

Roundtable on Good Governance: Need for Primacy of Law, Accountability and Transparency

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member. No one ever questions about the amount of money the MP makes. In this view no MP is legitimate. Has any MP ever been questioned about illegal money used for election. What could be expected from persons who start by breaking the law?

In the UK, Westminster is not thinking about other systems of election with better public representation. Germany has a mixed system, 50 percent of the members are elected on the basis of constitu-



Professor Muzaffer Ahmad

tion, and the other half on a national basis. So, a broader view can be taken, and in such a way that the concerned people are not held by illegal activities. Italy has done it, Japan is doing it, and even UK will be doing it. Time has come now to look at that aspect. In third world countries, we have developed a perverted interpretation of democracy. Democracy begins and ends with the election day. After winning the election, we are not bound by any law, we do whatever we want to do. As we are elected, we are not accountable. This process is gaining force.

Good governance is the application of law, meaning that all laws apply equally for everyone whether you are a Minister or a civilian. Frankly, I find regarding the anti-corruption laws, that non-application of laws is better than selective application of laws. You target someone, for him the law applies, but not for me. Here I believe that the trickle down theory of economics may have failed. In good governance, trickle down theory is the appropriate theory. Talking about accountability, a few days ago Jack Straw, British Home Secretary, had been hauled up for speeding. An editorial in the newspaper in the UK related to this incident, pointed to the fact that the minister should have known the speed limit. A few days ago, a newspaper carried a news that an influential minister holding two important portfolios was seen coming out of the cantonment area in a number-plate less car going down a wrong lane. The police was on the road, but stood still. If the police cannot stop the minister, then what moral authority has he to stop others? We need a code of conduct here. In Europe all ministers are required to put on record their assets, liabilities, business interests, shares before elections. Any change later on must be recorded. Failure to do this means losing his job. Mandelson, a labour minister in the UK lost his job twice. He borrowed some money to buy a house. It was not a bribe, and was not reported. He consequently had to resign. Next time he lost his job for enquiring about a passport. This is democracy. This is in compliance with laws. In anti corruption, there are thousand of cases, but how are they prioritised?



M Hafizuddin

If an MP or a minister do not set the examples, if they take perverse pleasure in crippling authority, saying that 'I am above law', it demonstrates how law is applied, and that someone can get away with breaking it.

Dr. Kamal Hossain: Those who are in a position must see that, anti-corruption and police receive the backing. But, in the city what is the cost for elections. It is far above three lakh. During the last elections, I asked how much had been spent only on wall writings?

There are some electoral reforms that need to be brought by the law or the caretaker government. Law can be made by ordinance. Why can't any steps be taken against MPs running around with guns after caretaker takes power? There are published photographs. The caretaker government can do this and for that a will is required. A caretaker government comes not to decorate offices. They come because, and governments previously had been seen to misbehave during polls. The caretaker government must see that money and muscle are immobilised. We have the means to do this. On the basis of constitutional mandate the Election Commissioner can take steps like, control of money and muscle. Here we can take the example of the Election Commissioner of India.

To turn things around this is the time. If the government and the opposition do not want to ensure a free and fair election, then the caretaker government should ensure this. There is a national consensus that we don't want to be ruled by money, guns and power. There are gaps, but they can be filled, the provisions are in the constitution. Chief Election Commissioner and caretaker government cannot take the pretext, that there are gaps in the legal system, they should see that these are corrected.

M Hafizuddin: former Chief Auditor and Accountant General: For good governance there should be accountability, primacy of law, transparency of the administration. Some of the speakers have pointed out martial law as the root cause of this state. The question is, whether with the establishment of democracy things have improved, or whether there is a tendency for improvement? The answer is no. By making martial law scapegoat we are not going anywhere. The number of cases in the bureau of anti-corruption is about 14,000.

Mahfuz Anam: How many officers and men do you have working for your organisation?

Md. Baduzzaman: We have about 1200 people working. Of this 112 are grade I officers. There are two legal officers.

