

## Seeing the sun setting

Now, in the last week of 2009, as I try to paint a picture on a canvas in my mind of what life would be like in 2010, I find sparkling silver linings bordering the dark patches of clouds floating on the sky over Bangladesh because I am a born optimist. I hate to see the sun setting if there is no possibility of the same sun rising the next morning.

MASWOOD ALAM KHAN

**T**HIS week is the last week in 2009. Last year this week I had tried to visualise what was likely to happen in the next year. I painted on a canvas in my mind a picture of our life in Bangladesh on the strength of my foresight based on the benefit of my hindsight. With some trepidation I predicted a better Bangladesh under a brand new government.

The election in 2008 was a huge gain for one political leader and a huge loss for another. It was sunrise for Sheikh Hasina Wazed, the president of Awami League, and sunset for Khaleda Zia, the chairperson of BNP, two personalities in our political landscape who have been shaping the fate of Bangladesh for the last few decades.

As the curtain rose at the dawn of 2009, Hasina assured the nation a better life and sought cooperation from Khaleda.

Hasina is sincerely trying to better the life of Bangladeshis and Khaleda has not yet started her political movement on the streets. Khaleda is watching how Hasina fulfils the commitments she had pledged during her election campaigns and is endeavouring not to repeat the mistakes her government had committed in its last term.

A year has already passed without *hartal*, a quintessential political tool in

Bangladesh that both Awami League and BNP had traditionally used to make their presence felt, no matter whether there was an issue to protest against or not. Khaleda deserves kudos for letting the nation have a break from the nuisance of *hartal*.

Winning a landslide victory, with 262 out of 299 seats in the Parliament, Sheikh Hasina declared that her government's foremost task would be to bring down the prices of essentials to within people's reach.

Prices of essentials, especially of fuels and food items, came down in the beginning of 2009. It was a relief, brought about not by any revolutionary measure taken by the new government but by a windfall that was a corollary of the global trend of downward spiral of commodity prices. Prices of essentials have of late gone up beyond people's reach, again more as an unavoidable corollary of the global tendency than as an inevitable outcome of the government's mismanagement.

In January 2009, Sheikh Hasina also vowed to ensure rule of law and good governance in the country. Now, in December 2009, if we evaluate the quality of governance and the state of rule of law in the outgoing year we find a bleak picture of rapid deterioration in every sphere.

Corruption has been more rampant than in the previous years. Students have kept themselves enrolled in col-

leges and universities to keep their political identity; instead of studying they are indulging in toll collection. In different enterprises, members of trade unions in the name of guarding welfare of employees have been collecting subscriptions under duress from both the employees and the clients. In order to please their political cohorts, sycophantic office bosses are depriving their subordinates of their genuine dues in respect of promotions and postings. Innocent public servants are being dumped to the sidelines on mere suspicion that they could belong to an opposition party.

Lobbying and sharing of commissions are nowadays deemed the safest and the best business for a middleman to thrive on. Fleecing banks in the name of waiver of interest is now the "quick fix" to recover personal losses. Capital is being siphoned off out of a running industry to make the enterprise look sick to the bank that had financed the company. Extracting money from the government exchequer in the name of "stimulus package" is a new system exporters have invented to fatten their personal funds.

Dr Jafar Iqbal, a popular science fictionist, wrote in a Bangla newspaper: "Two vice-chancellors, one of Comilla University and the other of Pabna University, had to quit their jobs as they could no more withstand the unjust pressures for doing the undoable. They had mentioned in their resignation letters 'undue pressures from local Awami League leaders' as the main reason for their resignation."

In the heaps of failures seen in 2009 there are also some telltale signs that augur well for successes in 2010 and beyond. The government, under personal supervision of the prime minister herself, is sincerely exploring ways

and means to solve crises in the energy and communication sectors. The government's attempt to digitise public services is also quite commendable.

Compact fluorescent light bulbs are being swapped for incandescent light bulbs for free. Solar panels have been installed in the prime minister's office. Train services between Kamalapur and Narayanganj and between Kamalapur and the airport are being streamlined to help commuters avoid traffic jams on roads.

Traffic discipline is being tightly enforced. Drivers who were once die-hard lawbreakers are now stunned as they find Tk.1,000 fine being slapped on any motorist found straddling lanes unlawfully or parking his vehicle in an unauthorised place.

