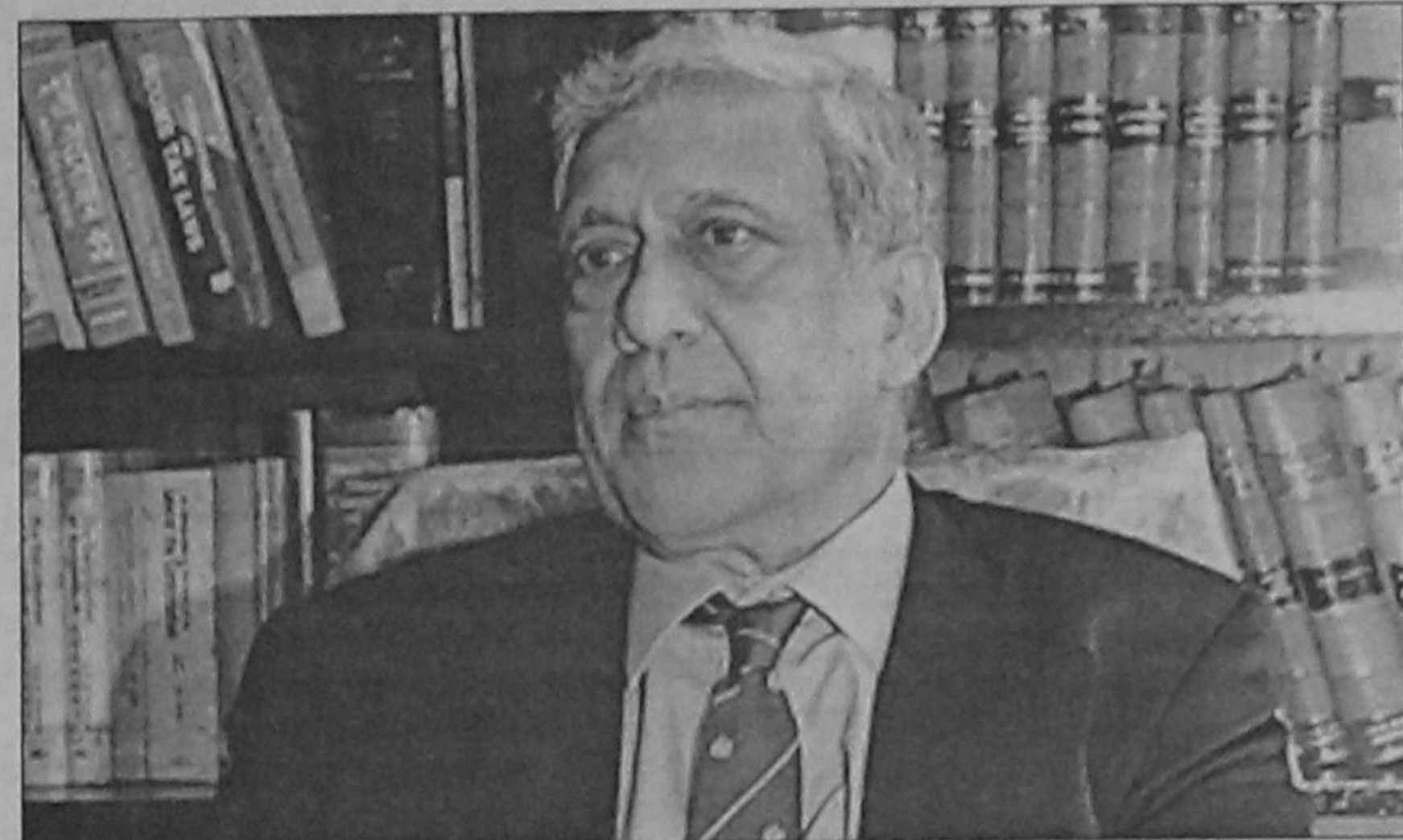


TALKING POLLS AND BEYOND

'We'll not have many foreign observers by December 29'

Jurist Dr. M. Zahir obtained his MA in English from Dhaka University in 1960, a year before obtaining LLB from the same university. After obtaining LLM from London in 1964, he completed Bar-at law from Lincoln's Inn, London in 1965 and obtained PhD degree in 1966 in London. He enrolled as an advocate in 1962 at Dhaka High Court and became a senior advocate at the Supreme Court in 1979. He served as a part time lecturer at Dhaka University during 1965-85. A former member of Court of Arbitration at International Chamber of Commerce in Paris, he is an executive committee member of Bangladesh Institute of Law and International Affairs. Shamim Ashraf and Najmul Alam Nobin took the interview.



