

## Millennium Summit: Our Expectations

THE UN Millennium Summit which opened in New York yesterday has been billed as a 'defining moment' since the world body's priorities need to be set right at this watershed between a by-gone century and the dawn of a new one.

To our understanding, what is 'a defining moment' is but 'a moment of truth', and of reckoning. Through more than five decades that the UN has been in existence we have only succeeded in scaling down the original intensity of our collective commitment to the UN charter in 1948, which in the light of an emergence of a whole new set of agenda, has placed a huge burden on the UN system. While rhetorics, pious platitudes and semantic obsessions have ruled the roost in the face of an increasing number of unresolved issues, quite significantly, and not through any conscious endeavour from the world's high and mighty, problems and issues got defined by their own intractability and obvious ramifications.

One such problem relates to worldwide violation of human rights ranging from poverty, squalor, malnutrition, ignorance and disease through denial of rights to religious and ethnic minorities to direct physical assaults and torture on individual citizens. We want human rights to be a way of life for the governments and peoples of the world.

Oversized defence budgets have whittled down what could be massive social sector allocations if the arms race in both conventional and nuclear weaponries had been abandoned.

The hand-in-glove dealings in small arms and drugs make a havoc with civic life as the scourge of AIDS places an additional strain on the inadequate health resources of poorer countries. The LDCs' right to development needs to be recognised in tangible terms with duty and quota free access accorded to their exportables as their debt burden is substantially reduced.

The melting of the polar cap gives a warning signal to the advanced countries of the north who have so far snuggled in the thought that it is only the southern hemisphere that will be the sole recipient of the greenhouse effects. Let the Kyoto protocol which stipulates the responsibility of OECD countries in stemming the environmental degradation be scrupulously adhered to by them.

Furthermore, we would certainly like the dialogue between civilisations to ensue on various tracks so as to improve conditions for their meaningful coexistence and mutual flourishing.

## Health Alarm Screaming

CRIMINAL indifference would be an apt description of the government's attitude towards the World Health Organisation (WHO) alarm bell - set off some three years back - that the people of Bangladesh are exposed to 12 infectious diseases, four of them resistant to conventional drugs. In a report published on the World Health Day in 1997, WHO had sounded the warning on the ominous possibility of kala-azar, filaria, dengue, jaundice, diarrhoea, hydrophobia, Japanese encephalitis, malaria, tuberculosis, gonorrhoea, syphilis and AIDS assuming pandemic proportions. Also, it advised the government to glean as much information as possible on the dreaded dozen. Unfortunately, and infuriatingly, according to a report front-paged in the *Prothom Alo* on Wednesday this basic data collection has gone by default over the last three years.

Well, the state-run Institute of Epidemiology Disease Control Research (IEDCR) did plan an orchestrated campaign, dividing the country into six regions and designating the *sadar* hospitals in Jhenidah, Nilphamari, Patuakhali, Sylhet, Chittagong and Mymensingh to collect information on the diseases. The project, however, went as far as printing of questionnaires and holding six workshops for civil surgeons and health officials of the six regions. Not a single word has reached the IEDCR yet. In fact, the project has been shelved since January this year. What a way to react to an imminent health emergency!

This is one aspect of the country's healthcare system we have often, through reports and editorial comments, tried to draw the government's attention to. We don't have a monitoring mechanism in place. The near-epidemic spread of dengue bears a strong testimony in this regard. Even more disturbing was the government's initial refusal to wake up from its blissful slumber. Thankfully, a late rearguard action, if we may call it so, helped us avert a major disaster.

Although we have sat on the WHO warning for more than three years now, hopefully we still have time to up our guard. The IEDCR plan should be revived. As we understand, the WHO grant is lying idle with the health ministry. So, funding is not the problem. We expect the government to show intensified activism without any further loss of time lest these 12 diseases strike to take a heavy toll of human lives.

