

The Rule of Law in Nature and Society

by Dr. Mizanur Rahman Shelley

THE ceaseless struggle between the ideal and the real has been one of everlasting fascination. I, for one can never cease to wonder at the many contradictions that this titanic conflict relentlessly produces.

As a student of Political Science I was initiated into the beauties of Plato's thoughts during the early sixties. That great teacher of all times conceived the Ideal as the Eternally Abiding. He put forth the concept of the Idea of Good or the Ultimate Reality the understanding of which gives the philosopher-king the eminent right and reason to rule the ideal polity without a constitution. For if the ideal is actualized and Reason reigns supreme aren't laws, rules and regulation transparently irrelevant and useless? The Platonic dictum in fact restated the old affirmation that "Rules are for when brains fail".

But (as Plato himself found) life is less than perfect and the real world falls far short of the ideal. In his own life-time Plato concluded that fallible human beings could not comprehend and appreciate the worth and uses of pure reason and the well-intentioned acts of even the most reasonable philosopher-turned ruler.

So in his matured years, Plato wrote "Laws" in which he drew the outlines of a less ideal polity than he had earlier sketched in 'The Republic' with its challenging idea of the philosopher-king.

In the society outlined in "Laws" the arbiter is not a philosopher king but a set of laws and rules, a Constitution.

Plato's eminent student, the practical observer and analyst, Aristotle took pragmatism a step further. He studied and compared, evaluated and analysed more than a hundred and fifty constitutions of as many city-states of ancient Greece. He consistently maintained that saintly detachment and neutrality were the hallmarks of a non-involved scientist of society.

This detachment and objectivity made it possible for Aristotle to emerge as the virtual precursor of Machiavelli, that sixteenth century enigma whose cool, composed and almost cold counsels to the ruthless and cunning ruler seemed diabolical to many an idealist and moralist.

The fact of the matter is that both Aristotle and Machiavelli were amoral rather than immoral. They told it like it was. In most cases, despite their captivity in their times and societies, they were as objective, as unencumbered by value judgment as modern natural scientists.

Value judgements are of no effect, and, therefore, of no use to scientists of nature. As science-

fiction writer Tom Godwin aptly asserted in his memorable short-story, "The Cold Equations."

"Existence required Order and there was Order; the laws of nature, irrevocable and immutable, men could learn to use them but men could not change them. The circumference of a circle was always PI times the diameter and no science of Man could ever make it otherwise. The combination of chemical: A with chemical B under condition C invariably produced reaction. The law of gravitation was a rigid equation and it made no distinction between the fall of a leaf and the ponderous circling of a binary star system.... The laws were and the universe moved in obedience to them."

It is easy thus to understand and appreciate why even a dedicated idealist in his capacity as a physicist or chemist remains (as he must) detached and objective.

As in Nature so in society the laws are inexorable: Gravitation must operate, Magnetism must be inescapable, autocracy cannot survive, people, both quantitatively and qualitatively, must determine the nature and destiny of their society.

There is no other way. Even if he gets involved and say, for instance, develops an intense love and admiration for the Law of Gravitation, it would not save his life if he were to leap from the top of the Sears Towers in Chicago.

Unfortunately the same sophistication has not yet blest those dealing with social sciences. This is so, to a certain extent on account of the imperfection of these disciplines as sciences. The units measured are much too few in number and therefore the 'laws' of social sciences are most often than not mere statements of tendencies and not predictions of inexorable behaviours. The variables are too many, the constants so few.

Aristotle (384-322 B.C.) in the Fourth Century B.C. and Machiavelli (1469-1527 A.D.) in the sixteenth Century A.D. came closer than any other social scientist before recent times to the truth that despite its fledgling state, social science too had 'laws' which were unimpressed by what men liked or disliked. Thus Aristotle did not hesitate to advise the tyrant (if he must prolong his rule) to 'degrade and humiliate all who might be dangerous, to keep subjects powerless, and to create divisions and mistrusts among them. A better way is to rule as little like a tyrant as possible, to

pretend at least to an interest in public welfare and at all events to avoid the public exhibition of a tyrant's vices".

