



LAW opinion



Will the Arab League act this time?

INTERNATIONAL MOVEMENT FOR A JUST WORLD

As expected, the Arab League Foreign Ministers meeting in Cairo yesterday adopted a resolution condemning the Anglo-American invasion of, and aggression against, Iraq and demanded that the invading forces withdraw immediately. The League called upon the United Nations Security Council "to stop the aggression and secure an immediate withdrawal." The only country in the 22-member organisation that did not support the resolution was Kuwait.

Needless to say the resolution will remain a resolution. Whatever its rhetoric, the Arab League has always been afraid to do anything concrete or tangible that might displease Washington. More often than not it surrenders meekly to the superpower's dictates.

Apart from Kuwait, a number of other Arab League members are in fact client states of Washington and to some extent London. Qatar for instance hosts the US central command directing military operations in the current Iraq war while the US navy's fifth fleet is based in Bahrain. There is American military base in Saudi Arabia.

If they are not client states, some of them tend to be cronies of Washington working closely -- though clandestinely -- with the superpower in the war against Iraq. Jordan and Egypt would fall within this category. Yemen and Tunisia are also Washington allies within the Arab League.

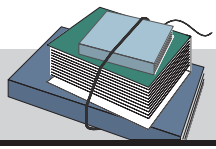
However of these clients and cronies it is the Gulf monarchies that are most subservient to Washington. For Washington, their subservience guarantees that it will continue to maintain a tight grip upon oil in the Gulf region. The monarchs in turn know that Washington's protection and patronage safeguards their thrones.

This is why it is wrong to argue that it is Washington and London alone who are responsible for the aggression against Iraq. The invasion would not have been possible without the active co-operation, collaboration and collusion of the Gulf Sheikdoms, and other Arab and Muslim states in the region.

It is of course true that the tiny Sheikhdom of Kuwait was a victim of Saddam Hussein's belligerent politics in 1990 but its refusal to acknowledge that the Anglo-American aggression against Iraq today is part of a much larger imperial agenda to re-shape the map of the Arab world. And therefore demands a principled response from everyone, is a sad reflection of the narrow selfishness that characterises its foreign policy. However, Kuwait and perhaps certain other Arab states too cannot remain in this mode for long. The Arab masses are angry and outraged by the servility and slavishness of many of their leaders. They are ashamed that ruling elites in the Arab world have betrayed the people and mortgaged their God given wealth to imperial powers that continue to humiliate and denigrate the Arab and Muslim masses.

It is mainly because of the people's anger that the Arab Foreign Ministers in Cairo decided to take such a firm stand against the Anglo American invasion of Iraq. Let us see if fear of the people's wrath would force the Arab League to act this time and act decisively.

Book review



The Caretaker days and my story

MUHAMMAD ZAMIR

Since 1991, three national parliamentary elections have been held in Bangladesh under caretaker administrations. This constitutional arrangement has however not always been devoid of controversy. For various reasons, the last elections held on 1 October, 2001, under the supervision of Chief Justice Latifur Rahman and his caretaker government, was the most controversial. The Head of the Caretaker Government, in particular, became the subject of severe criticism from several quarters.



THE
CARETAKER DAYS
AND
MY STORY

Justice Latifur Rahman

In this book, the author recounts his experience as the last Chief Adviser of the Caretaker Government and the trials that he went through in completing the constitutional task that was entrusted upon him with his swearing-in on 15 July 2001. He functioned as Head of the Caretaker Government till 10 October of the same year.

More a chronicle of his activities, the publication identifies the various complexities that he had to face and the problems he had to resolve within the short period of less than ninety days. He has attempted to provide reasons for some of his decisions, and also argued his case to defend himself and his colleagues against charges brought by various political parties. In this, he has tried to be transparent and tried to represent that he had no ulterior motives of the steps taken by him and his colleagues in a political atmosphere that was marked by acrimony and hatred.

However, one aspect appears to be unclear. References are made more than once to various officials who were either transferred or removed from their responsibilities on the basis of newspaper reports. This is difficult to understand. Attempts have also been made to explain through a comparative analysis that his administration did not undertake an extraordinary number of transfers and reshuffle of officials. The fact that 221 Upazila Nirbahi Officers were reshuffled as compared to smaller numbers in the earlier caretaker administrations give pause for thought. The author has noted that he was himself "A bit agitated by such wholesale transfers" but he agreed to this on the advice of his Adviser. One might have difficulty in agreeing with some of the administrative steps taken by the Caretaker Administration, particularly, with regard to senior officials, but the background for such decisions will be useful for students interested in research in governance.

