

Nominated Administrator to Zila Parishad?

THE story speaks of settling down to the dregs. The Zila Parishad law enacted by Parliament on July 3 envisaged indirect election to the post of chairman and appointment of administrator *ad interim* to the parishad pending election to that tier. Hot on the heels of this act of legislation, BNP Advocate Khairul Enam filed two writ petitions before the High Court questioning the constitutional validity of the provisions for indirect election and nominated administrator to the Zila Parishad. He sought court intervention and injunction in both cases. The High Court Bench concerned comprising Justice Mainur Reza Chowdhury and Justice Md Mozammel Hossain issued rule to the government on July 19 asking the latter to furnish reasons in three weeks' time as to why the provision for indirect election to Zila Parishads shall not be declared 'unconstitutional'. As for induction of administrators till such time as elections to the Parishads are held, the court issued no directive upon the government 'forbidding' it, so thought some people in the government. Hence, they see some scope for Zila Parishads run by administrators in the interim.

The provision for government-nominated administrators to district councils obviously has had a catch in the ambiguity about the qualifications of persons to be eligible for nomination to the stop-gap slot. No sooner had the newly-passed legislation been gazetted in July than an effort seemingly got underway from the Local Government Ministry to handpick administrators for the interim Zila Parishads, so to speak. But it stumbled against the missing definition about who could be an administrator - whether a political person or a government official? The idea of political nomination met with instant disapproval of not merely the opposition political parties at that time but also of politically neutral civil society members and independent media as well. The latter saw in it an anathema to the whole concept of elective local self-government system.

The government took note of the controversy as it was raging then and adopted a go-slow policy over the question of drawing up a list of appointees to the so-called interim parishads. That was in July; but now, three months down the line, reports have it that the ruling party might well have swung back to its earlier penchant for administrators drawing upon the fact that the court had issued no directive on the question of nominated functionaries to the parishads. There are even speculations that the ruling party might be at it with a view to containing the internal feudings through distribution of favours and strategically positioning their favourites as administrators with an eye on the forthcoming national elections.

The crux of the matter, here, is two-fold: first, the writs over the constitutionality of both indirect election and *ad interim* appointment of administrators to Zila Parishads still remain subjudice because these have not been disposed of yet. We counsel the government, therefore, not to act administratively on an issue, that for all intents and purposes, awaits legalistic and constitutional interpretation by judges.

Belching Bane

IS it not a supreme irony that when the signatories to the Kyoto Protocol assemble at The Hague to assess the latest on greenhouse gas emissions across the globe, here in the capital some 5,000 brick fields have stacked used tires and fuel woods besides coal to burn in their kilns, touching off yet another episode of environmental degradation? The juxtaposition might sound a little overdone to many; for, in the global context, our share of greenhouse gas emission is negligible. However, it is not about the degree of damage inflicted on the ozone layers in the stratosphere; it is about the degree of environmental consciousness that we are hinting at. Until the next monsoon comes, these brick fields will burn millions of tonnes of toxic fuels with the exhaust from the kilns blanketing the city and its peripheral areas. That's not all, as experts have found out, the heat generated in the furnace has a devastating impact on vegetation within a radius of several kilometres. The long-term effect on the atmospheric ozone layer aside, the immediate- and intermediate-term environmental impact these brick kilns conjure up is simply of colossal proportions.

The question is what do we do with the brick fields. With the city expanding at 1.5 kilometres a year in all directions, brick fields are a reality we have to live with for years to come. Therefore, the focus should be on the method of baking the bricks. The current method is decidedly rudimentary and, as said time and again, extremely detrimental to the ecosystem. We have to devise a cost-effective and environment-friendly mechanism to operate the furnace. We would rather leave the details for the experts to work out. The bottom-line, however, is there has to be serious brainstorming in this direction.

