LATE S. M. ALI

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## **Judicial appointment row** Last outpost of CJ's authority demolished

HE government's 'no' to confirmation of six out of eight judges recommended by the Chief Justice has opened the Pandora's box. This is hardly a one-off overturning of the CJ's recommendations by the government; on the contrary, we have seen this happen in a pattern lately. Six other additional judges appointed during the AL rule had earlier lost their jobs after the BNP government took over. By the same token, uncertainty would seem to loom over nine more additional judges who were appointed by the erstwhile AL government. On the other hand, the BNP rule has seen 11 new additional

judges appointed to the Bench. Political motives have been attributed to the nonconfirmation of appointments earlier made or the new appointments that followed, depending upon which side of the fence an onlooker sat

But under no circumstances should one accept the aberration that only "ruling party loyalists" would be eligible for judgeship or confirmed in their positions. That's where comes in the relevance and import of the chief justice's recommendations drawing upon his knowledge of the professional competence and integrity of the persons he is recommending for. In fact he has also not recommended all the appointees. To our mind, the point at issue is therefore, undermining the legitimate authority of Chief Justice as expressed through his recommendation for or against somebody in a field of his competence.

On balance trifling with the CJ's recommendations can have serious implications: first, it can erode public confidence in the judiciary; secondly, the morale of the judges awaiting confirmation could plummet leading to indifferent performance by them; and last but not least, a bodyblow would be dealt to the separation and independence of the judiciary from the executive. With the lower judicial tiers under the executive's thumb, independence of the judiciary remains at a discount at that level. And, now, with the chief justice's recommendations being by passed, the semblance of judicial independence at the

Appointment of judges must not only be kept above political considerations but it must also be seen to have been so done. The CJ's recommendations should be the last word in matters of appointment. We turn to the Supreme Court for interpretation of any disputed constitutional point. Since there is a High Court division bench observation on record to the effect that the Supreme Court recommendations on appointments must be meaningful and effective, could we urge the CJ to please speak up and clarify on this?

## Why the push-in bid again?

A deviation from the understanding at Delhi

HE latest push-in bid by the Indian BSF puts a question-mark on India's commitment to settling the issue of so-called illegal immigration through 'agreed mechanisms'. On the back of the recent border tension caused by the BSF's push-in bids, Foreign Minister Morshed Khan met his Indian counterpart, Yashwant Sinha, in New Delhi at the latter's invitation. What transpired from the meeting was encouraging in that Delhi and Dhaka expressed their optimism that the problem could be resolved peacefully. But then peace would be possible only if the parties concerned refrained from making any provocative move.

It was specifically agreed at the Delhi meeting that the foreign secretaries of the two countries would meet in April to discuss the 'illegal immigration issue' in detail.

Meanwhile, the Bangladesh foreign secretary has said in clear terms that Dhaka would like Delhi to go by the 1992 communiqué on cross-border immigration. The point is relevant because if India and Bangladesh want to put an end to the issue, there must be some basis for them to work on. Since the procedures for dealing with illegal immigration have been clearly laid down in the communiqué, signed only 11 years ago, the two countries can and should accept it as the basis for handling the issues relating to illegal cross-border movement.

Recently, in an interview with The Daily Star in New Delhi, Yaswant Sinha gave us to understand that the 1992 agreement will be followed. His meeting with the foreign minister of Bangladesh was held on an optimistic note, and it appeared that there would be no more bids to push-in Indian citizens into Bangladesh territory. But the latest development indicates otherwise.

The broad understanding that was reached between the two foreign ministers in New Delhi, and the foreign secretary level meet that is scheduled for April both require that India keep its part of the bargain in maintaining peace at the border.

# Is Britain missing its 'finest hour'?



M ABDUL HAFIZ

ORE often than not Britain justified its colonisation of last two centuries as "white man's burden" and imperialistic war as that of peace. In a jingoist rhyme Rudvard Kipling, Britain's self-appointed poet-laureate, once exhorted the potential empire build-

Take up the white man's burden (wage) savage wars of peace (for the sake of) your new-caught sullen peoples

half-devil and half-child fill full the mouth of Famine. and bid the sickness cease.

