

## HC's 10 p.m. Sitting

WE think the High Court (HC) should have waited till the next morning to decide on the anticipatory bail petition of the editor of *Inquilab*. It has unnecessarily brought controversy upon itself by acting hastily. However, we are aghast at the way the government reacted to event.

We fully endorse the views of the eminent jurist Barrister Ishtiaq Ahmed. He termed the HC's behaviour "unprecedented" thereby implying that its propriety remains in question. He also mentioned the issue of a tape recording of a conversation between a convicted appellant (widely believed to be a former President) and a high court judge which must be resolved in a transparent and Constitutional manner for the sake of justice. Otherwise, as the venerable jurist said, "people will lose faith in the judiciary." It may be mentioned here that one national daily was issued a contempt rule and three others show-cause notices for reporting the case of the tape in question. In response to the contempt notices, sixteen editors and publishers were forced to issue a public statement of 'concern' and suggest that the Supreme Judicial Council look into the matter. As the editors suggested, there is too much at stake here and any action that may prevent a thorough airing of this matter will damage the high public image of the courts.

While we await the action either of the President, the Chief Justice or of the Supreme Judicial Council in the matter of the "tape", we seriously suggest that the judiciary should not be dragged into further public controversy. Already 'excess' has been committed by the government in commenting on the bail issue. First the law minister and then the home minister spoke in the parliament. Then, on the following day, the prime minister let lose a stinging attack on the judiciary twice, once in the parliament and again during her press conference. Finally, Suranjit Sen Gupta, the prime minister's parliamentary affairs advisor, added his attack. However couched - and some remarks were far from it - in innuendoes and deflection sentences, all those remarks almost implied that our higher judiciary is involved in some sort of conspiracy or is a part of some evil alliance against our national interest. We must avoid any further continuation of this self destructive controversy which, regrettably, was triggered by the judiciary's own action.

Our prime minister appears to have made it her habit to hit out at the judiciary at any chance she gets. We think, as the head of the executive branch of the State she should not involve herself in remarks against its other branches, especially the judiciary. With all its flaws or limitations judiciary is the ultimate recourse for citizens to get justice. We cannot and should not do anything that damages its high standing. We had suggested several times in the past that there is need for fundamental reforms in the judiciary. To bring that about we need close collaboration between the executive and the judiciary, and NOT CONFRONTATION.

We request restraint from all sections, especially the government and the ruling party. But we do expect the judiciary to stop issuing frequent contempt notices, and, on its own and quickly, to cleanse itself and do some soul searching.

## Piracy at Ports

THE Chittagong Port Authority's decision to commission two patrol ships to intensify vigilance at the outer anchorage and coastal areas certainly comes as an encouraging bit of news, especially when piracy has marked an alarming rise in recent times. Unfortunately, here again, the authorities had to wait until the situation assumed frightening proportions before coming up with some kind of action. There has been such a drastic downslide of security at the outer anchorage of Chittagong and Mongla ports of late that the International Maritime Bureau (IMB) has issued a warning to all ships visiting these to be on extra alert. The bureau has advised all ships to maintain anti-piracy vigilance at anchor and report all piratical attacks and suspicious movement of watercraft to its Piracy Reporting Centre in Kuala Lumpur. The IMB has already identified Bangladeshi ports as the second riskiest in the world next to the Indonesian ones.

Over the last two months or so, situation at these ports have deteriorated dramatically. Five fishermen have already died after pirates swooped on their boat. A ship of Shell Oil also came under attack in which its Indonesian second officer received bullet injury. There have also been abortive attempts to loot cargo ships. Besides, theft of zinc anodes welded to the sides and sterns of ships has become a regular phenomenon.

Although nerve centres of the country's economic activities, both Chittagong and Mongla ports have been subject to a wide range of crippling problems. While unbridled and unscrupulous trade union activities have hampered port activities at regular intervals, congestion at the container terminals has at times taken intolerable proportions. Besides, there have been politics-induced impediments to port operations.