## Sandwip Indignant

MORE than a week has passed since disaster struck the island of Sandwip. Despite urgent calls for succour to the flood victims many people are still going without state relief. Only last Monday a helicopter landed with a minister, two state ministers and local MP who represents the hapless people of Sandwip but they went there empty-handed, according to a report in the *Prothom Alo* on Wednesday. The state minister for relief and disaster management was furious on the local UNO for his management disaster but that could hardly relieve the suffering of the affected people.

More than a hundred thousand people of this area are passing their days in tremendous hardship and no amount of explaining by the local MP Mustafizur Rahman, who visited the area after about a week of the disaster, could apparently stop the floodhit people from telling the ministers about the real situation in the camps. We have already written in these columns urging immediate despatch of relief materials to the disaster-hit areas of this island but it seems all good counsel has fallen on deaf ears. Obviously the affected people felt hard done by through at the inaction of their local MP and the government which prompted the leaders to abandon a scheduled public meeting in the area. Once again we beseech the government, particularly the relief and disaster management minister to forget about rituals and send relief materials at once to Sandwip. People are fed up with all words and no action.

In response to the Prime Minister's comment about the role of Judiciary, a group of eminent lawyers made a statement claiming that the Prime Minister's comment amounts to contempt of court. The Prime Minister does not agree with this view, rather she asserted that she has just voiced the concern of the people. A group of lawyers condemned her and filed a contempt petition to the Supreme Court against her. It appears from the newspaper reports that the judges of the courts against whom the contempt remarks are allegedly made did not initiate a suo motu contempt case. Lawyers became infuriated after reading PM's remark in newspapers and started making statements and seeing no action from the bench, a group of lawyers came forward with a contempt petition. The concern for safeguarding the image of judiciary is undoubtedly a noble cause. But the image of judiciary, as we perceive, does not depend on the efficiency and neutrality of judges only, rather it depends mainly on the integrity and professionalism of the lawyers as officers of the court. In her alleged comment the Prime Minister indicated that lawyers are not playing a right role for maintaining the law and order. It is a pity that no lawyer came forward with an idea of initiating a discussion on the issue, nor they came with arguments explaining their position.

With respect to law and order, we are in big trouble. There is no controversy in it. The Executive, the Judiciary and the Legislature

**The Executive, the Legislature and the Judiciary need to sit together to solve problems of national concern. Leading personalities are wasting too much of national time in the aggrandisement of social milieu without taking into consideration the wishes of the people.**

can continue blaming each other and we can initiate more contempt proceedings to increase the number of our pending cases in the courts, but still the responsibility to shoot the trouble will remain unshifted. According to UN Human Development Report 2000, we have 5,150 cases pending per judge, highest in the world. If one judge hears and disposes of one case per day, working 218 days per year, then it will take more than 23 years to finish pending cases in their hands. Lawyers are well aware of this problem, but, perhaps, never felt intent enough to address the issue. Numbers of pending cases are increasing for several reasons including, but not limited to, (1) shortage of courts, (2) delay in investigation resulting in unnecessary appearances in the trial court, (3) procedural abuse by way of time petition and (4) lawyers' wrong advice to the Government.

It is the 5<sup>th</sup> reason that warrants a little elaboration. We have several Deputy and Assistant Attorney Generals working under the Attorney General in the Supreme Court. Likewise, we have several Assistant Government Pleaders and Assistant Public Prosecutors working under the Government Pleaders and Public Prosecutors in several

courts at district level. They are dealing with the cases between the state or organ of the state and private persons. A large number of pending cases belong to this category. If one follows the decisions of only the reported cases, he/she can easily discover that Government loses in many, if not over 75 per cent, of the cases. If she/he examines the judgment of the cases, then she/he would further find that the cases were contested unnecessarily. The Office of Attorney General or the Government Pleader or the Public Prosecutor has the advantage of examining the cases in advance to decide whether to contest a case or whether there is enough evidence to try a person or not. As lawyers, they can play a proactive role to reduce the caseload in courts and save public money and time for the better. However, these lawyers are working for the Executive branch of the government, and therefore, the Government's willingness to reduce the unnecessary workload from Judiciary may activate the lawyers working for them to address the issue. A joint initiative to screen unnecessary cases by lawyers' community and the Government may make the Judiciary's time and the Government's money more productive.

