

Behind the case withdrawal syndrome

In the past thousands of criminals were let off by the government as a matter of political expediency and opposition party workers were falsely implicated in criminal cases to settle political vengeance. The matter becomes delicate when one realises that in our less than healthy political environment it is extremely difficult to differentiate a political act from a criminal act.

MUHAMMAD NURUL HUDA

THE Daily Star editorial on July 14 takes a critical view of the review process of the 'politically motivated' cases and wonders if there is an effort by the executive branch of the government to arrogate to itself the task of the judiciary. It also entertains the premonition that the review drill may actually be a device to circumvent the legal process and expresses the concern that such ventures may adversely impact public confidence in both executive and judiciary.

Readers may recollect that in 2005 there was widespread condemnation of Presidential clemency shown to a convict of double murder case. The integrity of our executive organs of the government was seriously questioned then as there was no justification for tendering pardon to a double murder convict.

There was clear political motive in facilitating the pardon. This instance has been cited to show that in the past graver indiscretions were committed by responsible people in high offices by abusing the 'Presidential Prerogative' as contained in article 49 of the constitution.

The attempt to withdraw criminal cases, whether or not with cogent reasons, should not cause much surprise in view of Bangladesh's political experience.

After liberation, quite a number of sensa-

tional criminal cases were withdrawn on alleged political grounds. Many deaths caused by the then special forces were not even investigated and murderous actions were not taken note of.

Between 1976-1979 many heinous criminal cases involving murder, abduction, grievous hurt amongst others were allegedly withdrawn as part of a deal struck with some political parties by the then establishment.

One can thus see from the above process that many criminals acquired respectability as political elements that the hapless police were unsuccessfully chasing for a long time. Matters like this send very confusing signals to the enforcement units primarily and also significantly affect the judicial authorities. They have demoralising effect on the conscientious officials who fail to understand the propriety of the so-called dynamics of electoral adjustment and understanding.

Newspaper reports indicate that the volume of such withdrawals have registered sharp increase in recent years. Those interested to see a cleaner polity may examine whether such increase is directly co-related to the heightened criminalisation of our politics.

It may be pertinent to point out here that regarding withdrawal from criminal prosecution, section 494 of 'The code of Criminal Procedure' says, "Any Public

prosecutor may, with the consent of the Court, before the judgment is pronounced withdraw from prosecution of any person (either generally or in respect of any one or more of the offences for which he is tried); and upon such withdrawal,

- If it is made before a charge has been framed, the accused shall be discharged [in respect of such offence or offences].
- If it is made after a charge has been framed, or when under this code no charge is required, he shall be acquitted [in respect of such offence or offences].

The above two legal positions have been mentioned to inform that the government retains the authority to exempt accused persons from criminal prosecution at different stages of trial and also show mercy to the convicted following the conclusion of the trial. The number of cases that have been withdrawn at different times under various political regimes do cause concern.

It needs to be reminded that the functionary clothed by the criminal procedure code with the power to withdraw from the prosecution is the public prosecutor. It is for him to apply an independent mind and exercise his discretion. In doing so he acts as a limb of the judiciary process and not as an extension of the Executive.

Although the withdrawal from prosecution is an executive function of the Public Prosecutor it has to be remembered that under the Criminal Procedure code the prosecution of an offender for a serious offence is primarily the responsibility of the Executive. The Public Prosecutor's discretion can not be surrendered to anyone and he should ensure that the broad ends of justice, public order and peace are served.