M Hafizuddin: There are 80 high profile cases. One suggestion is that the bureau should be busy with big cases. In some cases sanctions to file case was given after 14 years. These sanctions were given by the PM's office.

Mahfuz Anam: As a former auditor general can you give any idea on the financial accountability of the government?

M Hafizuddin: There was no financial accountability. If a ministry exceeds the expenditure, it needs an approval from the parliament. But this has never been done.

Mahfuz Anam: You mean to say that the government is functioning without knowing the constitutional provisions?

M Hafizuddin: Exactly, exactly.

Prof. Rehman Sobhan: Does the budget retrospectively clears this in the supplementary budget, are the additional expenditures legalised then?

M Hafizuddin: No, when the appropriate accounts are prepared, we have seen that the devised systems

have also been exceeded.

Prof. Rehman Sobhan: The part of the problem arises from the fact that, actually most ministries don't overspend their budget but they under-spend it because of the general incompetence in the management of their affairs. Some ministries especially the LGED, which is super efficient, overspend. The thing is that some who are overspending, and those which are under-spending are doing so in the face of constrained budgets. The real problem in governance is non-performance.

We must find ways for the re-appropriation of resources.

M Hafizuddin: The law has given the speaker unlimited powers. The provision is that, the speaker will get the budget prepared, and send it to the Finance Minister for inclusion in the budget of the country.

Mahfuz Anam: How is the budget spent? Is it being spent efficiently? Is there any other office that investigates the accountability of this expenditure?

As per our rules, the secretaries are made principal accounting officers. They are responsible for ensuring that the resources are fully utilised.

Mahfuz Anam: To whom are the secretaries accountable?

(b) what is the outcome of this? He would not be able to give me an answer to that. Why has the accountability completely broken down at the secretary level?

M Hafizuddin: This is a rather difficult question to answer. The donor agencies have complained that the government interferes with the work, and this creates a bottleneck in implementing the projects.

In the development of a project for even an expenditure of TK 10, secretaries are linked. In this ever existing process, when the project finishes, an audit is carried on after, let's say, four years to investigate the possible incidents of malfunctioning in the project. But, during the project there is an ongoing mechanism of the government? The mechanism does not exist at all.

Mahfuz Anam: I would like to add another question. Is there any financial officer in any ministry or an accounts officer?

M Hafizuddin: The only ongoing mechanism is the monthly development coordination meeting. The secretary is supposed to preside over the meeting where all the project directors will come with their activity reports, financial and physical progress. Some secretaries do it sincerely and some do it as a routine affair. Except this, there is no other mechanism. Answering to Mahfuz Anam's question, the system of internal control is non-existent in ministries. Through my annual report, I have taken the matter to public accounts committee, who have directed the government that, each ministry should have their own internal control. Audit is external control, it is not internal.

Prof. Rehman Sobhan: When you were a secretary, did this problem exist Kazi?

Kazi Fazlur Rahman: It was the problem all along. The character of the government changed in a sense over the last 30 years. The government used to be a body of law and order, for that purpose the structure that existed was adequate. But regarding development projects, donors have their own agendas, mechanism and their own system. So what happened was that, no one tried to make it a coherent system. It now depends on the individual initiative of secretaries and ministers. Even the old system had some accountability. Even if a letter was sent to a ministry it used to be acknowledged. Moreover, most accountability is lost not by giving wrong decisions, but by sitting on the file for days and months. This is a complete negation of the rules. I came to the conclusion that the first things to enforce in letter and spirit are the existing laws. Then you start changing them. As chairman of the public administration commission, I sent recommendations and suggested that the existing laws be implemented. It has been three years since I sent my recommendations.

Md. Baduzzaman: At least in the PM's office, the matter of acknowledging letters is followed in toto. Before becoming DG, I was DG in the PM's office. The PM issued directions that all letters, even if it came from a beggar had to be acknowledged.

