

# All reforms in one package

BRIG GEN JAHANGIR KABIR,  
ndc, psc (Retd)

THE early onslaught of monsoon at the tail end of summer months that devastated hilly Chittagong, marooned towns and countryside elsewhere is indeed ominous. Reality of Bangladesh is gradually taking over the honeymoon of heightened expectations following 1/11. We cannot stop nature, downpours that flood Bangladesh, but we can stop cutting hills and felling trees that play havoc on the environment, lives of the poor and their shanty dwellings. The aggrieved families lost their smiles forever, if there was any; the minimum punishment for those responsible should be the maximum that law permits. Along with the criminals, the officials who compromised the law for gratification or neglected their duties must be prosecuted to earn unbiased respect for the initiators of 1/11.

It was good to see soldiers in mud and slush with the aggrieved people searching for the alive and the dead. It was solemn duty of the brave sons to be with the people in distress. Wherever he may start, a soldier eventually does not serve for a mere living. Why should someone give life for a living? Training of a soldier is only half-physical but more psychological. Through the years of rigorous training and motivation, he gets ready for the supreme sacrifice. No matter war or peace, a soldier is always ready to give his best. The

first conditionality of soldiering is patriotism and honesty of purpose. Colonial India had elected district councils and provincial governments and last time in 1956, erstwhile East Pakistan had the District Council elections. Democracies practice three layers of elected governments - for immediate needs (county/district) the local government, for health, manpower and economic development, etc. (regional/provincial) the middle government, and for national and international issues, the central government. One of the major reasons why democracy could not come close to the people in many emerging countries including Bangladesh is due to denial of the three layers of governments.

We have a lame-duck democracy where two of the three vital legs are missing. Until the districts and divisions are democratised and the three layers of elected governments introduced the colonial set of bureaucracy will continue to rule the people of Bangladesh.

The 'upajilla' elections were defaulted and the council placed under the two layers of overriding bureaucracy - the powerful district administration and division. The chairman, even if elected, is not the chief executive of the upajilla, the nirbahi (executive) bureaucrat is. It amounts to the elected chairman presiding over the meetings only, while the administration and execution of all decisions are in the bureaucrat's hands. In the national context,

the elected prime minister is only the leader of the house in parliament to glide the bills while the bureaucrats are the real executives of the state. It is a denial of the fundamental right of the people to choose their local government. Those who conspired infinitely to delay upajilla elections deserve to be in the dock for accountability.

If the county government, that provides most essential services in western democracies, denied or delayed their services, people would not wait for the law, they would themselves call to account the responsible leaders. Democracy has not made them docile but disciplined in defence of their right. Three layers of elected governments will usher a vibrant democratic era in Bangladesh and provide experience and ladder to national leadership.

Administration and law need updating to represent the wish and aspirations of a free people; we must go for immediate review without hesitation. There may not be another chance for ushering people's democracy in our lifetime. The parliament consists of the representatives of the people; if necessary, the package of reforms should directly go to the people through a referendum.

Once the alarm bell rings, the fire fighters enter a crisis zone to douse the fire despite inherent risks. Just about everybody was frantically ringing the fire alarm prior to 1/11. Success has many fathers but defeat needs scapegoat and safe

exit route. If people are not satisfied with the delivery of the heightened expectations, the soldiers will bear the burden. I do not perceive a disengagement strategy in case the initiative fails to deliver clean and healthy politics. People are not asking for just an election, they want a sea change in the administrative and political arena. Work on all reforms should start immediately and simultaneously with time bound results for earliest possible return to normalcy and election. Politics is frivolous, susceptible to slippage on the slightest excuse; anchoring fragile gains will ensure lasting value addition to politics. The contaminated culture of laws and courts that manifestly failed the people must not create impediments in the way to the welfare of the people.

Some old hands are showing enthusiasm for reforms, many willing to reverse their loyalties. It would be unfair to debar all politicians who had been in bad culture. The litmus test should be to go through the antecedents, character and financial aspects of the old and new for public service engagements. Politics, which is about infinite possibility, appears to have agility in making a celebrity and villain out of a person in quick succession. Services to the people cannot be far from the sacrifices for them. We want genuine people in public service, not impostors masquerading in politics.



Who will do all these and with what authority? It is a pertinent question that deserves an answer. The open secret behind this question is who did it on 1/11 as saviour of the people from the

calamitous path of a looming civil war. It was the president who went against the armada of political forces that took him hostage at the whims and arrogance under legal vagueness, because

the armed forces were solidly behind the constitutional head. Have we not observed the sick president getting robust these days? If the 1/11 has an answer to the clarion call of national con-

science, more importantly, the approval of the people, the rest is follow-through.

The author is a freelancer.

