

Slow pace of budget implementation

Enhance efficiency of bureaucracy

THE finance minister has stated at a roundtable discussion recently that the rate of budget implementation has come down which sends an ominous signal for the country's development. The government has been toying around with various reform programmes to enhance implementation capacity, none of which has borne fruit. The fact that the ministry has failed to come up with a plan to have a pool of project directors for the last two years speaks volumes of the pace of decision-making in the administration.

Another major bottleneck for the budget is the unrealistic revenue projections made. The NBR was given a target that was 40 percent higher than the collection of the previous fiscal 2016-17, which was overly ambitious and indeed, the target had to be trimmed down. Where there have been no new efforts made to increase the tax net, precisely how the government expected to draw up such increase in revenue generation remains a matter of debate.

The general decline in implementation is directly related to the years of neglect of human capital in the various institutions and agencies of the government which has landed us in a situation where there is very little possibility of projects to be implemented in a timely fashion. The quality of the bureaucracy can improve when merit prevails over political consideration. Otherwise, the situation may be aggravated to the point where project timelines are set back by years. Until we can do something to reverse this trend, development project completion will keep missing deadlines.

Spare Eid travellers the nightmare

Take steps to remove gridlocks on major highways

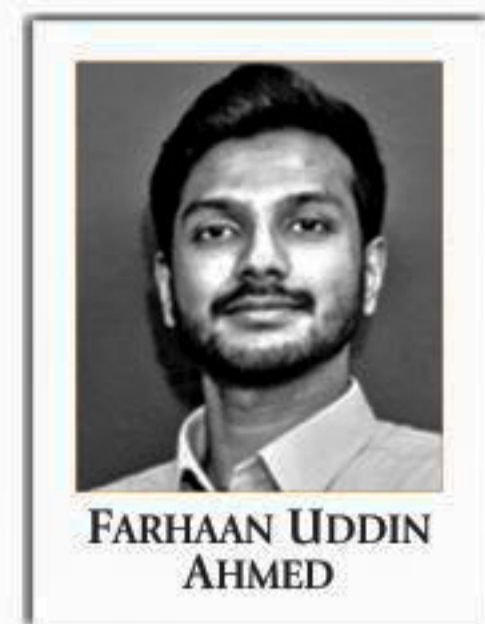
WITH Eid approaching and hundreds of thousands of Dhaka city-dwellers preparing to leave for the holidays, the possibility of severe traffic gridlocks at many key junctions remains a major concern. As a front-page report in this paper yesterday highlighted, there is a likelihood of traffic jams at several important highways due to ongoing development work, ferry service, rain, etc.

An estimated 80 lakh people are set to leave Dhaka for Eid holidays. But given the current state of traffic, especially in routes such as Dhaka-Chittagong highway which was terribly gridlocked for consecutive days earlier this month, there is little doubt that the movement of such a massive number of people outbound from Dhaka would lead to heavy traffic congestion. There are a number of factors to be addressed: road repair work, traffic control, rain, bad conditions of roads, poorly planned roads and bridges, just to name a few.

The government plans to finish repair work of all highways by June 8 but that is of little comfort as inefficiency in public works (including missed deadlines) has repeatedly led to commuters being the ultimate sufferers in the past. The government also plans to ban trucks and lorries on highways three days before Eid. These are good initiatives but it all comes down to proper implementation.

Bangladesh's traffic problem is multifaceted—one to which there is no quick fix. Long-term solutions lie in proper planning and infrastructure of road networks and building a storm drainage system, among other things. But some immediate solutions to ease congestion in highways, as Eid nears, are completion of development works, good traffic management, and coordination among all responsible bodies such as the police and roads and highways department.

