

The Daily Star

Founder-Editor : Late S.M. Ali

Dhaka, Friday, October 6, 2000

A Fresh Approach to Handling Loan Cases

On the dual question of loan recovery and default culture, we have heard the Finance Minister, Bangladesh Bank Governor, leading bankers, top economists and business and industry leaders from time to time. The only missing link in the chain of contributors to the voluminous knowledge we have seen pored on the subject has been a judge. This crucial void too, looks filled in now as retired justice Naimuddin Ahmed, a member of the Law Commission shared his insight into the question at a seminar organised by Bangladesh Institute of Bank Management (BIBM) on Wednesday last. Speaking on the topic of "Enforcement Status of Laws Relating to Defaulted Bank Loans," he did not spare the judges saying that they, along with the lawyers, bankers and borrowers, acted as a 'coterie' to delay settlement of bank default cases. With refreshing candour he surmised that sometimes high-profile lawyers, appointed by big defaulters at fabulous fees, tend to impress the judges by their appearances to a point where procedural delays might have been obtained.

The bankers have customarily held the view that default cases are intricately woven complex web of a matter which is why they favour writing off as many 'bad loans' as possible; so that undistracted, they can concentrate better on their present set of business agenda. Justice Naimuddin Ahmed with his experience as a judge sounded credible with his observations that the loan cases were not so 'complicated in nature' as to leave the courts bogged down under 'piles' of them. A verdict in a loan default case ought to be delivered in six months' time, according to him. Obviously, in comparison with the high degree of complexity entailed in a huge number of civil and criminal suits, the procedures in loan cases and the points of determination involved in them are bound to look simpler.

But delay is not the only point at issue here. For, what seems no less problematic is the fact that while courts give verdicts in 47 per cent of the cases brought before them, only six to seven per cent of those would be 'satisfactorily' settled in the end. In other words, it is the execution of the court verdicts that goes awry with the result that we have to put up with such a poor loan recovery position.

Given this track-record of the judicial handling of loan cases, it looks imperative that we have the Supreme Court monitor progress on default cases and send report to the Chief Justice by way of ensuring accountability in the system, as suggested by the ex-judge of a law commission member.

To our understanding, however, the best way to checkmate default culture would be to nip it in the bud. Undoubtedly, the primary responsibility in staving off bad loans rests with the banks. They will have to be demonstrably professional and thoroughly careful in sanctioning loans on pain of being penalised if they should compromise on the quality of lending, even unwittingly. As the first step to that end, the nationalised commercial banks (NCBs) in particular, should have strong law departments instead of making do with a clutch of part-time retainers.

Friday Mailbox

No time for masterly inactivity

Sir. It's time for the ruling regime to take some drastic action. Its negative image is hostage at the gunpoint of the terrorists, who are indulging merrily in double and triple murders; pumping 30 bullets into a body, (and that too within the premises of a court of law); cutting bodies into pieces after killing and what not. Let us hope that crime and bad politics have not formed secret liaison.

The nation has become paranoid, hence the social scientists have to go into deep studies and come up with some practical recommendations to the administration for deterrent action. Are we becoming a nation of killers? The Bengalis were never that cruel to fellow Bengalis. What has gone wrong with the traditional values of life?

The question is how much this abnormal behaviour pattern can be attributed to bad politics and poor leadership? There appears to be a crisis in statesmanship. It is no longer a question of political parties, but of bad governance.

Can the nation afford to wait till the scheduled time for the next national polls? Time is running out and innocent lives are ebbing away. This is not the time for masterly inactivity.

A Mawaz
Dhaka

Uniformed men on NCBs

Sir. A few days after her Millennium Speech at the UN where she roundly condemned military take-over of civil governments and urged the United Nations to take action against such army regimes, our prime minister very nonchalantly insisted on nominating army officers in the Board of Directors of nationalised banks despite Bangladesh Bank's advice to the contrary!

During the PM's recent phone in interview shown on BTV, one caller asked her why she was nominating army men to these boards to which her reply was rather naive. She said that army men were sons of the soil that they were engaged in relief work, for traffic control from time to time and so on. Evidently they were engaged in aforementioned works for the simple reason that during peacetime they were the only body of people readily available for such part-time work (for which they do claim remuneration, I am sure!) who were not required to sweat it out for a living.

