminals by higher

courts of law and to ensure speedy justice, the moot question boiled down to the issue of transparency and accountability of the Judiciary. It can be well argued that all the three pillars of state, such as the Legislature, the Executive and the Judiciary, in both the Presidential and Parliamentary forms of government, enjoy a good deal of independence of action and provide some measure of check and balance against one another. It is, therefore, imperative to avoid any erosion of the legitimate authority, enjoyed by the Constitution, of any of these three principal state organs and to prevent exercise of undue influence of one over the other.

The accountability for the Legislature is to the people and that is ensured, in the existing Parliamentary form of government, every five years during the election. This affords an opportunity for people to choose and change, as the people consider fit, their own representatives in the Legislature.

The Executive derives their quality of accountability from the Parliament, whose members elect the Head of the Executive. The members of the Judiciary, unlike the other two organs, are not accountable to their appointing authorities, who in their case, is the Executive. But once the members of the highest strata of the Judiciary, namely the Supreme Court, are appointed, the Executive has no longer any authority to dismiss them. Yet, they are held accountable to the Supreme Judiciary Council, which can remove them in accordance with the relevant constitutional provisions. Again, the system of appeal from one court to a higher court at several tiers constitute a built-in quality of transparency and accountability of the judicial process.

It, therefore, becomes clear that all the three principal organs of the state are accountable in one way or the other to different groups of people. Then what more one expects out of the Judiciary in order to render themselves more accountable? The judges have to give their judgement on the basis of existing laws, conventions, practices, evidence, arguments of lawyers and citations of Anglo-Saxon jurisprudence. Loopholes, indeed, may exist in the law and practices in vogue, which may allow some criminals, as alleged, to get bails eas-

ily and commit further crimes. These loopholes, however, first need to be identified, then remedial action by way of suitable amendments or modifications be taken to plug them. Secondly, greater efforts and prompt actions are called for by filing appeals in higher courts against granting of bails in some deserving cases. But another problem surfaces itself at this stage. If it was an Awami League leader like Akhtaruzzaman Babu of Chittagong who had jumped bail after allegedly committing murder, then no appeal was filed by the government against his subsequent bail. On the other hand, appeal against a BNP leader or worker having been granted bail would be more enthusiastically preferred by the government even for less serious offence. It is, therefore, not only modification of the law, but also uniform application of law to similar cases and provision of logistic support to the Judiciary that deserve due consideration. But until such measures have been effectively taken, the judges are obliged to operate within the existing framework of law and procedure. Anything to expect beyond that would be asking the judges to break the rule of law. The Prime Minister had been on record for having repeatedly stated her faith in the rule of law and advocacy for the rule of law to follow its own course and speed. People do expect her to genuinely adhere to her stated conviction and do not want her to bend the course of the rule of law or interfere in its speed. She cannot and should not try to make any exception to these rules. Would she do so?

The author, a former Ambassador, is a Member of BNP's Advisory Council.

Anatomy of a Coup: A Journey of a Quarter Century

Continued from yesterday

HOWEVER, Mustaque's secret liaison was discovered in October 1971 and he was placed under virtual house arrest in Calcutta.

According to Herb Gordon, the American Consul General in Calcutta, the secret contacts with Mustaque were handled by the senior political officer at the Consulate, George Griffin. Although Gordon knew little about what had transpired during these discussions, he knew that Griffin had handled them. A decade later Griffin would be at the centre of a diplomatic storm between Washington and New Delhi when he was denied permission by India to take up a posting at the US Embassy.

According to India Today, India denied Griffin permission to live in New Delhi due to "griffin's questionable role during the 1971 Bangladesh War." During my three hour interview with Mustaque at his home in Dhaka in 1976, Mustaque confirmed the contacts that had taken place in Calcutta in 1971, but refused to specify what had been agreed with the Americans at the time. "If you want to know," Mustaque told me, "You should go ask Nixon. I am not going to tell you."