Dr. M. Zahir

How do you see Section 91 (E) of RPO that empowers the EC to cancel candidature? Section 91 (E) gives the EC the power to declare the candidature illegal or invalid. But I don't think this process can be followed properly within this short period of time since we have about one month or so before the election. Because first it has to receive written information on the allegation, then it must satisfy that it is a prima facie case, then it will have to serve the candidate in question with a showcause notice and then hold a hearing on the allegation. It's absurd within this short period of time. I don't think this is a problem this time. If this provision stays, then we may be giving a handle to the EC later on to interfere in the future election process. I don't know why the government had to insert it. The problem with us is that we try to earn more and more power whenever we go to power. As a result, we fall into a pit dug by ourselves to satisfy our own vanity. Could candidates in question be kept away by other provisions in the RPO? Other provisions are enough to stop undesirable people coming to election. Do you think there is any uncertainty over election due to the stance of the major parties? I would have preferred the election to be held earlier than December 29, preferably on December 18 or 20. Foreign observers will go back to their countries for Christmas and we'll not have many foreign observers by December 29. Why are you weighing their presence so highly? We may vilify foreign observers but we do need them to maintain sanity and an inde-

pendent viewpoint of the election process. The person who will lose will always call foul. Even if there is a fair election, we need some independent foreign observers. Holding the parliamentary elections on December 29 will make it difficult for them to attend. Though the EC has done it, it's not too late to bring it forward. Do you think the practice of polls rejection can be seen again? I'm concerned and have been saying this repeatedly about a statement of the CEC saying that the media will not be allowed to publish or to announce results as they come in or even after the man in charge signs it. It's absurd and has never been heard in history of free election. This is not Soviet Russia or Nazi Germany, and we are not puppets. We must know the process for the sake of transparency. What can be done to make the parliament effective? Frequent walkouts and long boycotts are abominable, and can't be supported by any voter. We vote them to attend the parliament and participate in discussion. Coming out, they attend the parliamentary committee meetings and say they're attending the parliament. Rubbish! Opposition gets a raw deal from the speaker and deputy speakers. The ruling MPs go on rambling and rambling. The opposition MPs should be given their time. How do you see Article 70 which blocks floor crossing? This is a black spot in our constitution. The framers of the constitution were not in the right mind to insert this article which says an MP will lose his seat if he votes against his party. It's absolute dictatorship of the prime minister. Also, being the head of the execu-

tive, the PM controls the parliament totally through Article 70. In the British parliament, in our neighbouring India, MPs have the right to rebel. By doing this rebellion, they correct the imbalance of the government. Many argue it's needed to stop horse-trading... Horse-trading happens everywhere. The other day, we saw a lot of horse-trading in India over the nuclear pact. So what? There is a limit to horse-trading. If the MPs be like that and risk their own government, be it so. We'll have to see which is the greater evil -- one is permanent imbalance in this structure and the other is horse-trading. How to cut the influence of executive on judiciary? The only way the judiciary can shrug off the influence of executive is by being bold itself. We've seen in last few months some of the judges being bold but I haven't seen since 1947. Initially the judges were independent but gradually they became more and more compliant. There is an attitude as if the government must win whenever we try to fight a case against the government. This sort of natural bias perhaps is the common psychology of judges in underdeveloped countries. The more developed a country is, the more independent the judges will be. Evaluate the achievements since 1/11. We've achieved only one thing -- a more or less correct voter list. Another achievement is driving the fear into the minds of politicians, and, in next five or 10 years, top politicians will think twice before being corrupt. However, the government and executive officials will think twice before awarding a contract and even before coming into a fair compromise with somebody. So, every time the files come, you say no. This is irrational.

