

## Light at the end of the tunnel

### Violence must cease forthwith

**I**n a development of far-reaching significance, the last retired chief justice KM Hasan has made clear to the president his unwillingness to be the chief adviser of the upcoming caretaker government. Although belated, it is a highly relieving development that by itself should help defuse the mounting tension in the national life.

We thank him for his judicious decision. If only Justice Hasan had made up his mind early on, the welter of violence in which several people lost their lives and many others were injured, could have been avoided.

That said, we turn to a complementary development in which BNP secretary general Abdul Mannan Bhuiyan and his AL counterpart Abdul Jalil met the president at Ganabhaban on the latter's invitation that came immediately on the heels of KM Hasan declining to take over as caretaker government chief. The president by taking a swift move has only reflected his sagacious realisation that the law and order situation was going out of hand and that the haemorrhage had to be stopped.

The political programmes and counter-programmes of the political parties that one can guess was resorted to as a show of strength, have demonstrated an utter lack of concern on their part for the convenience of the common people. Had that been so they would have had the good sense of avoiding disrupting communications at a time when people were returning back to the capital from their Eid holidays.

A large number of people including women and children were left stranded on the highways many miles outside, in the fringes of the city and in Sadarghat terminal, with no means of transport to get them home, only because of callous disregard for their interest. What right did the political parties have to put the people through such suffering?

Another dimension of hostility that has very amply demonstrated lack of tolerance for dissent on the part of the BNP and a sorry sight for all to witness is the violence perpetrated on the breakaway members of the BNP who have joined the newly formed LDP. The way their houses and property were set upon by BNP hoodlums gives one to wonder what can happen when there is virtually no government in the country.

Now that a political settlement is in the offing, the political parties should stem the tide of violence with an iron hand.

## Khaleda's speech

### Bereft of sense of direction

**P**RIME Minister Khaleda Zia's speech delivered on the last day of her government's five-year tenure has been a disappointment to the nation groaning under violence triggered by seemingly unending hostilities between the two major political parties.

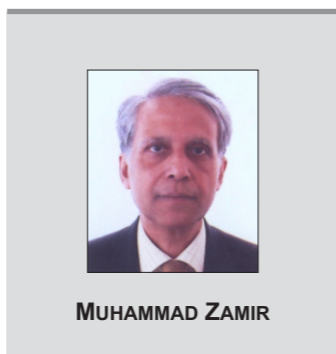
The Bangladesh that she tried to depict in her predominantly self-congratulatory speech is not the one that we are living in today. The statistics on development activities that she presented are selective at best. Of course, Bangladesh has made notable progress in some key sectors. While the government may claim the credit for better performance of the industries and export sectors, the progress made by the social sectors has been a decades-old attainment, largely made possible by the contribution of the NGOs -- the real catalyst for social change. Didn't they deserve a word of appreciation from the outgoing prime minister?

The prime minister failed to address the real concern of people who are greatly worried about the future of the country itself. She decided to sidetrack the burning issues. Her speech only made a passing reference to the crisis that now threatens to paralyse the whole country. She failed to explain why people are burdened by an unbearable price hike and a chronic shortage of electricity. Finally, her skirting of the issue of corruption left the biggest question in the public mind unanswered: why is Bangladesh perceived as the most corrupt country in the world? It was not enough to say that her government tried to contain this problem.

The prime minister could not overcome the obsession that made her take a consistently cynical view of her political rivals over the last five years. And there was the same attempt to compare her government's achievements with that of the previous AL government. Such a comparison after running the country for five years is pathetic, to say the least.

We are forced to conclude that the prime minister created her own make-believe world full of sycophants and spin doctors and viewed everything from that position. Even if the speech is to be treated as election propaganda, it sounded far from convincing.

## Crisis in governance



MUHAMMAD ZAMIR

**T**HE conclusion of the tenure of the BNP-Alliance administration has been marked by chaos, breakdown in law and order, and uncertainty.

The past few hours have witnessed violence, arson, death of activists, and pitched battles on city streets. Press reports have indicated that more than 500 have been injured. Tens of thousands of people returning home from their Eid holidays have also suffered. Electronic media has also reflected the public reaction -- exasperation and anger. Ego and need to display control over political turf, have led to destruction of rival political party offices. Confrontation, as predicted, has ruled the landscape.