Aristotle advised the tyrant to cut the ear of the corn before it grew long. Machiavelli counselled the permanent crushing down of the enemy. Both advised diversion of public attention to festivities so that more serious matters would not come under close popular scrutiny. Machiavelli wrote: "...the prince should ... determine to avoid anything which will make him hated and despised. So long as he does, so he will have done what he should and he will run no risk whatsoever... He will be hated above all if he is rapacious and aggressive with regard to property and the women of his subjects. He should refrain from these. As long as he does not rob the great majority of their property or their honour, they remain content. He then has

The conclusion thus is inevitable that between Plato and Aristotle, the Idealist and the Realist there is not much of a difference. The truth remains the same. It operates with equal force and detachment on both the believer and non-believer. It does not matter whether one believes or not in the mathematical formula that the circumference of a circle will always be pi-times the diameter; it will always be so.

Similarly it does not matter whether one believes in the Aristotelian dictum that the forces of talented aristocracy, oligarchy and meritocracy when wedded to the force of number produce an enduring political society. The fact is that such a political society does endure and has the best chance to develop. What Aristotle underscored as a pragmatic analyst of socio-political systems was the fact that no state, no government survives long until and unless it has the consent and support of the principal politico-economic forces in the society. The middle class thus is the key to the building of an enduring politico-social order for it alone can combine both quality and quantity.

Modern industrialized and technologically advanced states are well aware of this inescapable force. These states follow (to their lasting advantage) the Aristotelian dictum that "it is the extreme in any direction that ruins states.... if not actually a middle-class government, the state must be as like middle-class government as it can"....

The middle path - the Confucian Golden Mean - is after all a perfect blend of the Ideal and Real. It is not only practical but also inexorable that the rulers of the Third World Nations follow the dictates of this undeniable truth. Others more economically and technologically advanced have done the same. They could not do otherwise for like it or not the Superpowers and Great Powers, the rich and mighty had to do the same for that was the requirement of the inescapable law of society.

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The author, founder Chairman of Centre for Development Research, Bangladesh (CDRB), and Editor quarterly "Asian Affairs" was a former teacher of Dhaka University and former member of the erstwhile Civil Service of Pakistan (CSP).

A Tribute to Justice Ibrahim To Know Him is to Love Him

by Justice Mustafa Kamal

HARDLY then a young boy of seventeen years and an undergraduate student of Dhaka University that I came to know Justice Ibrahim in the early fifties when he was a judge of the Dhaka High Court. He was past fifty-two years of age. I was his only daughter Sufia's (now National Professor) class-mate. He looked much more than his age. A pitch-dark tall man with sharp features standing erect with a stoop, he was a man of few words. But when he spoke his voice was deep, expressions clear and forthright and views commanding, firm and short. I came to like the man more as I came to know him more intimately when he shifted from his official Bakhshbazar residence to his own house at Purana Paltan just opposite to ours.

When he came to know that I wanted to be a Barrister he became more patronising and encouraged me in all possible ways. I had gained entry into his first-floor bedroom where in secrecy he would dictate sensitive letters not using his official pad. On my own typewriter I typed out his name on a clean sheet of paper on top of the left side. His clear instruction was to type "Mr. Justice M Ibrahim" and yet owing to my unfamiliarity with the mysterious world of law and judges, I would type out "Justice Mr M Ibrahim" time and again. I would re-type his letter each time in spite of his affectionate assurance that a hand-written correction would do.

Politicians of older generation, specially the Hindu members of the first Constituent Assembly of Pakistan including octogenarian Sree Srish Kumar Chattarjee, were his regular visitors in the early mornings of weekly holidays. He was fond of making people eat to their hearts' content, although he would himself eat very little. One day I was surprised to find octogenarian Srish Kumar devour a whole containerful of tehari, an early morning delicacy prepared by a mami, a Dhakaite female cook who used to cook delicious food for the family for monthly wages without staying and eating with the employer's family. They are now an extinct generation. In the afternoons, after the day's work in the High Court, tables and chairs were laid out in the spacious lawn of his house under the shade of coconut trees where political personalities like Yusuf Ali Chowdhury (Mohon Mia), Sheikh Mujibur Rahman and others visited regularly for consultations and advice. He counselled them with few words, but always with authority and short, crisp sentences. As always, he was lavishly hospitable.

