

High Time for Police Reform

Prothom Alo report has sent shudders through our spines at the thought of the difference between ruffians and policemen withering away by one fell stroke or the other. It is learnt that the police authorities are currently probing allegations about two 'secret meetings' taking place between police officers and terror leaders towards the end of the Ramadan month. They discussed what amounted to matters of mutual interest: settlement of inter-group disputes amongst the mastans and hammering out of a new financial arrangement for the police to turn a blind eye to their acts of criminality. Altogether 18 police officers were alleged to have had the rendezvous with the gangsters sitting around the table to chart out a road map jointly for fruitful co-existence as they went on. As if a mutual appreciation society was moving full steam ahead to turn into a none-too-clandestine prosperity sharing association.

We have heard of policemen being in league with underworld dons, but never before had any meeting been held in such an organised and galling fashion as apparently happened between the two sides on the Eid-eve. The proximate cause for the get-together was the need to clear the air following the feuding goons' handing over of their foes to policemen. Normally it should have been welcomed by the police like we heard sometime ago that the police felt relieved at the elimination of terrorists through mutual fights. Strangely enough though, the police have fallen in rather than falling out with them.

The situation could not get any worse and it has to only improve from here on if we are not to have any serious identity crisis between our policemen and the mastans.

It is yet another warning signal for a police reform package to be put in place without any further loss of time. We can visualise four elements to it: improved salaries, facilities and equipment; provisions for better training with emphasis on civic and human rights; non-partisan use of the police force; and above all, a comprehensive code of conduct demanding mandatory fulfilment of police obligations across the board.

Case of the Stranded Passengers

The immigration authorities in New Delhi have pushed into Dhaka 14 alien nationals stranded in the Indian capital, thus seemingly washing their hands off a potential problem. The passengers flew into Dhaka on Thai Airways, and left by Bangladesh Biman, for Calcutta. They merely transited through Dhaka. Biman's responsibility to these passengers ended there. The 14 made their way to New Delhi and were allowed to depart from the Indian capital for Vienna. But the Austrian authorities refused to accept the passengers and sent them back to the Indian capital. At this point, on December 16th, the authorities in New Delhi exerted pressure on Bangladesh Biman to ferry them back to Bangladesh, even going to such lengths as to threaten that a Dhaka-bound Biman aircraft from New York would not be allowed to take off until the alien nationals had been taken on board.

We are surprised at the reasoning that led the Indian authorities to pin this problem on the shoulders of Biman. The passengers were allowed to enter Calcutta, and subsequently, allowed to leave from New Delhi, without an alarm being raised at that stage. But when the Austrian authorities deported them back to the Indian capital, the New Delhi authorities deemed it fit to pass on the problem to Bangladesh. It would have been a reasonable move if New Delhi had contacted the Thai authorities, for the passengers began their journey in Bangkok. Instead of which, unfortunately, they decided to exert pressure on the Bangladesh national carrier. We are surprised also that Biman caved in, seemingly easily, to pressure, though we are aware that with resource and logistical limitations, the airline would have suffered had an aircraft been held up indefinitely in New Delhi.

Once at ZIA, the stranded passengers have become the responsibility of Biman. After looking after them for nearly two weeks, they have now been taken into police custody in an attempt, presumably, to determine their country of origin. The passengers, aged between 22 and 28 years, appear to be of Chinese or Thai origin, but they carry no papers, claiming these were seized in Vienna. None speaks English. Chinese embassy officials after meeting them have declared them not to be of Chinese nationality, while Thai Airways has declined to fly them to Bangkok. Where do they go? We urge the authorities to act urgently to identify the passengers, return them to their homes, and end this mysterious misadventure at the earliest.

To the Editor ...