During the grandiose Victorian

era of nineteenth century the philosophy behind the empire-building at least in the subcontinent was frequently enunciated by Kipling that white English men were uniquely fitted to rule the "lesser breeds without law." Even if that historic process had not always been quite savoury, after having baptised the natives to an order guided by law the British, unlike some other colonial masters, dismantled the empire voluntarily and gave independence to the colonies almost on the platter. It was in sharp contrast to the Americans whose helps were sought by the Filipinos in 1899 against their Spaniard masters imposed themselves as new masters on the Philippines. The people around the world including the Britons are nonplussed that Prime Minister of that Britain would be the most committed

building process initiated by George W Bush, the US President.

Eversince the days of the fifth US President, every chief executive of that country has been adding bricks to the high handed theory of Monroe doctrine that now seems to have arrogated each corner of the world as part of an American turf. Kipling's exhortation a century back has come to be the mantra in the oval office steeling the President's

perceives to be a threat to the US and its allies, Tony Blair did not back off and his support for the Bush Administration's game plan remains rock-solid. Britons, after witnessing the largest anti-war demonstration on their soil since Vietnam are sceptic of the prospect of a war while Blair's support for an eventual war of Iraq's regime change wavered in the least.

However from early last month messages from the British need them on its side and that gives Britain significant political leverage. Although their military contribution can, at the best, be token one.

The Whitehall, however, gives Blair the credit for helping to persuade Bush to go down the UN route. But to many Britons, it was too little, too late. Because nothing short of Britain's closing of the rank with an anti-war Europe and its agenda can really restrain President Bush. Writing in a recent issue of Le prevented a potentially disastrous war and fought, as one Whitehall official puts it, simply to prevent Bush from having egg over his face?

For that Tony Blair has to shun sophistry, playing with the words and come down in the plains. He has to ask himself whether he backs Bush's real motives in going to war: domestic political ambition, revenge for Junior George Bush and, of course, oil. All these might be ample justification for the US but they are

not the causes for which Blair

should be smearing his face. Even

the overt reasons advanced by

Bush to attack Iraq are open to

questions. War can be waged to

eradicate WMD only when its exis-

tence is established. White House

spokesman Ari Fleischer's simple

assertion that "we know for a fact

that there are weapons there" is not

enough. UNSC resolution 1441

calls for Iraq only to cooperate with

the weapon inspectors -- and so is it

doing. It is the job of the Hans Blix's

team to locate and identify the

use of military force in Iraq. Yet Washington has made it amply clear that it will go to war even if it violates international law. Britain gave law to the word at large and cannot support the US in an action violating international law. Tony Blair may reconsider his pro-war stance at least from the view point of his own political survival. It is becoming increasingly clear that neither the British public, nor parliament, nor the Labour Party, not even the cabinet share Blair's commitment to George Bush and war against Irag. Labour Party MPs have been reminding their leader of the consequences of a politically divided Britain going to war the last time --

Tony Blair is showing signs of being aware of, and responding to the anti-war movements: addressing a gathering of British diplomats early last month he promised he would never "commit UK troops to a war that I thought was wrong." He also expressed his respect for the public opinion with regards to war. There is little chance, however, that White House would entertain a different view from its staunchest supporter, at this stage, yet it will be worth trying. In the meantime, the British diplomats and military commanders are desperately hoping that the pressure on Iraq from American military build-up in the Gulf will lead to the implosion of Saddam regime without a war.

Even if that scenario does come off it will not address the fundamental questions -- about the future conduct of relations between the states, the role of the UN, international law, peace in the Middle East, disarmament and the proliferation of WMD. Britain cannot escape its historic role in addressing them in saving the planet from the looming catastrophe.

# PERSPECTIVES

Tony Blair is showing signs of being aware of, and responding to the anti-war movements: addressing a gathering of British diplomats early last month he promised he would never "commit UK troops to a war that I thought was wrong." He also expressed his respect for the public opinion with regards to war. There is little chance, however, that White House would entertain a different view from its staunchest supporter, at this stage, yet it will be worth trying...Britain cannot escape its historic role in ....saving the planet from the looming catastrophe.

resolve to be the master of the globe. As a result, the entire human race has now become the 'whiteman's burden'. In the same process the US President is now readying himself 'to wage savage war of peace' as 'liberator' of Iragi people from the clutches of a tyrant, while assuring the US voters that the war would be perfectly safe and clean and that such campaign would certainly be in the interest of 'newcaught sullen people' of central Asia and Mesopotamia 'half-devil' and 'half-child,' who need strong American tutelage.