Bangladesh's observations on Rohingya deportation



FARHAAN UDDIN AHMED

ON April 9, 2018, in an attempt to work around the impasse in the Security Council and the fact that Myanmar is not a state party to the Rome Statute of the International Criminal Court (popularly known as Rome Statute), the prosecutor of the International Criminal Court (ICC) submitted a request to the court for a ruling on

whether it has jurisdiction over the alleged crime of deportation of the Rohingyas from Myanmar to Bangladesh. In the request, the prosecution stated that "consistent and credible public reports" indicate that since August 2017, more than 670,000 Rohingyas who were lawfully residing in Myanmar have been intentionally deported to Bangladesh. To that end, the prosecutor sought the court's opinion on the question of whether it has jurisdiction over the aforementioned alleged conduct.

The prosecution argued that even though the coercive acts that caused the deportation occurred on the territory of Myanmar, the ICC may nonetheless exercise jurisdiction over the alleged crime because an "essential element" of it—the enforced crossing of an international border—occurred on the territory of Bangladesh, a state party to the Rome Statute. On May 7, 2018, the ICC issued a decision inviting Bangladesh to submit written observations on the aforementioned subject.

At the outset, it must be understood that the scope of the matter at hand is limited only to the crime of deportation of the Rohingyas. Therefore, neither the current proceedings at the ICC nor Bangladesh's observations will inquire into the crimes of genocide, murder, or sexual violence since they were committed only on the territory of Myanmar, which is beyond the ICC's jurisdiction without a referral from the Security Council. Therefore, an affirmative ruling by the ICC would only mean that the prosecutor would be able to investigate and charge Myanmar officials for only the crime of deportation.

Bangladesh's observations should include significant legal analysis of the crime of deportation, territorial jurisdiction, and evidence to demonstrate that the Rohingyas were lawfully residing in Myanmar and were coerced into leaving Myanmar. There is not much more substance that Bangladesh can add to the facts and evidence already provided in the reports by multiple UN agencies, international organisations and NGOs which were cited by the prosecutor in the request, which underlined the consistent and intentional acts of coercion that caused the Rohingyas to leave Myanmar. Nonetheless, Bangladesh should provide first-hand accounts of the victims, casualty statistics, relevant intelligence and reconnaissance information, and any other corroborative information that may help the court to comprehend the relevant circumstances.

Essentially, the most contentious question before the court is whether it has territorial jurisdiction when

persons are deported from the territory of a state which is not a party to the Rome Statute directly into the territory of a state which is a party to the Rome Statute. Fundamentally, this is a legal question. The prosecutor's arguments on this question are an excellent exposition of the law and practice on deportation and territorial jurisdiction.

By comparing the situation to "cross-border shooting", the prosecution has argued that deportation has two legal elements: (i) coercion—which forces the victim to (ii) cross an international border. The first element occurs in one state and the second in another. The second element requires that the coercion causes the victim to cross an international border into the territory of another state. Therefore, the prosecution has argued that an "essential element" of the crime takes place in the latter state, i.e. Bangladesh.

another state. In case of the Bangladesh-Myanmar border, factors such as the "no man's land" and the nature of bilateral administration of the border should be explored in the observations.

Bangladesh could argue that the border between two states (including the no man's land and the physical border itself) is a territory over which both states exercise shared sovereignty, i.e. the territory belongs to both states. This view is supported by the fact that borders are generally defined and administered jointly by the two neighbouring states and that not all international borders are administered in the same way their administration is generally the outcome of various bilateral arrangements. Therefore, it could be argued that the element of the crime of deportation, of crossing an international border, occurred on a territory that belongs to both Bangladesh and Myanmar. This is



Rohingya Muslim refugees walk towards the Balukhali refugee camp after crossing the border in Bangladesh's Ukhia district on November 2, 2017.

PHOTO: DIBYANGSHU SARKAR/AFP

As convincing as this argument may seem, it hinges on the notion that crossing an international border into another state is an "essential element" of the crime of deportation. However, people can be deported to high seas (international waters) where the victim is not forced across the border into the territory of another state but rather simply across an international border. Therefore, deportation occurs as soon as the victim is forced to cross an international border; it is irrelevant whether they cross into the territory of another state or the high seas.