From the justifications given by the PM for inclusion of army officers in the Board of Directors of nationalised commercial banks (without any banking experience etc) one would be hard pressed to think where they would not fit in! Why shouldn't we go one/two steps further and appoint them as university teachers or even cabinet ministers on deputation from the Army. Nothing should be barred for them! In the meantime, we should forget the PM's UN speech.

Under the circumstances, the governor, Bangladesh Bank should quietly resign for the sake of the dignity and prestige of the post.

Abul Mohsin
40, Siddherswari
Dhaka

PM's UN Speech

Sir. In unison with Mr F. Hussain's letter (IDS Sept. 18, 00) I must say 'blaring bravado' in saying goodness of a culture is something but to do the practice is something else. I want to repeat Mr Hussain's words 'What's the purpose of the so-called democracy in the country where corruption and terrorism overrules all the goals of democracy? And what benefit people derive if they are deprived of justice. Let Sheikh Hasina be as bold as her speech and efforts be put together in all sincerity and in all fields so as to eradicate corruption and patronised terrorism from our society.'

When our democratically elected government do make use of all undemocratic means to achieve their desired ends, isn't it a mockery of its leader to preach and canvass democracy for others. When the people of Pakistan didn't see any wrong at the take-over of power by the army why should our PM look at it differently? Though the PM didn't name any country in her speech it is understood by everyone whom she referred to. It is definitely a deviation from our foreign policy-which preaches friendship to all and malice to none'. Whom should we then blame-the hearers is, Bangladesh became the lone country to raise the issue of 'undemocratic army rule' for no gain to her-jeopardising its own bilateral relationship. I want to mention here that the PM's speech has made more disservice to the congenial atmosphere prevailing than to do any good for the urgently needed cordiality amongst the SAARC member countries, for which she took extra initiative by sending her Foreign Secretary to Pakistan. Wasn't it a futile exercise as she did the same right before her trip to the UN?

A. F. Rahman
Dhaka

Who cares?

Sir. As Bangladesh turns thirty what we have to offer our next generation is 'killing of the father of the nation; killing of a president; rape; murder; smuggling; bankruptcy in our social, moral and political values; political, economic and social deprivation of the poor and the minorities with the total breakdown of law and order; upward mobility and access to wealth of a few by illegal means, politicising and corruption.'

Is this going to lead us, the nation, in any way forward? Or the glory of cronyism by the parasites surrounding our leaders satisfies them so much that their vision gets blurred to see beyond the power they might be. Do these leaders really think Bangladesh is doing well? Do they really think they are doing a great job? Do they really think the people of the country respect them? Do they really think they can get away, forever, without keeping their commitment to serve the people?

The biggest asset or resource of any nation--the human resource' is being wasted severely by lack of proper education, technology, development and sheer negligence.

In one of his famous song, the acclaimed singer Bob Dylan has sang 'The answer is blowing in the wind'. But I don't think anyone really cares to find the answer.

Akku Chwodhury
Banani

Two Cheers for Democracy

Today democracy is limping along in Bangladesh but it is alive. It is also aware of liberal democracy beckoning in the horizon. With umpteenth attempts on her life democracy has not perished nor is in comatose. Two cheers for democracy.

is thus the best insurance against autocratic democracy.

The questions as to who will initiate and how will the steady change in the status quo of illiberal democracy be brought about beg for answers. But before these answers are given another question has to be addressed: how did the developing countries come to have illiberal democracy in the first place when they had the examples of liberal democracies before them? Farid Zakaria in his article only mentioned about the need for appropriate preparations by the new democracies to become 'liberal' implying that achieving liberal democracy is a long-term exercise. To quote him "the process of genuine liberalisation and democratisation is gradual and long-term in which an election is only one step". He does neither elaborate why living examples of liberal democracies cannot be adopted right-away nor does he take the argument further to identify the factors that according to him determine the duration of this process of appropriate preparation. More conspicuously, he does not take into account the fact that often the gradual progress of the process was disrupted by anti-democratic forces in the developing countries for varying periods, making the long-term process not only interminable but discrete as well. Every time such interruption took place the process had to start ab initio after the interregnum of non-democratic (also non-liberal) rule.