Finally on good governance I have to say that, the institutions of governance are not in proper shape and form. To ensure good governance we need determined political will and political leadership.

Syed Humayun Kabir, Trustee, Transparency International Bangladesh: We have been discussing mis-governance in Bangladesh. There must be some basis for this. We have assumed mis-governance and when we do this, we have to compare it with somebody or something. We see that countries with similar background are being governed better. Be it India, Pakistan, Kenya, Nigeria. If we look at the results of the last 30 years despite the mis-

governance we have achieved self-sufficiency in cereals, population growth has been reduced, literacy rate has gone up, mortality and morbidity has gone down.

We have 1.5 million girls working in the factories. They go home at night unescorted. This reflects our law and order situation. We talked on expenditure in election,

This is something with which USA had been struggling with for 200 years. The matter of gun laws, tobacco lobbies in USA- so, we see that problems are being dealt with in bigger democracies too. Let us look at our neighbours. They have Mayavatis, Rabri Devis, Jayalalitis and Bal Thakareys. But, the freedom of the press that we have is not to be sneezed upon. For writing the things that we write could have ended journalists in jails in many other countries. We must appreciate our achievements, and then say what we should do. We must not flagellate ourselves as much as we do. We must have coalition. We must try to solve the problems in small groups for each sector rather than trying to solve all the problems in seminars.

Professor Muzaffer Ahmad, eminent economist: Prof. Rehman Sobhan has said that, governance issue has become the scapegoat for the failure of the donor agencies. I agree with the observations made by Humayun Kabir. Prof. Rehman Sobhan has been trying for the last three years to bring the parties to a kind of consensus. This agreement is there, but this agreement is not followed up by the parties, secretar-



Syed Humayun Kabir

ies who come to the seminars. In this regard, the matter of the traffic of the city can be brought forward. The government's function is to see that the traffic flow is smooth. The traffic light do not monitor road discipline. No one tries to enforce the laws of traffic, be it rickshaw pullers or car owners. The present PM tried not to meddle with the traffic rules, but in six months, she found it to be too difficult and had to take the wrong lane. Now, the laws are being violated not only by the PM but also by secretaries and ministers. This is what the government's position is within the country. Government also plays allocative and distributive functions. These two relate to resources, time and prioritisation.

There is no law to set the priority. It is basically the influence lobby, and the pressure that determines, how the allocation and distribution would be carried out. I want to see governance as a participatory mobilisation for the good of the country. Unfortunately, this participatory mobilisation is determined by guns, goons and sometimes, girls. It has been mentioned that civil vigilance is one of the pre-requisites of good governance. This vigilance is absent. We have seen NGOs working as surrogates for civil society. But, in many critical cases the NGOs have not done their work. I personally feel that the NGOs are not the civil society.

The local level governance. In Upazila, we find that election could not be held, and now the government has taken over the function of the election commission. The zila one was recently legislated, and the government is eager to appoint government officials rather than holding elections. When these sort of things happen, then people's confidence and participation opportunities get restricted. And thereby good governance possibilities through participation through civil mobilisation get restricted. We have seen areas where the government has been quite successful. For instance, population growth has gone down, maternal mortality rate is going down, infant mortality rate is also going down. The gender parity in primary school has been achieved. But, the question is, what is the qualitative aspect of this. UNICEF tells us that, 80 per cent children are malnourished. So, if we have reduced infant mortality, but still have 80 per cent malnourished children then does it reflect on good governance? We must decide on the indicators of good governance (for example road accidents, homicides and number of prisoners, number of cases disposed off, number of corruption cases settled). Let the media make report on this, and after three months, let us see if we have made any progress or not.

Just speaking about governance in round tables will not get us very far.