Thankfully, the CPA appears to have woken up to the rude reality and, belated though, has initiated some security boosting measures. Activation of police stations is a wise decision indeed; for the absence of it has allowed pirates to flee almost unchallenged after attacking and looting the ships. Also prudent is the suggestion for formation of a committee that would review security operations every two months.

However, there should be efficient and effective execution of these recommendations. The authorities must realise that the ports are now in a disadvantageous position in the international community for inefficient operations and embarrassingly inadequate security. Endured indifference in this regard has pushed these ports on the verge of being blacklisted by the international shippers' community. Should this grave consequence befalls these, it would have a crippling impact on the economy which might prove to be overwhelming.

# Turkey in the EU Road Map

*With the publication of the EU Commission Accession Partnership Document, the final phase of Turkey's admission to this privileged club of the Christians has begun. Turkey has waited for 33 years for this final phase. On a rough estimate this phase is expected to last at least ten years if not more.*

THE European Union Commission presented on 9 November to Turkey its short term measures of the Association Partnership Document. This document will form the basis of talks between Turkey and the EU and eventual negotiations between the two sides for membership of Turkey in the EU. There is a long road ahead for Turkey and the negotiations promise to be tough.

The Accession Partnership Document calls on Turkey to make certain changes particularly with regard to the political criteria. These are the famous Copenhagen Criteria, which must be achieved by countries who aspire for membership of the EU. Commenting on the document, Prime Minister Bülent Ecevit has said that this is not intended to pressure Turkey but rather would serve as a Road Map. The item that has surprised the Turkish authorities is the inclusion of the question of Cyprus for the short term - that is completion of the negotiations within one year.

In the short term, which means reforms that are expected to be achieved within 2001, the EU Commission calls on Turkey to strengthen legal and constitutional guarantees for the right to freedom of association, right to freedom of expression, to reinforce the right against torture and allow Turkish citizens the use of their mother tongue. Without naming the Kurdish population,

who form nearly a quarter of the population of Turkey, this recommendation is aimed at allowing the Kurds the right to own their radio and TV. This is a ticklish subject here but the authorities appear ready to allow it. This particular measure will have to be completed within the medium time frame that is within 2004. The Road Map recommends continuation of the moratorium on death penalty and its eventual abolition. It is to be noted that death penalty has been abolished in all the 15 EU countries. For Turkey one question that has been debated again and again is whether to execute Abdullah Öcalan, the separatist Kurdish leader, languishing in jail in an island on the Marmara sea, the island where ousted Turkish Prime Minister Adnan Menderes and his near associates were hanged in the sixties. The medium term reform is proposed within the National Security Council in order to make it an advisory body. In other words, what is proposed is the removal of the teeth of the National Security Council. This is the most important proposal from the EU Commission. The Turkish armed forces, with the largest standing army in Europe, play a very important role and enjoy genuine

respect and affection among the population. The armed forces are totally wedded to Atatürk and his reforms, one of the most important of which is secularism. It is inconceivable that the Turkish armed forces will make any compromise on this subject. In the mid nineties, the armed forces removed unceremoniously the Islamist leader Necmettin Erbakan from the post of Prime

The importance of the Road Map lies in the fact that it is the beginning of the final phase before Turkey joins the EU. It may be recalled that Turkey applied for membership of the EU as far back as 1963. In 1995 Turkey joined the Customs Union unilaterally without waiting to receive anything in return. Thus Turkey opened her doors to Europe and the rest of the world

ment.

Whereas there is disappointment at the inclusion of Cyprus in the short term, it is no doubt the result of long and painful negotiations. The lines of the dispute are pretty clearly drawn. On the world stage there is only one Cyprus - the southern Cyprus whose population is Greek. Northern Cyprus, whose population is Turkish, is not recognised by any country outside Turkey. Negotiations under the UN auspices have been going on interminably. It has become crystal clear that the only viable solution is a confederation, with a loose union between the two sides. No other solution appears feasible, given the reality on the ground.