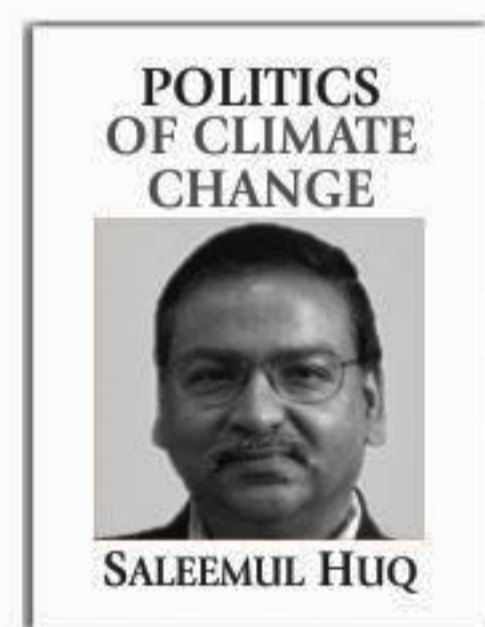
This is where Bangladesh can make a significant contribution to the proceedings. Bangladesh could provide extensive legal analysis on the nature and status of international borders, and argue that even if mere crossing of an international border is required for deportation, this too could occur on the territory of

not a new notion in international law. In other words, the international border between Myanmar and Bangladesh is technically Bangladesh territory. Therefore, the act of crossing of the Myanmar-Bangladesh border occurs in part on Bangladesh territory, thus establishing the ICC's jurisdiction over the alleged crime.

Regardless of the direction of the court's ruling, Bangladesh and the international community must continue to push the Security Council to refer the situation in Myanmar to the ICC so as to allow a complete investigation and subsequent trial of the perpetrators of not only deportation, but all the relevant international crimes.

Farhaan Uddin Ahmed is a researcher of public international law, and lecturer at the School of Law, BRAC University. Email: farhaan17@gmail.com

Designing adaptation projects for the Green Climate Fund



POLITICS OF CLIMATE CHANGE

SALEEMUL HUQ

THE Green Climate Fund (GCF) was set up under the United Nations Framework Convention on Climate Change (UNFCCC) to channel much of the USD 100

billion a year starting from 2020 onwards that the developed countries have promised to provide to developing countries to tackle climate change through both mitigation and adaptation projects and activities.

The GCF with its headquarters in Songdo, South Korea has already started functioning and has also approved a number of projects for mitigation and only a few for adaptation.

The reason is that although the GCF Board has tasked the managers to award only half the funds for mitigation and ensure that at least half goes for adaptation with a focus on the most vulnerable developing countries, they are finding it difficult to approve adaptation projects.

Hence in practice the projects approved so far have been mostly for mitigation rather than for adaptation. One major reason is that the GCF's mandate is to support projects that tackle climate change and not just support run-of-the-mill development projects—and adaptation to climate change project proposals looks very similar to development projects. Indeed the GCF Board has already rejected two projects (one from Bangladesh and the other from Ethiopia) on the grounds that (some of) the Board members were unconvinced that the projects were not just development projects dressed up as adaptation projects.

So the project submitter, UNDP, had to go back and redesign the proposals to demonstrate that they were primarily adaptation projects with some development co-benefits. Fortunately, they were able to redesign, resubmit and get approval for both proposals, but a lot of effort was wasted in the process.

I will discuss some reasons for this skewed performance in favour of mitigation and provide some ideas on

how the GCF can restore the balance by enhancing investment in adaptation projects.

The first and foremost reason why mitigation projects are easy to approve is that the climate change benefit of reducing emissions of greenhouse gases by mitigation is relatively easy to calculate and demonstrate. Identifying and calculating adaptation to climate change benefits that are different from development benefits is an impossible task.

The GCF should try to benefit from the more than a decade of developing, funding and implementing adaptation projects around the world by others,

interventions is the correct methodology to follow. Once that is done, development co-benefits can also be included in the proposed interventions. This, I will call the "climate first" principle.