His daughter Sufia not only became a good friend of mine, but also a life-long well-wisher. His eldest son Khaled Ibrahim (Manju) and youngest son Tariq Ibrahim (Kachi) soon became my dear younger brothers and his wife, Begum Lutfunnessa (bearing my mother's name) my favourite Khala Amma. Manju and Khala Amma and no more while Justice Ibrahim passed away in 1966. May all their souls rest in heaven.

Justice Ibrahim traced his ancestry to the courtiers of Nawab Alibardi Khan, the independent Nawab of Bengal, Bihar and Orissa. Imbibed as he was with rich traditions of Persian mysticism, Hindu philosophy, Buddhist traditions and folk humanitarian heritage he grew into a liberal and cosmopolitan manhood. Born in 1898 at Bishnupur under Sadar Thana of Faridpur District he matriculated from Barisal Zilla School in 1914 with scholarship and three gold medals in English, history and mathematics. He also won scholarship in the First Division in Intermediate Science examination in 1916 from Dhaka College. He obtained B A (honours) with distinction in English literature from Dhaka University. But there was that 'gene' of public duty and honour that worked and developed within himself and he could

not resist the call of non-cooperation movement of Mahatma Gandhi and the Khilafat Movement of Moulana Muhammad Ali and Moulana Shaukat Ali wherein he plunged himself. His study was interrupted.

It was Dr Naresh Chandra Sengupta, an idealist intellectual of his time, a noted litterateur, lawyer, Vice Principal of Dhaka Law College and later a teacher of law at the Dhaka University (established in 1921) who brought the idealist Ibrahim back to the law school to study law. Justice Ibrahim passed law, practiced initially at Faridpur and later at Dhaka, where he also taught law in the Dhaka University as a part-time teacher. He was appointed Public Prosecutor in 1939. In 1943 he was made the Additional District and Sessions Judge and was posted at Barisal. At the time of partition in 1947 he was the District and Sessions Judge of Barisal, being posted at Jessore on promotion to that post earlier. In 1950 he was elevated as a Judge of the Dhaka High

found to our chagrin that my father-in-law Mr Hafizur Rahman and Ishlaq's father-in-law Justice Ibrahim were taken in as Ayub's cabinet ministers. We could not offer any explanation to our amused friends and admirers.

While I returned home in October, 1959 after completing my studies I decided to halt for a few days in Karachi which was still the capital of Pakistan. I stayed with my parents-in-law. I could understand why my father-in-law accepted the offer. He was basically a civil servant. Political considerations did not weigh much with him. He took the offer as an opportunity to serve the people as best as he could.

I visited Justice Ibrahim at his official residence. His house was full of Bengali illustrious people who had been serving in Karachi in various official and private capacities. Dr Md Shahidullah, Dr M O Ghani, Habbullah Khan (later a Minister) and many others were present. I sensed some danger. Bengalis were getting restless. Justice Ibrahim was the



Justice M Ibrahim 1898-1966 Anniversary of death: 13th October

Justice Ibrahim was an untiring social worker. What with the Boy Scouts movement, Dhaka University Old Students Association (a forerunner of Alumni Association), Khulna Relief Fund, Bulbul Academy of Fine Arts, British Council Library etc, he was a pioneer in founding and running many organisations which are well-known today.

Court. After he retired as a Judge in 1955, he was offered the post of Speaker in the National Assembly, but he declined the offer, because he did not want to enter politics by the back door. He was for a time Chairman of Election Tribunal and was later appointed as the Vice-Chancellor of Dhaka University from November 1956 which position he held till October 1958. Students of this period recall with gratitude how he devoted his full time for the welfare of the students and teachers. A fearless cosmopolitan and compassionate outlook, a strictly secular and non-communal bent of mind, a staunchly nationalistic approach and a deep love and concern for the welfare and future of this country were the hallmarks of his personality.

Before his retirement as a Judge his daughter Sufia got married to Ishlaq, another classmate of ours. We three read in different departments, but were close to each other. Justice Ibrahim entrusted the whole wedding dinner arrangements to me. Guests were many and his Purana Paltan lawn could not bear the load of so many guests. I mismanaged it as worst as I was incapable of. Next morning, Justice Ibrahim just gave me a benign smile.