Mehmet Ali Birand, the moving spirit behind the TV channel CNN-Türk, in a long article entitled "no use fearing it" wrote: "The Association Partnership Document" has bared totally certain realities which we have been deliberately trying not to see. From now on let us stop burying our heads in the sand and launch a programme for change. Writing on death penalty he stated that the Turks have been behaving as if they would execute Öcalan thereby "we have decided both our own public and the international public." On freedom of

thought Birand wrote, "we had imposed all restrictions, specially Article 312 of the Turkish Penal Code and Article 8 of anti-terrorism law because we were worried that the country's integrity and unity would be disrupted." "We ignored the European Court of Justice, Council of Europe and UN decisions." To sum up this document does not contain any surprise element or any element which Turkey cannot afford to comply with," concluded Birand.

With the publication of the EU Commission Accession Partnership Document, the final phase of Turkey's admission to this privileged club of the Christians has begun. Turkey has waited for 33 years for this final phase. On a rough estimate this phase is expected to last at least ten years if not more. That the journey is going to be extraordinarily tough can be gauged from the fact that on 8 November the French Senate adopted a bill condemning massacre of the Armenians back in 1915 by the Ottoman Empire. It is not difficult to understand that France, the current chairman of the EU wants to extract concessions from Turkey. Other parliaments in Europe are expected to follow suit.

If Turkish character and especially her perseverance is any guide, Turkey is sure to reach her destination -- partnership by the first Muslim state of the exclusive Christian club which is the European Union.

## The Horizon This Week

Arshad-uz Zaman



Minister because he had become a threat to the secular regime of Turkey. Negotiations on this issue promise to be tough.

In the middle term the document recommends the signing of economic, social and cultural, political and civil rights. On the human rights front the document recommends the signing of rights identical with European human rights Agreement. The Commission recommends the continuation of efforts towards implementation of economic reforms,

and the markets have been flooded with foreign goods. Turkey has faced the situation bravely. Turkey was rebuffed in 1997 Luxembourg Summit and finally in the Helsinki Summit of 1999. Turkey was invited to start negotiations for eventual membership. This latest development has been preceded by sudden flowering of emotional friendship between two arch enemies Greece and Turkey. There is no doubt that catastrophic earthquake in Turkey and Greece played a major part in their rapproche-

## OPINION

### Beware of Constitutional Coup d'etat!

An Observer

NOT long ago the Prime Minister made an appeal to the world community urging them to devise a system whereby military governments formed after overthrowing a legitimate government by force or through unconstitutional means do not get any cooperation or recognition from other states. In other words, she wanted the United Nations to take action against all military coup d'etats. For the sake of democracy, this is indeed a noble approach. But we should not be oblivious of constitutional coup d'etat either. For example, in Bangladesh, we need votes of two-third members of Parliament to make any constitutional amendment and if a party in power having that many seats in the Parliament changes the form of government, say, from Parliamentary to one party Presidential system, and simultaneously, instead of having a presidential election, inserts a provision in the constitution in the form of an amendment declaring a special person of the country to be the President with confirmation in the constitution that the person should be considered elected, that may be termed a constitutional coup d'etat. By the way, this example is not hypothetical. It has happened in our contemporary history under the 4th amendment of the constitution.

In a more recent time, a Prime Minister of a country of this region tried to bring a more interesting amendment. That particular amendment was designed to declare that Prime Minister as, say, the Ameer-ul-Muminin, who would be above all laws and whose views would be considered as super law. However, that amendment did not pass the second house of the Parliament of that fortunate country. This sort of changes in the form of government is known as the constitutional coup d'etat. A totalitarian government formed under these sort of constitutional changes is equally harmful like a military regime. We all know that anything done within the purview of the Constitution is legal, no matter

how the constitution is formulated or amended. In Bangladesh constitution was amended for legitimizing even irregular activities of government.