SEC's role

Sir, The Securities and Exchange Commission (SEC), the lone agency in respect of supervision and control of Public Limited Companies (PLC), has issued a gazette notification on 24 October, restricting the PLCs not to give any benefit in cash or kind other than cash dividend or stock dividend to the holders of equity securities. Unfortunately such an act on the part of SEC cannot be supported or encouraged as the PLC may give

some key rings, money bags, diary, calendar or a small alarm clock or so to their shareholders at the annual general meeting (AGM). I received an alarm clock worth Tk 100 given by a PLC and utilized the clock during Ramadan as an alarm for 'Schri'. However, I would like to mention here that many a public limited companies do not pay dividend for years while many do not hold AGM. Apex Weaving continue to fail to give dividend for five years. These PLCs had to borrow money from

not pay dividend till date. Monno fabric raised share capital five years back by selling one share at Tk 150 but no dividend has been paid till date while this share is worth Tk 63 as per share market. Gachinaha raised share capital four years back but no dividend has been paid till today while Tk 100 invested for a share is worth Tk 38 today. Mahubur Rahman Dasani, Bagerhat

banks and had to pay Taka 15 at year end for each one hundred Taka. Under the above facts let SEC do something proper instead of small things as per gazette notification cited above and tighten the activities of PLCs while we are tired of hearing accountability, justice, transparency etc often uttered by the policy makers.

A Landmark Decision

What can be hoped for at this juncture, with the judiciary making this bold and unambiguous statement against the very legality of the fatwa, is that a cross section will be aware of the need to thwart these so-called edicts. And that this same cross section will have the courage to call a spade a spade.

The decision has startled many, including myself. But it was a welcome surprise, a landmark decision of immense portent and far reaching implications, not to mention, a great way to start the year.

On New Year's Day, a Division Bench of the High Court ruled that a fatwa forcing a married woman in Naogaon to contract a second marriage against her will, was unlawful and the fatwabs should be taken to task forthwith. He was Moulana Haji Azizul Huq, a self-styled moralist in the district, who had caused immeasurable grief and trauma to the victim, was taken into custody. What will happen to him remains to be seen, but the wheels of justice have been set in motion in a fatwa case that until now would have generated little save murmurings of civic protest and protestations of lack of evidence from the district authorities. Certainly, the culprit, the fatwabs would have gone scot-free.

But the immediate impact of the ruling is not its only virtue. What makes the ruling doubly welcome, to my mind at any rate, is that the High Court proceeded, suo moto, to term that my colleague explains to me means "at their own initiative". Taking note of an incident reported in the media, the High Court asked all concerned and involved to explain the matter.

The case is not new to Bangladesh, but it still makes ugly reading. Approximately a year and a half ago, one Saiful Islam Chinnu of Naogaon apparently pronounced talak or divorce upon his wife, Shahida, during the course of what was described to the court as a "marital dispute" but which one can only surmise was a typical male fit of anger/pique. This so-called declaration was apparently overheard by one Moulana Haji Azizul Islam, (a neighbour who was undoubtedly given to much snooping around), but not disclosed at this time.

In any case, Chinnu's bile subsided and the couple continued to live together, even having a child some time later. Then, just two months ago, when Chinnu left the village for a few days, the Moulana swooped down on the unsuspecting Shahida. His memory suddenly and conveniently refreshed, he issued a fatwa which directed Shahida to contract a hilla marriage on the grounds that since Chinnu had divorced her, she could not con-

tinue to live with him as his wife. In case you wonder what hilla marriage implies, what I understand is that it is primarily a cautionary deterrent to the unilateral declaration of a third, consecutive and irrevocably divorce by a husband. In this irrevocable instance, should the husband wish to reconcile with his wife, the Islamic direction is for the wife to marry and consummate her marriage with another man, before being able to remarry the husband.

Needless to say, none of the four points of the hilla concept were of any use to poor Shahida for she was powerless to oppose the fatwa. The Moulana's sons took the lead, forcing her to marry another man and to consummate this marriage.

No one in the village had the courage (or the conviction?) to protect young Shahida. Even her own father-in-law attended this second marriage of hers, and though he later pleaded that he, too, was forced, the fact remains that he and everyone else looked the other way while Shahida was humiliated and deprived of her personal liberty in no uncertain terms.

To make matters worse for the young woman, when husband Chinnu returned, he was aghast and, refusing to accept her as his wife, packed her off to her father's home. She has returned home to Chinnu, but only after suffering the most unimaginable mental torture.

Which makes one wonder: to what extent will the High Court decision compensate for or allay Shahida's trauma, for she must continue to suffer in more ways than one. Even if her husband's so called pronouncement of divorce was exaggerated, or even fabricated, their marriage must be under some strain, especially after the brutal and public destruction of her personal liberty and marriage. One wonders how Shahida will cope with her future or if she will be able to overcome the challenge of her ordeal.