## Bush and Putin



DR. ABDUL RUFF COLACHAL

SINCE his aggressive rhetoric at Munich in last February lambasting the US foreign policy, Russian President Vladimir Putin has off and on made his point loud and clear: the unipolar world being established by the USA with the help of other Western powers is detrimental to the safety and security of the world nations. It is more so to the weaker ones and it threatens Russia's security. This strongly worded attack by Moscow's Supreme seemingly culminated in his scathing attack on USA's decision to place missile shield in Poland and Czech in East Europe, considered by Russia as its former out-ring of security, extending the NATO military forces right up to Russia borders. In Samara and Berlin, Putin pushed through the idea that Russia should be respected.

The summit of the G8 countries in Heiligendamm was a continuation of other Summits such as the recent EU-Russia summit in Samara in May. The angry nerve war between Putin and USA has ultimately led to his apparent decision to stay in power either by running for Presidency in 2008 for a third term or by extending the duration of the Presidential term up to seven years. Putin's plan for the future, thus, is a very important event, which has largely stayed off the radar screens shadowed by the missile targeting warnings issued by Russia. Putin, counseled by his close Siloviki associates, has come to the conclusion that his departure from Russian political scene would automatically weaken Russian Presidency.

Unlike the dwindling popularity ratings of G.W Bush both within the USA and without, Putin keeps enjoying the support of the Russians with ever increasing ratings. This argues well for the desire of the Russians

emotionally upgraded by the strategies of Putin on domestic and external fronts. His efforts to enhance the Russian pride have endeared him to the cross sections of the masses who are also happy that the Chechens have been effectively brought to their knees. Russia, to put in their style, wants Putin to continue as their president beyond 2008, if not indefinitely. All forecasts about possible successors to Putin might not be keeping in touch with the minds of Russians and ground reality.

Putin says: "Four years, of course, is a very short time period (for a president). I think, for today's Russia, five, six, or seven years is a very acceptable number. But the number of terms should be limited. I will certainly work after 2008. But where, and in what area I cannot yet tell. I have certain thoughts on this issue (the issue of Vladimir Putin's post-2008 career path). Even under current Russian law, I have not reached the retirement age; so sitting at home, doing nothing would be just absurd. We will see, much will depend on how the political process in Russia will evolve at the end of this and the beginning of the next year. There are many options".

Up until last week, the main cause for this was the radically contrasting view of the US and Germany on the issue of global warming and carbon emission reduction programs. But now, it is the Russian president who has added to the headaches for Angela Merkel. And maybe even built up headaches for the other G8 members, who are now looking for the answer to the billion-dollar question: "What (if anything) to do with Putin?" Putin's Russia is at odds with both EU and G8, apart from NATO.

Although most Western publications admit the Russian president's success in his aggressive diplomatic

battles which have caused wide rifts in public opinion in Europe and US Congress itself, in particular over US ABM deployment. There seems to be a very affirmative signal to the West that Vladimir Putin's Russia and its current diplomatic stance on issues from Kosovo and Iran to the ABM shield should not be put on the back-burner until Putin leaves in less than a year, when a new dialog can be established with the next president. Russia's position might not change for the present.

The Russian president is pursuing the only possible and effective strategy to maintain face. His advantage for now is that the opposing side has no clear idea on how to approach the issue. After the Russian missile launches, the Russian president was personally invited to the Bush family compound in Maine in July for a close round of talks with his US counterpart. If you contrast the sparks and threats (or warnings) coming from Russia to the confusing statements, mostly coming from unidentified sources in US and European Administrations.

Western strategists consider that Putin's tactical mastery might help him out-manuever the west on a day-to-day basis, but the enduring legacy of his cunning is likely to be a Europe and US that deeply distrust Russia. The US sees Russia's goal - to negotiate on the multitude of issues that are stumbling blocks in the relations and for the US to affirm again and again that Russia's interests will be recognized. Zbigniew Brzezinski, who was national security adviser to President Jimmy Carter said: "Putin has been spitting at the United States for the last year, and what is the reaction? An invitation to a family gathering."

Many refer to Russia as only one of many factors influencing the US foreign policy, and rid it of the ultimate superpower status with the

ability to participate in all issues. Yet, the US cannot avoid Russia though the US has much more important issues to think about, will not it then be forced to find quick compromises with the less 'important' countries of the world like Russia. That suggests mending the broken bridges with countries at the center of the US foreign policy screen - Iraq, Syria, and Iran? The array of possible deals reached between the current US administration engaged in last-ditch attempts to mend its worldwide image and the "barking" Russia may indeed be worth considering for the US a bit later.