Unfortunately, the people at the helm appear indifferent to, if not ignorant of, the environmental consequence the brick-fields lead to. As the brick-field owners step up their activities, the administration gets more involved in blaming each other. The Department of Environment (DoE), the regulatory body in this regard, is handicapped by an inadequate inspection team to put a check on would-be offenders. As per the law of the land the police can clamp down on the offenders but they doubt, grumbles the DoE. The district administration, on the other hand, complains of huge irregularity on the DoE's part in the matter of issuing the clearance certificate to brick fields. Over 99 per cent of kilns does not have clearance, it says.

It cannot continue this way. Both have to admit they have failed to discharge their responsibilities. That should be the first step in the direction towards putting a tight leash on the brick fields and protecting thereby our environment from further degradation.

Prime Minister's Claims and the Judiciary

The separation of the judiciary from the executive, which had been pledged by the Awami League before election, is a far cry from the reality. Though some limited financial powers have been added to the authority of some section of the judiciary, it is nowhere near to the financial independence that the judiciary requires and deserves. The judiciary is still suffering from the indiscriminate selection, placement and transfer of personnel in courts of law by the executive. The lower courts are almost totally under the jurisdiction and influence of the executive.

PEOPLE have difficulties in understanding some of the claims made by the Hon'ble Prime Minister Sheikh Hasina which have a direct bearing on the judiciary. It is necessary that the claims preferred call for substantiation by facts and illustration. Otherwise, these relegate itself into hollow propaganda directed towards attaining some specific goals by way of, to say the least, creating confusion in people's mind. Let us take a few examples.

One of the pointed and principal accusations made by the Prime Minister and pursued vigorously by her partymen in their talks and meetings is that the BNP of the Opposition has been engaged in a conspiracy to foil execution of the verdict of assassination of the then President Sheikh Mujibur Rahman. It is a grave charge and calls for substantiation. I have since asked many BNP leaders why and how they or some of their colleagues had been involved in such a conspiracy. They fail to give a satisfactory answer. Some even observed that to be a figment of Prime Minister's imagination.

The judgement in the case of Sheikh Mujibur Rahman's killing is now under hearing at the Death Reference Bench of the Appellate Division of the Supreme Court. The substantive part of the case cannot be discussed, as it is sub-judice. It is also not the purpose of this article to do so. We deal with the peripheral issues and must not violate the code of conduct and law. But it is quite incomprehensible how an individual, group or an organisation can get involved in foiling a case

which is being pursued in the highest court of the land and undergoing due process of law. Have the opposition BNP or its leaders made any public statement or staged demonstration for this purpose? No, they have not done so. On the contrary, they appear to have maintained a strange silence on this issue. Some BNP supporters contend that the reason for such a silence is not to allow the ruling party to misinterpret any public comments from the BNP side and to make them appear to constitute a direct interference in the case. Again, it would have been preposterous to assume that the opposition in any way attempted to influence those dealing with the case.

On the other hand, one may argue that it was the ruling party, which may be accused of interfering in the due process of law and to direct the judiciary to take the desired action of the former in this case. The most vivid evidence lay in the big public 'stick' rally of the Awami League in Purana Paltan a few months ago. Senior Ministers and Awami League leaders with thousands of followers brandishing 'lathis' or bamboo poles paraded streets of Dhaka, demanding immediate execution of the verdict of the case of killing of Sheikh Mujibur

Rahman. They went so far as to intimidate absentee adversaries with the remarks that they were then merely manifesting 'lathis', but they also knew where to use those weapons. The Supreme Court appeared to be too gentle to take any *suo moto* action following such demonstration. This act of intimidation took place as a sequel to the delay in the final

Prime Minister repeatedly stated that the law will take its own course. But, it transpires that sometimes she attempts to direct the law to take the course desired by her, even if it requires a little nudging with bamboo sticks.

The Prime Minister was admonished by two successive Chief Justices of the Supreme Court, while disposing of cases of

There is a difference between liberty and licence, one must understand and observe.