This situation is indeed regrettable. Instead of understanding, compromise, and tolerance, we have seen rigidity, inflexibility, and a warped interpretation of existing constitutional norms. This, in a manner of speaking, was also a demonstration of how things can go wrong if institutions are not given the respect due to them. Good governance hangs today by a thread. We have a crisis in our hands.

Newspapers have headlined that former chief justice KM Hasan is indisposed. This has been inter-

## POST BREAKFAST

**In the meantime, we have a critical scenario. For the first time, since 1971, we are faced with some serious questions regarding the maintenance of law and order -- the basic ingredient for continuance of governance in any country. There are two aspects to this factor. Law enforcement personnel not only have to be loyal, but they also have to be committed in their task. If both elements are not available, it can only lead to political anarchy and breakdown of national security. We have to be very careful. We have to understand that maintenance of law and order is the first pre-requisite for the holding of a free and fair election.**

reference to the second paragraph of the same section, and underlined that if Justice KM Hasan is "not available or is not willing to hold the Office of the Chief Adviser" then the president under Article 58 C (4) should appoint as chief adviser "the person who among the retired Judges of the Appellate Division retired last" -- Justice Aziz, presently occupying the post of chief election commissioner.

This argument has been based on two premises: (a) The person who retired as chief justice before Justice KM Hasan is dead, and (b) Justice Aziz is the last retired judge from the Appellate Division.

There is an old adage in English, "you can drag a horse to the water-hole, but you cannot force it to drink." Unfortunately, this is the situation here. The legal and political pundits within the BNP have carefully overlooked several factors. I shall outline them below:

Article 7 (2) of the Constitution explicitly states that the Constitution is the solemn expression of the will of the people. In this context, they have also drawn

reference to the second paragraph of the same section, and underlined that if Justice KM Hasan is "not available or is not willing to hold the Office of the Chief Adviser" then the president under Article 58 C (4) should appoint as chief adviser "the person who among the retired Judges of the Appellate Division retired last" -- Justice Aziz, presently occupying the post of chief election commissioner.

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note that the majority of the people of this country think that the appointment of Justice KM Hasan would be controversial, because of the changes undertaken to ensure his becoming the next Chief Adviser. This feeling cannot be disregarded;

Article 58 C (4) states: "If no retired Chief Justice is available or willing to hold the Office of Chief Adviser." This clearly connotes that such process of selection or appointment cannot be restricted in the narrow sense only to the chief justice who retired just before Justice KM Hasan, a person who is dead. How can a dead man be construed to be in the line of succession? Such a deceased person cannot be seen as being an obstacle for selection of another retired chief justice, particularly, when one is available and able and willing to perform this difficult task;

Article 118 (3) (a) of Part VII of the Constitution clarifies that "a person who has held office as Chief Election Commissioner shall not be eligible for appointment in the service of the Republic." There are some who maintain that a judge is

not a servant of the Republic. In that context, they assert that Justice Aziz consequently can be appointed as chief adviser.

The question here is whether Justice Aziz fits the requirement. Firstly, there is a debate and a pending unresolved writ as to the legality of his having carried out the dual functions of a judge of the Appellate Division and the chief election commissioner. Secondly, it is also disputed as to whether he is at all the last retired Appellate Court judge. Thirdly, questions have been raised as to whether the constitutional post of chief adviser comes within the definition of being "a service of the Republic." I believe it does. The definition given under Article 152 (1) of the Constitution clarifies this matter adequately. Lastly, by his controversial actions as chief election commissioner, he has already demonstrated that he is totally unsuitable to hold the distinguished post of chief adviser.

Despite all the confusion, one thing is very clear. This is a complex problem. We have eminent jurists and constitutional experts. We also have an erudite president who knows that if there is a problem, there can be a solution.

I think that in such a situation, the only correct thing that the president can do, is to seek the legal opinion, not of the Ministry of Law and Parliamentary Affairs, which has been tainted with the process of election engineering, but of eminent jurists and lawyers from the Supreme Court Bar Association. He may like to receive them, and discuss with them, in the presence of representatives of the Ministry of Law, the different ramifications of the several contentious interpretations. This is the only way out of the

impasse.