Myself, the newly-married couple and Justice Ibrahim's eldest son Khaled left for London for higher studies on the same day by the same plane in September, 1955. My father came to London for treatment soon thereafter and a year later Justice Ibrahim came to London for treatment too. His health had deteriorated. However soon after his return his tenure as Vice-Chancellor was over.

From London we the students from the then East Pakistan were closely following the political development at home. We were almost sure that the military in Pakistan would take over. Both myself and Ishlaq were very vocal against military rule but when it came in October, 1958 we both

rallying point. He disposed me of after congratulating me on my success and then counselling, "Don't go for politics now. Go and practice law seriously. Leave politics to us." I followed his advice and closely followed the contempt of court case surrounding Sir Edward Snelson, the Central Law Secretary. Journalists of West Pakistan asked Justice Ibrahim how a civil servant under a Minister who was an ex-Judge could go to the extent of committing contempt of court. Justice Ibrahim quipped, "Justice Ibrahim is dead. It is M Ibrahim who is the Law Minister now."

Suddenly Justice Ibrahim came back from Islamabad, Pakistan's new capital, to Dhaka, never to return. He sent his resignation letter to Ayub Khan who accepted it after a long delay in early 1962. It is now clear from the scanty political literature of the period that Justice Ibrahim joined Ayub's cabinet with a precondition, the drafting of a democratic and secular constitution. Ayub appointed a Constitution Commission to make proposals for a new constitution of Pakistan. Even though the Commission's report almost totally reflected Ayub's off-repeated views on Presidential form, basic democracy, strong centre etc he wanted to stifle further whatever little democracy was contained in the report. Writing a short and crisp note on the report of the Constitution Commission, Justice Ibrahim left for Dhaka, never to return to Islamabad. This note is carefully preserved by his daughter Sufia. As scatteredly published in various articles the note unmistakably points out the underdevelopment of East Pakistan, suspicion, distrust, fear of domination and frustration East Pakistanis were suffering from, provinces to be responsible for their own development and for that to be regarded as separate economic entities, the Central Government to have only defence, foreign affairs, inter-wing com-

munication and currency, parliamentary government based on adult franchise etc. A caucus committee headed by Manzur Kadir drafted a constitution of Ayub's personal choice and Justice Ibrahim foresaw the development.

Altat Gauhar, a former information secretary, wrote a book entitled "Ayub Khan: Pakistan's First Military Ruler". He wrote, "The Law Minister (Justice Ibrahim) having stated his point of view, studiously avoided taking any further part in the deliberations of the government. The Industries Minister, A K Khan, too, was disappointed by Ayub's lack of response to his proposals. The Commerce Minister, Hafizur-Rahman, was a quiet but intensive man by temperament. He would often say that the whole constitutional exercise was aimed at establishing a highly centralised system of government, which he feared, would prove disastrous for East-West Pakistan relations. These three Bengali ministers would be dropped from the Cabinet after the promulgation of the new constitution." While Justice Ibrahim himself dropped Ayub Khan, the other two were indeed dropped from the cabinet after the promulgation of the Constitution of 1962.

During his last days Justice Ibrahim was an intensely worried person. He would summon political leaders like Sheikh Mujibur Rahman and would advise them as to the future course of action. I watched him act at close quarters.

His interest in me never faded. I was ill for about one and a half years after my return from England, my father had died one and a half months after my arrival and I had practically no income. He would look at me with his deep black affectionate eyes and would say, "You look pulled down. Don't despair. Allah will help you." When I organised myself a little, he would say to his children, "Look at this boy. How he has faced adversity." His children would narrate these short but expressive words of appreciation to me and I wondered what a steel frame his fragile body contained.