A couple of months ago, in the wake of a brutal killing in Chittagong of half a dozen Awami student cadres allegedly by rival student groups, Prime Minister made a statement which is not only most unbecoming of the Chief Executive of the country but smacks of an act of incitement to students to take law in their own hands. She stated and this appeared in several newspapers which insinuated that the Awami League student cadres were no better than women, wearing sares and bangles, and were no match to the marauders. But the remarks that followed is unbelievable. Addressing her students cadre, she is reported to have said that one corpse must be matched by ten corpses. In other words, if one of the students belonging to the Awami League is killed, then as a reprisal ten others belonging to the opposing group must be killed. Is not this an act of gross violation of the law of the land? Is this expected of one of our national leaders, not to speak of the Prime Minister? The public were stupefied, dismayed.

The earliest confrontation of the present administration with the judiciary that is worth mentioning happened in the second

year of the rule of the present government when four former BNP ministers and leaders had been arrested under the notorious Special Powers Act of 1974. The charges included absurd allegation that the former BNP minister of energy had conspired and demolished an electric pylon somewhere in the countryside. The High Court subsequently not only released them but also imposed monetary fine on the government for framing such totally unfounded and ridiculous charges. The firing of the government was unprecedented and the present Awami League government is the first and the only one to have the distinction to earn it.

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



Currents and Crosscurrents

by M M Rezaul Karim

approval or endorsement of death sentences by the highest court of law in the land with the purpose that the Supreme Court, by transgressing the established rules, procedure and legal obligations, must dispose of this case out of turn. If such an act does not constitute interference in judiciary, what does it constitute, one wonders. And this act was designed and implemented solely and entirely by the Awami League. As a result, a special bench was set up in the Supreme Court to dispense of this case. Everyone is well aware that the

contempt of court against her, and was asked to use due caution and appropriate language while referring to the judiciary and to judges. No other Prime Minister of Bangladesh had been reprimanded in such a way by no less a person than the Chief Justice himself ever before. What more can a Chief Justice say against the Prime Minister of any civilized country? The Prime Minister directly or indirectly indicated that she would continue to indulge in such action in the interest of what she said opinion and sentiments of the people.