Lawyers also can play a vital

role in persuading the Government to increase the number of courts at all levels. Lawyers' resentment against the establishment of Upazila courts and regional High Courts during General Ershad's regime played as a deterrent against any initiative to increase the number of courts. The Supreme Court's judgment against the 8<sup>th</sup> Amendment issue establishing regional High Courts hinges upon the arguments of unitary character of the state. However, the unitary character can still be maintained if several venues are used for the same High Court Division, i.e. establishing new benches of the same court at different parts of the country to hear cases arising out of the region. Article 100 of the Constitution of Bangladesh supports such arrangement. Lawyers of the Supreme Court may find it inconvenient for continued practice, but people in general may benefit. The Executive Branch needs Judiciary's support for this sort of reform.

Another issue of concern, which needs Executive branch's attention, is that the majority of the lower courts' decisions are reversed in superior courts. Reasons for reversal are both factual and legal. From the reported cases it appears that serious errors are after

committed in lower courts. A small percentage of reversals are always expected in a judicial system, but if the percentage is too high, we need to have a closer look into the system. Moreover, the lower courts are still under the control of the Executive branch and if things are not functioning because of its influence, then it is time now to handover the task of supervision of the lower courts to the independent superior courts by implementing article 109 of the Constitution. Otherwise blaming the Judiciary will continue to bounce back in the form of contempt or political mudslinging.

On the other hand, the Judiciary is inundated with thousands of cases. In such a situation things cannot function in the way they are expected to. Those who are aware of this frustrating condition may control their behaviour even when things move very slowly. But it will be difficult for those who hardly know about the constraints. It will be more difficult for the chief executive to accommodate avalanche of complaints if she is kept in the darkness. It is just not enough to say to a chief executive not to poke her nose in the affairs of other branches of the Government. Silence or indifference of eminent jurists to the cause of

suffering thousands will indeed make her noisy. And that is what is happening.

It may be important for lawyers to teach the Prime Minister a lesson. But it is not that important for the people, because they have more important things to do. They wish to survive in this world in a better way. They hate solving their dispute in an expensive way. They want that the government should be able to provide them adequate protection at home and on the street. They want justice, speedy trial, presumption of innocence until proved guilty, etc. While one lawyer could have raised the contempt issue before the court, it is not clear why so many are involved. What is the motive? Please do not put the boot on the wrong leg.

The Executive, the Legislature and the Judiciary need to sit together to solve problems of national concern. Leading personalities are wasting too much of national time in the aggrandisement of social milieu without taking into consideration the wishes of the people. We already have spoiled our Legislature. A large number of our lawmakers boycotting the Parliament while still calling themselves as Parliamentarians. We do not want to see our lawyers boycotting the courts because of the fate of the contempt proceeding. A division in the court arena has already surfaced and therefore, we urge eminent lawyers' intervention before the precipitation is complete.