Construction work on the elevated expressway from Jatrabari all the way to New Market, with a number of exits on the way, is going to start in January 2010. Padma Bridge, with state-of-the-art facilities for both railways and highways, will be commissioned soon.

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The Awami League has a great chance to come again to power in the next term if the government in the next four years can be successful in three vital sectors; energy, communication and digitisation. Sheikh Hasina has to move ahead fearlessly to punish the corrupt and the inept; she cannot afford to miss the opportunity to enter history. If, God forbid, she misses the bus the sun will set in the domain of her party and will rise in Khaleda Zia's field in 2014.



Setting, to return the next day.

When the end of a year is in sight and when it is the closing hour for saying goodbye to a year, it pains us to part with a period, so familiar a four-digit numerical identity, spanning 365 days and nights. This is the heartbreaking moment when we feel an inner urge to reflect on the sights and the sounds of the year while waiting for the final curtain.

At this transitional moment, a recurring theme that keeps bubbling up for all of us is what in our lifetime have we gained and lost -- and regained and then lost again. And we sum up at the end of the day what we have saved in our balance sheet of gain and loss.

One year, however, is too short a period in history to judge which side the balance of one's gain and loss is ultimately tilting towards. Cumulative savings, after adjustment of cumulative gains and losses made in a number of years, are usually recorded in the book of history many years after the

departure or the death of a stakeholder.

Everyday in the evening, I enjoy taking tea sitting on my balcony. I can't see the sun setting in the west because my balcony faces the east. But I can feel every pulse of the sun in its downward scaling from the light reflected upon the panorama of buildings and trees I face in the east.

From the glow of light growing fainter in the eastern horizon I can tell the exact moment when the sun is no more visible in the western horizon. I have discovered in my own self, to my sheer excitement, an intuitive power!

Based on my newfound intuitive power I am now trying to predict why and when the sun is going to set in one political field and rise in another, now that I am fully retired and have plenty of time to mull over a variety of issues, both political and apolitical.

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## Chief Justice and judicial reforms

It's accepted that judicial reform is a time-consuming and intricate process. However, some small steps may easily be taken within days -- one of which will be assign responsibility to several HDSC benches (at least three) to try pending corruption cases.

ABDULLAH A. DEWAN

**I** have known Justice Tafazzul Islam for nearly three years -- first in 2007 when he visited his daughter in Michigan and again early this year in his grand child's first birthday celebrations.

