

Taiwan raring to come in a big way

We need to get ready for their investment

WE think it's an auspicious development that a big investment offer has been made by Chii-Ming Yin, the head of the delegation from Taipei drawn from 54 Taiwanese companies which lately paid a three-day trip to Dhaka. They were on an exploratory visit and therefore likely to take some time before making up their mind on the amount and timing of their investment in our country. But it seems they have a clear-cut investment plan worth \$3 billion for Bangladesh in the next six years. This, we would like to believe, is an indicative figure which could eventually go up or down depending on how efficiently and mutually beneficially we end up absorbing it.

It seems sky is the limit, because countries like Taiwan are looking out to invest their surpluses or perhaps relocate some of their industries in developing countries, their domestic and regional options for investment having reached a saturation point. But it just doesn't drop like a ripe fruit from a tree on waiting hands. Bangladesh has to compete with some south and southeast Asian countries to prove itself as a favourite destination for the prospective investments.

Given the praise showered by the Taiwanese delegation chief on the 'productive and friendly' people of Bangladesh and a recital of our advantages in terms of manpower and the market access to developed countries, which made them feel 'comfortable', it seems they are already favourably disposed towards Bangladesh. Only the deal has to be clinched now. But that's where the challenge is. While at least seven Taiwanese companies and other small groups are ready to invest rapidly they are inhibited by unavailability of plots of land in the EPZs complete with utility facilities.

This brings to the fore the entire question of revamping the infrastructure which has been our Achilles' heel -- telecommunications, energy, transport and other utility services, to mention the obvious ones. To top it off, our investment climate can be made irresistibly more attractive if we have an unassailable legal framework and business-friendly environment.

State of hospital emergency services

Many lives are lost due to inadequate facilities

IBRAHIM Kamal, a senior assistant secretary to the government who died of stab wounds on Monday, walked 760 yards away from the hospital, fatally wounded and died in the emergency ward of the Holy Family Red Crescent Hospital in presence of the duty doctor. According to reports the doctor asked him whether his was a bullet injury. Kamal, profusely bleeding, collapsed after replying that he was stabbed by muggers. Was that the time to ask questions? Shouldn't the hospital have administered emergency treatment first and then asked the question. With a patient profusely bleeding in front of their very eyes, when every second can make a difference between life and death, how could a doctor waste time with irrelevant questions?

This brings us to the more fundamental question as to how equipped the emergency wards of our major hospitals are to handle life threatening situation arising out of road accidents, fall from a certain height, gun fights, stab wounds and such other incidents. The usual practice is that emergency wards are staffed by junior doctors who are capable of treating minor injuries. Whenever a case of serious injury comes specialists are called for. However the reality is that specialists are mostly non-resident doctors and never come unless the patient is important enough. If by chance they come, it is generally at their own sweet time. Meanwhile the patient generally succumbs to his or her wounds. If the injury is caused by bullet or any other type of lethal weapon most private hospitals refuse to accept the patient fearing their subsequent involvement in some court case. In that case the patients die while running from one hospital to another.

In reality, therefore, there is practically no facility for emergency treatment of a seriously wounded patient in most of our city hospitals. The situation in the districts is better left to the imagination.

We therefore urge the ministry of health to immediately constitute a task force and investigate as to the present status of emergency facilities available in all the major hospitals of the country. After a proper assessment it should bring about a total overhaul in the system of emergency treatment in tune with the need of the people. We think many lives can be saved through this measure.

Separation of judiciary: Half-full or half-empty



AMM SHAWKAT ALI

THE governments, both under the Awami League (AL) and the present one have been dragging their feet to obey and implement the directive of the Supreme Court (SC) in respect of separation of judiciary from the executive. In December 1999, in a landmark judgment, SC had issued a 12-point directive for complete separation of the judiciary from the executive.

It is said that the present government constituted a cabinet committee to devise ways and means to implement the directives of SC. No one knows how many sittings did the committee have and the modalities that it had suggested to implement the directives. The media has, however, reported from time to time, about the way the government had sought extension of time from the SC. The law minister has often been quoted as saying that such separation is fraught with practical difficulties. He is also said to have pointed out to the press that in other countries of the South Asia, it has taken years to complete the process of separation. Apart from amendments relating to the administration of criminal justice, non-departmental supervision of police in the prevention and detection of crime and in maintenance of law and order, the magistracy of the executive domain is in theory, responsible for trial of offenders of crimes to a limited extent.