We're living in an irrational time in an irrational country ruled by irrational people. I don't think we have achieved much economically. Was a single big project passed? In the first year, all businessmen went into hiding now they are trying to come out. Should the top level leaders appear in debates with their manifestos? That is what should have been achieved by this government. They went out to purge certain personalities but they should have gone for introducing some good practices in the electioneering process, like election manifesto. The two top ladies should appear in series of televised debates with their manifesto, and the countrymen will judge whom to vote. They should not just meet and one ask the other how she enjoyed the other's cooking. Should the debate provision be included in the law? It cannot be done by law. The EC should encourage the media to arrange such debates between Sheikh Hasina and Khaleda Zia or Ershad and other major parties. Do you support the idea of separating some 100 seats for women in the parliament and direct election to those seats? No, I don't. I don't see any reason for having 45 reserved seats for women because they are not at all elected; they enjoy all the facilities because they are just lackeys of a government. That's not the way to uplift ladies. They should come through main-

stream contest. In England, there is pressure on parties to nominate 30 percent female candidates. We should pressurise the parties to nominate at least 20 percent women candidates. How much political reforms have been done? What reforms they have done? I have been canvassing since 2004 or 2005 for starting the nomination process from the bottom, and now they are doing it in theory. But go to Sudha Sadan and see the unruly situation. Those who didn't get nomination incited their followers to create trouble. It is the people who will choose their party leaders through a process starting from the bottom. Proper democratic discipline requires that they should accept the nomination decision even though erroneous. How much qualitative change in political culture will come through the changes brought to the RPO? All these changes in the RPO will come to a nought unless basic decorum, decency and norms are followed by the parties. Do you see any sign of that? After seeing the indiscipline by the aspirant Awami League nominees and, most probably, the BNP also, not yet, unfortunately. Do you think the politicians have realised their failures which led to 1/11? Let's wait and see. I don't want to blame the politicians before they have a chance to show whether they've learnt a lesson. Old candidates facing allegations of cor-

ruption came out victorious in local body elections... What can we do if the nation wants and votes for corrupt and bad people? Such people's resurfacing doesn't mean the nation should vote for them. Unfortunately in our country, nobody really hates a moneyed man, we talk ill things about the rich people and then we pamper them with a hope to get something from them. As a nation, we really haven't learnt the correct democratic process. How can we overcome this? By having elections again and again, as neutral and fair an election as possible. The culture of correct democratic process is not born in one day. What can the two top leaders do to stop confrontational politics? They first need some good advisers who will be able and bold enough to point out their mistakes and ask them to refrain from following undemocratic practice. They should hunt for independent advisers. Evaluate the anti-corruption drive? It has faltered mainly because the government was over-anxious. It wanted to catch people under the umbrella of the emergency power rules. The existing laws were good enough. I believe firmly that if these people were prosecuted under the general laws, these writs in the High Court would not have taken place. The CG was over-eager and advised badly. The idea was to put people behind bars, not convict them. We saw the two leaders were arrested with fanfare but then released and are now treated again with fanfare. Identify the CG's major mistakes. Top failure is not being able to finish the anti-corruption drive because of their being overzealous. For the same reason, the business community went into hiding and the economy in the country is caught in the doldrums. Nothing has been done in the power sector. You say the election will be held in a neutral manner. Why do you think so? There is a correct voter list. Besides, both AL and BNP will shout that the government is helping the other, which means they are helping no-one. The people in the government don't belong to Awami League or BNP. It will be difficult for them to manipulate the election, either in favour of AL or BNP.

Infrastructure development

Failure to carry through a scheduled rehabilitation of generation capacity and discontinuous use of installed capacity due to the lack of gas have led to a crisis. These failures are due to the heavy dependence on donors whose conditionalities can often not be implemented on time.



The road to development?