It is an irony that Tony Blair, the prime minister of Britain -- the nation that abandoned its imperial dream and handed back India the "jewel of British crown" to its natives just because it thought that hour had struck to do so -- would be privy to an empire building, an anachronism at the dawn of 21st century. Even as Washington raised an international alarm with the declaration of preemptive war against any country it

missions abroad are fervently urging Blair to step up pressure on President Bush to pull back from a war against Irag. In what amounts to a collective cri-de-guerre, the British envoys -- congregating in the Whilehall on 6 January last for an unprecedented Foreign Office brainstorming session -- warned the government of the potentially devastating consequences of an adventurism in Iraq including its impact on a greater threat than Saddam Hussain: al-Qaeda inspired terrorism in Britain itself.

attaches stationed not only in the Arab capitals, they are coming also from the capitals of the First world including Washington. This, the British diplomats suggest, could be one of Blair's -- and Britain's -- finest hours, a unique opportunity to make a constructive contribution to world peace. The Britons know, not

The warnings are coming from

the British envoys and Defence

the least from American opinion polls, that the Bush Administration Monde Diplomatique. Richard Falk, Princeton's emeritus professor of International Law noted that this belated recourse to the UN does not fool many people outside the US. The capacity of the US to bring to heel any country in the UN is unbelievable. The US is already corrupting the Security Council by bribing its permanent members -- Russia with dollar. China with trade concessions, France and Britain by holding out the prospect of oil concessions.

In his biography 'the politics of diplomacy' the former US secretary of state James Baker unabashedly admits how, before the 1991 Gulfwar, he met the Security Council counterparts "in an intricate process of cajoling, threatening, extracting and occasionally buying votes." America's relative power and its willingness to use the similar tricks must have increased over the past twelve years. Where is then the credibility of the UN to deliver? Instead is it that difficult for Blair to go down in history as the leader who

WMD. So far it has failed to uncover any 'smoking gun'. Under that circumstances can the war be justified and can Blair back an unustified war? The UN inspection team has just begun its work. It could not find something incriminating yet in Iraq. As Blix said, the 12,000-page Iraqi declaration on WMD "leaves many questions unanswered" but even if WMD is found, the resolution 1441

does not specifically authorise the

Brig (retd) Hafiz is former DG of BIISS

## NAM summit: Needed new vision



HARUN UR RASHID

HE 13th Non-Aligned Summit will be held in Kuala Lumpur, Malaysia on February 24-25 and the overwhelming majority of 114 member countries that represent he Movement are likely to attend The last Summit was held in 1998 in South Africa. President Mbeki of South Africa will pass on the chairmanship of Non-Aligned Movement to the Prime Minister Dr. Mahathir Mohammad of Malaysia until the next Summit is held.

Bangladesh became a member of the Non-Aligned Movement in 1973 and attended all the summits since that time. The principles of Non-Aligned Movement suit Bangladesh because it retains the flexibility to decide an issue on its merits. Since Non-Aligned nations do not vote on bloc basis, there is no pressure on the country to decide an issue in a certain direction. This spirit of independence in decisionmaking is the essence of Non-Alignment that remains one of the corner stones of Bangladesh's foreign policy. The principles of Non-Alignment are consistent with Article 25 of the Bangladesh Constitution that underpins Bangladesh's promotion of international peace,

An important aspect of the Kuala Lumpur summit from South Asia's perspective is the presence of India's Prime Minister Vaipavee and Pakistan's President General Musharraf. They shook hands at the SAARC summit in January last year. Although both leaders are expected to meet face to face in the conference venue, given the poisoned political environment, it is highly unlikely that bilateral talks on side-

India, Indonesia, Egypt and Yugoslavia conceived the idea of "nonalignment" to keep developing countries away from the rivalries of the two super powers.

Pandit Jawarharlal Nehru underscored the rationale of the Non-Aligned Movement in the following words: " If all the world were to be divided up between the two blocs.....the inevitable result would be war. Therefore every step that takes place in reducing that area in

an indispensable role in world affairs during the Cold War period. It acted as a "Third Force" in global affairs and expressed its voice in unison at the UN and other multilateral forums. The most important contribution it made was in the area Sessions on Disarmament in 1978, 1982 and 1988 called upon all member-states including the US and the Soviet Union to make every effort to reduce all types of weapons

abject poverty and Non-Aligned countries exist on the periphery of industrialised countries. Their economies are weak and they are powerless in the world arena

