

## An endangered city

### Stem Dhaka's groundwater depletion

IT is with trepidation that we take note of the findings about the alarming rate at which the capital city's groundwater level is dropping. Presented at a press conference in the city, a group of local researchers revealed that the water level in the capital city has dropped 170 feet below the sea level. Evidently, unplanned extraction of groundwater is to blame.

As we know it, fast depletion of groundwater level triggers land subsidence or accelerates the rate at which land subsides naturally following changes in tectonic plates. In a study conducted at the Dhaka University Earth Observatory Centre, researchers have found that Dhaka's landmass is dropping by 13.91 millimetres a year. One can easily imagine the disaster waiting to happen should the groundwater level is allowed to continue to deplete at the present rate.

The gravity of the situation calls for a solution on an emergency footing. Reasons behind this have already been identified. In the backdrop of surface water pollution by industrial and household waste, 83 percent of the water supplied to about 15 million city dwellers is pumped from underground. However, the rate at which rain recharges groundwater is far outstripped by the extraction rate.

Therefore, in order to address the challenge urgently, first the decision-makers will have to scale down extracting groundwater. They'll have to make sure that surface water sources i.e. rivers and canals are utilized to meet the demands of city dwellers. Secondly, they'll have to focus on saving our water bodies by fending off pollution and water body grabbers. Then all the surface water treatment plants that have been in the offing will have to materialize.

Simultaneously, rainwater harvesting on rooftop and in other potential reservoirs seems to be an answer. Rooftops of buildings have to be designed and built in a certain way to make use of this option. Rajuk has to incorporate this measure in the amendment to the Bangladesh National Building Code and see to it that it is enforced properly in all the new buildings. If possible, owners of old buildings should also be encouraged to redesign their rooftop in the same way.

But when will we wake up? After the ground underneath our feet slips away, or what?

## Port city lost behind hoardings

### Will CCC go for action?

IT is amazing how commercial interests are ruining aesthetics nearly everywhere, especially in the urban regions of the country. Take the instance of the port city of Chittagong, verily a significant part of Bangladesh's history. If you were to be a traveller in this city nowadays, you would see it buried under an avalanche of billboards. And most of these are unauthorised ones, with the city authorities taking little or no notice of the activities of the firms behind these billboards. We understand that there is a policy in place on the installation of billboards, one that was formulated as recently as April last year.

Now, it is a happy thing having regulations and policies in place as long as they are followed through. In Chittagong, with buildings, religious and historical spots and parks now hidden by a ubiquity of billboards advertising a disturbing array of products, one understands clearly that the policy on billboards has not gone into implementation. There is thus here one more instance of the authorities --- and we refer to the country as a whole --- being unable or unwilling to act on the rules they themselves devise. The rules framed by the Chittagong city authorities make it clear that hoardings and billboards will not cover or conceal buildings of aesthetic value, historical constructions, murals, sculptures and government offices. Moreover, it is illegal to have billboards on pavements. We might add that hoardings also happen to cover the front of homes in a number of areas in the port city.

All of this gives Chittagong a helpless, untidy look. Such wanton commercial moves not only interfere with the free movement of citizens but also send out a wrong message to tourists both local and foreign. When the charm of the Karnaphuli river gets lost in a forest of illegal hoardings, one might raise the question of what the tourism authorities plan to do about rectifying the situation.

Will the Chittagong city corporation get into action and clean up the mess? And will those behind these illegal

ASIF NAZRUL

IN a country like Bangladesh where the only scope for the general people of participating in "democracy" comes when they exercise their voting rights once in every five years, election naturally becomes a central discourse of political debate. The ingenious device of forming a non-party caretaker government to guard the sanctity and credibility of election was therefore hailed by majority of the people as well as political parties. The present Awami League led grand alliance government had shocked many by scrapping the system through the 15th Amendment to the constitution on the pretext that the apex court of the country had declared the caretaker government as void and unconstitutional in its short order in the 13th Amendment case. Others argued that the said order still directed for holding the next two parliamentary elections under non-party caretaker government in view of the age old maxims of necessity and safety of the people and the state.