SAMIR ASAF
INFRASTRUCTURE typically refers to the technical structures that support a society, such as roads, water supply, wastewater, power grids, flood management systems, communications (internet, phone lines, broadcasting), and so forth. It is the basis for poverty reduction as well as economic growth. Bangladesh has considerable development potential for private investment in infrastructure, oil and gas, and sub-national finance. Although the development of infrastructure has fallen short in most Asian LDCs, Bangladesh's failure to mobilise domestic and foreign resources to build adequate infrastructure for accelerated economic growth is testimony to a lack of actionable vision, weakness in decision-making, planning and implementation; and lack of coordination within and between the various government ministries. An inadequate national vision reflected in the PRSP-I underpins our failure in the provision of basic physical and economic infrastructure, faced with the pressure of population growth and urbanisation. Power and energy infrastructure have not kept pace with demand. In the energy sector, Bangladesh is a classic case of supply side failure, as electricity generation did not respond to demand signals. Failure to carry through a scheduled rehabilitation of generation capacity and discontinuous use of installed capacity due to the lack of gas have led to a crisis. These failures are due to the heavy dependence on donors whose conditionalities can often not be implemented on time. Lack of coordination between the gas and power sectors, lack of preventive repair and maintenance, and weak governance of the system are additional contributing factors. The institutional failure emanating from entrenched vested interests has had an impact on efficiency and cost recovery. The government is proceeding to corporatise power generation, transmission and distribution, but managerial capacity is still low. The management of ports is plagued with problems and requires operational autonomy, contracting out and depoliticisation of the trade unions. It suffers from system loss due to managerial inefficiency and malfeasance of employees. Inland water transport has suffered a major decline in Bangladesh due to silting and lack of maintenance of river routes.

Water scarcity is causing suffering to millions of citizens. Dilapidated roads and bridges lack maintenance while new roads are built where they are not needed; the government refuses to privatise its fully owned airline, hotels, or telephone companies; public hospitals and medical services are in a state of neglect; judicial services constrained for budgetary resources; education system unable to keep pace with the growing influx of students; urban infrastructure has not kept pace with urbanisation, while rural infrastructure development has suffered from a lack of institutional capacity and absence of decentralisation. Investment in productive sectors needs to be complemented by investment in and maintenance of transport, communications and energy infrastructure. Development of the transport infrastructure in Bangladesh, particularly the expansion of the road network, resulted from official development assistance received since 1950. Infrastructure development, including the rehabilitation and development of the network of primary, secondary and feeder roads, is crucial for the effective development of social and administrative services, national integration, security and expansion of trade and market access. At the same time, development of railways, port and airports are vital for the export and modernising sectors. A recent World Bank report finding that the eastern and western regions of Bangladesh are facing unequal growth due to imbalance in infrastructure provision is instructive, but we need to recognise the need for improvement of the urban environment since principal cities are a driving force for economic development in the country where agglomeration benefits are clear. The government has accorded high priority to the power sector and opened the sector to private investment. Rural electrification has proceeded steadily and has generated more. Rehabilitation and maintenance of existing infrastructure, creation of new infrastructure, and strengthening institutional capacity for infrastructure development have been considered priority areas for action. But it appears that there has been a policy failure that can be corrected through a concerted effort by both public and private sectors free of bureaucratic intervention beyond the provision of policy guidelines. In addition, there are issues with govern-