In respect of the above, it is for the Court

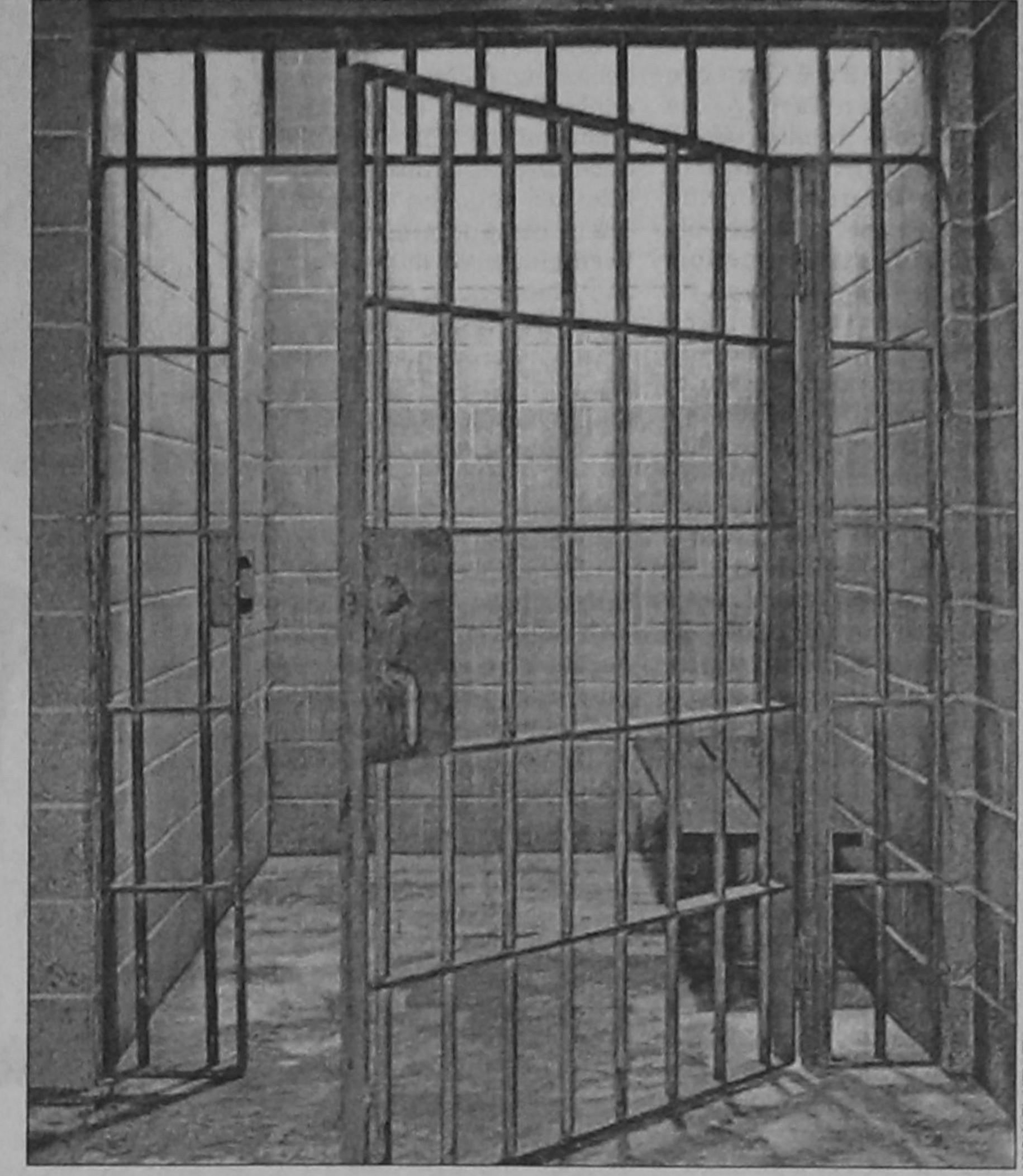
to consider whether the Public Prosecutor applied his mind as a free agent, uninfluenced by irrelevant and extraneous considerations. The Court has a special duty in this regard as it is the ultimate repository of legislative confidence in granting or withholding its consent to withdrawal from the prosecution.

It shall be the duty of both the public prosecutor and the Court to protect the administration of justice against possible abuse or misuse by the Executive by resort to provisions of section 494. In sum, the sole consideration for the Public Prosecutor when he decides to withdraw from a prosecution is the larger factor of the administration of justice -- not political favors nor party pressures nor similar concerns.