The country was eagerly, if not anxiously, waiting for the full judgment to see the elaboration of that short order in the full judgment of the court. A few days before his retirement the then Chief Justice A.B.M. Khairul Haque gave the short order of the verdict on May 10, 2011, in which he along with the majority of the judges of the Appellate Division of the Supreme Court clearly directed that the next two parliamentary elections may be held under the 13th Amendment promulgated in 1996. The 13th Amendment provided for formation of a non-party caretaker government at the expiry of the tenure of the Parliament for conducting its next election in a free, fair and neutral way. But in the final judgment released after sixteen months on September 16, 2012, Justice Haque, in concurrence with the majority of the judges, directed that the caretaker government could be formed only with elected representatives. This kind of deviation without further hearing is unprecedented, and alleged to be violation of the basic philosophy of justice. This deviation has also been pointed out by the three dissenting judges of the Appellate Division and their observation on this issue can be regarded as a significant criticism of the judgment. The full judgment of 342 pages

written by Justice Khairul Haque includes at least a dozen anecdotes; more than fifty quotations of different jurists and writers; various criticisms of and advice to politicians, judges, lawyers and civil society; and history of legal theories and principles. In spite of that, it did not even feel the necessity of accommodating any explanation or analysis of whether a judge has the constitutional authority of altering short order in the final judgment, whether there is any precedence of such divergence in the judicial history, or what is the relevance of that short order at present.

Some people argue that the last paragraph of page 338 of the said judgment still offers a scope for holding election under the supervision of an unelected (or non-party) caretaker government. But this is probably not correct. Because, in the same paragraph, three inseparable conditions are attached includ-

*The politicians should realise that their consensus for a non-party caretaker government is vital for peaceful and democratic transition of power in future. If such consensus could be reached, they may again amend the constitution to establish a different form of non-party caretaker government during election period.*

ing that "a caretaker government can only be formed by the elected parliament members." Further, according to the order of the judgment, part 44 and part 45 are the only operative parts of the judgment in which it has not been mentioned that unelected and non-party caretaker government can be formed.

Although, the judgment has not barred inclusion of the opposition parliament members in the caretaker government, it has not actually made any directives to that effect. It has rather put more emphasis on empowering the Election Commission (EC) for a free and fair election. In order to ensure that, it has recommended providing the EC with full financial authority as well as the authority to recruit manpower. But, in its operative parts, it has again failed to impose any obligation upon the government for making necessary amendments in the concerned laws. More importantly, the judgment did not even entertain the question of reconstitution of the EC to make it acceptable, credible and

neutral. That could only be done by restructuring the Commission by consulting the opposition and through an effective search committee. A credible EC with enhanced power and authority could on its own ensure a fair election in a tolerant and democratic political culture which would take years to emerge in Bangladesh.

Until such an EC can be formed and such political culture can develop, an acceptable election could be held only if it is conducted under a non-party neutral caretaker government. A political government organises the administration and the law enforcing agencies during its tenure in such a way that these elements work for the incumbent regime during the parliamentary election. Only a caretaker government can break this structure and create a balanced situation for electoral administration. It explains why election engineering

happened more in the elections held under political governments rather than those under caretaker governments. It is important to note that no parliament in Bangladesh established through election under political government has yet completed its full term, two of the heads of government appointed through such election were brutally killed and all of such governments ended up in military rule or popular uprising. On the other hand, all three governments elected under the non-party caretaker or interim governments successfully completed their full term. It emphatically reflects the comparative acceptability of the elections held under non-party caretaker government.

One may doubt whether the situation would change if the next election is held under the present government or under a government comprising of all the political parties. BNP and its allies have been saying that they would boycott election under the government of the grand alliance. In this, the fear

remains that the parliament elected under such a government will face the same fate as that of the 1996 Parliament. On the other hand, the idea of all-party government is fragile because in the existing system all the executive power is concentrated in the hands of the prime minister. The prime minister of Bangladesh is more powerful than the prime ministers of UK or India or the president of the US. It is not theoretically impossible to employ anyone except Sheikh Hasina or any other member of the Awami League in this position in the government of election period. In order to avoid non-compliance with the constitution and the 13th Amendment judgment, one neutral person may be chosen through a by-election and then entrusted with the office of the prime minister of the caretaker government. Alternatively, the only independent MP Fazlul Azim may be chosen as the prime minister of such a government. But if that prime minister brings massive changes in the setup of the administration and police would the AL ministers in the caretaker government allow it? If no change takes place would the BNP ministers accept it? Would it be possible to sustain election and democracy in an environment of deep division in the all-party government and threat and counter-threat in the street?