Although some American scholars have questioned the relative importance of these contacts, a newly declassified "Memorandum for the Record" describes in detail a White House meeting on August 11, 1971 specifically held to discuss

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Lawrence Lifschultz

the Bangladesh crisis. It was attended by Richard Nixon, Henry Kissinger, and Harold Saunders, among others. In the document, John Irwin, Under Secretary of State, is quoted as saying, "We have had reports in recent days of the possibility that some Awami League leaders in Calcutta want to negotiate with Yahya on the basis of giving up their claim for the independence of East Pakistan." According to a member of Mustaque's 1971 Calcutta staff who this correspondent interviewed in 1976, Irwin's reference to "some Awami League leaders in Calcutta" referred only to Khondakar Mustaque Ahmed and his two leading proteges from the days of the Calcutta liaison — Mahbub Alam Chashi and Taheruddin Thakur.

Following the independence of Bangladesh in 1971, Mustaque was pardoned by Mujib for his indiscretions but given only minor positions in the post-independence regime. Yet, four years later it was Mustaque, together with Chashi and Thakur, who emerged as the political leadership of the putsch which killed Mujib. In the immediate post-coup period Mustaque appointed to leading positions in the bureaucracy and national intelligence organisations people who had been prominent among the Bengali "Vichy" of 1971 — the minute per cent of the Bengali population who had actually collaborated with the Pakistan Army following Pakistan's crackdown in Dacca in March 1971.

Among these were AMS Saffar, Director-General of the National Security Intelligence (NSI) agency, and Shaiful Azam, former chief secretary of the East Pakistan government during the period of the civil war. A cohesive right-wing political and intelligence group, which had risen to prominence in the Pakistan period and were swept aside by Mujib after independence in 1971, finally staged the coup in August 1975, in alliance with a faction of Mujib's party and, related themselves in power. What happened in August 1975 was by no means as simple as it was once made to

appear. The version accepted by both the foreign and Bengali press was a simple story. Mujib's regime was in trouble. The country had just suffered a famine that had killed an estimated 50,000 peasants, for which government incompetence and corruption was blamed. Democratic rights were increasingly being crushed by the authorities who were closing newspapers and locking Mujib's opponents away. Civil unrest and rural insurgency were growing problems. In this atmosphere, so the story went, six young majors with 300 men under their command took it upon themselves to organise a putsch, acting with a mixture of motives stretching from personal ambition to their own Messianic delusions of Islamic Bonapartism.

The story emphasised that they had acted alone and unilaterally, and that after the killing of Mujib they suddenly decided to pick up Kondakar Mustaque as a replacement. In taking on the presidency, Mustaque was portrayed with all the innocence of a victim of circumstance. But whether Mustaque had himself taken part in a complicated plan nearly a year old, involving a variety of links, remained unexamined.

In 1977, this correspondent met an unquestionably authoritative source with intimate and direct knowledge of the planning of the coup. This individual, a retired Bangladeshi military officer, was the consummate "insider" to the events of August 1975, and the planning which preceded it. I had met this individual briefly in 1975 and had hoped to meet him again. However, twenty-two years would elapse before a meeting was ultimately arranged. After prolonged negotiations through intermediaries I flew from the United States and made contact with this individual in a European capital. Our meeting lasted five hours. Many new insights were gained and many old ones were confirmed.

Among the many things that he talked about my source described how both Mustaque and

taque was portrayed with all the innocence of a victim of circumstance. But whether Mustaque had himself taken part in a complicated plan nearly a year old, involving a variety of links, remained unexamined.

General Ziaur Rahman had been in contact and discussions with the Majors for more than six months prior to the actual coup. This individual had personally attended numerous meetings that Major Rashid had held separately with Zia and Mustaque. In his television interview with Anthony Mascarenhas, Rashid described a meeting with General Zia on March 20, 1975, in which a coup was discussed in detail. This meeting took place five months before the coup. My source attended this meeting with General Zia but claimed it was not the first in which plans for a coup were discussed.