In view of the observations in the paragraphs hereinbefore, one has to judge if our Public Prosecutors and the concerned Courts are doing their due in so far as it relates to the withdrawal from criminal prosecution. One needs to know if the executive organ of the state is rendering desired assistance in furthering the administration of justice and more specifically whether it is making serious efforts to prosecute the major offenders.

It also needs to be examined by competent authority whether in consenting to withdrawal from criminal prosecution the Courts have taken sufficient precaution to prevent executive abuse and misuse and undesirable political favours from taking place.

The ground reality is that in the past thousands of criminals were let off by the government as a matter of political expediency and opposition party workers were falsely implicated in criminal cases to settle political vengeance. The matter becomes delicate when one realises that in our less than healthy political environment it is extremely difficult to differentiate a political act from a criminal act.



The citizens should know whether political opponents should continue to be harassed by institution of palpably false cases and whether purely criminal elements should be allowed to masquerade as party operatives. The politicians should take the lead in the gradual decriminalisation of the political process and ensure its sanitisation.

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Meeting the challenges of global warming at home

Racked by land destruction, salinity intrusion, water logging, recurrent floods, storm surges and changes in the course of the rivers, people in the south western part of Bangladesh are now facing a new set of challenges imposed by global climate change.

MD. ASADULLAH KHAN

GLOBAL warming is now a grim reality. There is hot air aplenty mostly because of global warming, caused by the galloping increase in carbon emissions by uncaring nations that has severely disrupted weather patterns across the world. As the next UN conference on the Climate scheduled to take place in Copenhagen in December gets under way, the world appears a no better place than it was in 1992, during the Rio meet.

Global warming will also add significantly to Earth's worrisome water problems. Already around 1.4 billion people live in water stressed areas, a term defined as having less than 1000 cubic metres (35000 cubic feet) of water per person per year. The world's supply of fresh water, already threatened by increasing levels of pollution is growing so scarce in some areas accentuated by climatic change in consequence of global warming that if current trends continue, two-thirds of humanity will suffer severe water stress within 30 years, says a UN report.

The situation will not only imperil human health and development on a vast scale, but also the aquatic and terrestrial

ecosystems on which much of Earth's life depends. The growing scarcity of water is also hampering agricultural production at a time when demand for food is rising with steady population growth.

According to a recent study report revealed by the IPCC (Intergovernmental Panel on Climate Change) by 2050 as many as 150 million 'environmental refugees' may have fled coastlines vulnerable to rising sea levels, storms or floods, while a sixth of Bangladesh could be permanently lost to sea level rise and land subsidence.