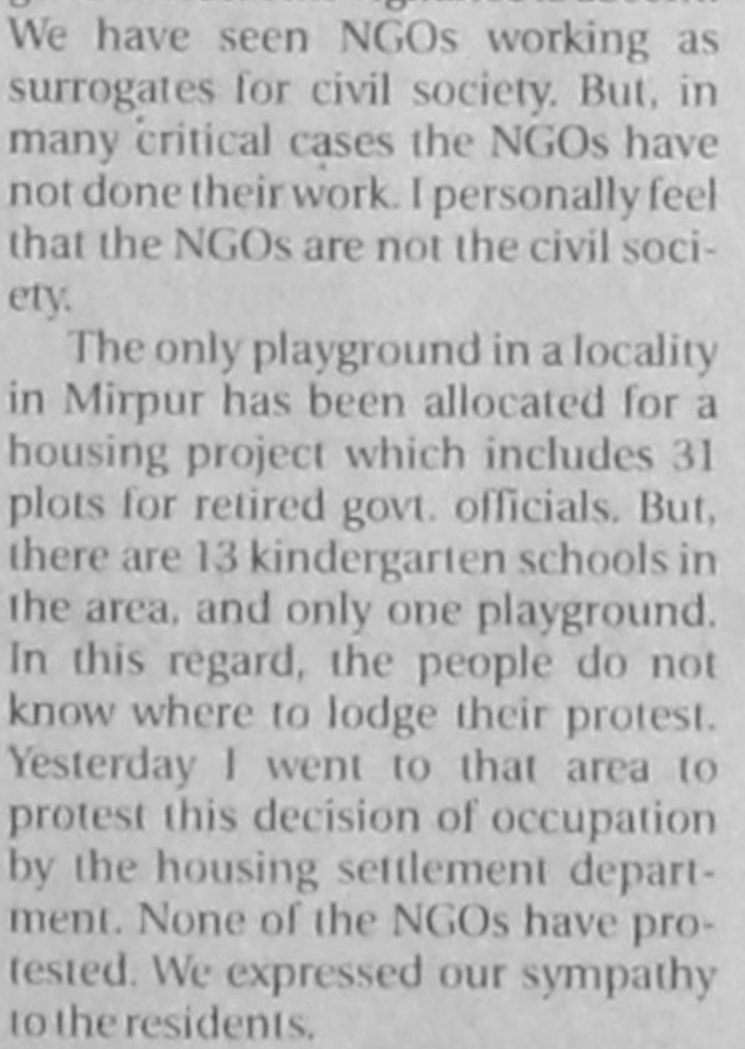
Ismet Zerir Khan

Ismet Zerir Khan, Chief of External Affairs, World Bank: I liked the ending of Prof. Muzaffer Ahmad where he said that, indicators should be laid down to measure our progress. I endorse all the points as representative of the World Bank.

Mahfuz Anam: I would like to ask all of you to make the wrap up comments.

Prof. Rehman Sobhan: Following up on Muzaffer and Humayun, we need to keep this in perspective and recognise that we have been talking about many of these problems for that last 40 years. The first conspicuous non-registration of FIR for a crime committed dates back to the assault on Prof. Abu Mahmud during the reign of governor Monem Khan. What you have seen here today is the end product of cumulative degeneration of governance. I have referred to the people periodically the first book that I wrote titled 'The problems of governance in Bangladesh' which I completed writing in 1992. The concluding chapter deals with the state of government in the Ershad regime and the beginning of the BNP regime. If that chapter could be circulated to you with a few dates excluded, then, we could be talking about the situation today. The fact of the matter is that, I wrote this 10 years ago and if I go back to my writings back another ten years, or 20 years we would be recognising the same problems. We want to end with a positive note. We have all conspired in the mis-governance of our country for quite a long time. At the end of the day, every country gets the governance it deserves. Compared to Pakistan we are better governed and to African countries that are not governed at all we rank quite highly in terms of the quality of governance. But, we are

not satisfied obviously by the ideal standards. The relevant institutional intervention in the more advanced countries who are better governed comes from a much more pro-active civil society. Now this tendency for us to confuse NGOs with civil society is a part of the problem. Now, civil society means that the people of the locality who are bothered by pollution, traffic accidents, mangani, seizure and use of a playground. We must come together and become active. Over all, there are macro problems and we are bothered about them. We are discussing these issues and that implies that we are bothered. But, we don't go beyond that. The whole business of seminars and dialogues are useful for raising consciousness as also the activism of the press. At the end, governance is a pro-active role that has to be played by citizens. The problems with our citizens is that, those who are the prime movers of the system don't have the time. They give civic activity reasonably low