Being under the control of the executive, the widespread public perception, in particular during recent times, cast doubt on the impartiality and fairness of decision given by the magistrates. None, however, cared to study the rate of reversal of such decisions in appeal, the appellate authority being the district and additional district judges. Much of the above perception relates to granting of bail or their refusal, easy grant of remand to police custody and exercise of power

It said that the government had bowed to the SC's directive to separate the judiciary from the executive on November 10, 2004. A gazette notification is to have been issued in this regard to form a new judicial service to be known as Bangladesh Judicial Service (BJS). Under this decision, 800 judicial officers from the district to assistant judges have been transferred to BJS. In what way, is BJS a new service?

All that has happened at this stage is the change of name from Bangla-

the colonial past as much as the magistracy. The powers, functions and procedure for criminal offences are prescribed in the Code of Criminal Procedure (CrPC), and this is also a relic of the colonial past. However much one may denigrate these two statutes, in the view of many experts, these statutes have stood the test of time. The point that is relevant here is the need to make the glass of separation of executive from the judiciary full rather than keep it half full and half empty.

strictly judicial in nature. The holding of inquest for persons who die while in police custody is a case in point. Recording of confession of an accused may be still another. The list of judicial functions as envisaged in different special laws such as those relating to public health also fall in this category. It is not known how the government is going to deal with such matters. It is not yet clear if all such functions including preventive actions will fall in the domain of the members of BJS. It is felt that besides

the president and shall be exercised by him in consultation with the SC. The provision relating to this control mechanism was amended twice. First, in 1975. Second, in 1978. In 1975, under the short-lived one-party rule, unfettered authority was given to the president in this regard. In 1978, minor modification requiring consultation with the SC was introduced. There is a need to revisit the provision of 1972 constitution prior to such amendments.

In the view of many, what needs to be done is to look at all relevant amendments of the constitutional chapter on judiciary covering both SC and the subordinate courts. Since there is no independent body to examine the issue and suggest the needed reforms, the tasks can be allotted to the Law Commission and the recommended measures should go through the process of public debate. This is necessary because of the questions often raised about presidential authority on the ground that President cannot act on the recommendations of the Prime Minister (PM) except for (a) appointment of PM and (b) of the chief justice (CJ). Besides, but for one or two exceptional cases, President is always from the majority party.

As things stand now, the glass of separation of the judiciary from the executive remains half full according to optimists and half empty according to others. Between the two views lie a host of other pertinent issues that need serious attention.

The Daily Star (November 12, 2004) has drawn attention to the above issues. It is understood that the law ministry is working out detailed legal instruments to make the glass full. The real test, however, will lie in the age-old maxim 'Justice should not only be done but it must appear to have been done'.

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WORTH A LOOK

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of detention.

There is still public perception that the remote control over subordinate courts by the executive will continue unless complete administrative control is constitutionally, legally and operationally transferred to the SC.

To top it all, the conduct of some of the judges in the higher judiciary has been questioned in recent times. The deviant conduct of an additional judge has culminated in the termination of his appointment. Presently, litigation is going on in the High Court over the alleged tampering of mark sheets of LLB examinations. The last but not the least is the raging controversy on the recent appointments of 19 additional judges of the High Court.

New judicial service

An English daily headlined the forming of new judicial service (The Independent, November 11, 2004).

desh Civil Service (Judicial) to BJS. All 800 personnel who have been transferred earlier belonged to the Bangladesh Civil Service (Judicial). However, in deference to the directives of SC, the government had earlier formed the judicial service commission (JSC) led by a judge. This means that all matters relating to the recruitment to BJS have now been vested in the JSC and not the public service commission (PSC) which is a constitutional body. This is the new element that seeks to guarantee fair and transparent recruitment to BJS. What about quality?

Practical difficulties

The practical difficulties of the government relate to a host of other issues connected with the administration of criminal justice. The major offences and their punishment are prescribed in the Bangladesh Penal Code (BPC) which is also a relic of

It is felt that the first step in this direction is to amend CrPC in a manner consistent with the letter and spirit of the SC directives. It is said that in India, the separation of judiciary from the executive was effected in 1974 by amending CrPC. It thus took 27 years to effect the separation. Bangladesh took nearly 32 years if the two directives of SC already implemented are seen as complete separation. The CrPC in India, after the amendment in 1974, provides for two classes of magistrates such as judicial magistrates and executive magistrates. It is believed that the former come under the domain of the respective High Courts. The latter under the executive.