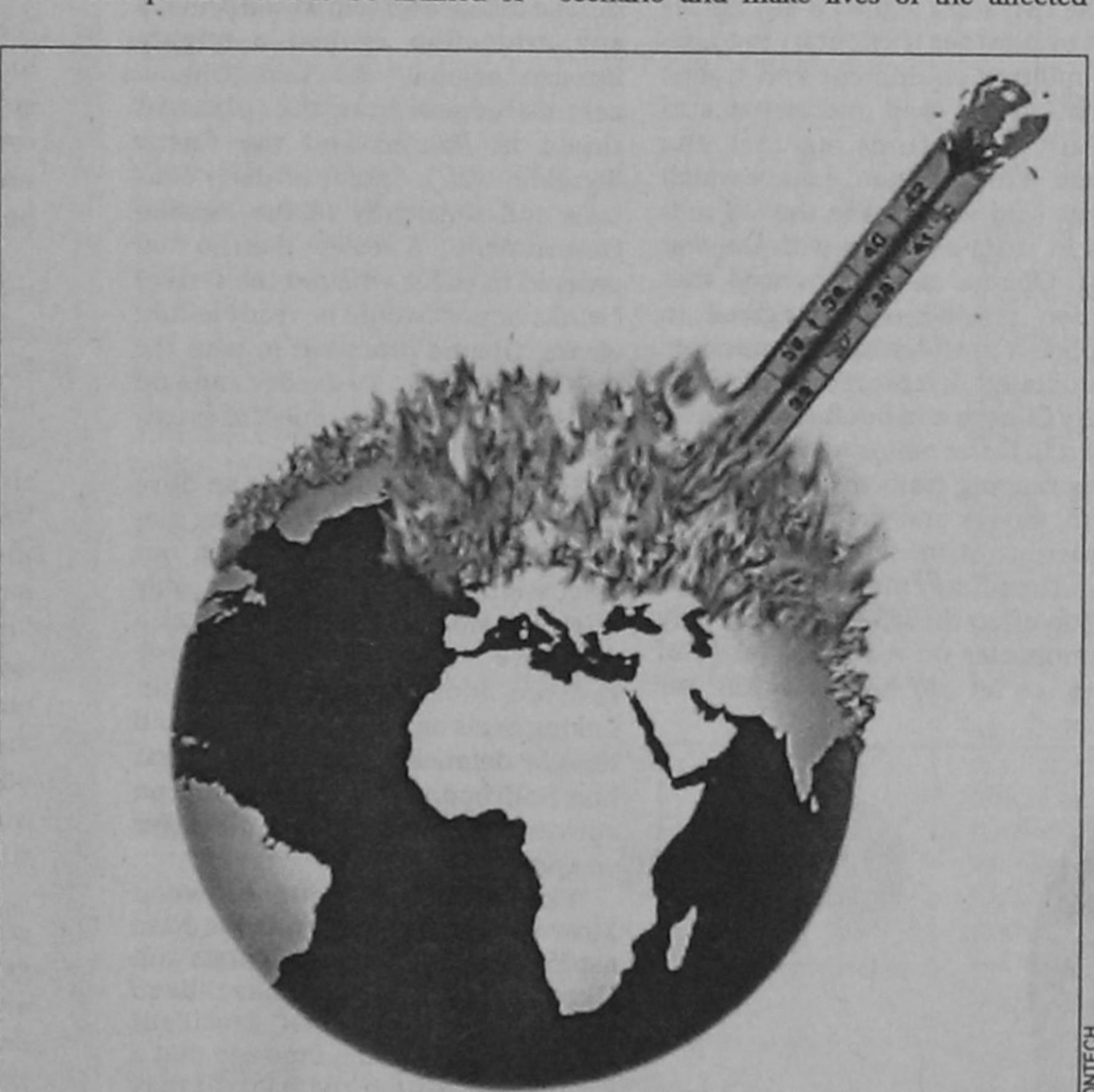
Racked by land destruction, salinity intrusion, water logging, recurrent floods, storm surges and changes in the course of the rivers, people in the south western part of Bangladesh are now facing a new set of challenges imposed by global climate change.

The southwestern part of Bangladesh bears the brunt of the ravages of climate change in almost unimaginable proportions. With changes in rainfall pattern, meaning rainfall becoming less than normal in most places, the land has become parched. Most ponds are now bone-dry.

The water in the ponds of Satkhira, Bagerhat, Khulna and greater Barisal is just knee-deep and turned salinated, while tube wells fail to yield as the water table is going

down every year. The saline water has affected cultivation of vegetables, crops, and sweetwater fish.

Drinking water in and around Satkhira district is now on sale in large containers moved by rickshaw. Almost two months after the cyclone Aila accompanied by tidal surge hit the coastal belts of Satkhira, Khulna, Bagerhat and greater Barisal, people still have no access to salt-free drinking water. The ponds need to be drained of



people easier.

However, despite all the odds that have made life in the coastal region miserable, there is still hope because of growing environmental awareness. Now efforts are underway to right some of the wrongs in most parts of the world. Unless immediate adaptation strategy is taken up, the problems of agriculture would be critical in the days to come as deteriorating soil conditions, and changing climate put even more pressure on already-strained food supply system.

If the nations of the world take immediate action, the pace of destruction of the global environment, no doubt, can be slowed substantially. Sooner or later, the Earth's human inhabitants so used to adapting the environment to suit their needs will be forced to adapt themselves to the new demands.