Still, Shahida is probably better off than hundreds of other women who have been subjected to worse over the years. In this aspect, i.e. to protect the future Shahidas of this land, the ruling

has set a huge precedent. Even if it is appealed, and my legal colleague instructs me that there is likely to be an appeal to the Supreme Court, the ruling is a start in the right direction.

Since 1993, nearly a hundred instances of fatwa-incited violence or abuse have been recorded. Surveys show that the fatwa is always used as a weapon against poor, illiterate, socially vulnerable, rural persons, almost always women. The perpetrators are always males, either rural elite or males, or males, protected by vested interests or groups. Led by these self-styled moralists, who regard themselves beyond the reach of the law, salish councils made up entirely of males have

Several months after this incident, Feroza, a shrimp farmer in Salikira district, was found "guilty" along similar lines and flogged 101 times. She, too, killed herself afterwards.

Victims have been beaten, their heads shorn of hair, they have been ostracised and forcibly divorced, all in the aftermath of a fatwa, and all instigated by lynch mobs spouting so-called higher truths. And these are only the recorded instances; countless others must have suffered similar fates without our knowledge.

What has set these horrors apart from other incidents of violence and abuse has been the relative absence of accountability. Relative because there have

Islamic law; it never was and it still does not have that qualification, no matter what any learned individual might claim.

The primary sources of Islamic law are the Holy Quran and the Sunnah. Thereafter, there are other sources: ijma which is consensus and qiyas, which is reasoning by analogy. From the latter derives ijtihad, which is individual or creative reasoning. These three sources of secondary law were applied in those instances when Quranic law did not have specific reference. For instance, there is much pertaining to matters relating to killing of animals in the Holy Quran, but nothing specifically that refers to euthanasia, presumably because the former was a common practice, but the latter virtually unknown among the Arabs. In a question of euthanasia, therefore, a secondary source of law might well be invoked. This source would not be as binding as a primary source.

While ijma, qiyas and ijtihad were used for many centuries, the practice was discouraged from the tenth century onwards when Islamic law began to attain a relative rigidity. It is interesting to note that ijma was arrived at not merely by a gathering of religious scholars, but the community as a whole. It is also interesting to note that the great 19th century Islamic reformers, Jamal Al Din Afghani, Muhammad Abdu, Muhammad Rashid Al Rida and even Hassan Al Banna, the man reputed to have inspired the Muslim Brotherhood movement, all encouraged the practice of ijtihad in particular. Indeed, Al Rida described it as "independent reasoning from first principles".

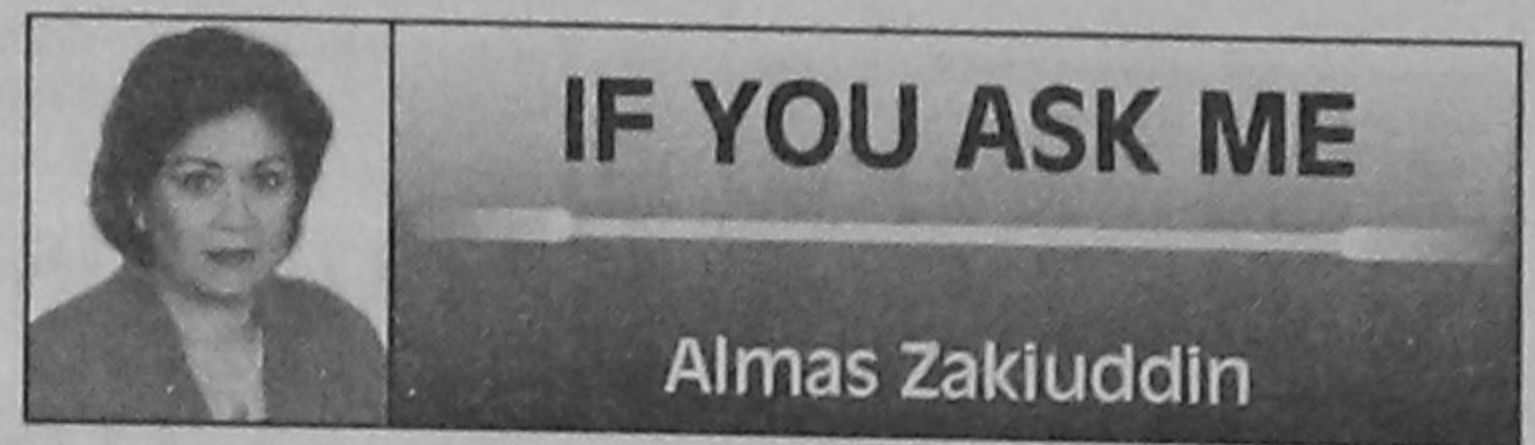
The fatwa, interestingly, only emerged virtually as an afterthought, after the above three methods had been in use and it became, also interestingly, a mechanism of support for matters largely in the public interest. This may date me completely, but I clearly recall the time in 1964 when King Saud of Saudi Arabia was asked to step down in favour of his brother Faisal. It was a controversial decision. At this time, there was a fatwa given by the leading religious scholars of the time in Saudi Arabia, ratifying this decision as being "in the