Zakaria's assumption about the need for appropriate preparation for adoption of liberal democracy is flawed because countries without interference from extra-territorial forces can move towards building liberal democracy based on existing experiences elsewhere. Though exceptions do not make the rule, India is the best example of a newly independent country that went straight for democracy with parliamentary liberalism and except for a brief spell of emergency, it has maintained its faith and managed its state affairs according to the high principles of liberal democracy. The strength and influence of the experience gained by the country in democratic governance is demonstrated by the fact that even the extreme right-wing party can be accepted and tolerated temporarily as rates of passage. A populist movement, not on the street, but in accordance with constitutional provisions, laws and rules.

If India, with no prior experience with liberal democracy and with underdeveloped social and political institutions in 1947, could embrace democracy (rule of people through election) and liberalism (various rights guaranteed by the constitution) there is no reason why other newly independent countries could not go the same way. What is to be stressed here and the lesson to be learnt is that given the examples of living liberal democracies in the west, the political system did not have to be reinvented. And yet countries after countries in Asia, Africa and Latin America came to be ruled by autocratic military regimes from 1960s to 1970s (in Bangladesh even as late as the 1980s) who neither had respect for election nor for constitutional guarantees of the basic rights of the people. This was the genesis of the rise of illiberal democracies in most of the developing countries that followed military dictatorships of varying durations and not the lack of preparation for liberal democracies as Zakaria has made it out to be. Ironically, liberal democracies in the west often condoned and supported the overthrow of democratic governments as long as the military rulers became their allies in the cold war. It is unbelievable that Zakaria fails to recognise this widespread phenomenon in Asia, Africa and Latin America and hold the shortsighted foreign policy of the west as responsible

for the rise of authoritarian regimes that were even worse than illiberal democracies. If he acknowledged this development he would have found out that before illiberal democracies made their appearances on the scene after the departure of the military dictators there was a hiatus of what might be called disinheritance of democracy. Illiberal democracies therefore, are not caused by unpreparedness of the politicians or the immaturity of the political institutions, but are the direct outcome of the overthrow of democratically elected governments and a period characterised by disinheritance of democracy.

Military take-over through overthrow of elected governments by force (or under duress where a weakling head of the government surrenders powers) is usually justified on the grounds of failure of the political government to maintain law and order, corruption and subversive activities by political parties, press, trade unions, students and other sections of the civil society. Whether or not all these allegations are valid, and if valid, to what degree, there is no gainsaying that under military dictatorship law and order improves significantly. But corruption, far from disappearing, flourishes and the longer is a military regime in power more widening and deepening is the

rights.

In fact, the destruction and mutilation of the political structure that follow a military take-over is not only seen in annihilation and dismemberment of political parties, the lifeblood of democracy, but in strangulation of press, trade union, student bodies and other civic bodies that normally keep the government on the straight and narrow path of rectitude through criticism and constructive engagement. These also constitute the pluralist polity that acts as the fulcrum of liberal democracy. Deprived of rule of law (according to constitution) the people gradually forget about the neutrality and objectivity of the enforcement of law and accept discretionary justice as the norm. In the absence of rule of law and equality before law, justice becomes a privilege for those having right connections and knowing the ropes. It is this corruption, this manipulation of the human mind by the Orwellian Big Brother that makes the greatest inroad to liberal democracy.

There is a third act in this drama of democracy, before the fall and after the convalescence. Given the same favourable situation (it was largely created by men and women) as in India many other newly independent countries could have moved slowly by steadily towards liberal democracy.