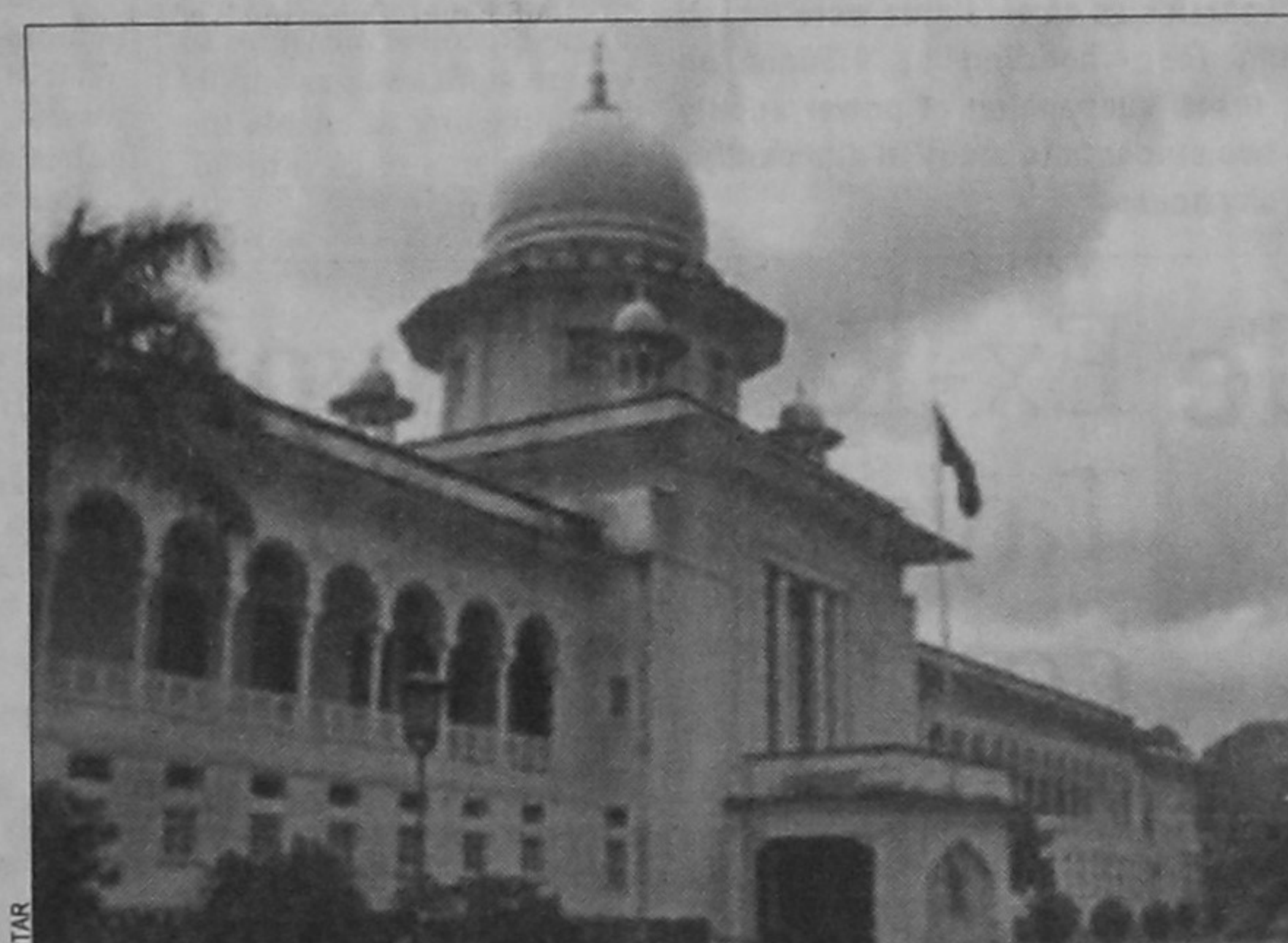
Honourable Justice Tafazzul Islam's pedigree in the field of judiciary as reported in various media is admirable. Our heartiest congratulations to him on his well deserved appointment as the Chief Justice of the Supreme Court (CJSC) of Bangladesh.

One recalls that a few of the erstwhile CJSC have left indelible impressions on the Court through their vision and leadership. Some, in retrospect, are revered for their constitutional scholarships, others are chronicled for their acuity, and still others are admired for administrative and organisational skills. Some of these CJs brought with them their unique style of leadership that influenced the way the Court operated, deliberated, and conducted its operations. One naturally wonders what the new CJ's indelible hallmark will be long after his tenure expires.

People's expectations from the new

CJ should be high, given that his tenure expires on Feb 7, 2010 -- a span of mere 47 days in the country's highest court. Obviously, 47 days is arguably too short to leave an indelible mark in the SC's operations. He may very well choose to spend these 47 days by being the chief justice, attending congratulatory parties, and shaking hands. Alternatively, the CJ may compress a normal week's amount of work to accomplish in a day, thus allowing the 47 days tenure to be measured in "work volume."

When the people of a country feel that the government isn't safeguarding their rights, they look to the country's judiciary. But when the people -- rightly or wrongly -- get the impression that the rights and privileges of the "corrupticians" and political criminals are overriding those of the law abiding citizens, they're left with no recourse but to accept ill governance as a fait accompli. The upshot of the process may even strengthen the hands and influence of the graft mongers and the criminals. The court is, therefore, expected to invoke whatever legal recourse is available and incarcerate the wrongdoers rather than yield to the



It should exercise its authority fairly.

loop-holes of the laws advanced by the defense lawyers to protect the criminals.

One wonders if the appellate division of the SC has a role to play when a government summarily withdraws corruption charges against politicians as being "politically motivated." Can a democratic government exercise such an "arbitrary power" even when some politicians are legally prosecuted and convicted? The party in power, on one hand, is campaigning for building a corruption free Bangladesh, while, on the other, letting the corrupticians go scot-free. What a burlesque of good governance.

The prevailing process even frustrated the government's hand-picked Anti-Corruption Commission (ACC) Chairman Ghulam Rahman, who, at a press briefing on October 14, said: "We have been made toothless, and our claws are being removed from our paws in the name of reforming laws." He observed that the corrupt managed to escape prosecution and punishment due to loopholes in the judicial system, which seriously hamstrung ACC activities and turned it into a toothless tiger.