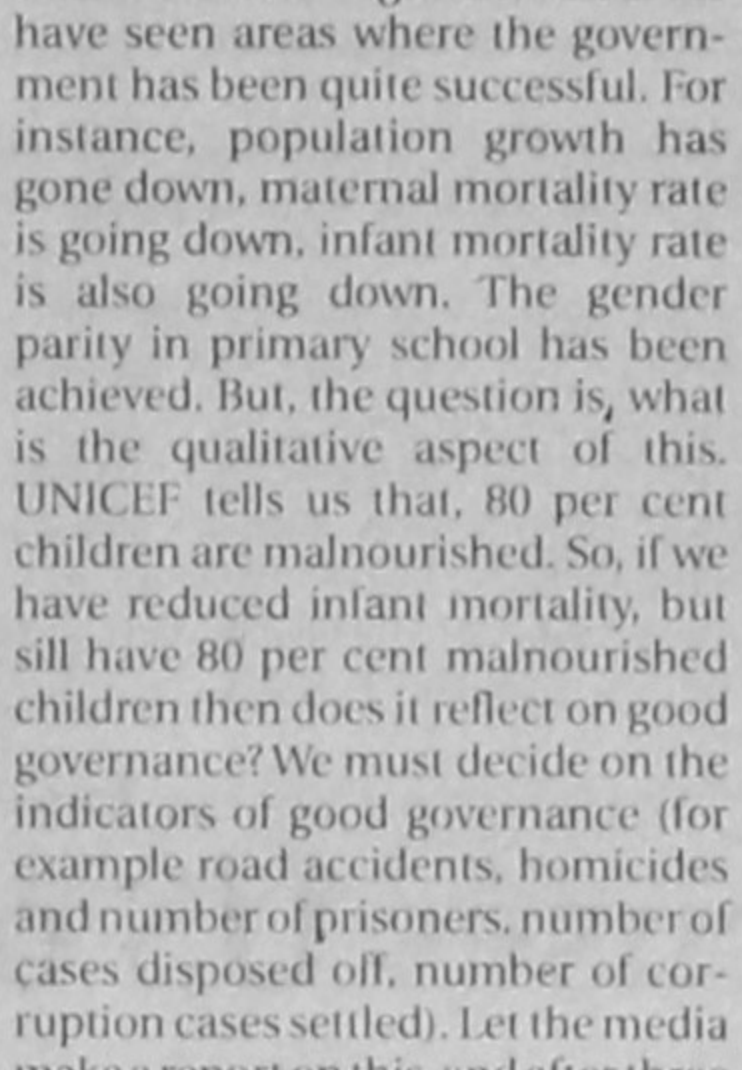
Abdul Mueed Chowdhury

priority, in terms of their allocation of their time. Other people are not willing to be spontaneously active. In New York, there are 200 lobby organisations on behalf of some sort of civic activism. They are full time organisations. They have all modern official facilities. One million mothers marched in Washington for gun control. I don't find in Bangladesh any one million mobilisation of civil society on any particular issue. Now, the fact is this has to be taken on as a full time activity. Let particular coalitions emerge for each of these

that seems to be the most sensible way of getting a response.

Syed Yussuf Hossain: We have taken steps to improve the overall audit scenario. We have introduced manuals, we have introduced procedures, we have introduced scores and we have started giving in service training both to our departmental officers and external government officials. We have introduced performance audit for public sector organisations for the first time. The ministries are overviewing agencies. We have selected three basic sectors, these are energy sector, health and education sector. We think that, this will lead to some results. We have also set a human resource development cell which will try to rationalise our human resources development plan within the organisations. We are getting adequate response from our development partners. For the first time, we carried out a survey on internal control practices. Most of the public sector organisations are not aware of the internal control procedures. This report on internal practices will be given to the government, finance minister and the media.