Amendments were brought one after another to legitimize ex post facto law (Islamendment, for International Crime Tribunal Act), law on preventive detention (2nd amendment), for enacting Special Powers Act and emergency, handing over territorial land (3rd amendment), for exchanging Berubari, ban on all opposition political parties (4th amendment introducing one party system), immunity from killing of a president and his family members and martial law (5th amendment) and so on. Except for the 1st amendment (which was brought to try the war criminals) and perhaps the 3rd amendment, all these exercises reflect a total disrespect for democratic value. Only difference between a constitutional coup d'etat and army coup d'etat is that in the former case the amendment in the constitution is brought before taking action while in the later case the action is taken before any amendment is made.

Therefore, building resistance against only army coup d'etat is not enough for a sustainable democracy. We need to be further watchful. Our democratic institution itself is not on the right track. Different vested interest groups are working alternately to make this country a fertile land for their growth. Of course, in the age of globalization we do not mind multinational companies to flourish in our countries (to our interest, too). But it started bothering us when we are asked to work for them according to their will not according to the law of the land. To be more candid, let me give an example. We all know that the constitution of Bangladesh guaranteed every citizen of this country the right to form association. But, unfortunately, if a citizen is working in an EPZ, then under the present circumstances a citizen is not allowed to form a trade union. Who is or are curtailing a citizens' constitutional

right? The answer perhaps is: our democratically elected public representatives. Because they are either rich themselves or represent the rich. But, then curtailing citizens' constitutional rights to facilitate business of a few is an indication of another constitutional coup d'etat. No one knows what other constitutional rights we are going to lose.

This country is known to be one of the poorest in the world and perhaps except for the bank defaulters, one can hardly find a capitalist here, if tax record is scrutinized. The country's economy is basically dependent on the activities of professionals, workers and labourers. They are either middle class or poor. But they can't elect someone from them as their representative in the parliament. Because our democratic institution has reached a point where we tend to elect only rich people as our policy makers. These rich people often are not taxpayers, and they get money from unknown sources. One needs huge amount of money to pay for the hooligans to win an election. The entire political system is under the control of people who can maintain an army of musclemen. The people are given the option of choosing between two snakes in order to be ultimately bitten. And we still call it a choice. How long can we survive calling this a democracy?

It is time now to recognize the fact that a conceptual coup d'etat has taken place in our political system without our knowledge. We do not see it because of the cosmetic layer of constitutionality. The constitution is framed and amended in such a way that it alienates majority of the people from the country's policy management structure. The professionals, workers and labourers fought for the independence of this country but are virtually not in a position to send their representative in the parliament. Perhaps it is time now to stand up and say, "this constitution is not serving our purpose as envisaged." We need to open our windows. Perhaps, it is time for initiating a movement for real democratic change.

### Islam and Secular Democracy

Mahfuzur Rahman

ALI Ahmed Ziauddin's perceptive writeup, "Reform and Fundamentalism in Islam" (Opinion, The Daily Star, 7 November), is both interesting and timely. I feel, however, that it is necessary to go a bit further. In this brief note, I pick up the thread that Mr. Ziauddin (AAZ in what follows) left in his last paragraph, though the direction I take may not necessarily be his.

AAZ's assessment that "For all practical purposes religion and politics got separated by the late 10th century during the time of the latter Abbasids" is a bit confusing for it gives the impression that something close to secularism was in the offing, which was obviously not the case. A clear separation of religion from state has never been achieved in any Muslim majority country, except Turkey. Neither was it expected in Islam's historical past. After all, secular democracy is a relatively recent concept. Similarly, "Open discourse ensued on the nature of state, politics and religion in Islam" is perhaps an overstatement. When did that discourse take place, in what form, how long and to what effect?

But some discourse did take place. The Mutazilism of the 8th-10th centuries, with their doctrine of free will, were among the first to challenge some of the concepts of orthodox Islam (and were branded as heretics). This was probably the only significant discourse in Islamic theology that jolted the religious establishment. At a more subtle level, sufism was also a challenge to Islamic orthodoxy. Of greater relevance in the present context were the brilliant and inquiring minds in Islam's history who clashed with orthodoxy in various degrees. AAZ rightly mentions the 14th century scholar Ibn Khaldun and refers to his concept of "government based on human reason". And there were scholars like Ibn Rushd, Ibn Sina and Al-Biruni. No radicals by modern standards, they dazzled the world by the depth of their intellect and the breadth of their probing mind. Without doubt, it was the loss of the inquiring spirit that

caused the most egregious damage to Islamic societies and many in these societies have still not woken up to that loss.