There are a host of special laws dealing with petty crimes. Such offences generally lie within the jurisdiction of the magistrates. Again, under CrPC, there are specific areas of functions which are not

addressing such and other related issues, lot of fine tuning will be needed during the period of transition from half separation to complete separation of the judiciary from the executive.

Constitutional reforms

The constitutional reforms relate to the questions of complete administrative control by SC over BJS as a service. There are two key issues. First, appointment to subordinate courts. Second, control and discipline of subordinate courts. The first appears to have been resolved with the constitution of JSC and rules in this regard have been framed. What about the control and discipline of subordinate courts?

The constitution requires that the control, including the power of posting, promotion and grant of leave of persons employed in judicial service and magistrates exercising judicial functions shall vest in

With Arafat as an 'excuse' gone, Palestinians will still get nothing

DR. FAKHRUDDIN AHMED writes from Princeton

COMMENTING on Yasser Arafat's death, Israeli peace activist Uri Avnery said: "The disgusting filth poured out over Yasser Arafat during the last few days in practically all the Israeli media makes one ashamed to be an Israeli. The demonisation of the Palestinian national leader, which has been the centerpiece of Israeli propaganda for decades, continues even after his death. It seems that 37 years as occupiers have bestialised our society and left it bereft even of common decency. Never was the huge gap in perceptions of two peoples more striking than on the day of Arafat's funeral. While the Israeli commentators described the late leader as a veritable monster, the epitome of cruelty, viciousness and corruption, a hundred thousand grief-stricken mourners in Ramallah exploded in a burst of emotions that nearly threw the funeral into pandemonium. If the Israeli army had not surrounded and isolated all Palestinians that day, more than a million people would have been there."

Gush Shalom, the only Israeli organisation that openly mourned alongside the Palestinian people, decided to send a delegation to the funeral. All of us activists, women and men, wore on our breast a big sticker displaying the Israeli and Palestinian flags. The sheer pressure of the multitude split us up among the crowd. Throughout the hours of the funeral, we felt completely safe, even when thousands of shots were fired around us into the air to express grief and bereavement. We encountered hundreds of expressions of gratitude and friendship from the Palestinians of all ages and stations of life. No Arab leader -- and very few world leaders -- evokes such profound love and admiration among their people as this man, whom Israelis consider a veritable monster in human form.

"The Palestinians trusted him, relied on him, let him make all the big decisions that demanded cour-

age, derived from him the strength to defy the intolerable conditions under a brutal occupation. Now suddenly, incredibly they found themselves alone like orphaned waifs, in a world changed by the death of a man who left a huge gap behind him. What will happen now? Arafat has brought his people from the edge of oblivion to the threshold of independence. But the battle for liberation is far from over. The new leadership will have to face all the problems that confronted Arafat, without the towering authority of Arafat. This could have been a

everything in his power to prevent elections, and, of course, blame the Palestinians."

Blame the Palestinians is exactly what President Bush will do, too, according to November 22 issue of the TIME magazine. The President, who shunned Arafat while he was alive, found it beneath his dignity to even pronounce the Palestinian leader's name after he died. The US president continues to see things in black and white: the Israelis are good, the Palestinians are bad; Christians and Jews are good, Muslims are bad; white is good, black is

stand how weak a deal he had made. In an interview with TIME after first Oslo agreement, he boasted that Palestinian "independence" would soon begin in the Gaza Strip and West Bank town of Jericho. When a reporter noted that the agreement provided for limited self-rule, not sovereignty, Arafat shot back, "Who told you that? It has to be under my control. I know what I have signed." Associates confirmed later that Arafat had not actually read the document.

"And the peace process proved harder and harder to sell since even

ians demonstrate a thriving democracy in the Israeli-created Bantustan of a Palestine before any negotiations. Reports TIME: "Last June, an official involved tells TIME, (Palestinian leader) Yasser Arafat and other top officials met quietly with National Security Advisor Condoleezza Rice in Berlin to push for progress toward Palestinian statehood. "They said, 'Why can't we jump to final status talks and start negotiating borders?'" says the official. Rice, according to the official, replied, "We're sitting in Germany. Its borders were settled in 1991; by then it

gunships hovering overhead?" Of course the secretary-designate knows all these. Her interest is not in solving logistical problems to facilitate Palestinian elections; her aim is to place more obstacles in the way of Palestinian nationhood and to win accolades from the Zionists.