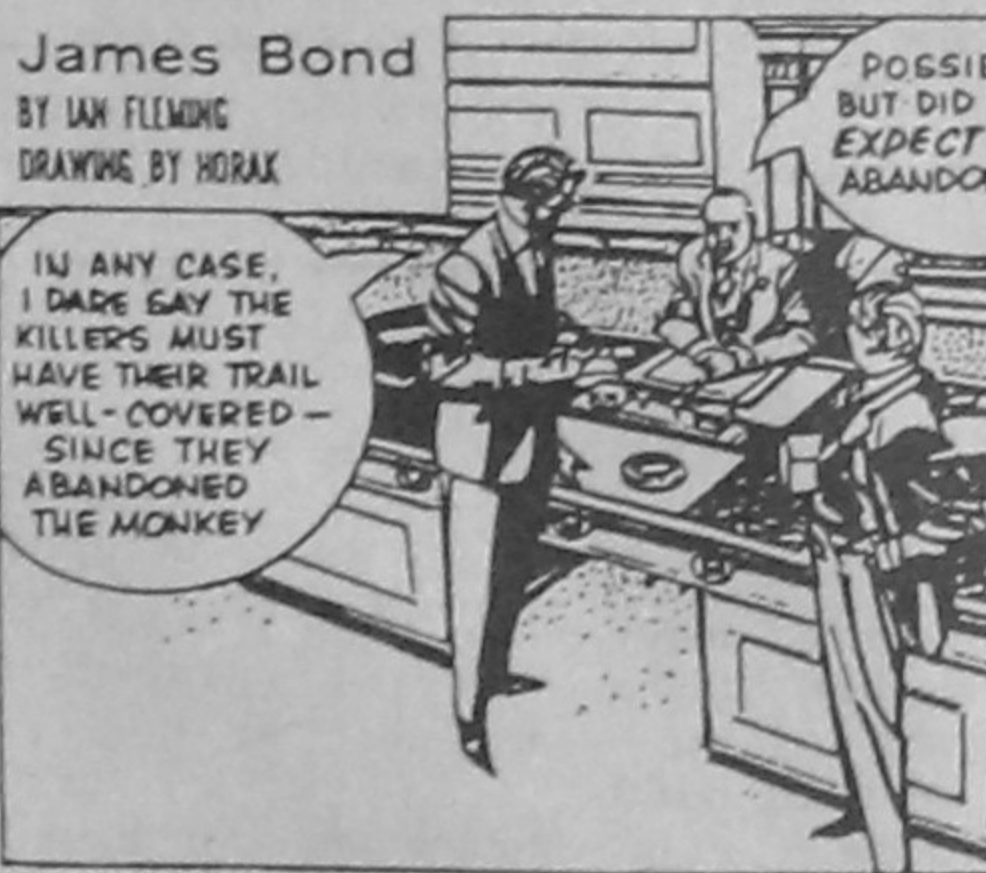
When I became a Judge, lawyers would often cite decisions from Justice Ibrahim in support of their arguments. His judgments were invariably short, precise, devoid of repetitions, direct, forthright and pregnant with legal insight. I have often quoted them in my own judgments and have always asked the new Judges to read his judgments to learn how to lay down the law without wasting words.

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With a failing health his last days were far from happy. A large chunk of his Purana Paltan house was acquired for construction of a 100 feet road. On the assurance of G A Madani, then Chairman of DIT, he left the house for a temporary accommodation at Dhamondi. On his return he was amazed to find that renegeing on his promise Madani decided to resume the Khamsahal land, thus depriving him from legitimate compensation. He kept himself busy in renovating whatever was left of his house. When the end came in the mid-morning of 13th October, 1966, he was still supervising the repairing work. I received the information immediately and rushed to his house. We buried a loving, caring man of courage and vision with tears rolling down our eyes and with Kalem on our lips. May Allah rest his soul in peace.

The author is former Chief Justice of Bangladesh

Garfield®



by Jim Davis

Bangladesh University of Engineering & Technology, Dhaka Tender Notice

Sealed tenders are hereby invited from the bonafide suppliers for supply of different kinds of stationery articles etc. Details terms and conditions may be available from the stationery section. Tenders must be submitted on or before 11-30 am of 25.10.2000 and will be opened on the same day at 11-35 am before the tenderers present. The university authority reserves the right to accept or reject any or all the tenders without assigning any reason whatsoever.