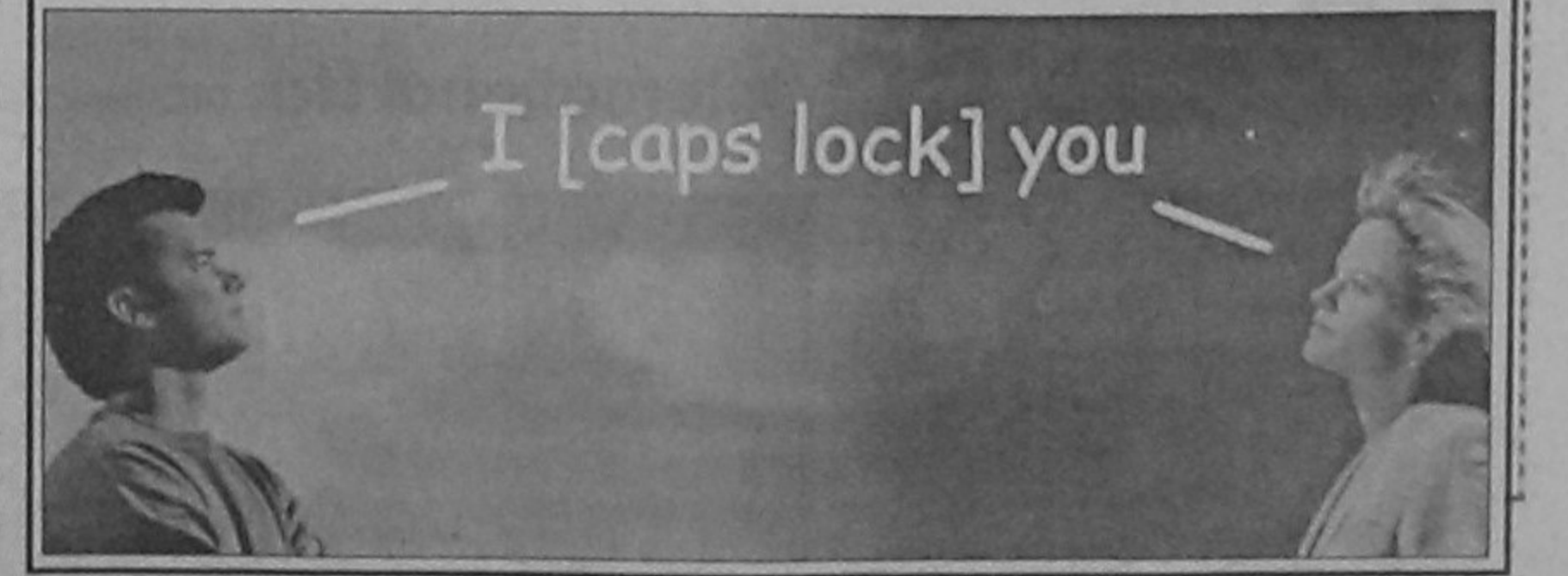
ment's budgetary allocations. For example, in the FY 2008-09 national budget, the Ministry of Defense (not under the Medium Term Budgetary Framework, MTBF) received a total budgetary allocation of Tk 6,404 crore, which is higher than the combined budget of 22 separate ministries. Only the Ministry of Agriculture (Tk 6,499 crore) has a higher budget than the Ministry of Defense. Reference to the defence budget is relevant because it is an economically non-productive sector according to the national PRSP-II, recently prepared by the Planning Commission. The development of infrastructure should take into consideration equity and efficiency issues across socio-economic groups, and should adopt appropriate pricing policies to encourage private investment, efficiency and access. Infrastructure investments are a precondition for higher growth and poverty reduction, but private investment remains limited. There is a growing debate how public investments in infrastructure can accommodate the private sector within fiscal stabilisation and sustainability constraints. Infrastructure provision is no longer assumed to be the sole responsibility of the public sector nor that of the private sector, but increasingly it is about public-private partnerships. Governments will need funding and private-sector expertise to improve or replace aging infrastructure, while investors can benefit through the steady, long-term returns infrastructure investments can provide. Developing country investors have emerged as a new class of investors for infrastructure projects with private participation, but under-developed capital markets and lack of access to long-term local currency finance in Bangladesh pose challenges in project structuring. The key to attracting private capital has been commercial viability. In turn, private sector's renewed interest in participation in infrastructure (since the downturn in late 1990s) is facilitated by greater selectivity towards competitive sectors such as