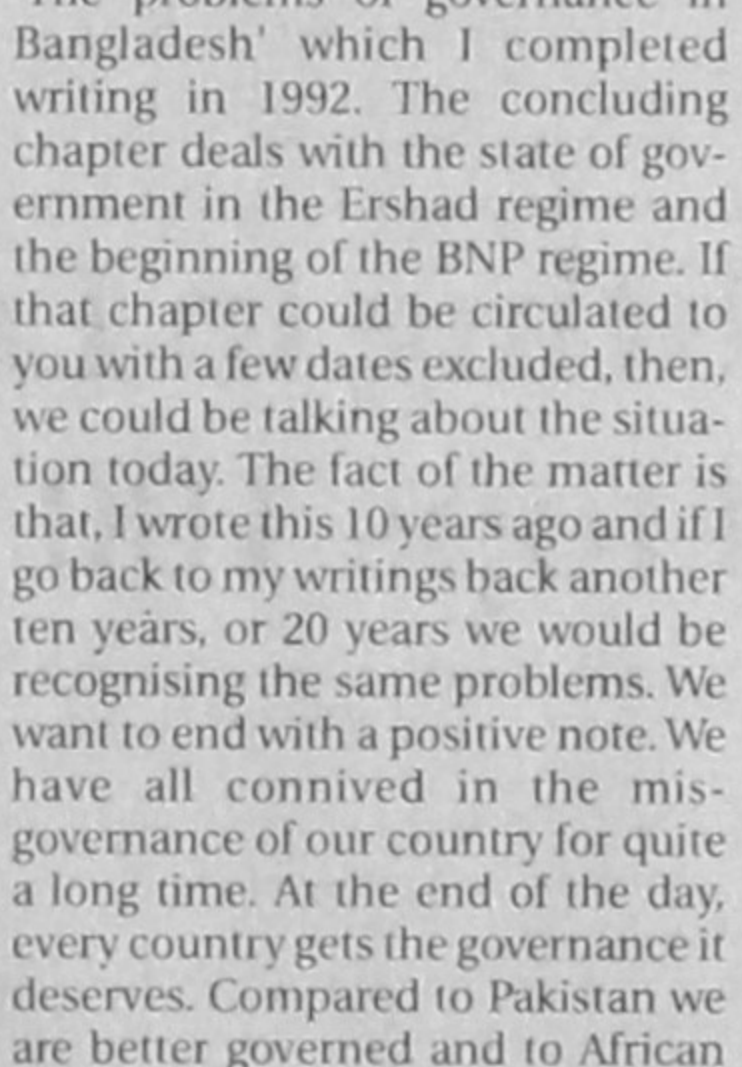
We want to set up a unit that will monitor whether the new procedures are followed or not. These are the steps I have taken. Through modernisation of audit and newer methodology in recent years we have improved the quality of audit. I have selected nine ministries depending on budget allocation, importance and priority attached by the government, and reports on their finances will be published for the year 1999-2000. We have introduced a quality assurance team. We also have an advisory committee. This body will tell the shortcomings of the issues involved, they will tell on the shortcomings of the management and then they will advise. Though it is not binding it will have a soothing impact.



Kazi Fazlur Rahman

Md. Baduzzaman: Bureau of anti-corruption starts an investigation when it gets information from various sources. One such source is the media, especially newspapers. In many cases we see reports carrying out 'character assassinations'. There are news against important persons, we go to investigate, based on the news but find nothing to corroborate the information that we have received. I request the media people not to assassinate characters of important persons. To get a result

there must be a political commitment. For instance, if today's party in power goes into the opposition, they should stick to the decision made earlier while in the government. Both the party in power and the opposition party should come to a consensus.