The Supreme Court, in its 13th Amendment judgment, failed to foresee such apprehensions. It has nullified a recognised solution innovated by the politicians by changing its short order in the final judgment. After its judgment, we again face the age old challenges of election under political government. The sense of history, prudence and foresight, if there still is any, of the major political leaders of the country could now save us from this crisis. They should realise that their consensus for a non-party caretaker government is vital for peaceful and democratic transition of power in future. If such consensus could be reached, they may again amend the constitution to establish a different form of non-party caretaker government during election period. The simple device would be forming that government with non-political persons elected through by-elections conducted three months prior to the next parliamentary election.

The writer is Professor, Department of Law, University of Dhaka.

# Freedom is to be used responsibly

GUIDO WESTERWELLE and RAFIK BEN ABDESSALEM

THE images that have been circulating in the past few days have alarmed us and unsettled us. They inspire both sadness and anger. We have seen, on the one hand, a hurtful portrayal of Islam's holy Prophet, most likely disseminated with the intention of provoking. And on the other side we have seen enraged crowds gathering outside Western embassies, crowds that have not shrunk from violence or murder. We have been forced to witness what religiously motivated extremism and fanaticism are capable of.

What these images create is a distorted impression of reality. In the Western world, as in the Islamic states of North Africa, the Middle East and Asia, it is only a minority that adopts the language of confrontation and provocation, that seeks to sow hatred and incite blind violence.

The reality is not what these images suggest. The vast majority of people on both sides want democracy and genuine opportunities in life -- just as we do. The people are -- like us -- filled with revulsion by a video that vilifies people of a different faith and offends them with its

appalling prejudices. Like us, they object to the hateful wave of violence it has triggered.

We are responding in concert, sending a joint message of understanding and tolerance. We speak on behalf of the overwhelming majority. We are most decidedly opposed to the extremists in our countries whose sole goal is to drive a deep wedge between our societies rooted in their Islamic

and Christian traditions.

We can understand the outrage felt by many Muslims around the world. We can understand the many people who have protested peacefully against the vilification of their religion. But we also agree that there is no justification for the outbreaks of violence we have seen over the past few days. Violence is not the right response to actions which are

themselves iniquitous.

We must use our freedom responsibly. Freedom of opinion is one of the greatest goods in any democracy. And precisely because it is so important, it must not be hijacked to spread hatred and fanaticism and undermine the conditions of our peaceful coexistence.

The Arab spring swept away authoritarian regimes in Tunisia and several other Arab states. There is now a chance, one that may never

*We must use our freedom responsibly. Freedom of opinion is one of the greatest goods in any democracy. And precisely because it is so important, it must not be hijacked to spread hatred and fanaticism and undermine the conditions of our peaceful coexistence.*

come again, to build a new democratic and pluralistic society on the ruins of the old autocratic system -- but only if that aim is pursued in earnest. And that is why the new freedom, which was so hard won, must not be misused or considered an invitation to attack people who hold different beliefs or to shake the very foundations of public order.

The revolution began in Tunisia,

and it was from Tunis that it spread like wildfire to other Arab countries. The radical changes set in motion by the Jasmine Revolution are well under way. That success presents us with a historic opportunity to transform and improve relations between the civilisations on both sides of the Mediterranean, building on tolerance and mutual respect.

We stand together before major challenges and tasks. These include finding a peaceful solution to the conflicts in the Middle East, above all the terrible crisis in Syria. They also include creating real opportunities for people to live in dignity and safety. And they include continuing the ongoing work on a culture of tolerance, dialogue and respect both for others within our own societies and among our peoples.

We must not permit radical forces to squander the opportunities inherent in our cooperation and our desire to live together peacefully as nations and peoples in partnership with one another.

We all long for a world built on tolerance, integration and mutual respect, far removed from any kind of hatred, violence and fanaticism.

Guido Westerwelle is the German Foreign Minister; Rafik Ben Abdessalem is the Foreign Minister of Tunisia

## THIS DAY IN HISTORY

September 30

- 1399** Henry IV is proclaimed King of England.
- 1938** The League of Nations unanimously outlaws "intentional bombings of civilian populations".
- 1947** The Islamic Republic of Pakistan and Yemen join the United Nations.
- 1970** Jordan makes a deal with the Popular Front for the Liberation of Palestine (PFLP) for the release of the remaining hostages from the Dawson's Field hijackings.