GD-951

Registrar

BCIC CORRIGENDUM KARNAPHULI PAPER MILLS LIMITED INTERNATIONAL TENDER NOTICE

TENDER NOTICE HAD BEEN PUBLISHED IN THE DAILY JANAKANTHA ON 10-08-2000 AND MANY OTHER DAILIES ON DIFFERENT TIMES INVITING TENDER FROM INTERESTED SUPPLIERS TO SUPPLY (1) BAMBOO CHIPS-6000 ADMT (2) PULPWOOD-4000 ADMT (3) BAMBOO IN LENGTH 20' FT/4' FT PCS-7000 ADMT (4) PULPWOOD IN LENGTH 4' FT PCS-7000 ADMT AND THE OPENING DATE WAS MENTIONED AS 27-10-2000 ERRONEOUSLY. THE ACTUAL DATE & TIME IS NOW 01-11-2000 (FIRST NOVEMBER, 2000). THE OTHER TERMS AND CONDITIONS WILL REMAIN SAME AS PER PREVIOUS NOTICE.

BCIC-891-3/10/2000 DFP-24290/9/10 G-1781

ADDL. CHIEF MANAGER (FOREST) FRM (PROCUREMENT) DEPARTMENT FOR THE MANAGING DIRECTOR

Gas Transmission Company Ltd (A Company of Petrobangla) (Khatihata-Ashuganj Gas Pipeline Project)

গ্যাস জাতীয় সম্পদ এর অপচয় রোধ করে জাতীয় দায়িত্ব পালন করুন

Invitation of Bids (IFB No GTC/K-A(PM)/PL/001)

- Gas Transmission Company Limited (GTCL), a company of Petrobangla intends to construct a 21 Km 30" dia high pressure gas transmission pipeline from Ashuganj to Khatihata, Brahmanbaria including interconnection of all gas well locations of Titas Gas fields under GOB finance. It is intended to complete the project and commission the pipeline by 30th June 2001. With this end in view GTCL hereby invites international bids in Bangladesh Taka currency from intending bidders who possess the following eligibility criteria:
 - The Bangladeshi Gas Pipeline Contractors having current & valid enlistment under category 1.4 with Petrobangla and/or any other company of Petrobangla having minimum experience of construction of at least 10 Km long 508 mm (20") or above dia high pressure gas pipeline in a single project.
 - Foreign pipeline contractors having proven experience in the construction of high pressure cross country gas transmission pipeline will also be considered eligible to participate in the bid. In this context successful implementation of at least one (1) project of 10 Km 508mm(20") or above dia high pressure gas transmission pipeline will be considered as a pre-requisite for participation.
 - A foreign contractor fulfilling the above condition at (b) may submit bid(s) in association with local contractor having enlistment with Petrobangla and/or any other company of Petrobangla for the year 1998-99 under category 1.4.
 - A working contractor of the company whose performance is not satisfactory will not be allowed to participate in this tender. A certificate from the relevant project implementation authority about their performance shall have to be shown to the Project Manager, Khatihata-Ashuganj Gas Pipeline Project so that he can allow them to participate in this tender.
- Single stage two (2) envelope bidding procedure will be followed for the selection of the contractor.
- A complete set of bidding documents may be purchased by interested bidders on submission of a written application to the above office, and upon payment of a non-refundable fee of Taka 10,000.00 (ten thousand) per set with effect from 15.10.2000 to 28.11.2000. Bid document will be available for sale on all working days from 0930 hrs to 1600 hrs (BST).
- All bids must be accompanied by a Bid Security of Tk 30.00 (thirty) lacs or 60.00 (sixty) thousand US dollar in favour of Gas Transmission Company Limited (GTCL) from any scheduled bank of Bangladesh in the form of Pay Order/Bank Draft. Bids can be delivered to Khatihata-Ashuganj Gas Transmission Pipeline Project, House # 23, Road # 3, Sector-3, Uttara, Dhaka-1230, Bangladesh at or before 1100 hrs on 29.11.2000. Bids will be opened immediately thereafter in the presence of bidders' representatives, if any, at 1130 hrs.
- GTCL reserves the right to accept any or all the bids without assigning any reason thereof.

GTCL-PR-14/2000 GD-949