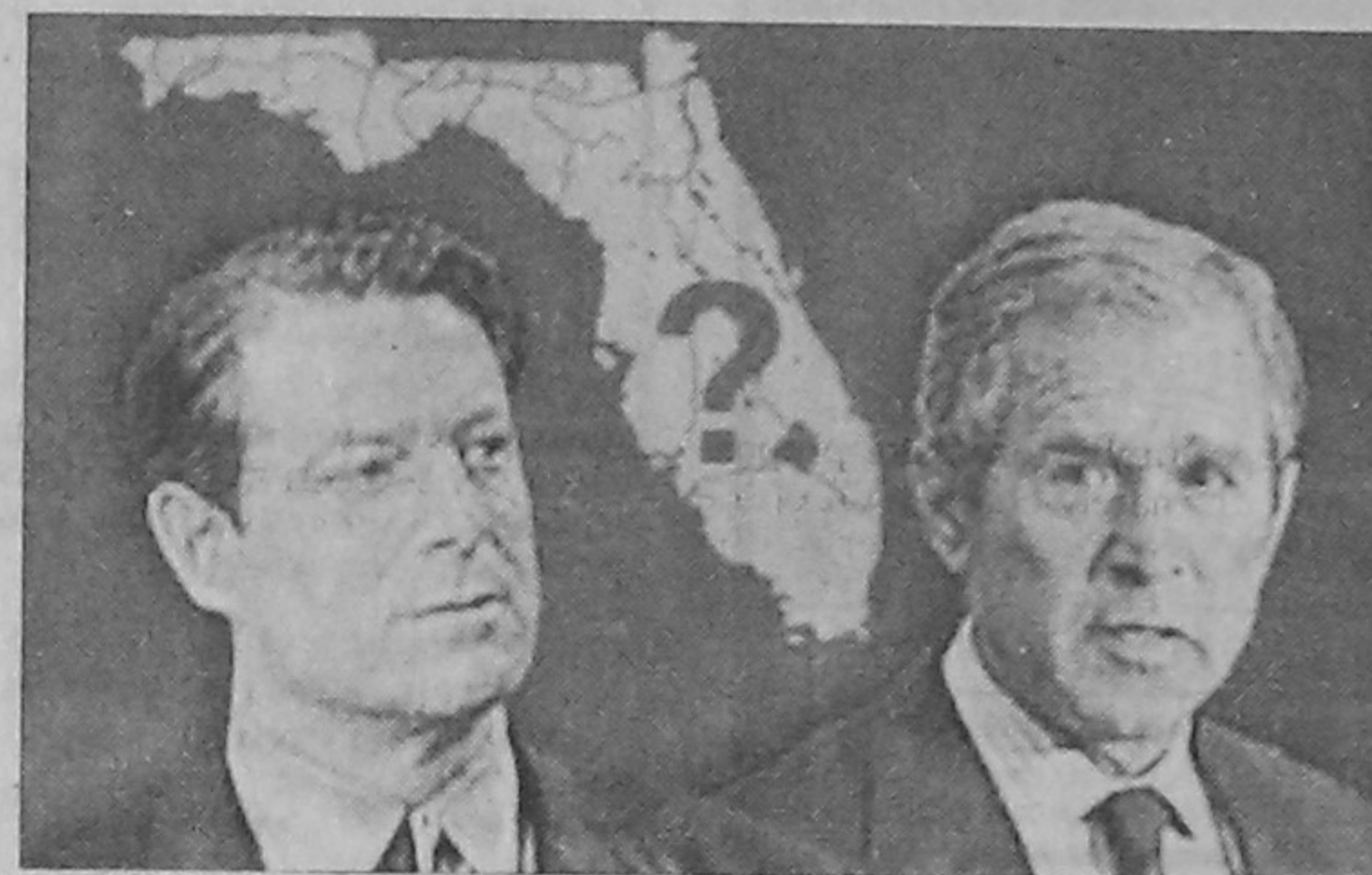
US Presidential Election in Chaos: Long Wait for the Result

by Harun ur Rashid

History tells us that the US has endured a number of cliffhanger elections. In terms of the popular vote this election could be the closest since 1960 when Democrat John F. Kennedy edged Republican Richard Nixon out by 49.7 per cent to 49.6 per cent. Closer still in 1880, Republican James Garfield squeaked by his Democrat rival General Winfield Hancock by 48.27 to 48.25 per cent - fewer than 10,000 votes out of nine million. The narrowest electoral vote victory in the past century was registered by Woodrow Wilson in 1916 when he won a second term in the White House by a 277-254 margin over his rival Justice Charles Evans Hughes.

toral College votes. It is believed that the majority of women, low-income groups, elderly citizens and minority groups have voted for Gore. It is believed that despite the campaign by both parties to the electorate to vote, only 51 per cent voted in the election 2 per cent increase of 1996 election. In 1960 the percentage was 62. The present figure does indicate the apathy of the voters in the US. The US Presidential election on November 7 demonstrated that even the Presidential election can suffer from irregularities, given the availability of all high-tech gadgets and electronic methods of voting. Computer cannot replace human beings and this sharp truth is evident in the electoral count in Florida. Some could argue that there is no replacement of old way of casting ballot and counting them for its accuracy. At the time of writing (November 10) a recount of 66 counties out of 67 in Florida indicated that Mr. Bush was only 229 votes ahead of Mr. Gore.