# In the Name of Accountable Judiciary

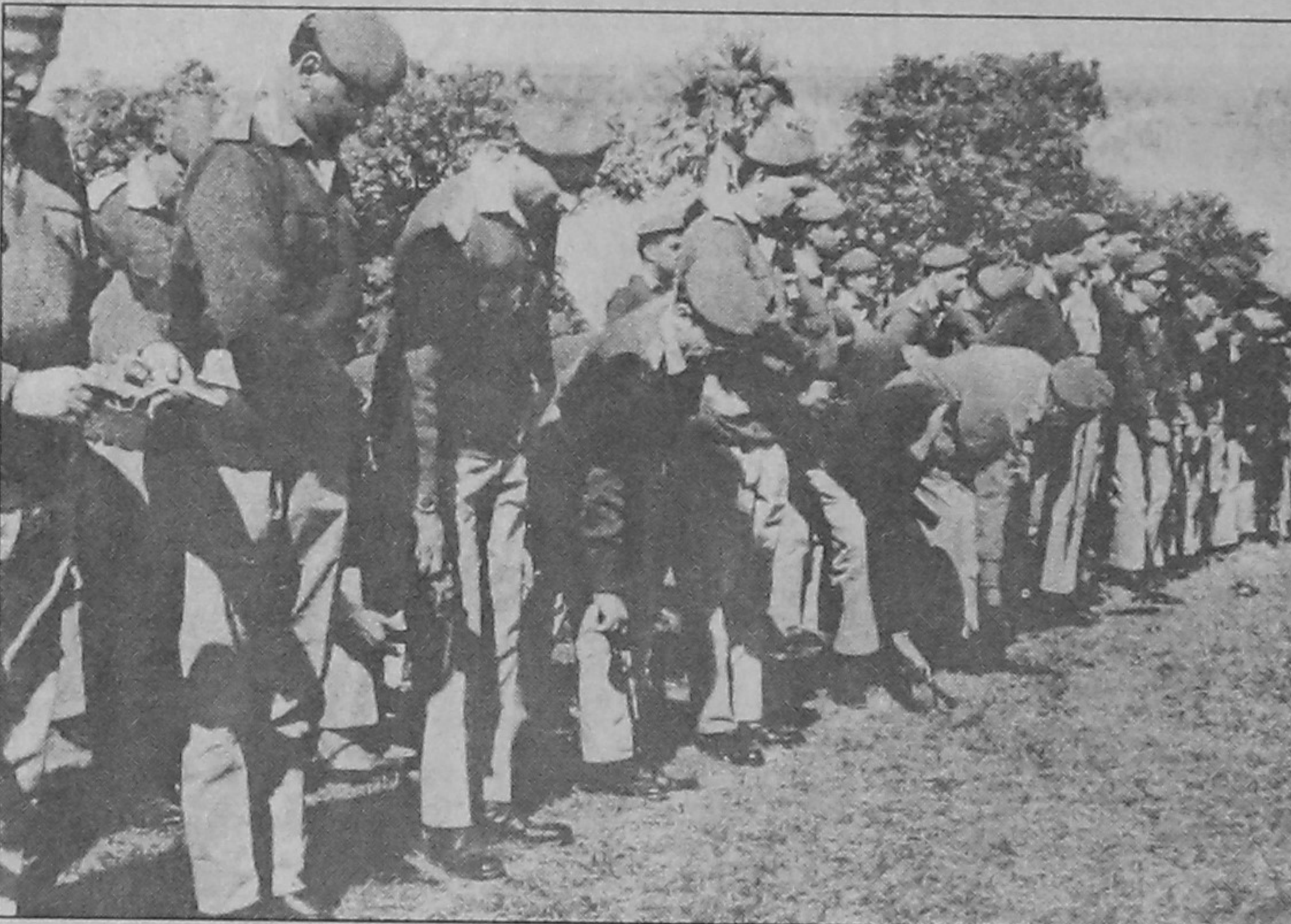
## One Doth the Scathe, Another Hath the Scorn

by An Observer

## Supplementary Report of Hamoodur Rahman Commission: Some Relevant Extracts

Thirteenth instalment

This part brings into focus Niazi's loss of will to fight after the fall of Jessore and Brahmanbaria on December 7, the ignominious nature of surrender featured by laying of arms and participation in a public surrender, general demoralisation stemming from culpable acts of commission and omission on the part of the High Command at Rawalpindi and the Commander, Eastern Command at Dhaka and Niazi's attempt to persuade his colleague at the war prisoner camp in India to present a coordinated story on return to Pakistan.



Pakistani forces surrendering on 16 December, 1971 at Race Course (now Suhrawardy Uddyan), Dhaka

suffered a complete moral collapse during the closing phases of the war.

While undoubtedly the responsibility for these failures lies with the Commander, Eastern Command, GHQ cannot escape its responsibility, as the plan had been approved by it. It was also the responsibility of GHQ to correct the mistakes of the Eastern Command, as communica-

tions were open to the last. It was incumbent upon GHQ to guide, direct and influence the conduct of the war in the Eastern Theatre, if the Commander himself in that Theatre was incapable of doing so. But the GHQ failed in this important duty. The Commander-in-Chief remained indifferent.