Perhaps both the governments

quality to be called "illiberal democracy" as defined by Zakaria, though there are differences of degrees, one may be more illiberal than the other. But that is not the moot point. The main consideration is the genesis of illiberal democracy in Bangladesh. An objective analysis of our past history and political experience leads one inevitably to the conclusion that for most of our political ills particularly, instability that have contributed to illiberal democracy the long and sporadic rules of martial law (beginning from Pakistan) is responsible. If our politicians are behaving undemocratically and illiberal it is because they have forgotten the rules of the game of liberal politics during the long period of exile from normal politics. If they are using black money and musclemen to get things done, this is because of the legacy of the martial law regimes, where it was a favourite modus operandi. If elections are not free and fair, that too, is a throwback to the martial law years. If martial law took place just once, even if for a long period, it would have been possible for the politicians to recover and stand on their own feet with confidence. But martial laws, coming intermittently, at intervals, have stunted their mental growth, having been thrown back into the netherworld of political oblivion time and again. If most of our politicians look like stunted pygmies and not like statesmen that they should be, it is not their fault entirely. They have been made to appear and behave like this during their aimless wandering in the political wilderness. To put it starkly, democracy and the practitioners of democracy (politicians and the public) have not had a long stretch of time free from interference from anti-democratic forces to make it an integral part of the polity as in liberal democracies. On the other hand, the absence from power for long periods has not only made the politicians inept in its legitimate use but more disturbingly has whetted the tendency to cling to power tenaciously once it is assumed through election. This is the hungry man's syndrome from which politicians can be cured only through equal access to power guaranteed by regularly held free and fair elections. Elections may not be sufficient but it is an important stepping-stone towards liberal democracy.

In the truest sense of the term Bangladesh so far has had two political governments (one nearing completion of its term) elected under multi-party system within the constitutional framework of parliamentary democracy. The constitution of the country lays down the fundamental rights for the people and the basic principles of State. Through the constitution not only the sovereignty of the people is articulated, it also guarantees their rights. The laws, rules and procedures for establishment of liberal democracy are all in place as is the separation of powers. But the burden of history is so awesome and the proclivity of legacy so strong that the expected movement towards liberal democracy after the convalescence from martial (also semi-martial) law became half-hearted at best and misguided at worst. Perhaps because of the burden of history rigging of election took place sporadically and became a subject of persistent allegation against the government that came to power after 1992. Refusal to listen to opposition parties' regarding caretaker government led to great chaos and almost non-stop political turmoil for months together. Allegation of corruption and patronage distribution among party workers were also made as

In the truest sense of the term Bangladesh so far has had two political governments (one nearing completion of its term) elected under multi-party system within the constitutional framework of parliamentary democracy. The constitution of the country lays down the fundamental rights for the people and the basic principles of State. Through the constitution not only the sovereignty of the people is articulated, it also guarantees their rights. The laws, rules and procedures for establishment of liberal democracy are all in place as is the separation of powers. But the burden of history is so awesome and the proclivity of legacy so strong that the expected movement towards liberal democracy after the convalescence from martial (also semi-martial) law became half-hearted at best and misguided at worst. Perhaps because of the burden of history rigging of election took place sporadically and became a subject of persistent allegation against the government that came to power after 1992. Refusal to listen to opposition parties' regarding caretaker government led to great chaos and almost non-stop political turmoil for months together. Allegation of corruption and patronage distribution among party workers were also made as

So much for explanation of the current sorry state of politics. Explanation is not and should not be the same as excuse. We cannot go on living in a politically "dark age" where parties are constantly at daggers drawn, political and gangland killings are daily fare, grabbing of public land is done with impunity, rule of law is observed more by breach than enforcement, human rights guaranteed in the constitution are flouted flagrantly, day in day out. The nation is at the end of the tether just as its cup of misery is

One would be living in fool's paradise if one were to think that the alternative to the present political impasse is autocratic military rule. This will reverse the process of democratisation, however faltering that is going on at present and hark back to the past of dictatorial regimes. It will be worse than falling from the frying pan into the fire. And democracy will have to be restored again in one form or another whether out of enlightened self-interest by the usurpers of power or under popular pressure. This is because time and again democracy has proved to be the only time-tested political system where people can exercise sovereign power. The more vigilant and active is public opinion in an atmosphere of freedom of choice the greater is the chance of democracy defeating the other illegal contenders. Today democracy is limping along in Bangladesh but it is alive. It is also aware of liberal democracy beckoning in the horizon. With umpteenth attempts on her life democracy has not perished nor is in comatose. Two cheers for democracy.