And yet other commentators note: Russian missiles will target Poland and the Czech Republic; the US is blamed for starting a new "cold war" and for continuing its "imperialist" intentions; Russia will withdraw in frustration from a number of European and global security arrangements; and the presidential terms in Russia could be expanded to 5-7 years.

The mutual relations will dominate the Maine meeting between Mr. Bush and Mr. Putin in July. Yet, it is Mr. Bush's administration which will leave the White House in 2009, and whose influence on US policy-making will be dwarfed by Mr. Putin's probable influence on Russian policy-making no matter what role he pursues.

By all probability, Putin would continue to be in power beyond 2008 and outlive the President Bush's term that ends in 2009. Future course of US-Russian relations now depends on future course of Putin.

The author is with the JNU, New Delhi.

## THE LAW OF THE SEA

# And the finance adviser's budget speech

CDRE MD. KHURSHED ALAM ndc  
psc BN (Retd)

BANGLADESH has signed the United Nations Convention on Law of the Seas," said the Finance Adviser in his budget speech on June the 8th, 2007. It is really surprising to see this sentence in the budget speech now whereas we signed the UNCLOS in 1982, about 25 years back. The history of the Law of the Sea (LOS) predates many centuries and mere reference of signing the LOS by the Finance adviser in his budget speech has raised eyebrows amongst the knowledgeable circles. We can hardly fathom the context of this announcement and it is not understood as to which ministry allowed this to find its way to the speech. This simply demonstrates our ignorance of the subject and for that matter continuous inattention of all the governments in claiming an area more than 2, 07,000 sq km. To put it in the historical perspective that the sea has remained a major source of food, mineral, oil and the sea-lanes are the lifelines of all the economics, and many international straits are regarded as vital for major naval powers. The majority of states realised that they were benefiting from the free movement of commerce allowed by the freedom of the seas. This stable regime, however, came under significant challenge after the Second World War. Acquisitive impulses to exploit fishery resources, offshore petro-

leum and natural gas and later, mineral deposits on the deep sea beds have been given impetus by technological developments in ocean resource exploitation. In 1945, President Harry S Truman, responding in part to pressure from domestic oil interests, unilaterally extended US jurisdiction over all natural resources on that nation's Continental Shelf (CS). Egypt, Saudi Arabia, Libya, Venezuela and some Eastern European countries also laid a claim to a 12 to 200mile Territorial Sea (TS), thus clearly departing from the traditional 3 mile limit. It then became extremely difficult for the maritime states to explain why any other coastal state could not restrict high seas freedoms that were of interest to the maritime powers. Thus the necessity to develop a uniform, coherent international law was felt more, mainly because practice on the important aspect of ocean uses substantially diverged among the littoral states.

International law means a body of rules that nations consider binding in their relations with one another; and it provides stability in international relations and an expectation that certain acts or omissions will affect predictable consequences. If one nation violates the law, it may expect that others will reciprocate. Consequently, failure to comply with international law ordinarily involves greater political and economic costs than does observance. In short, nations comply with international law as it is in their interest to do so. The

global ocean regime are, therefore, sets of International law for the jurisdiction and uses of the ocean that received its expression in the United Nations Convention on the Law of the Sea (UNCLOS). International law, particularly the LOS, is derived increasingly from express international agreements, often termed "convention" or "protocol" agreements which are only binding on states that have accepted them either by signing or ratifying them. There is no compulsory machinery for the enforcement of international law, other than in so far as the United Nations Charter confers certain powers on the Security Council for the maintenance or restoration of peace in matters of aggression or breaches of or threats to international peace and security. There are international judicial tribunals, of which the most comprehensive is the International Court of Justice. These tribunals depend, however, on the consent of those states or international organizations submitting to the jurisdiction of the tribunal for the exercise of their jurisdiction.

From oil to tin, diamonds to gravel, metals to fish, the resources of the sea are enormous. The reality of their exploitation grows day by day as technology opens new ways to tap those resources. From a modest beginning in 1947 in the Gulf of Mexico, offshore oil production, still less than a million tons in 1954, had grown to close to 400 million tons. The prevailing philosophy was still

that the seas were essentially free and they could neither be 'exhausted' by 'promiscuous use', nor could they be 'occupied' or 'appropriated'. That the seas may indeed be exhausted by promiscuous use has now been well proved, and on several counts-too much fishing, too much pollution, too much traffic, leading to too many wrecks and accidents. This in fact has led to many conflicting and dangerous uses with the world's common wealth giving rise to too much plain injustice. The codification of the law of the sea attracted the attention of international lawyers first in 1930. For example, a League of Nations Codification Conference tried in vain to achieve international agreement on a uniform breadth for the TS. The International Law Commission (ILC) of the UN General Assembly undertook the task of codifying the LOS, impetus was given to its task by the international decision as to the breadth of the TS and even as to the method of measuring it? decision which came to a head in the Angola?Norwegian Fisheries case before the International Court which gave an important judgment in Norway's favour in December 1951. The effect of this judgment was to deny large traditional fishing grounds of the Norwegian coast completely to British fishermen. The ILC prepared four Draft Conventions on various aspects of the LOS, and these were considered by the representatives of 87 states at a UN Conference on the LOS (UNCLOS-