While we have not specially condemned the performance of

senior Officers other than Lt. Gen. A.A.K. Niazi, Maj. Gen. Mohammad Jamshed, Maj. Gen. M. Rahim Khan and some of the Brigadiers, we cannot help remarking that all the Senior Officers stationed in East Pakistan immediately before and during the war of 1971 must be held collectively responsible for the failings and weaknesses which led to the defeat of the

Pakistan Army. The only thing which goes in their favour is that while assessing their individual responsibility the Commission was obliged to take note of the limitations imposed upon them by the concepts and attitudes adopted by the Eastern Command, the admitted shortages and deficiencies in men and materials faced by them as compared to the vast resources of the enemy, and the general demoralization which stemmed from the culpable acts of commission and omission on the part of the Army High Command at Rawalpindi and the Commander, Eastern Command at Dhaka. Finally, there was also the unfortunate overriding factor of a long and inherited tradition of unquestioned obedience and loyalty to the superior Commander which prevented most of these Officers from questioning the soundness of the critical decisions and actions taken by the High Command, including the final act of surrender.

Before we conclude this part of the discussion, we would like to place on record that, apart from a few individuals, the large body of Officers and men operating in East Pakistan accepted the final decision without any thought of disobedience only owing to their ingrained sense of discipline, and the majority of them would have been undoubtedly willing to fight to the last and lay down their lives for the glory of Pakistan. The gallantry and determination with which some of the battles were fought in East Pakistan has been acknowledged even by the enemy.

## Professional Responsibility of Certain Senior Army Commanders

From the conclusions outlined by us in the preceding paragraphs, particularly as regards the military aspect of the debacle it was have become clear that in our view several senior Army Commanders have been guilty of serious dereliction of duty in formulating and executing the defence plans, and since are even guilty of shamefully abandoning the fortresses which it was their duty to defend. We have also found that the Commander, Eastern Command, and his chief of Staff, Brig. Baqir Siddiqui displayed wilful neglect in the matter of the execution of denial plans, with the result that large quantities of valuable war materials, equipment, installations, arms and ammunition were delivered intact to the Indians at the time of surrender. All these acts of omission and commission call for deterrent action by way of court materials wherever permissible under the law. Detailed recommendations in respect of all these matters are contained in the next Chapter.

It has come to the notice of the Commission that during his period of captivity, and even after repatriation to Pakistan, Lt. Gen. A.A.K. Niazi assisted by his Chief of Staff, Brig. Baqir Siddiqui, has been making efforts to influence his Divisional and Brigade Commanders, by threats and inducements, so as to persuade them to present a coordinated story of the events in East Pakistan with a view to mitigating his own responsibility for the debacle. This is a serious matter and calls for notice.

The surrender in East Pakistan has indeed been a tragic blow to the nation. By the act of surrender Pakistan stood dismembered, and the image of the Pakistan Army as an efficient and excellent fighting force stood shattered. We can only hope that the nation has learnt the necessary lessons from these tragic events and that effective and early action will be taken in the light of the conclusions reached in the report.

The fourteenth instalment appears tomorrow.

## To the Editor ...

### Please, take things seriously

Sir, Now that August, the National Mourning Month is over, I hope the Awami League government would turn its full attention towards tackling the prevailing disease - dengue, which still has the potential to become an epidemic.

When in 1998, the country's worst floods of the century had hit, initially the AL government downplayed its intensity as they were busy in observing the National Mourning programme. Once the observance was over, the Hasina government realised the gravity of the flood situation and appealed for international help, which they had earlier said was not necessary.

Similarly, this time dengue started in the second half of last month and reports of increasing number of people, especially children, being attacked by the disease started appearing in the newspapers. But both the PM (DS Aug 6) and the Health Minister (DS July 28) declared that the situation was not so bad as their party and government were busy in observing the National

Mourning programme. (Your paper on July 29 also commented on HM's remarks). Besides, the party, its front organs and probodies were also engaged in organising street marches condemning the attempts(?) on PM's life. So, dengue was relegated to a minor position.