General Zia, who was then Deputy Chief of the Army, expressed continuing interest in the proposed coup plan, but also expressed reluctance to take the lead in the required military action. The junior officers had already worked out a plan, Rashid told Zia, and they wanted his support and leadership. Zia temporised. According to the account given by Rashid to Mascarenhas and confirmed by my source, Zia told him that as a senior officer he could not be directly involved but if they junior officers were prepared, they should go ahead.

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The fifth installment appears tomorrow.

OPINION

Direct Election for Women is a Non-negotiable Demand

Farida Akhter

At the age of eighteen, a citizen of Bangladesh, man or woman, can become a voter. This is the constitutional right. They can vote for choosing the representatives from the local bodies up to the national parliament. No one can question whether women can vote rightly or not. Even if the majority of women are illiterate, live in the villages and often in poverty conditions, yet their votes are counted equally. There is no doubt that women can make the right decision.

In the national Parliament, the highest law making body, the general seats (300) are occupied mostly by men. Only a handful of women including the two leaders of Awami League and BNP are found in those seats. Women as voters have contributed significantly to the election of the members in these seats. However, in these seats the contests were among men only (except in few seats, where women contested as a candidates). So, women as voters had to choose between one man or the other.

On the other hand, in the National Parliament, at present there are 30 seats reserved for women. These seats are supposed to serve two purposes: one to encourage women to be in the Parliament and therefore, participate more directly in the national politics, and secondly, that the women parliament members would contribute towards raising women's concerns in the parliamentary discussions.

The Constitution of the People's Republic of Bangladesh was adopted on 4 November, 1972 and came into force on the 15 December, exactly one year after achieving victory in the liberation war to establish the independent nation of Bangladesh. The Constitution rightly identified the need for

keeping the reserved seats for women in PART V in the Section on Legislature, Chapter 1 — Parliament:

Article 65 (2) Parliament shall consist of three hundred members to be elected in accordance with law from single territorial constituencies by direct election and, for so long as clause (3) is effective, the members provided for in that clause; the members shall be designated as Members of Parliament.

Article 65(3) Until the dissolution of Parliament occurring next after the expiration of the period of ten years beginning from the date of the first meeting of the Parliament next after the Parliament in existence at the time of commencement of the Constitution, (Tenth Amendment) ACT, 1990, there shall be reserved thirty seats exclusively for women members, who shall be elected according to law by the members aforesaid.

Provided that nothing in this clause shall prevent a woman from being elected to any of the seats provided for in clause (2).

Now the constitution itself is 28 years old, so is the clause on the women's reserved seats. Within this period, the number of reserved seats have increased from 10 to 30, i.e. from 3.3 per cent to 10 per cent of the total general seats. The tenure of the reserved seats has also changed several times, because each time, it was made for an extension of 10 to 15 years. However, the mode of election of the seats did not change. It remained the same as it was written in 1972, that "shall be elected according to law by the members aforesaid" (i.e. the parliament members in the general seats). In practice, it became a "election" of women by the majority party

in the parliament. In other words, the political parties winning the majority seats get the bonus of 30 women seats in their favour.

Women's movement has been taking this consideration of reserved seats in the parliament very seriously. They have identified that the reserved seats are useful only if women can actively participate in the election process, build up a constituency of their own, commit themselves to the cause of women and be accountable to the general public. Therefore, in 1987, the Oikyaabadda Nari Samaj (the united women's front of more than 19 women's organisations), had first raised the demand for direct election to the reserved seats. It was during the movement for democracy that women had identified this as an important demand. It was part of the questions related to democracy. We wanted to be sure that if we have an elected government and a parliament, we must also have elected women members. After the fall of the autocratic regime, the women's organisations met Khaleida Zia and Sheikh Hasina and requested them to accept this demand from the women's movement.