The book reveals the hurt and disappointment experienced by the author in his dealings with a particular political party, but to have characterised the concerns and complaints of this party as being "mere figments of their imagination" could probably have been described differently.

The book's importance lies in the details that have been provided by the author with regard to the various steps that had to be undertaken by his government to complete their vital tasks--the holding of elections, ensuring law and order and facing the crisis brought on by the events of 11 September, 2001 in New York, USA.

In this context, one wishes that the author would have added a chapter in his book containing his views about how the caretaker form of governance could be further streamlined and made more effective. He might have also indicated whether this arrangement would be good for democracy in the future for Bangladesh.

It is important that Justice Latifur Rahman took the time to record his views and publish them. This book will provide valuable material for those interested in not only knowing about the evolution of political democracy in Bangladesh, but also the format of holding elections under a Caretaker Government, which is Bangladesh's unique contribution to the development and practice of democratic norms.

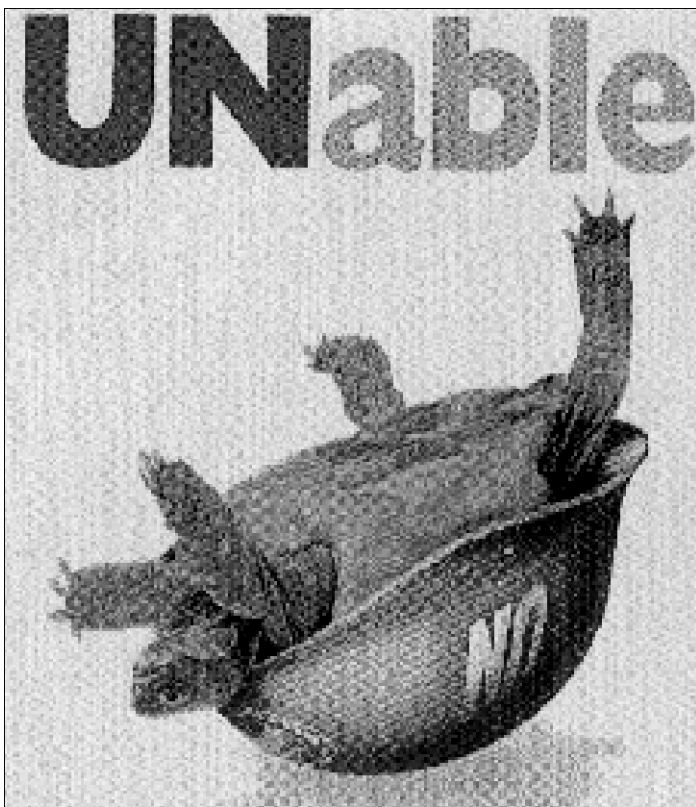
Justice Latifur Rahman, *The Caretaker Days and My Story*, published by Mullick Brothers, Dhaka, 2002, price taka 275.

Muhammad Zamir is a former Secretary and Ambassador.

LAW letter

Security Council is in dilemma

The United Nations a permanent and organic system of international political institution is very important attempt in the history of mankind. The devastating effect of the World War II compelled world community to set up an international organisation, which might be able to ensure peace and security in the world. In San Francisco conference, considering the growing demand of the peace loving states, it was decided to establish an organ in the form of the 'Security Council'. Security Council is one of the principal organs of the United Nations, which has the primary responsibility to maintain and restore international peace and security (Art 7 of the UN Charter).



Security Council comprises of fifteen members, five permanent and ten non-permanent. China, Russia, France, USA and UK are the permanent members. Article-27 of the UN charter provides that the decision of the Security Council on all important (substantive) matters shall be made by an affirmative vote of nine members including the concurring votes of five permanent members. That is to say, no important decision can be taken by the Security Council unless and until five permanent members give their affirmative votes.

The very first purpose of the UN, to maintain international peace and security; is entrusted to the Security Council. However SC is facing various challenges from the establishment of UN. SC has failed several times to take many important decisions because of the absolute veto power of the permanent members. The main weakness is the formation of the council itself. Its formation, function and power were not decided universally. It was framed on the basis of the ideas of big powers. Thus, peace and security measures of UN in most of the cases taking a shape of political look.

In the period between 1946-1990 (up to the end of cold war) 646 Security Council resolutions were passed, among them 201 had fallen victim to the veto. In case of Korean conflict of 1950, Security Council became incapable of taking any decision because of the exercise of veto by Russia. The General Assembly of the United Nations passed "Uniting for peace Resolution" on November 3, 1950 to handle the situation, though it was the wholesome responsibility of the Security Council. The United States used its veto power in May 1995 to block the adoption of a resolution criticising Israel for the confiscation of fifty-three hectares of Palestinian land in east Jerusalem.