More than 50 lawyers from both political parties are monitoring the recount and probing the alleged election irregularities. While the Republicans as a strategy are showing quiet confidence of its victory to the White House, the Democrats are reported to



Gore and Bush: Contenders in a crucial contest

have taken seriously the alleged irregularities. The US is the richest and most powerful and transparent democracy and such gross error in counting the votes would not have been detected if the election outcome was not tied to Florida's result. The error in counting and other alleged irregularities reminds us of the elections in a developing country. People are asking whether the same errors had been made in earlier elections in the US. It did not however matter because the result was overwhelming in one candidate's favour in most of the time.

Besides the automatic recounting of votes under Florida's laws because it was too close to call, the irregularities involve the ballot lay out in the Palm Beach county in Florida and the invalidation of 19,000 ballots. The elderly Jewish residents in Palm Beach county said that the ballot layout misled them to vote wrongly for right wing candidate Pat Buchanan of Reform Party instead of Gore. Voters in this county are required to punch a hole in the ballot paper and many of them wrongly punched for Pat Buchanan and when they real-

ised the mistake they punched for the second time for Gore. Two marks of punches in the ballot paper led to the invalidation of their votes. It is argued that the Jewish people could not have voted for Pat Buchanan because of his anti-Semitic remarks. He once praised Adolf Hitler as 'an individual of great courage, a soldier's soldier'.

Another factor that would delay the result is the absentee votes which would reach by 17 November. The Republican Party claims that a majority of the overseas ballots are traditionally Republican supporters while Gore camp disputes this assertion. They argue that a big proportion of the Florida servicemen would support Gore. The Democrats claimed that a number of overseas ballots had been mailed out from Israel and these people would vote for Gore-Lieberman (a Jew). Some Afro-Americans have alleged that many of their eligible voters were not able to vote because they were refused at the polling centre. (Statistics indicate that 31 per cent Afro-American males in Florida have convictions that exclude them from voting).

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The writer, a barrister, is former Bangladesh Ambassador to the UN, Geneva.

To the Editor ...

Letters for publication in these columns should be addressed to the Editor and legibly written or typed with double space. For reasons of space, short letters are preferred, and all are subject to editing and cuts. Pseudonyms are accepted. However, all communications must bear the writer's real name, signature and address.

Death of an expatriate worker

Sir, Through your column, I like to bring the following to the notice of the authorities concerned.

One Amjad Hossain alias Anjo, son of Late Hossain Khan of village Patiljhap under UP Sholla, PS Nawabgonj Dist Dhaka, died in a road accident while riding a bicycle in the city of Dammam, Saudi Arabia. He was in service under Emama Company there. This death news has been received through telephonic message by some Bangladeshi employees who bear eyewitness to the accident.

But it is a matter of regret that neither his employer company nor the Bangladesh Embassy there has yet informed his legal heirs of the incident nor they have sent his body to Bangladesh. The deceased left his old mother, wife and five children of whom two are daughters of marriageable age. Amjad was a very poorly paid labour who did not send sufficient money to his family. But he must have left some earning for them. The deceased's family members are facing hardship almost reaching a starving point.

I request the appropriate authorities to look into the matter

appreciating its urgency.

MA Wahab
Ex-Chairman
Sholla UP, PS: Nawabgonj, Dhaka

Slum dwellers, hawkers and vendors

Sir, It appears that the authorities concerned have adopted two distinct and anomalous policies for the slum dwellers on the one hand and the hawkers and vendors on the other.

The authorities concerned often evict the distressed and poverty stricken people bulldozing their huts and shanties in different slum areas of Dhaka and strictly forbid their return and resettlement in those areas.

But hawkers and vendors occupying public roads, footpaths and streets in different areas of the city especially Motijheel Commercial Area, Gulistan, Sadarghat and Farmgate areas create terrible traffic jam and inconveniences for the members of the public but still are being treated by the authorities concerned quite leniently.

Though from time to time police carry out operation against hawkers and vendors and evict them from public roads but

within a few hours they are again allowed to reoccupy and resettle in their respective places. This is a routine and common practice in Dhaka.