Since then, we had two terms of democratically elected governments. In 1991 BNP won the majority in the parliament, therefore got the bonus of 30 seats, and since 1996, Awami League has been enjoying the benefit. Now, these two political parties have developed a vested interest in the reserved seats and are not willing to change the system of election. They are happy to extend the period and even increase the number of seats. But they are not listening at all to the demand for direct election. Awami League has al-

ready brought up a bill in the parliament for extension of period, while BNP is still boycotting the parliament making it impossible for the amendment of the Constitution in favour of the Article 65(3). The provision of having two-third vote in the parliament requires some agreement between the two parties.

Now, after this term if there is no amendment in the constitution, then the reserved seats will not be there any more. It is likely that the two parties may finally agree only to increase the term keeping the same system intact. From the women's movement, the demand is for DIRECT ELECTION. On this question, the women's organisations have a united position. They do not want any compromise on this issue. It is a non-negotiable demand. They want to take all the troubles of going through the election processes and then come to the parliament. Women are quite well prepared for this. The government's bill is only to increase the tenure of the reserved seats. Sammilita Nari Samaj, the platform of united women's movement and other women's organisations have protested against the bill and demanded its immediate withdrawal.

We are facing the onslaught of patriarchal attitudes among the leaders of political parties, particularly men, vested with their own party interest, who gain from the system of indirect election. They want to disempower women even by bringing them into the parliament and making them "doll members" having no power to speak for themselves, let alone to speak in favour of the women in general. The male political leaders raise silly questions such as "Can women compete in the

election atmosphere dominated by the black money and terrorism?" "Can women seek vote from house to house, isn't it too difficult for them?" "Can women work so hard?" etc. The attitude is patronising, underestimating the ability of women and is a clear disrespect to the women's self-determination.

It is also very interesting to note how the discussions around women's seats are shaped in patriarchal discourses. Male politicians take it for granted that politics is a matter of black money and armed hoodlunism coupled with pressuring people for vote by visiting "house to house". Such an election system is essentially faulty, illegal and a violation of political rights of the citizens and must be challenged and changed. Patriarchal views on women's participation in politics are grounded on the assumptions that we must accept this undemocratic and unconstitutional behaviour of electoral process as normal. Demoralised basis of the activities of masculine politics is quite openly discussed. It is even assumed that every candidate will be equipped with "money" and "arms". Hardly any male politician talks about politics anymore; they are hardly concerned about accountability to the people. Election is something to get the "votes" by any means. Vote is like a commodity to be "bought" or to be "snatched" by piracy. Women cannot certainly do any of these. The demand for participation of women directly in politics in essence is to challenge such masculine corruption that has severely eroded the basis of the polity and the electoral process of democracy. Women then must connect in the elections directly, and not otherwise as preached by male politicians.

Women's demand for direct election therefore includes reform of the election procedure for all the parliament election candidates, that is, to make the election process free of black money and arms. This is not only for women alone. It should be for everybody. If the party nominations are given to the politicians and not to the possessors of black money and arms then the system will definitely change to the extent it can be thought of. Let the political parties make their commitments clear to the people.

However, the goal is to participate in the general seats competing with both men and women as candidates. To achieve this goal the political parties must give certain percentage of their allocated nominations to women. Women's movement has already demanded of the political parties a mandatory 10 per cent nomination for women in the general seats.

So, now that the term for the women's reserved seats is going to be over in the year 2001, and that the constitution has to be amended even to keep the reserved seats, we expect that the political parties will respond to the demand of women's movement for direct election to the reserved seats for next two or three terms. And that the number of seats to be increased from 30 to a reasonable number, such as either one per district i.e. 64 seats, or one-third of the general seats i.e. 100.

We expect that the two major parties, i.e. Awami League and BNP would show their good political intentions. Women will not allow the hypocrisy of political parties to play with the reserved seats for women anymore.