The second lesson is the timescale issue: a normal development project would generally have the development benefits delivered during the project period itself so that the benefits of the investment are immediately visible (and can be evaluated). Take for example a project to install tube wells for drinking water where the number of wells installed and amount of water being supplied can be measured immediately

fruits many years later. Someone needs to continue to take care of the trees as they grow and someone else needs to monitor their growth and evaluate the fruit production.

Hence for a project to be truly about adaptation to climate change, it needs to include in its design both a clear "exit strategy" and a post-project "sustainability plan." This is the "sustainability" principle.

The third lesson flows from the above: the need to focus the project investment in capacity building of the project's "legacy partners," who will be responsible for developing and implementing the post-project sustainability plan. Thus the real investment of an adaptation project is building the adaptive capacity of the legacy partners. I call this the "capacity building" principle.

The fourth and final lesson is that adaptation to climate change is still a relatively young science and the practice and new knowledge are being developed in a learning-by-doing manner. This means that new knowledge comes from practitioners who will learn what works and what doesn't through experiential knowledge. This will allow future investment to focus on the successful investments and not in those that don't work. However, it will require investment in harnessing the experiential knowledge by including specialists (or researchers). I will call this the "inclusion of researchers" principle.

Finally, I would like to suggest that the GCF invest in setting up a specialist group of researchers who would be able to serve this function at the national level as well as be a network of knowledge across countries. A network of universities and research institutions would be ideally placed to maximise the potential knowledge generated from the future portfolio of adaptation projects that the GCF will hopefully fund over the coming years.

This group of universities and research institutions can also develop and help deliver capacity building through training and mentoring of the project implementers.

Saleemul Huq is Director, International Centre for Climate Change and Development at the Independent University, Bangladesh. Email: Saleem.icccd@iub.edu.bd



including the Global Environment Facility (GEF) and Adaptation Fund (AF) as well as national governments and NGOs to find some practical guidance on how to design adaptation projects well. Based on some of my own experiences, I am going to share some lessons and suggest ways forward for consideration by the GCF Secretariat and Board.

My first observation is that almost all adaptation projects will have development co-benefits but not all development projects will have adaptation co-benefits. Hence using climate change impact analysis as the basis for selecting the location, the beneficiaries and the proposed

after the project ends and the project can thus be evaluated a success (or failure as the case may be).

On the other hand, the impacts of human-induced climate change lie decades ahead and are unlikely to occur during the project period (which is typically around five years or so). Hence it will be impossible to evaluate the success of the project immediately after it is over since the success (or lack of it) can only be judged many years later.

Thus an adaptation project is more like a programme for planting fruit trees, where the project output is the number of seeds planted, but the outcome is the number of trees which grow to provide

LETTERS TO THE EDITOR

letters@thedailystar.net

Sanchayapatra needs a fix

The Daily Star on May 28 published a letter titled "Contain Sanchayapatra rate" by Mojammal Hoque. The national savings certificate of the government is undoubtedly good for pensioners, but many wealthy businessmen are also taking advantage of it nowadays. The interest rate that Sanchayapatra offers is higher than that of many banks. As a result, many businessmen are transferring their bank deposits to buy the national savings scheme, exacerbating the already acute credit crunch in the banking sector and hampering private investment.

The government should consider reducing the interest rate of Sanchayapatra to encourage private investment. And since it expects the middle- and lower-middle-income people to invest in Sanchayapatra, it should set a limit so that the rich cannot buy a lot of saving certificates.

Md Zillur Rahaman, By e-mail

Repair the lane beside BSK

Bishwo Shahitto Kendro is one of the busiest centres of culture and education in the city. It is a popular destination for the book-loving folks. Recently, a book store called Batighar was opened inside the centre, which became instantly popular. The centre, surrounded by several multi-storied buildings, also hosts a number of programmes, which means a large crowd gathers in and around it almost every day.

As a result, the narrow lane connecting the centre always remains packed. The situation is particularly bad during the rainy season when the lane falls into disrepair. The authorities should take steps to repair this lane and, if possible, widen it for the sake of the pedestrians.

Zahir Hyder, Paribag