It is alleged that some unscrupulous police officials collect a huge amount of money as 'toll tax' from hawkers and vendors regularly for their illegal occupation and that is why they are only temporarily evicted not permanently.

Would the authorities concerned especially the Ministry of Home kindly look into the matter and take necessary action?

A Citizen
Wari, Dhaka

Confusing

Sir, On 5 November, I tuned in Bangladesh Betar in the morning at 6:30 a.m. According to the opening announcement, the day was 7th of Saban of Hijri calendar. At 7:00 a.m. on the same day when I tuned in again to Betar Bengali news they announced the day to be 8th of Saban. The state run electronic media should no way make such confusing announcement.

Incidentally, one newspaper also had printed the date as 7th of Saban whereas most of the newspapers had printed the date to be 8th of Saban. Newspapers also have their due role to play to provide the public the correct information regarding such matters.

M. Shamsuzzoha
2/2A, Pitsculature Housing Society
Mohammadpur, Dhaka

OPINION

Health Policy: Confusion Continues

Dr. Muhammad Abdus Sabur

Though sad, but fact remains that the country doesn't have any health policy even after three decades of its independence. Many critics comment that it is the policy of the successive governments not to have any health policy. Several advantages of not to have a health policy in place are also cited: People in power are then 'licensed' to follow whatever they wish and none is in a position to challenge that by referring to any policy. In absence of a policy, whatever they say become 'policy'. Who doesn't like such freedom without accountability and responsibility? At least in this consideration all the successive governments, be that labeled as democratic, military or autocratic, are found to believe and follow the same principle! However, different governments at different times demonstrated their willingness (at least in public) to formulate a health policy. Many committees were formed, some submitted reports and others didn't. During the end of Ershad's period, a health policy was announced. But it faced tremendous opposition, especially from the physicians' professional body, Bangladesh Medical Association. After the fall of Ershad, the then caretaker government cancelled the policy. The successive BNP government also formed committee for the formulation of health policy, but failed to materialize the same during their tenure. The current Awami League government also formed a committee for the formulation of health policy soon after it took over the office.

The committee said to have prepared the same many months earlier, but it was not announced. Though at different times, many top ranking officials of the government including the minister concerned mentioned that it would be declared 'soon', but that soon never came! News was published about its placement in the cabinet, committee etc., but adaptation of the policy and its implementation are yet to materialize.

Few days before when the Bangladesh Medical Association in a statement mentioned that the government was going to declare the health policy, the concerned corner started to monitor the development with curiosity.

On last Wednesday, perhaps that long a waited moment arrived. But in the following days the newspaper reports were confusing. The BSS report mentioned that the health minister had handed over a copy of the health policy to the prime minister, which would be placed in the current parliament session for discussion. But the UNB report mentioned that the health policy was announced and the health minister formally handed over the copy to the prime minister. The report also mentioned that the cabinet had approved the policy. And the prime minister sought cooperation for the implementation of the said policy. But it also mentioned, by quoting the prime minister, that the policy would be placed in the parliament for discussion. Another newspaper report

mentioned by referring the health minister that the government would consider the others view points seriously and will place the health policy before the parliament for discussion.

Therefore the question remains: what is the status of the health policy. Has it been already adopted and announced by the government and is going to be implemented, as the prime minister sought cooperation for its implementation? Or the government has formulated a draft, which is only ready for discussion in the parliament? If it is announced by the government and going to be implemented, then one can raise the question: what is the justification for its placement in the parliament for discussion? Does the government expect that in absence of the opposition, loyal parliamentarians will simply pass the already adopted one? Then this example of using parliament for rubber stamping a decided document may not be healthy for the practice of democracy. On the other hand, if government is really committed for useful discussion in the parliament and ready to make necessary change, if required, then the news of announcement and prime minister's call for support to implementation is contradictory and misleading. Only clarification from the appropriate authority can resolve the confusion.

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