TIME adds: "If the US pushes at all, it will push the Palestinians, not Sharon -- if the cadre of top advisors who have prevailed on most Arab-Israeli issues during Bush's first term has its way. Led by Vice President Dick Cheney, the advisors argue that Sharon is the man with the plan, so the best thing the US can do is stay out of his way and support him if he asks for help." I guess the advice stands even if Sharon's "plan" calls for the annexation of the West Bank including East Jerusalem and Haram-al-Sharif, housing Islam's third holiest mosque, the Al-Aqsa, and the Dome of the Rock. TIME concludes: "Sharon does not anticipate a burst of pressure from the Bush administration to change course now. He took Bush's comments last week as a green light to continue his plan to withdraw Israeli settlers from Gaza Strip and parts of West Bank unilaterally rather than enter into new negotiations with the Palestinians. "Palestinian Authority doesn't become an automatic partner just because it's conducting elections."

There is more bad news for the Palestinians. Although several high profile cabinet ministers, such as Colin Powell, have resigned from the second Bush administration, NONE of the Jewish neoconservatives who are masterminding the destruction of the Palestinian people and prosecuting the War on Muslims have resigned. With Zionists like Wolfowitz, Feith, Bolton, Liddy, Pipes, Kristol, Perle and Abrams firmly entrenched in the second Bush administration, the Palestinians and the Muslims can expect far more grief. The only way the Israelis will ever respect the Palestinians and the Muslims is if they are militarily strong.

LETTER FROM AMERICA

America will toe the Israeli line even more closely. America will parrot the Israeli demand that the Palestinians demonstrate a thriving democracy in the Israeli-created Bantustan of a Palestine before any negotiations. TIME adds: "If the US pushes at all, it will push the Palestinians, not Sharon -- if the cadre of top advisors who have prevailed on most Arab-Israeli issues during Bush's first term has its way. Led by Vice President Dick Cheney, the advisors argue that Sharon is the man with the plan, so the best thing the US can do is stay out of his way and support him if he asks for help."

chance for Israel (and the US) to open a new chapter in relations with the Palestinian people. Arafat should have been buried in Jerusalem, according to his wishes. (Israeli) Justice Minister Tommy Lapid reached a new height of vulgarity when he declared that 'Jewish Kings, not Arab terrorists, are buried in Jerusalem.' Well, Menachem Begin, a terrorist who became a 'king' and was buried in Jerusalem could have served as a precedent."

As to whether Sharon will take time out from assassinating Palestinian leaders and facilitate Palestinian elections to choose Arafat's successor, Avnery is emphatic that he will not: "Ariel Sharon has absolutely no interest in sitting opposite a democratically elected leadership enjoying international legitimacy and respect, perhaps weakening his control over President Bush and obstructing his plan for annexation of most of the West Bank. He will do

bad. Perhaps Arafat would have made the grade if he were responsible for the deaths of 100,000 Iraqi civilians! Taking the cue from the president, the American press has been just as uncouth, obnoxious and unfair in lambasting the leader of a people, the Palestinians, who were driven out of their ancestral homelands by a terrorist nation, Israel, which now also controls America."

TIME recalls how Arafat became disillusioned with the Oslo peace accords: "They (Palestinians) were never enthusiastic about the accords because they fell far short of the minimum condition most of them required: a sovereign state in the West Bank and the Gaza Strip. That was plainly the bait Oslo offered, but it was not guaranteed. First, Palestinians would have to submit to a test, a period of autonomy. It became clear in time, though, that Arafat failed to under-

the early days of relative goodwill between the Israelis and Arafat's Palestinian authority, every expansion of self-rule promised in Oslo was hard won and overdue. To reach an agreement with Israel on a Palestinian state, Arafat knew, would require deep compromises on what have become almost sacred demands among his people: that traditionally Arab East Jerusalem, including Islamic holy sites in the Old City, become part of Palestine and Palestinian refugees of 1948 war that followed Israel's creation be allowed to return to their homes in what is now Israel. At the time of Camp David in 2000, Arafat's 'obsession', an aide said, was that if he made those concessions, he would be remembered by his people as a traitor."

So, what happens now? In short, America will toe the Israeli line even more closely. America will parrot the Israeli demand that the Palestin-

was a successful democratic country. That's what you need to think about: building successful institutions of democracy." Who is to tell the Secretary of State-designate that until the merger with West Germany in 1991, East Germany was a communist nation?