### **New direction**

Now that the rivalry between the two super powers disappeared in 1989 with the disintegration of the Soviet Union, the question is how the direction of the Non-Aligned Movement will be focussed. Some argue

humanitarian international organisations. In Angola alone four million civilians were displaced from nomes, mostly women and children. It is imperative that the leaders of the Non-Aligned Movement organise themselves to consider that development must be peoplecentred. It calls for not only better economic performance but also for action to spread the benefits of economic growth more widely among people. Furthermore, democratic institutions must be strengthened and the public conduct of

rulers must be transparent and

accountable to the people. Nobel

Laureate Amartya Sen in his book

Development and Freedom (1999)

wrote that there were many types of

freedom, both political and eco-

Ethnic or religious conflicts in devel-

oping countries have been sapping

their resources. Furthermore peo-

ple are becoming more militarised

that adds a new dimension to con-

flicts. Displacement of people within

territories has become a headache

for national governments and

nomic and all buttress others, and each fosters development and "is the principal end" of development. The Kuala Lumpur summit is the first one in this century. Twenty-first century presents problems and challenges different from those of the last century. The Non-Aligned Movement requires new ideas, new

Barrister Harun ur Rashid is a former Bangladesh

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CORRIGENDUM

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Ambassador to the UN, Geneva

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lines will take place. However their meeting face to face is significant in some ways.

The 13<sup>th</sup> summit takes place in a difficult and fissiparous political environment. First is the backdrop of the 21 September terrorist attacks on the US, second the impending threat of war against Irag by the Anglo-American alliance with or without the UN approval and third the increasing gap of income between rich and poor nations.

Non-Aligned Movement was established in 1961 in Belgrade in the background of the Cold War era. The world was split between the two camps -- one led by the US and the other by the Soviet Union. Many nations outside the two blocks refused to fall in line with either the US or Soviet Union. Four leaders of

the world which may be called the unaligned area is a dangerous step and leads to war. It reduces that objective, that balance, that outlook which other countries without military might perhaps exercise."

The concept of Non-Alignment is to be distinguished from that of Neutrality. Neutrality borders on isolationism in world affairs while Non-Aligned Movement relates to active involvement with international issues. The Non-Aligned Movement is not passive and in the words of former President of Tanzania Julius Nyerere: "Non-Alignment is and could only be a policy of involvement in world affairs".

#### Success and failure of the Movement

The Non-Aligned Movement played

leading towards the goal of general and complete disarmament. Consistent with the resolution the two super powers signed many Treaties from 1972 to 2002 reducing their strategic and conventional weap-

Non-Aligned Movement has also its limitations. It concentrated on political and neglected economic and social issues. It failed to halt arms race in developing countries, to run good national governments and became ineffective in resolving regional conflicts. Some of the Non-Aligned leaders disregarded the necessity and relevance of public morality in their conduct and considered national resources a little more than their private or family property. An overwhelming majority of people of Non-Aligned countries lives in

that since its rationale has gone, the Movement has become irrelevant and passed its use-by date. In order to be relevant one may argue that the objectives of the Movement need drastic change.

Non-Aligned countries face numerous and complex economic, social and political problems. The priority should now be directed to poverty alleviation and good governance. The challenge is to mobilise and deploy their resources more effectively -- nationally and collectively -- to energise their development, draw strength from joint undertakings, exploit global opportunities and to make the international system more responsive to their interests.

Another matter the Movement needs to focus is the establishment of mechanism to resolve conflicts.

ber of leading mine producing and

The name of author of the article "The United States of America has gone mad" published yesterday should be spelt as "John le Carre´"

## A quiet success that deserves praise

MONZURUL HUQ writes from Tokyo

APAN has quietly achieved a praiseworthy success in recent days that can be considered in every respect as a significant gain towards ensuring peace in the world at a time when the sounds of war no longer remain distant. The government of Japan made guite clear of country's standing in case war breaks out in the Gulf region. Japan's self defence naval forces has dispatched a number of battleships, including a destroyer equipped with sophisticated Aegis radar system, to the Indian Ocean to provide rear support to US led forces, and despite a growing antiwar public sentiment, the government has also made it clear that Irag's defiance is to be dealt with military force and Japan wouldn't hesitate to take side with her closest ally, the United States. These are no doubt such annoying developments are causing uneasiness among those who firmly believe that war is not a viable option to solve interna-

tional disputes. But not all actions

being taken by the Japanese government in recent days run contrary to the feelings of the majority in Japan and elsewhere. A big step forward towards ensuring a safer world was taken by Japan on February 9, when Prime Minister Junichiro Koizumi issued an order from the platform of a ceremonial event organised at Shiga Prefecture. As the prime minister issued the command, a massive explosion rocked the surrounding areas far in the north of the country, at Bibai in Hokkaido. The explosion eliminated the 25 remaining mines stockpiled by Japan's self defence forces, and by doing so Japan turned into a country free of deadly land mines. The Japanese prime minister

watched the blast that took place at a water tank in Bibai on a large screen at the venue of the ceremony in an air force base and later in his speech reminded the world that it's children who have no connection whatsoever to wars are becoming victims of land mines. He also pledged to foster a mood that for the benefit of humanity land mines must