The question that invariably comes -- how would societies respond, for example, if the oceans were to rise 3 to 4 ft over the next century, as some scientists have predicted? One option would be to construct levees and dikes. The Netherlands, after all, has flourished more than 12 ft below sea level for hundreds of years. Its newest bulwark is a 5.6 mile dam made up of 131 ft steel blocks that remain open during normal conditions to preserve the tidal flow that feeds the rich local sea life, but can be closed down when rough weather threatens.

Poorer countries like Bangladesh have fewer options. It cannot simply evacuate the chars in the Ganges delta or coastline populations. Launching of such massive evacuation plan or resettlement in a land-scarce country that involves forbiddingly high cost and expertise is a daunting task.

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Dreams of peace fading fast in ME?

America is the only country that can influence Israel. It is morally and politically imperative that Mr. Barak Obama builds the structures of peace and convinces the Muslim world that the US doesn't exclusively support Israel.

ANAM A CHOUDHURY

IRANIANS are fighting the monsters of their own creation. Ruling elite have lost their moral compass because they have been blinded in their quest for power. Perhaps nobody will ever know how Iranians voted on June 12, but millions of them believe that the election was rigged to ensure the re-election of President Ahmadinejad.

The divisions in Iranian society and

within the leadership have been apparent and the legitimacy of the regime is very likely to be questioned within the country and across the world.

World leaders have voiced mounting alarm over the unrest which has severely jolted the Islamic regime and raised concerns over its future. However it is still too early to predict with any certainty how events in Iran will unfold.

Iran has had a quasi theocracy since the ouster of the Shah in the Islamic revo-

lution of 1979. Millions of people surged to accompany Ayatollah Ruhollah Khomeini when he returned from Paris to usher in Islamic rule. To everyone's natural surprise Iranian intelligentsia were found as keen supporters of Ayatollah Ruhollah Khomeini and politically more leaning to the fanatics. Even the present charismatic opposition leader Mr. Mousavi is not a pro-western liberal. He is also committed to Islamic government, but believes that it must adapt with the times to survive and move ahead.

It's a shame that a country which produced Omar Khayyam, Ibn Sina, Firdousi in 9th and 10th century is now fighting to escape the yoke of suppression and repression. The Persians were great poets and also remarkable as mystics. Their civilization remained both intel-

lectually and artistically admirable. But ironically, rigid orthodoxy put almost an end to all such development. The sight of unarmed protesters being shot by government forces is a cause of widespread concern.

Mr. Ahmadinejad has often denounced Israel. Most Arabs reckon that Ahmadinejad's interest in nuclear weapons is not entirely unreasonable, because nobody wants to ask the awkward question about Israel's nuclear stockpile. His aggressive foreign policy, which included support for radical groups like Hezbollah in Lebanon and Hamas in the Palestinian territories, really made him a champion of the oppressed people of the Arab world.

Surely, the US President Obama enjoys huge popularity around the world, especially in the Arab world and perhaps he is

well placed to make Israelis once again take the peace process seriously. But there is a difficulty. Mr. Obama recognises that there can be no peace in the region until the Israelis feel themselves secure and the Palestinians believe their rights restored. Neither of these things can happen absolutely.

The past seems to dominate the present in this region. An exaggerated sense of history often clouds human judgment, especially when religion and history are entwined. When it comes to long memories, perhaps none can match Israel's toughest Prime Minister Mr. Benjamin Netanyahu. He is hostile to the concept of a land-for-peace deal on which the entire accord rests. He perhaps believes that the boundaries of modern Israel should be those biblical land, encompassing Judea

and Samaria.

America is the only country that can influence Israel. It is morally and politically imperative that Mr. Barak Obama builds the structures of peace and convinces the Muslim world that the US doesn't exclusively support Israel. Americans of all political persuasions have to acknowledge the fact that unless the Palestinian issue is solved, the future looks pretty bleak for the Middle East. To avoid nuclear adventurism and suicide bombings, just and peaceful settlement of the dispute is a must.

Martin Luther King once said "The arc of the moral universe is long, but it bends towards justice." Without justice, peace is impossible in the Middle East.

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