As for why Palestine is not a thriving democracy let me educate the former Provost of Stanford University, Dr. Rice, by quoting Uri Avnery again: "My last conversation with Arafat, a few weeks ago (when, by the way, he looked quite healthy) concerned elections. We agreed that they are impracticable while the Israeli army routinely assassinates potential candidates and makes movement between towns and villages impossible. How will candidates -- if they remain alive -- canvass their voters? How will they distribute material, hold meetings and debate policies, with tanks in the background and helicopter

OPINION

Need for an indigenous-style development

CHIEKO YASUDA

BANGLADESH is a village based country. Few will deny this. More than 80 percent of the population lives in villages. Many people who live and work in villages, have also strong bondage with their villages. Even if there is no one in village homestead, many still think that they are somehow bonded to their original village. However, actual rural development has not yet been achieved despite thousands of efforts by many institutions. In fact, institutions in this country often become sort of barriers for development.

Humans establish institutions for the necessity of larger scale activi-

ties. However, institutions often become obstacles better outcomes if the people working there are not conscious about their roles and responsibilities towards the society. Institutions may provide anonymity for personal interest when people inside forget their own mandate. Some government offices, political groups, and private organisations demonstrate this type of trend.

Why does it happen? Are Bangladeshis less responsible than other nationals? Are they more self-oriented than others? Of course, not. Many foreigners agree that people in this country, particularly in rural Bangladesh, are full of hospitality to others. They value social bondage and ties and perform properly in

their community. In village communities, everybody knows his/her own duties and responsibilities. Most of the time, people behave as expected by others with whom they interact in the community.

On the contrary, when one goes to a government office in Dhaka to ask for something, he/she must often cannot expect good performance from officials and employees. He/she has to be patient enough to wait for a long time. His/her request is shelved, delayed and sometimes not handled according to the normal procedure. However, the situation becomes almost opposite if he/she knows someone in the office. Then his/her request is heard and fulfilled. In this sense, Bangladesh is

a big village. When one shows a certain tie to the "community", he/she is treated with some responsibility by the members of the "community". Such behavioral pattern does not fit in the current institutional system.

During the past twenty years, many Bangladeshis have left their country for 'better and secure' life, especially for their children. I believe that no one wants to abandon his/her homeland if there is a certain condition for better livelihood. I have heard many people saying, "If Bangladesh was safe, clean, and disciplined like America or Japan, I could stay in my country with my children without worrying about their future." Also I have heard

"If everyone thought and behaved considering benefit of others too, Bangladesh would not have become such difficult place to live for ordinary people." It is understandable that everyone has the right to search for better and happier life in his/her own way. But to those who left or may leave the country, I have one request -- do not forget your bondage with the country and try contributing something or returning back someday.

Because of the absence of institutional management, social system in this country does not serve its real purpose. Politicians cannot lead the country and its people. Many services still are not fully reliable. Sometimes people have to wait more than

one year to get a new telephone connection. A number of hospitals cannot provide adequate medical facilities to patients. Many roads are pile of rubbish. Police service seems less interested in providing security to the nationals.

Institutional system is not indigenous here. Frankly speaking, Bangladeshis seem not comfortable in working in the 'system'. It might be because such system was brought by British administrators in order to rule the people, not to serve the people, in British colony. However, after nine months of bloody war in 1971, Bangladesh became an independent country. The state is now responsible for protecting its people and providing necessary

facilities for its nationals. In order to do so, modern institutions are necessary and institutional management that accelerates their function is inevitable.

Bangladesh has a rich culture and tradition. It has its own social traditions and values which originated from a mixture of religious influence -- Hinduism, Islam, Christianity, Buddhism, and others. All of those exogenous values are incorporated together and created the rich tradition and culture of this country. Considering that it seems institutional management that fits Bangladesh has yet to emerge. It should be established by the sons of the soil. It might be neither Western management nor Japanese management

style. It may be an indigenous Bangladeshi one.

Bangladesh cannot be developed or changed by outsiders. It is the people in this country who can initiate change and recovery from mental inertia, political instability, lack of security, environmental degradation, traffic indiscipline, corruption, and many other ills. To tackle this, one can go back to the village and remember the values that are shared among the people in the community for the benefit of all. In creating an indigenous system of development, such values should be incorporated institutionally.

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