As I am a regular reader of your daily, I would like to mention here one week's figure of dengue patients from your reports. From August 8 to 14, 371 people were admitted to hospitals with dengue fever in Dhaka alone. Do the PM and the HM consider this figure to be too insignificant to be taken up seriously?

However, as I have said, I hope now the government will have time to pay attention to state affairs, including dengue menace.

Tareq Shamim  
Dhaka

### Mobile menace

A recent DS headline reads 'TK one crore robbed in four incidents in a month/mobile phone used in every case'. As far as I know, one of the leading mobile phone companies have made a contribution in this

regard by introducing their 'Easy Prepaid' service. Under this system, a consumer can get a mobile connection and pay for his calls by buying cards. As this consumer is not required to be billed, the company therefore, do not feel the need to ask for his identity, background or credentials. Actually, these 'Prepaid' lines are only identified by code numbers. So if a terrorist has this type of a mobile phone and even if he makes a threat to another mobile-user, the victim can no way trace out the caller. Although the caller phone number can be read out from the screen of a mobile set but if it is equipped with the help-line of the company then they will tell you that they only have a code number! The mobile company should have thought about such eventualities before they rushed in the mad race of making quick cash and handed mobiles to just about anybody!

A Distressed Observer  
Chittagong

### Enforce regulations

Sir, Once again fire claimed a dozen lives in a garment factory. This tragedy could have been

avoided with strict enforcement of safety regulations in the garment industry. These labour-incentive factories in the city's residential areas keep the doors locked to prevent quick escape during emergencies.

After the previous fire tragedy, the enforcement of rules by the fire brigade were not sufficiently publicised for awareness. The public have a vague feeling that the government have been rather lenient with the garment industry as it is a high foreign exchange earner. The BGMEA has also to be strict with its own members for public safety and better HR records. It appears that there is a communication gap between the MPs and the bureaucracy. Nothing happens unless the Prime Minister intervenes. Well, this is not the way a government should be run.

AZ  
Dhaka

### Consumers' woes

Sir, While shopping at small stores, as a consumer I invariably find one or two salespersons from the manufacturers' distributors crowding the small counter of the shops during all hours of the day.

They are given training on PR (public relations) on how to accord priority to the waiting customers at the shops. I quizzed some sales staff and was surprised at the lack of even basic training. Profit, profit, profit and no basic services! Credit goes to the Regulatory Authority!

At the bigger shops, there is a separate counter to deal with the incoming goods and the salespersons. The principle is that the traffic lanes of the sales staff and the customers/consumers will not mix or cross, in the sense that the visiting salesmen will be invisible to the customers. There is another drawback, the serving staff at the shops are not trained or oriented to listen to the customers' feedback and transfer the same to the visiting salesmen for onward transmission to the management of the distributors for necessary action and liaison; as the customers are not supposed to meet the reps of the distributors. How the manufacturers get the feedback from the consumers, when the retail shops are not interested in answering questions of the shoppers?

There is a Consumers Association of Bangladesh (CAB), but it appears to exist on paper only,

without any field staff (uniformed please for recognition) or activity, and mass advertising campaigns; may be due to shortage of funds. The government has to be more sympathetic to the existence of CAB, as the consumer market is growing at a fast pace, judging from the crowds at the shopping centres (many air-conditioned). Who train the crude shopkeepers? The NGOs not interested in this area of training? Perhaps JOBS could do something, in collaboration with the various Chambers of Commerce. The business executives ignore the consumer side.

Why the government attention has to be drawn to this state of mismanagement and total indifference to the needs and welfare of the consumers (especially in price regulation and QC checks)? The voters did not vote for the MPs to do politics only. We are still a very backward country, politically speaking (the system analysis, administration, and management come later). No use approaching the insensitive government!

A Citizen  
Dhaka