AAZ finds that the orthodox and adjustment "have been" at loggerheads over nearly the whole of Islamic history, and that this "has trickled down to the present day with an overwhelming allegiance in favour of separating religion and politics, though the battle line is not yet clearly drawn". He finds Bangladesh in the frontline of "struggle between orthodox Islam and modern democracy". If I have understood him correctly, he apparently hopes that in Bangladesh secular democracy will triumph and coexist with Islamic values.

So do I. But what is the prognosis? It appears to me that the fundamentalists continue to gain ground in the country, while the secularists sit on their hands. This is not a place for an elaboration of such complex and wide-ranging issue, and a few pointers must suffice for the present.

There appear to be two broad facets to the continuing struggle between religious fundamentalism and secular humanism of which modern democracy is a large, if imperfect, example. On the one hand there is the apparently unstoppable social, economic and technological changes and their interaction. These tend to corrode the influence of fundamentalism in the long run. But the matter is not as simple as that from the short-term perspective. Fundamentalist tendencies can also slow down, if not stop, economic and technological progress. Deeply seated traditions and blind beliefs die hard. Note in passing in this context that there are still people in Bangladesh who do not believe that man has ever landed on the moon. But, more importantly, fundamentalist resistance to change has also its proactive counterparts. It is reflected, for example, in the type of education that they feel that the country should have and in the role to be assigned to women in society. Neither is it difficult to realize that modern technology (coupled with fervour), has made it easier

for orthodoxy to be spread across nations, in much the same way that cable television makes it easy to transmit very unorthodox views and visions across national boundaries.

The other important facet of the struggle is intellectual. In so far as discourses go, there are few issues that provoke greater passion than those of religious orthodoxy set against secularism. There is, however, a remarkable asymmetry here. In general, a discourse in favour of orthodoxy is either applauded or simply left alone. Anything that is critical of received wisdom is a different matter altogether. This explains why writings of the first genre are far more common than those of the second.

If the hope that AAZ expresses is to be realized this has to change. But there are real difficulties here. Much of this can be traced to the pusillanimity of most of the leaders of the mainstream media. It is indeed almost tragic that lengthy discussions by fundamentalist writers, be it exegesis of well-boiled established thoughts even those which are insults to the intellect or a trade against anything resembling a threat to orthodoxy, are published by the media, as if this is an act of piety. Anything that is based on cold reason but is seen to hurt orthodox positions or the "religious sentiments of the masses" is rather shunned. One marvels at the courage of the eighteenth century philosophers of the Enlightenment such as Diderot who once described a theologian as one who tells the lone individual lost in a dark forest, with only a flimsy candle as his guide, to get rid of the light better to find his way. One marvels too at the daring of the publishers who published such work. Fundamentalists in Bangladesh in the twenty-first century would like to put out the candle and not many dare to protest, except perhaps from behind convenient political shields. If I am vastly exaggerating the power of the fundamentalists in my country, I shall only be too glad to know.

The writer is a former United Nations economist and lives in New York.

## 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.**

### Mobilising the youth

Sir, As time passes, each country strives to attain overall wellness by climbing the ladder of development and prosperity. It is said that we all learn from our past mistakes, but unfortunately the current scenario of our country speaks otherwise. It is high time we start to equip the future generation with social consciousness, ethics, values and morality so that at least they can realise their role and work accordingly.