What is the role of the Security Council today? March 20, 2003 has become a miserable day for the world as we helplessly watched America and Britain defying the UN and the world opinion attacked a weaker and disarm country Iraq. We watch in shock with disbelief that an alliance of two most powerful nations with their weapons of mass destruction starts an illegal war against Iraq, which is clear violation of the UN charter and the general norms of international law. Although President Bush and Prime Minister Blair insist that they have waged this war to wipe out a dictator and to fight terrorism. But in order to oust any aggressor, put sanction against it and fight against terrorism, the matter is purely jurisdiction of the Security Council and absolutely dealt by it. By the war on Iraq the US and its allies make the Security Council merely a dead horse.

The USA and UK need to understand that 'war was not, is not and can never be a solution. We have to cope with changing needs of time and not to go back in the past. With the change of time, we are still hopeful that the UN will take steps to stop the war. It may expand the membership of SC. Either there should be no veto power or if there is veto power it should be used in extreme cases rarely as a defense mechanism, only when the peace of the world truly is at stake.

Khaleda Parven
LL.M. student, Dhaka University.

There are good and brave people everywhere

New Jersey School teacher is a brave American lady. She left her job, but refused to take off Anti-war badge she was wearing to satisfy her conscience. Four Nobel Laureates and Two Bishops are really great Americans who courted arrest while protesting against War in front of the White House. Millions of Americans who daily go to join protest rallies are true Americans who show respect to their constitution. By going to preemptive war Bush has violated the Constitution of USA. Thirty governments with most modern equipment went to invade a small country, which has already suffered crippling sanctions for over 12 years. They are the coward people with no conscience. Their leaders particularly Bush & Blair is not brave and fair. They are telling lies loudly and tirelessly. One

LAW news

Registration of mother's name is in snail pace

MOSAMMAT KULSUM AKTER

While filling in her admission form, Sharmin Sultana Shila gets confused. The form provided by the university requires her to write her father's name. She does not want to do it simply because her father left her and her mother many years ago. She searches through the form to find if there is any place to write her mother's name. She does not see any such provision in the form.

"How can I write the name of the man who I've never seen?" wonders Shila.

Shila hates her father. She is unwilling to mention or write the name. But she has to do it if she wants to get admitted to the university.

"How can I ignore my mother who has been sweating for my education," says Shila expressing her serious dissatisfaction over the practice of becoming known only by the father. She says this practice is a creation of the male-dominated society with the motive of undermining the contributions of a mother and overplaying the father's role. "This is not fair... this tradition must change to recognise the mothers who are not less important than fathers," she says angrily.

There are thousands of 'war-children' in the country who were born during the war of liberation in 1971 as a result of rape by the Pakistan occupation forces and their collaborators. Besides, there are many children in brothers who do not know who are their fathers. "These children only know their mothers. Even the mothers do not know the identities of the fathers of their children. So, how these children could mention their fathers' names," asks Shila.

However, the immediate-past government of Awami League for the first time took a bold initiative in this regard in 2000 and introduced a system of registering both father's and mother's name as guardians in all official documents. Following the government order, the High Court Division in a ruling in 2001 asked the government to implement the order in every official activity.

injured American soldier told CNN that he was told that there wouldn't be any resistance in Iraq, but he finds lot of resistance there. Before the commencement of hostilities in Iraq, Bush said publicly that Baghdad would fall in no time. Now he is giving a different story. Bush has clearly let his country down. Hatred against America is on the increase. It is because of Bush policies and Jewish propaganda machine. Brave Americans must attend to it bravely.

Without winning the war in Iraq Bush has acquired sovereign rights and gave contract to his friend Dick Cheney. Bush has arrogantly violated the international law by entering into war against Iraq. He is guilty of isolating USA from the world. He has done too little to solve Middle East problem, but has done too much to damage every thing in the region.

Syed Safdar Rizvi

The spoils of war

As the Anglo-American Axis marches towards Baghdad, it may be useful for the general public to get a peep into the some of the business operations, which are expected to shape the post-Saddam reconstruction of Iraq.

On 16 January 2003, the Wall Street Journal reported that "early spoils [of the war] would go to companies needed to keep Iraq's already run-down oil operations running." It added that this would include "oil service firms such as Halliburton Co. where Vice-President Dick Cheney formerly served as Chief executive." Incidentally, when he left the firm to become U.S. Vice-President, "Cheney received at least 19 million [US dollars] from Halliburton."