I)held in Geneva in February? April 1958 (brackets indicate the date the treaty came into force); Convention on the High Seas (30 September 1962), Convention on the Continental Shelf (10 June 1964), Convention on the Territorial Sea and the Contiguous zone (10 September 1964) and Convention on Fishing and the Living Resources of the High Seas (20 March 1966).

The 1958 LOS Convention failed to agree upon two controversial topics, the breadth of the TS and the nature and breadth of fishery limits, whilst it did agree upon the method of measuring the TS and also upon the notion of a Contiguous zone. A second convention on the Law of the Sea (UNCLOS II), attended by representatives of 60 states, was held in Geneva in March? April 1960; this convention narrowly failed by one vote to adopt a 6 mile TS plus a 6 mile exclusive or partially exclusive fishery zone for a coastal state. By this time, developed nations were flooding the richest fishing waters with their fishing fleets, virtually unrestrained. Offshore oil was the centre of attraction in the North Sea; Britain, Denmark and Germany was in conflict as to how to carve up the CS shelf with its oil resources. The oceans were generating a multitude of claims, counterclaims and sovereignty disputes. The developing countries were particularly concerned with the status of the deep sea?bed and the ocean floor beyond national jurisdiction and wished to

see that area reserved for peaceful purposes, with its resources being used in the interests of mankind as a whole. A few years after the adoption of the Geneva Conventions it became apparent that the international communities, particularly the developing countries, were not at all satisfied with the law laid down in the Geneva Conventions. Most of the developing countries became independent during sixties from colonial rule and at the time of codification in 1958 their views remained underrepresented and consequently their interests were ignored. Developing countries felt that the existing regime of the LOS benefits only the developed countries that laid down the law and it is harmful to their vital interests. The technical advances made in the field of exploration and exploitation of marine resources made it all the more necessary to define precisely the extent of the national jurisdiction. Moreover, wider claims of TS and establishment of exclusive fisheries zone by states either unilaterally or through international agreement were made while no legal norms could be formulated to restrict the stampede of unilateral claims of jurisdiction.

In 1967 when the representative of Malta raised the question of the seabed in the UN, it became increasingly evident that the ultimate resolution of the seabed issue lies in nothing less than a complete reworking of the LOS. In an effort to resolve the many disputes over access to vari-

ous parts of the oceans, and to preempt further and perhaps more serious disputes from arising, the United Nations adopted at its General Assembly in 1970, a "declaration of principles" based on the recommendations of its Committee on Peaceful uses of the Sea?Bed and Ocean floor beyond the limits of national jurisdiction. After 12 years of consultation and negotiation among more than 150 nations, a draft treaty on the LOS had been worked out and was placed before the General Assembly in 1982 as the UNCLOS III. On 10 December 1982 UNCLOS?III was opened for signature in Jamaica by states and international organizations/entities. Bangladesh along with some 119 states and entities signed the convention on the same day having failed to incorporate the peculiarities of deltaic coastal features and provisions of our Maritime Zones Act 1974. However some developed and industrialized states raised objection about the articles on seabed mining and refused to sign the convention. It took a further 12 years, mainly for technical and legal reasons, for the required 60 instruments of ratification to be deposited at the UN and Convention came into force on 16 November 1994. Consultations taking place during 1990-94 culminated in an Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea to which we have signed along with all the states parties. Bangladesh has also ratified

the LOS convention in 2001. But we are yet to claim atleast 2,07,000 sq km of CS through carrying out various time consuming and costly seismic and gravitational surveys and update the domestic laws as required by the Convention. We have already wasted 7 years of precious time and unless we do it by 2011, this area will become International waters. This sentence has raised more questions than it has answered for which I have written several articles about establishing our rightful claim on the 12 nm TS, 200 nm EEZ and 350 nm of CS and settling our maritime boundary disputes and save our oil blocks from encroachment by India and Myanmar. It is rather surprising to note that instead of allotting enough funds for the urgent survey works needed to claim vast sea areas as per the LOS or for that matter, informing the public about the progress or plan of the Government towards claiming that resources of the area needed for sustenance, the budget speech of 2007 has totally discouraged us. May I, through this column, urge the policymakers of the Government to review their plans and take active measures to claim these resourceful areas; otherwise our posterity will not pardon such ignorance and neglect.

The author is a free-lancer.