public interest". The fatwa helped King Faisal immensely to take over although his brother was still alive. In the same way, another fatwa, this one in Egypt, helped Anwar Sadat ratify his decision to attend the Camp David peace talks and make peace with Israel. I am sure there have been other similar fatwas, but I, for one, am at a loss to understand how the instrument has become virtually blindly accepted as the nearest thing to religious law, especially on matters pertaining to women's autonomy and sexuality. The very concept of a fatwa being used to interpret an item of personal law which is dealt with in the Holy Quran is a novel one. The instrument has no Quranic sanction.

The question of course remains as to what extent will knowledge-based learning, on all matters - including religion - be adopted in our society? The High Court ruling directs our authorities to teach Family Law in our classrooms and the imams of our mosques to do the same. Yet, the reality remains that few power structures have felt compelled to take issue with a segment that has operated under the guise of religion and cultural sentiment. Our mosques, frequented by males who are not by far and large in agreement with these practices, have seldom raised these issues or brought pressure to bear on those who have. It has been convenient to leave women's issues to the women activists, the bleeding heart liberals of civic society.

I harbour the (perhaps naive) hope that this recent High Court judgment may provide the impetus for action by that largely male critical mass of power and influence that stays out of "sensitive" areas such as this. In other words, it is about time that men go into the act on a positive level.

One does not suggest that men take up arms on this issue - though if little boys were being victimised with the same intensity and frequency that might well have been the reaction - but what can be hoped for at this juncture, with the judiciary making this bold and unambiguous statement against the very legality of the fatwa, is that a cross section will be aware of the need to thwart these so-called edicts. And that this same cross section will have the courage to call a spade a spade. Or, a fatwa a matter of mere opinion.



Almas Zakiuddin

IF YOU ASK ME

Almas Zakiuddin

been expressions of protest and exposes initiated by media, the social activists, the liberal elements of society. But positive action has been virtually nonexistent. By this one does not refer to the masses, so to speak, who are undoubtedly important in perpetuating the fatwa, but cannot be faulted for going with the flow. Certainly, they cannot be expected to act single-handedly against the norm. Like Shahida's father in law, who pleaded he was forced against his will to participate in the assault on her personal liberty, most villagers are not empowered to challenge authority. And many do not know any better themselves. They often sincerely believe that the fatwa is the word of God.

Interestingly, many so-called educated people are also unaware of the actual meaning and historical basis of the fatwa. Fatwa stands for an opinion on a matter of some religious legal ambiguity, usually as a means of ratification, usually given by a group of learned individuals. The fatwa is not a primary source of

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Political Days Ahead: Clouds have Silver Linings

by A R Shamsul Islam

The last two general elections of 1991 and 1996 amply testify to the fact that our caretaker governments have the capacity and credibility of conducting the polls neutrally and fairly through the Election Commission. But co-operation and consensus on certain important issues from the political parties are most needed by the caretaker government to perform the job.

In the developing countries people being subject to suffering and oppression by the government machinery is no uncommon phenomenon. But the ordinary people cannot always perceive how and by whom they are being oppressed economically, socially etc. But when in our society a neighbour yells under the banner of a political party slaps an elderly man for refusing to yield to the youth's undue demand the identity of the oppressor becomes clear and vivid to the oppressed. This is a galling blunder of our political parties not to mind to learn this rudimentary lesson of politics.