Shamsul Haq

Shamsul Haq: I thank The Daily Star for making the people aware of the problems of society. I have been dealing with good governance intensively and extensively for the last three years. It is the question for the balance of power among the three organs of the state. The executive, the judiciary and the legislature. When I talk of the lack of good governance, I talk about an imbalance among these three sections. The balance is shown perfectly when the former President of USA, Bill Clinton was on trial for impeachment by senate and the supreme court. The more mature a society, more the balance of power. Then, there is primacy of law. Law should be applicable to all. In Tonga, West Samoa I found that laws applied equally to people in power and the civilians. These are the things that we must try to achieve. This will not come overnight. We have to try, this is a collective responsibility. Coming to the matter of accountability and transparency, you were referring to the public administration reform commission. This is a sector where we have tried to share with you. So far, no report was handed over to the press before the government considered it. At all stages, we got support from the press. The media wanted us to come out with a report which is generally acceptable to the people. Here is an example of transparency. We gave you copies of the report, and we see that here is a kind of a consensus. It was based on discussions across the table with people from all walks of life. In order to ensure transparency,

we must have clear idea on public wrong as citizens. In law, it is expected that 95 per cent would obey the law and the rest 5 per cent would be taken care of by the law enforcing agencies for breaking them. But, in Bangladesh the situation is opposite. How can we handle this, we must reduce discretion. We must publicise what is in the law, and what are the rights of the citizens? There should be clear rules and no discretion.

Mahfuz Anam: The reason we decided to hold this roundtable at this stage is that, our elections will be definitely held by October if not before. It is time that these issues should be voiced by the civic society. We should not compare ourselves with other countries like Rwanda or any other African countries. I should compare myself with the past. When I see that, I am worse of now than I was before, that is what I am comparing myself with. Now of course we have achieved a remarkable thing in population control, infant mortality and education rate. We are very proud of it, but where am I in terms of protection from law? Why am I living in a polluted environment? Why has nothing been done about keeping my rivers clean? These are non-partisan and non-political issues and yet, we see no movement. The issue of my not getting the protection of law worries me. Again, crime is not an issue of statistics. Obviously, for a hundred and twenty million people, if you divide how many people die we are perhaps not in the high crime rate, but this used to be much lower before, proportionately speaking of course. I think, there is definitely a deterioration of governance. We must raise our voice against it. There are very good signs, we have seen the initiatives of the Comptroller and Auditor General's office. I think the work of the public reforms commission have been remarkable. I have read the report made by Shamsul Haq. The report is quite remarkable. He has made some bold suggestions here, especially the freedom of information act. Even if it is accepted in a diluted form we will be far better off than we are now. I thank you all for being with us. It is not a one shot affair, we must keep the agenda going in the public domain.