The ACC chief disclosed in his press briefing that, in the name of reform, the government moved proposals to restrain ACC from unilaterally filing

graft charges against public officials, policymakers, lawmakers and local body representatives without the government's prior approval.

Ghulam Rahman also blamed the existing judicial system and the "lax" attitude of the court towards corruption for the backlog of cases. This has resulted in the dismal failure of the prosecution in numerous corruption charges against politicians. There are now an estimated 3,000 such cases under trial in the lower courts and another 3,000 are pending in the High Court Division (HDSC) and the Appellate Division (ADSC). The ACC chief forcefully pressed for reformation of the judiciary to combat corruption. In his remarks he said that the "corrupticians" were buoyed and sheltered through the existing judicial process.

During 2009, the activities of the HDSC were largely limited to issuance of bails and stay orders, and their vacation on ACC's appeal and disposal of procedural questions. Much to the people's disappointment and disquiet, a bench of the HDSC granted bails and stay orders of several hundred cases in a single day's proceedings. In a true democracy, courts and the judges aren't fully immune from the people's and the media's scrutiny and criticism (example, the US Courts) -- even if such scrutiny at times is not legally defensible.

Besides, lengthy judicial procedure and alleged biases of certain HDSC benches along the political divide in the country are perceived to have impeded

impartial verdicts. There are alleged instances of HDSC quashing trial proceedings of corruption cases and of stopping investigation ab initio. These allegations, even if they're proven baseless, aren't trust enhancing and confidence building for the judiciary.

Following the US Supreme Court, the government may greatly lessen the burden of work of the justices and expedite disposal of cases by providing each of the eleven ADSC justices with two competent law graduates as their legal aids, for doing research and providing summaries of legal proceedings.

It's accepted that judicial reform is a time-consuming and intricate process. However, some small steps may easily be taken within days -- one of which will be assign responsibility to several HDSC benches (at least three) to try pending corruption cases. In fact, the incumbent Chief Justice Ruhul Amin constituted one such bench comprising of Justice Siddiqueur Rahman and Justice Ataur Rahman, as reported in the Daily Cause list of October 4 and 5, but for some inexplicable reasons the bench was incapacitated at birth.

Establishment of a precedence of dealing sternly with the "corrupticians" within the confines of the laws will be an eye-opener for the government, political parties, and will, most of all, restore the people's confidence in the judiciary.

Dr. Abdullah A. Dewan, founder of politiconomy.com, is a Professor of Economics at Eastern Michigan University.

## Tribute to K.M. Sobhan

R.W. TIMM

**J**USTICE K.M. Sobhan was what we used to call "a man of the old school -- a gentleman and a scholar." He was always dressed immaculately, as if he was about to appear before a public audience. To him, relaxing in an informal atmosphere did not mean looking like a sportsman, or -- God forbid -- a hippie.

When I was National Director of Caritas Bangladesh from 1974 to 1977 we bought the property near Malibagh Corner, where Caritas is now located. That made us neighbours of Justice Sobhan. Many times, my present partner in human rights training and activities, Rosaline Costa, and I used to drop in on Justice Sobhan for a chat and a good cup of tea, provided by his

solicitous wife. He, in turn, would visit us at the office.

Since he was only a year younger than me we had much in common. We were both advocates and propagators of human rights -- he as a retired justice of the Supreme Court and myself as a professor of human rights in the Major Seminary in Banani and a little later as a founder of the Coordinating Council of Human Rights in Bangladesh -- so he and I saw eye to eye on almost every issue. Since he knew the constitution thoroughly I often clarified details of interpretation with this skilled master of the law. He was a man of great clarity, without ever wasting time on empty words.