Bangladesh being one of the most densely populated countries has the privilege to use its large human resource. Among various ways, one step can be initiated from the educational institutes of our country which are the powerhouses throbbing with youthful and uncorrupted mind. We can start with a special compulsory curriculum on social services for three to four months in school, colleges and universities where the students can develop and work on projects to their choices focusing on differ-

ent development issues such as education drive in slum areas, working on reducing environmental degradation, special computer literacy sessions etc. Universities should also start giving extra credits to the students who will be actively participating in different social works. I do believe that launching these types of youth oriented programs nationwide would not only have a huge impact on the development process by creating a synergy in different fields like poverty alleviation, reduction of illiteracy, health awareness and many others but also through this paramount process we will be developing a future generation armed with the sense of achievement, awareness, confidence, selflessness, a sense of participation and freedom, and above all a generation who would know to care enough about others in bringing new hope for our beloved country.

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### Why not bank loans refunded?

Sir, One who seeks bank loan is required to fill in a prescribed application form, provide all necessary information and documents and submit those to the bank manager.

The bank manager gets the application and documents examined and scrutinized by different officials of the bank at various levels and also by him. If the case is found genuine and authentic then the applicant is granted loan. This is the common practice of granting bank loans.

It is, however, alleged that whether AL, BNP or JP is in power large scale irregularities and corruption are committed with regard to grant of bank loans.

It is also alleged that on the one hand many unscrupulous and undeserving persons have been granted bank loans at the behest of some influential people and on the other hand many needy and genuine persons have been deprived of loans. As a result, colossal amount of bank loans have been misappropriated and squandered and the general people have been affected immensely.

According to a news report, the up to date default bank loans in

our country amounts to Taka twenty four thousand crore.

When a bank manager fails to get back money from the borrower he usually issues a legal notice through a lawyer and then files a case against the borrower in the Artha Rin Adalat for recovery of the loan.

There is a provision in the Artha Rin Adalat Act 1990, article 5 (K) which says "Hearing of any case filed in Artha Rin Adalat cannot be postponed/deferred more than three times and must be disposed off within six months of the filing of the case."

After hearing of the case whether in the presence of the plaintiff (bank manager) and the defendant (borrower) or in an expert judgement normally the plaintiff (bank manager) wins the case and the learned judge in his decree orders the defendant (borrower) to refund the loan with 20 per cent interest within ninety days failing which the plaintiff (bank manager) may take necessary action as per rules for the recovery of the decreed amount.

Following the decree of the Artha Rin Adalat the defendant (borrower) either makes negotiations with the plaintiff (bank manager) for repayment of the loan or he (defendant) makes an appeal to the High Court after depositing at least 50 per cent of

the decreed amount to the Artha Rin Adalat as per rule.

But most of the times we observe the defendant (borrowed) sitting idle while the plaintiff (bank manager) files an execution case in the Artha Rin Adalat for the execution of decree.

An execution case in the Artha Rin Adalat is very much time consuming, it is also wastage of energy and huge amount of money.

We are, therefore, of the opinion that instead of filing an execution case in the Artha Rin Adalat the plaintiff (bank manager) should file a F.I.R. along with a copy of the Artha Rin Adalat's decree against the defendant (borrower) in Thana (police) and start a criminal case against the defendant (borrower).

This is the simplest and easiest way to recover bank loan. The defendant (borrower) is then socially, politically and legally bound to refund his bank loan as early as possible.

A Citizen  
Dhaka

### Manhole cover thieves

Sir, One who goes for a morning walk, often one fine morning finds that number of manhole

covers are missing from a public road or street and he wonders where have all the manhole covers gone? This is a common phenomenon in the metropolitan city of Dhaka.

A manhole cover of average size costs between Taka 50.00 to 100.00 and the price of a big size manhole cover varies from Taka 100.00 to 200.00. Indeed in a night's operation a thief earns a handsome amount of money.

The theft of manhole covers causes road accidents and create obstacles in the movement of vehicular traffic. DCC also incurs a huge amount of public money on the repeated replacement of manhole covers. But surprisingly we never come across any news that a manhole cover thief has been arrested.

It is alleged that some thieves in collaboration with some unscrupulous employees of DCC and night guards of different localities are engaged in stealing manhole covers.

Isn't it the responsibility of DMP to hunt and catch hold of these thieves and save the city dwellers from the curse of dangerous and deadly open manholes?

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