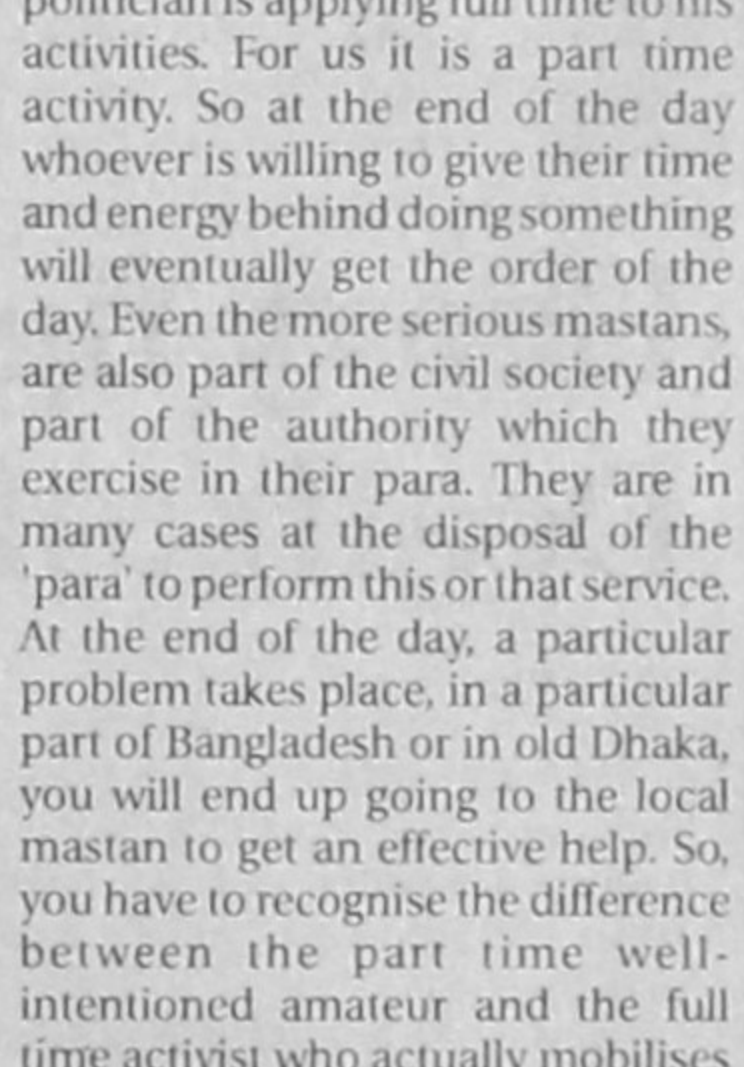
activities. They may be national coalitions or city-wide coalitions, they may be local coalitions. They may be specific issue coalitions. But, within that defined constituency you need to get people who are willing to take it to its logical conclusion. When the whole issue of getting women directly elected to parliament came up, I wrote something and I also participated in a number of meetings, and I told them that if you are serious about this, it would not do just by holding a few seminars, you need to have a full scale national mobilisation with a secretariat and an organised group of people devoting 24 hours of the day to see this issue through to a logical conclusion. Until we are willing to do that, on any one issue and you are willing to take one issue to its final conclusion because there has been institutionalised mobilisation around it, I don't think a great deal is going to happen. The main difference between an active politician and a civil society is that, the politician is applying full time to his activities. For us it is a part time activity. So at the end of the day whoever is willing to give their time and energy behind doing something will eventually get the order of the day. Even the more serious mastans, are also part of the civil society and part of the authority which they exercise in their para. They are in many cases at the disposal of the 'para' to perform this or that service. At the end of the day, a particular problem takes place, in a particular part of Bangladesh or in old Dhaka, you will end up going to the local mastan to get an effective help. So, you have to recognise the difference between the part time well-intentioned amateur and the full time activist who actually mobilises people. The final thing is that we must stop indulging in this sort of holding dialogues and seminars. There might be questions that why the government is doing this and that, but the fact is that we have done nothing about it and we had neither time and energy to take them to task and make them accountable.



Ismet Zerir Khan

Mahfuz Anam: We have some responsibilities as citizens. But I think that the biggest civic initiative we have taken is the long seven/eight years struggle to establish democracy. Once we have restored democracy and have elected a government we have certain expectations from them. I take full responsibility, that we are not a pro-active civic society, but people get elected and after going to parliament they have certain obligations by law to perform. It is not unfair to expect from our government that they would perform certain civic duties. The problems in the fact that, government is not responding to civic adversities like pollution. The government has a moral and legal obligation.

Prof. Rehman Sobhan: The point I am trying to make is that, we would like the government to respond, but at the end of the day the government should be exposed to a sense of sanction from society, whether it means that you have to vote out the incumbent mayor, or not. If we do generate enough public mobilisation behind any issue, and keep it under the public eye combining it with the machinery of the state through a series of dialogues and seminars, maybe you will get a response. I do not believe in the inherent notion of virtual responsibility of the government. At the end of the day, the government will get whatever they think they can get away with and which is politically convenient for them. If you make it politically inconvenient for them, and make them count the political cost of not doing something, then



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