Halliburton and another firm, Schlumberger "are seen as favourites for what could be as much as 1.5 billion in contracts" after the war. It has been estimated that repairing pipelines and export terminals apart from developing new fields would require a total investment of 38 billion US dollars.

It explains why the 10 February 2003 issue of Business Week reported that, "Since the US military would control Iraq's oil and gas deposits for some time, US companies could be in line for a lucrative slice of that business and outfits" such as Halliburton Co. and Baker Hughes Inc, as well as construction giant Bechtel Group Inc, could feel just as victorious "as the US military after the war."

Though the Anglo-American war on Iraq is motivated by a number of factors, the benefits that would accrue to certain business interests would have played some part. It is not a coincidence that Cheney has been one of the most persistent and consistent advocates of war. On 26 August 2002 for instance he was already pressing hard for the ouster of President Saddam Hussein. Bob Woodward, the respected American journalist of Watergate fame, notes in his recent book *Bush at War* that, "Cheney was beyond help for action against Saddam. It was as if nothing else existed."

Cheney and other hawks in the Bush Administration such as Defence Secretary, Donald Rumsfeld, his Deputy Paul Wolfowitz and Pentagon Adviser, Richard Perle have often talked about increasing Iraq's produc-



tion to its full capacity, estimated at around 8 million barrels a day, and using the revenue from this export to finance the country's infrastructure reconstruction. Of course a lot of this reconstruction will revolve around re-building the infrastructure destroyed by the Anglo-American Axis's relentless bombing since 20 March 2003. It is the same perverted psychology that insists on feeding the Iraqi populace and supplying the sick with medicines after depriving them of these essentials for 12 long years through the most cruel and comprehensive sanctions regime in recent history.

It is alleged that the Bush Administration is planning yet another move, which reveals a similar diabolical logic. Plans are afoot; it appears, to use Iraq's oil revenue to finance the Anglo-American 'liberation of Iraq'. If this happens, it would be one of those rare occasions in history when a conquered people pay for their conquest!

Dr. Chandra Muzaffar
President, JUST.

LAW week



Army men jailed for extortion

Four army men including a captain were sentenced to varying terms of imprisonment by a court martial for extortion from a businessman. The court martial also terminated Captain Atiqur Rahman, sepoy Mizanur Rahman, Afzalul Alam, and Mohammad Ashiqur Rahman from their service. The court awarded seven years rigorous imprisonment on Captain Atiqur Rahman, four year imprisonment on sepoy Mizanur Rahman and three year on Afzalul Alam after judging their offences on the basis of the military law. The accused will serve their term in civil jails. Earlier a summary court-martial awarded 89 days imprisonment on Mohammad Ashiqur Rahman. He will serve the term in an army jail. The accused extorted money confining businessmen and inflicting mental torture on them. They were also accused of violating military law and giving false statement. The court martial headed by Lt.Col. Rabiul Matin Chowdhury judge the case at Savar cantonment. The court started the trial in February and concluded on 5 March. The captain and two of his soldiers were withdrawn from duty on February 9 following statement of a police informant that they had extorted money from a businessman 29 January. Captain Atique and his team went to Shyamoli bus stand by army jeep and picked up an Indian Hundi trader. They released the trader on payment of Tk. 3 lakh. This is for the first time in the history of Bangladesh army that an officer is convicted for extortion. - Law Desk

126 Bangladeshi killed by BSF

At least 126 Bangladeshi nationals were killed and 80 others injured by Border Security Force (BSF) of India and Indian intruders in last 20 months from July 2001 to February 2003. About 50 people were kidnapped and their properties were looted. Innocent Bangladeshis are being killed along India-Bangladesh border violating all agreed norms between the two neighbouring countries. BSF shot dead innocent Bangladeshi citizen without any provocation while they were tilling their lands, harvesting crops, fishing or passing through nearby the zero line. A number of kidnapped women were raped by BSF personnel and miscreants during this period. Relatives of the victims along the northwestern frontiers told that many families were ruined due to killing of lone earning member of the family. They said troops opened fire all on a sudden on innocent Bangladeshi citizens without any provocation. This year BSF killed 4 Bangladeshi in January and 2 in February. In almost all the cases, BSF took away bodies of the dead entering Bangladesh territory and kept confined the injured inside their territory. BSF always showed dilly-dally attitude to return the bodies causing immense suffering to the relatives. *The Daily Star, 20 March.*