One would be living in fool's paradise if one were to think that the alternative to the present political impasse is autocratic military rule. This will reverse the process of democratisation, however faltering that is going on at present and hark back to the past of dictatorial regimes. It will be worse than falling from the frying pan into the fire. And democracy will have to be restored again in one form or another whether out of enlightened self-interest by the usurpers of power or under popular pressure. This is because time and again democracy has proved to be the only time-tested political system where people can exercise sovereign power. The more vigilant and active is public opinion in an atmosphere of freedom of choice the greater is the chance of democracy defeating the other illegal contenders. Today democracy is limping along in Bangladesh but it is alive. It is also aware of liberal democracy beckoning in the horizon. With umpteenth attempts on her life democracy has not perished nor is in comatose. Two cheers for democracy.

Are We Losing the Sense of the Deep?

French poet Gerard de Nerval got into the habit of walking with a lobster on a leash. One day when he asked Nerval why he did that, he replied that the lobster didn't bark, and it knew the secrets of the deep. Needless to say, the anecdote reminds us of the old adage that empty vessels sound much. Sir Walter Raleigh, the English explorer, was creative about it when he wrote to the Queen, "Our passions are most like to floods and streams; the shallow murmur, but the deep

shortly, but then he turned it around and made history. Thoughts, like water, acquire purity when they spring from the deep. Again thoughts choking on the inability to express gets muddy and stale like water stagnating on the estuary.

Upended lips and lawless folly is the only end is disaster. In the same breath he also said that thoughts too long would make life short. In as much as a garrulous person may not understand life, an excessively thoughtful one may never enjoy it. The middle course between the two extremes is identified by Raskolnikov's friend Razumikhin in Dostoevsky's Crime and Punishment, who voices his distaste for an ideological approach to life. Razumikhin's own life exemplifies how one can solve problems neither by grand ideas nor by dramatic gambles but by slow, steady, hard work.

Hard working people often get the right connectivity between words and thoughts. They mostly talk from experience and show a certain control of the mind over the mouth. The weight of understanding holds their lives in a certain balance. These people, like deaf divers, can go down to the depth of life and fetch the treasure of sober realisations as and when needed.

Yet one cannot deny the correlation between mouth and mind like it exists between floodgate and a body of water. Demosthenes suffered from a lisp, but he worked on both mouth and mind to become one of the greatest orators in history. Winston Churchill was shy as

which could not be directly perceived in a visual way since the retinal image of any object is two-dimensional, as in a painting. He held that the ability to have visual experiences of depth is not inborn but can only result from logical deduction based on empirical learning through the use of other senses.

Needless to say, the theory applies to non-visual experiences of depth as well. The development of the third dimension of mental

than his knowledge, there is a loss of depth in it. That is when one hears the clank of ego in the emptiness of the vessel. Stravrogin's intellectualism charmed others not for its substance, but for its style. But his popularity couldn't ultimately suppress the shallowness of his mind. According to Aristotle, actual knowledge is identical with its object. When a person learns something, he acquires something. What he acquires must either be something different from the thing he knows or identical with it. If it is something different, then there is a discrepancy between what he has in mind and the intended object of his knowledge.

The concern over recognition often despairs the power of knowledge, its depth silted with debris of parochial interests.

The crackle of voices around us, therefore, raises one question: what is happening to our sense of depth? Why do the flip-flop flourish and the silent suffer, while the tower of Babel rises ever higher? These questions are echoed in The Second Coming written by W. B. Yeats: Turning and turning in the widening gyre/The falcon cannot hear the falconer./ Things fall apart; the centre cannot hold;/ Mere anarchy is loosed upon the world./ The blood-dimmed tide is loosed, and everywhere/The ceremony of innocence is drowned./ The best lack all conviction, while the worst/ Are full of passionate intensity.

How aptly it describes the world about us! The blabbermouths are full of passionate intensity, and the deep-hearted ones appear to lack all convictions.

Existentialist critics (especially Albert Camus) became fascinated with Kirilov in Dostoevsky's The Possessed, who adopts a series of contradictory philosophical justifications for suicide. He argues that only an utterly gratuitous act of self-destruction can prove that a person is free because such an act cannot be explained by any kind of self-interest and therefore violates all psychological laws.

Kirilov expressed his knowledge, whereas the personality, whereas the knowledge that is shaped by personality is flimsy. It means when the person is better known

CROSSTALK

Mohammad Badrul Ahsan