telecom and transport, as well as a shift towards build-own-operate type contracts, limiting their long-term exposure. The range of vehicles through which private capital is able to invest in public infrastructure include privatising public companies, different public private partnership (PPP) models, infrastructure funds investing in single or multiple sectors, Greenfield projects, and operating existing infrastructure assets such as toll roads and bridges through long-term concession agreements with public agencies. In the past decade, many developing countries initiated major infrastructure sector reforms that separated policy making from service delivery and promoted projects with various forms of private sector participation or PPPs. Despite considerable progress, private participation or public private partnership arrangements still face several implementation challenges. These challenges typically involve tariff setting and adjustment, regulatory independence or dispute over contractual provision. Well-designed arrangements for private participation or PPPs allow commercial discipline to be introduced in the delivery of infrastructure services, thereby improving efficiency and lowering costs. Traditionally, most investment in infrastructure has been publicly funded with about 70% of the total spending, and the private sector has contributed roughly 20% to 25%, while official development assistance has financed only around 5% to 10%. Bangladesh should attract private financing in infrastructure through efficient financial markets which can provide funding at suitable terms and tenors; reliable and transparent investment and regulatory frameworks; and project revenues that are predictable and ensure the payment of debt service and a reasonable rate of return on equity.

When the going gets tough, caps lock goes on

NURY VITACHI
THANKS for the comments and emails, guys. Today I am deep in thought on the subject of Internet debates -- and especially ones which contain emotion. I spent much of my childhood lying on the dusty concrete of the playground being beaten to a pulp by larger boys. How I miss those days. Truly, schooldays are the happiest days of one's life. * Despite my unusual fighting technique ("getting beaten up"), both sides saw this as classic male-bonding, and I look back with nothing but warmth towards my most frequent sparring partner, a boy called Jeremy whose scariest weapons were his nostrils, which exuded twin rivers of flesh-melting acid. But now I am adult (physically, I mean) and these days I have to settle differences by email. It stinks. Email is a terrible medium for a fight. I often get picked to judge book prizes -- but all the debates take place by email, because panelists are inevitably thousands of kilometres apart. Having a passionate argument via the Internet goes like this. Stage one: Normal length emails are swapped, with little smiley faces on the end of each message. Stage two: The debate gets a little heated, and the smiley icons start to look ironic. Stage three: The emails become long and defensive. The smileys vanish, as does the "dear" at the beginning and the "best wishes" at the end. Stage four: The emails become extremely long and tense, each one worked on for at least an hour. Stage five: Suddenly the messages become very, very short. Stage six: CAPS LOCK ON. Stage seven: Caps lock on and the font size grows to 18 point. Stage eight: Caps lock on and the font grows to 72-point headline size and you

can only fit in two words per email. (The good news is that it doesn't take long to think of which two words to choose.) Stage nine: You take the other person's email address and sign him or her up for on-line newsletters such as The Daily Pervert. Stage ten: In the death throes of the argument, one side mentions Hitler and the argument ends. A tradition has grown up that whenever someone brings up a silly comparison to the Nazi regime, the row stops and that speaker is deemed to have lost the debate. This started in 1990 when chatroom geek Mike Godwin formulated Godwin's law, which says: "As a Usenet discussion grows longer, the probability of a comparison involving Nazis or Hitler approaches one." The result was an unofficial but widely adopted rule that says the use of silly analogies involving Nazis signifies a debater has become too hysterical to continue. Scotland's version of Godwin's law says that all arguments about politics eventually lead to references to the Mel Gibson's Scottish independence movie Braveheart. The US political version says that every instance of Democrats starting to lead at the polls automatically leads to references to a socialist takeover. Godwin's law is really about the way people sum up big issues with ill-judged but predictable analogies. For example, any lengthy discussion about Singapore leads to the words "Nanny government." Any lengthy discussion about India leads to "call centres." Any lengthy discussion about China leads to the words: "Free Tibet, scumbags" on one side, and: "Tibet is an alienable part of the Motherland since time immemorial, imperialist dogs" on the other. It's so predictable. Why can't we all go back to hitting each other in the playground?



Samir Asaf is a member of the Bangladesh Better Business Forum (BBBF) and can be reached at samir_asaf@yahoo.com.