At one time he wrote a weekly column on human rights for a magazine to keep the reading public informed on

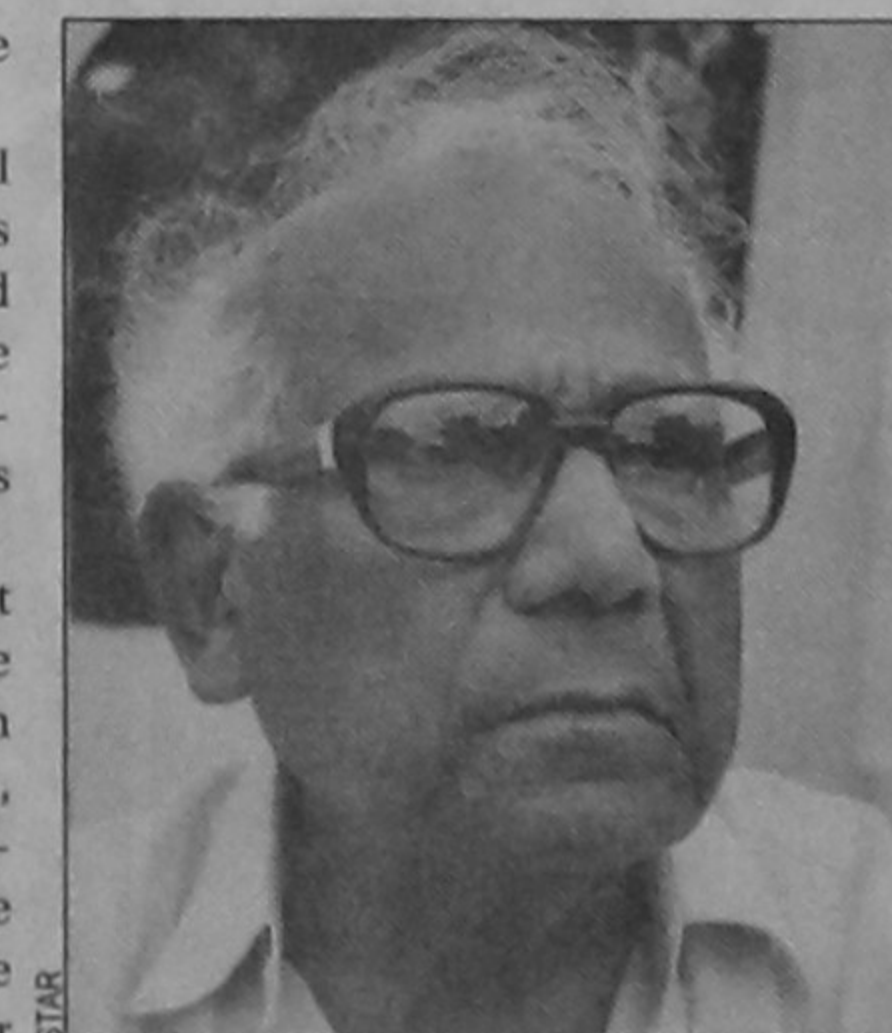
a wide range of both local and global issues in relation to the law and human rights.

In the Old Testament of the Bible the prophet Isaiah asks the question: "Watchman, what of the night?" The justice was the ever-vigilant watchman or custodian of law and order. He was ever faithful to the words of Thomas Jefferson: "The price of freedom is eternal vigilance." The freedom and security of the country were associated in his mind with certain big issues -- the spirit of the liberation war, the trial of war criminals and the killers of Sheikh Mujib, the growth of creeping fundamentalism and terrorism. In many different issues his voice was heard speaking vehemently for secularism as the basis for a harmonious and non-communal society, in which

all are basically equal citizens before the law.

He stood up valiantly for the equal dignity of every human being, which is the foundation for human rights and true democracy of the people. The poor, the powerless, women, *adivasis* -- he struggled for their equal rights whenever they were denigrated.

It was always a pleasure to take part in common activities with him. We went together to Burma to carry out an important human rights evaluation, which required meeting and interviewing several VIPs. His knowledge and experience were invaluable. We were both on the same committee for choosing the Prakash Kaphley Award winner in Nepal (Kaphley was an outstanding human rights worker in the democratic movement who was tragi-



Justice K.M. Sobhan

cally killed in the Thai plane crash north of Kathmandu on 31 July, 1992).

We also attended the award ceremonies, staying at the same hotel and sharing our meals and visits together. At the time of the first democratic election in 32 years in Nepal, he and I took part in the monitoring and the training of local monitors for it. He could introduce me to such prominent people as Justices Bhagwati and Krishna Iyer, who were such wonderful persons to know.

I hope that we can keep up the same neighbourly relationship with Justice Sobhan's son, Kazi Rehman Sobhan, as we had with the justice himself. I hope we can share in his efforts to keep alive the memory of his illustrious father.

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