New bank law comes into force

Bangladesh Bank (BB) has started implementation of newly enacted law- Bank Companies (Amendment) Act 2003, as a part of the banking sector reform programme to make the country's financial sector more vibrant and efficient. The central bank has already withdrawn the provision for re-sanctioning approval in the case of large loans as per the newly enacted law. The central bank meanwhile instructed all schedule banks to follow the guidelines of the law. The central bank issued two circulars regarding implementation of the Bank Companies (Amendment) Act 2003. It also issued another circular directing the management of all private commercial banks to submit their annual plans for possible expansion of their branches. According to the new guideline, any loan more than 15 percent of its total capital would be regarded as large loan. Under the new provision, none of the bank can sanction any loan to any party or individual or group of companies more than 25 percent of its total capital. And the total amount of loan would never exceed 50 percent of its total capital. The new guideline also tagged the ceiling of sanctioning of loan with the percentage of defaulting loan remained with concerned banks. According to the new rules, banks having 5-20 percent of default loan can sanction loan between 40-56 percent of its total loan and advance. All banks must submit their quarterly loan statements; especially the large amounts, to the central bank within 10 days after expiry of the quarter. The Bangladesh Bank circulated the gazette notification of the Bank Companies (Amendment) Act 2003 to make the banks acquainted with the new laws. *News Today, 20 March.*

Corruption is people's top concern

A citizen survey on governance by the World Bank (WB) found that corruption in the police department and long delays in the courts are the top concerns of the citizens. The survey mentioned the breakdown in law enforcement. The survey titled "Bangladesh: Improving governance for reducing poverty" revealed that over 60 percent of the respondents of the survey found 'heavy or malignant corruption' in the police force. The householders also saw deterioration in the police service. The level of dissatisfaction was same whether the household was rural or urban. As to police corruption, male and female household heads held identical views-70 percent of men and 69 percent of women judging corruption as very high. Only 12 percent of the households surveyed thought police corruption was low. In the sample as a whole, a quarter of the respondents said that they avoided a court case even when one had been necessary on different grounds. The survey pointed out that 59 percent of the respondents avoid courts because of high rate of cost in the court proceedings, 45 for delay and 43 percent for bribe. Two-third of the respondents admitted to having made extra payment to the court officials, and about one third of respondents had paid witnesses outside of reimbursement for their transport and such attendance related costs for their court testimony. *Law Desk.*

Amendment to Official Secrecy Act soon

The government is considering some changes in the Official Secrecy Act (OSA) which stands as a stumbling block to the free flow of information. This was said by Law, Justice and Parliamentary Affairs Minister Mr. Moudud Ahmed in a workshop at Dhaka Reporters Unity. He said that the government is examining the Act for amending some sections that are hindering the free flow of information. He also said that the government would enact new law, if necessary. *The Daily Star, 27 February.*

Repression on women and children on the rise in Rajshahi

Incidents of repression and children are increasing alarmingly in different parts of Rajshahi region in recent times. Easy availability of pornographic video cassettes and compact disks (CD), exhibitions of cut pieces of obscene films in the cinema halls, staging of vulgar opera in the rural areas have been identified as the main cause of such incidents of repression. The number of young offender charged for rape is increasing in the rural and urban areas of the district in recent days. As a result, guardians of the youths are extremely worried about the future of their wards. In most cases, the incidents of violation of women in urban areas are kept hidden by their guardians for the sake of family prestige. Most of the incidents of rape in the villages are not focused. Even if such incidents are known among the villagers, they prefer to settle those through arbitration. *The Independent, 20 March*

Child labour increasing in Jamalpur

The number of child labour is increasing in Jamalpur district. About 20,000 child labourers below 12 years of old are engaged in odd jobs for earning their livelihood. The poor parents are compelled to send their wards for earning instead of providing with education. Necessities deprived them of having the free primary education. Most of the poor parents have become sick with fear of food for a considerable time. Losing their working ability they are compelled to send their sons and daughters to work for earning livelihood. The child labourers are engaged in hotels, restaurants, brickfields, motor garages, and workshops and in houses as help. Some of the child labourers are pulling rickshaws, working as hawkers and selling biri, cigarettes and newspapers. *Bangladesh Observer, 25 March.*

Hearing of writ petition on sections 54 & 167 of CrPC begun

The hearing on the writ petition challenging the persistent and continued abuse of powers under Section 54 and 167 of the Code of Criminal Procedure (CrPC) began before the High Court Division of the Supreme Court. A High Court Division Bench comprising Justice Md. Hamidul Haq and Justice Salma Masud Chowdhury heard the matter in part. Bangladesh Legal Aid and Services Trust (BLAST) and 7 other filed the writ petition in 1998 challenging the abuse of police power under Section 54 and 167 of the CrPC. The High Court in 29 November 1998 issued a rule nisi upon the government and authority concerned to show cause on the matter. *Bangladesh Observer, 25 March.*