Japan's step towards the eventual destruction of all land mines stockpiled by county's self defence forces is in line with an international treaty banning anti-personnel mines that Tokyo has signed. But despite such open gesture of goodwill, it's

But if we look at the other side of reality, there are obvious reasons for disappointment too. Nations with the biggest stockpiles of mines have not signed the treaty and there is no

indication that they are going to do

so quite soon. Moreover, an esti-

rid of inhuman mechanisms still in practice if the leadership wishes to do so.

mated 60 to 110 million mines are

children despite the end of bloody conflicts of the past. The land mine prohibition treaty

is officially known as the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and Their Destruction. The Late Japanese

This small achievement at a time when the world is getting ready for another all out confrontation is

doubly praiseworthy not only because it reflects the fulfilment of an obligation by a country that signed

the anti-personnel mine convention, but also because it shows that it's not at all impossible for us to get

of country's defence capability if the country signed the treaty. They had repeatedly tried to convince policy makers that as an island nation Japan has no other option but to keep the possibility of mining the

mine using countries are refusing to sign the convention. The United States, China and Russia together hold a much larger stockpile of land mines than the rest of the world, and shores open in case an emergency by refusing to join the convention they remain out of that international mechanism.

> At the special ceremony commemorating Japan's conversion into a mine-free country the prime minister expressed hope that all nations of the world would join the collective effort of mankind to make sure that no one in the future would have to be killed or maimed by land mines. There is no doubt Koizumi intended to use the occasion to send a clear message to nations with large stockpiles of mines that Japan has abided by the bindings of the treaty and contributing to peace, and now it is their turn to follow the

Japan has not only taken steps towards the destruction of mines stockpiled by country's self defence forces, in recent years Tokyo has

countries that have been seriously affected by widespread mining of lands resulting in regular casualties of innocent civilians. Japan's demining involvement is particularly visible in Cambodia and more recently Afghanistan is also reaping the benefit of such initiatives. Since 1998, Tokyo has provided 10 billion ven for the abolition of mines around the world and the government is now planning to continue providing two billion yen a year for the cause. This small achievement at a time

when the world is getting ready for another all out confrontation is doubly praiseworthy not only because it reflects the fulfilment of an obligation by a country that signed the anti-personnel mine convention, but also because it shows that it's not at all impossible for us to get rid of inhuman mechanisms still in practice if the leadership wishes to do so. It's now, therefore, the turn of those remaining outside the treaty to follow the example of Japan.

clear that Japan alone cannot create a world free of deadly mines. The treaty banning the use of

anti-personnel mines came to effect in March 1999 and 131 nations have so far ratified it. According to the provisions of the treaty, signatories must eliminate their stockpiles of mines by March 2003, and destroy all active mines in their territories by March 2009.

The approval of 131 nations definitely sounds quite impressive.

buried around the world that routinely claim victims who have nothing to do with war or destruction. According to some estimates, land mines that are buried around the world are claiming a new casualty in every 20 minutes. Regions that are plaqued by civil wars and regional conflicts are the worst sufferers. Afghanistan and Cambodia are two countries where such deadly weapons are continuing to kill or main

the treaty in Ottawa in December 1997. Obuchi was at that time serving as country's foreign minister and took specific interest on the issue. It has been reported later in the Japanese media that the foreign minister was under pressure from Japan's defence agency as well as from foreign office bureaucracy to refrain from joining the agreement. The opponents of the treaty in Japan saw a potential downgrading

Prime Minister Keizo Obuchi signed

insisted that Japan's own involvement in de-mining efforts around the world would be seriously undermined if Tokyo refused to ratify the treaty. Japan eventually signed the treaty and destroyed about one million mines since 1999. But despite such praiseworthy

situation arised. Obuchi, however,

efforts by Japan and a few other nations to free the world of deadly anti-personnel mines, the treaty still faces serious obstacles as a num-

also intensified efforts in helping