A rumour is in the air that the MPs of the opposition alliance will tender en masse resignation from the parliamentary seats after April 13, 2001. As the present government's tenure cannot go beyond July 13, 2001, by-elections to fill in the vacated seats of the parliament are not probably made possible to be held. This is a trick to pressurize the government to dissolve the parliament ahead of its tenure limit and thus to hold national

polls early of the scheduled deadline. Of course, there may be legal controversies over the matter. Further, the rumour may prove baseless in course of time. The Finance Minister S M Kibria has rightly said that the 1996 election was based on pledges and the 2001 election will be based on performances. With a carefully drafted success list in hand that has highlighted the Ganges Waters Treaty with India, the CHT Peace Accord, food autarky, spectacular rise in literacy rate, development of rural economy, allowances to the destitute elders, allowances to the destitute freedom fighters, initiating the process of empowerment of the women etc, the AL, faced with charges of glaring failure in some areas like law and order, education, health, autonomy to electronic media, etc, seems to be exploring new avenues to cash in on to defeat the opposition in the ensuing polls.

The AL has invoked pro-liberation sentiments of the masses. The freedom fighters and their families are being given honour and financial help. The

government has started paying about 41000 destitute freedom fighters a monthly allowance of Tk. 300/- each lifelong. Together with this the atrocities committed by the occupation forces in the Liberation War of 1971 are being recalled with fresh vigour and vividness. Unknown mass graves of the victims of barbarity of the Pak soldiers in 1971 have come to be discovered and exhumed at some places of the country and building up several memorials to honour the martyrs has been approved by the government. The Prime Minister has called upon the pro-liberation people to be united and rally against the anti-liberation forces to subvert their nefarious design of turning the country into a protege of Pakistan.

The split verdict of the High Court Bench on Bangladesh High Court murder case has somewhat upset the calculations of the AL to execute the killers of Sheikh Mujib and his family before it hands over power to the caretaker government. This has stiffened their urge to be returned to power for the second time in succession.

What is most tragic, exasperating and sometimes horrifying is that the chief political parties of our country are found to be mutually intolerant, hostile and revengeful. Vigorous but healthy contest in the polls is an essence of democracy. Our political parties appear to be miles off to display any intent to learn this vital norm.

The last two general elections of 1991 and 1996 amply testify to the fact that our caretaker governments have the capacity and credibility of conducting the polls neutrally and fairly through the Election Commission. But co-operation and consensus on certain important issues from the political parties are most needed by the caretaker governments to perform their job.

Let good sense prevail upon the political parties. Let not the political parties, true to the noble tradition of the elections of 1991 and 1996, fall short of fighting the ensuing polls of 2001 in a spirit of accommodation and toleration by tightly shelving their oft-practised confrontational gestures as per demand of the historical occasion. The political horizon is overcast with clouds of the political parties tradition of rising to the occasion has etched silver linings around them.

The writer is retired Principal, Govt. Mirla College, Pabna.

Stasi Files Catch up with Kohl

Legal wrangling surrounding the release of potentially explosive files on ex-chancellor Helmut Kohl collected by the former East German secret police is threatening to rip open old wounds between east and west, writes Deborah Cole of AFP from Berlin

TEN years after unification, the case at the heart of the dispute involves 9,000 pages of telephone conversations bugged in Kohl's offices by the feared East German Stasi, or state security service, which in its day was one of the world's largest centres of espionage.

Primarily designed to monitor the activities of East German citizens, the Stasi also brought its powers to bear against prominent West German citizens and officials.

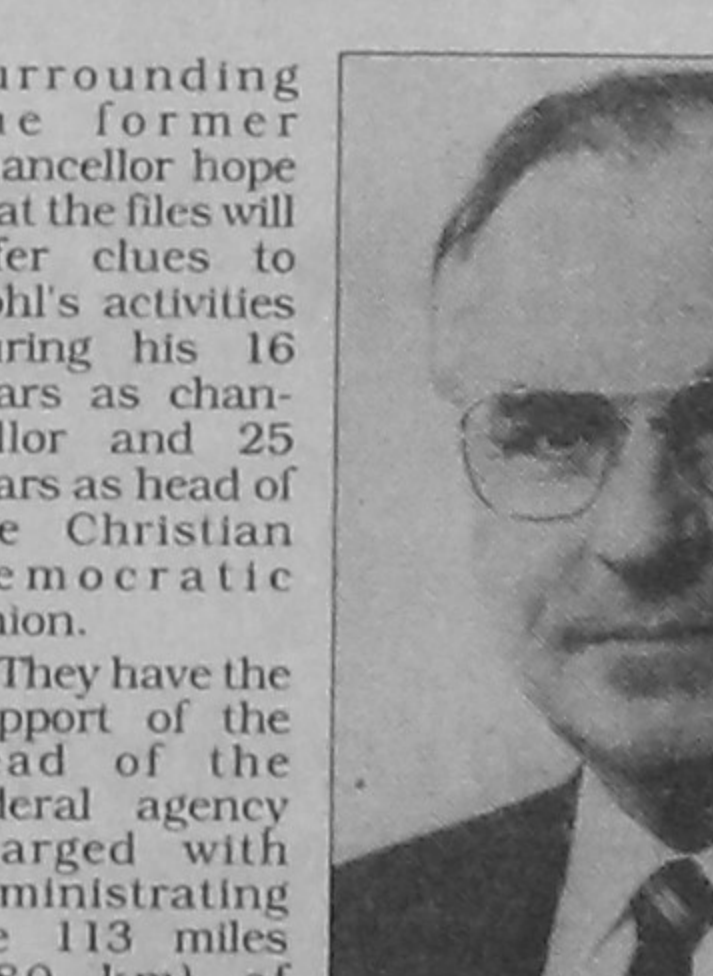
Stasi documents released after unification in 1990 indicate that the service was listening in on Kohl from the time he became chancellor in 1982, and possibly even before.

Kohl has secured a writ temporarily preventing publication of documents compiled on him by the Stasi but the administrative court of Berlin is set to make a final decision in late January on whether the information can be made public.

Kohl's argument is that the "spy-gathered documents" were "put together as a result of serious violations of human dignity through criminal activity" and that the law is on the side of Stasi victims.

But opponents have argued that Kohl should not be spared the treatment given to hundreds of prominent east Germans, who were frequently embarrassed by revelations long hidden in the archives or exposed as spies themselves when the Stasi files came to light.

Journalists and investigators probing a slush fund scandal



Helmut Kohl

Germany would now begin using confessions obtained under torture if the Stasi files were fair game for justice authorities.

The issue has not only driven a new wedge between east and west but also between officials in Chancellor Gerhard Schroeder's ruling coalition, pitting former allies against each other and creating decidedly strange bedfellows.

Schroeder called a Christmas "ceasefire" on the debate, which had grown in bitterness in recent weeks, but it did not stop Interior Minister Otto Schily and the premier of the eastern state of Brandenburg, Manfred Stolpe, from clashing with members of the Greens, junior partners in the coalition.

Schily and Stolpe, whom no one would accuse of bearing a soft spot for Kohl, have warned

used to prop up his party's support in the former communist east.

Although the Stasi crumbled with the East German state in 1990, investigators hope that it left a paper trail on Kohl's contributors that will aid their work.

The dispute prompted Guido Westerwelle, general secretary of the liberal Free Democratic Party, to ask whether

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that allowing the former chancellor's files to see the light of day would open a Pandora's box of attempts to use the archives for partisan goals.

Schily has added that the express purpose of laws governing the files is to understand the workings of the Stasi apparatus and not to shed light on latter-day German political scandals.

But German Johannes Rau, who made reconciliation between east and west one of the primary points of focus of his term, slammed what he called "double standards" favouring West Germans on the use of the files.

Leading members of the Greens share Rau's view, saying it would be unfair to draw the line at publishing Stasi documents with Kohl, when so many from the east were not granted such deference.

The question the court will address is far from clear. Paragraph 32 of the law governing the Stasi files says that "documents with personal information about public figures" may be released but not if they are "victims" of the Stasi.

The issue is whether the authors of the law wanted complete protection for anyone ever spied on by the Stasi.

If the court rules yes, then the decision could lead to a complete sealing of the files on hundreds of public figures.

Meanwhile, Kohl has reportedly applied to exercise his right to view his own file. He may be as surprised as anyone to learn what the Stasi knew about him.