In the meantime, we have a critical scenario. For the first time, since 1971, we are faced with some serious questions regarding the maintenance of law and order -- the basic ingredient for continuance of governance in any country. There are two aspects to this factor. Law enforcement personnel not only have to be loyal, but they also have to be committed in their task. If both elements are not available, it can only lead to political anarchy and breakdown of national security.

We have seen what happened in Kansat, Phulbari, and Shanir Akhra. We have already read about declarations that will impede the natural flow of life and will definitely affect the process of economy. We have to be very careful. We have to understand that maintenance of law and order is the first pre-requisite for the holding of a free and fair election. I am not suggesting that like 1971, political divisions will lead to groups of law and order personnel taking sides. That will be a disaster.

Unfortunately, the electronic media has already telecast several scenes of the police watching silently as arson and chaos have taken to the streets. Any process of containment depends largely on perceived deterrence. This factor is also contingent to acknowledged universal legitimacy.

Today, we have a debate and controversy about partisanship and the process of governance. We are also standing on the brink of a meltdown. This need not happen. Let wisdom and the popular will of the people prevail for a change.

Muhammad Zamir is a former Secretary and Ambassador.

## How to deal with rogue states



KAZI ANWARUL MASUD

**I**n total defiance of the wishes of the international community, on October 9 North Korea conducted a nuclear test. Prior to the nuclear test in July, Pyongyang escalated tension by conducting ballistic missile tests rendering any meaningful talks with North Korea impossible.

North Koreans have attributed the cause of their action to its suspicion that the US would not honour the September 2005 agreement, which committed Washington to respect North Korean sovereignty and would allow Pyongyang to have a light-water nuclear reactor.

The matter was further complicated by Bush administration's designation of Macau bank Banco Delta Asia as a "money laundering concern" for assisting North Korean government and its agencies in drug trafficking and in the distribution of fake US currencies. After its designation as a money laundering concern, Banco Delta Asia froze 24 million dollars North Korean. Meanwhile, the US continued to decline to engage North Korea in direct talks outside of the context of the six party talks.

Pyongyang's missile tests in

## GOING DEEPER

**It is now recognized that the real danger to international security and stability is the possession of WMD by rogue states and terrorists. International vigilance, particularly by P-5 of the UNSC, is essential to guard against the possibility of nuclear weapons and/or technology falling into the hands of non-state actors. Rogue states have to be identified, isolated, and punished for the slightest infraction of non-proliferation regime.**

defiance of the international community, particularly China, perhaps denote a fundamental change in North Korean attitude towards the six nation talks. It is suspected that the center of gravity within the North Korean dictatorial regime may have moved in favour of the hard-liners who may have decided that it is futile to negotiate with the US. Besides, the reaction of South Korea and China to the missile tests have been muted.

On October 14, the UNSC passed a resolution condemning the nuclear test and demanded of North Korea that it must refrain from further nuclear tests or launch ballistic missiles. The Council demanded that Pyongyang immediately retract its announced withdrawal from NPT, return to the pact, and accept IAEA safeguards. The resolution also demanded that North Korea must abandon all nuclear weapons and existing nuclear programs "in a complete, verifiable and irreversible manner." Most significantly, the resolution was passed unanimously with the support of China and Russia that in

the past had been somewhat supportive of the North Korean stance in the talks.

In The Atlantic Monthly, Robert Kaplan, visiting professor at the US Naval Academy, has drawn a bleak picture on unraveling of the present North Korean regime. He describes Kim Jong Il as hardly an impulsive person but one who may be losing his edge.

Kaplan apprehends that as totalitarian regimes close to demise are apt to do rash things, the weaker North Korea gets the more dangerous it becomes. Whereas in 1980, 40% of North Korean combat forces were deployed near the DMZ, in 2003 the number increased to 70%.

North Korea, writes Kaplan, boasts of 100,000 well-trained special operations forces and one of the world's largest biological and chemical arsenals. But the more worrying aspect of the demise of Kim regime is North Korea's potential for anarchy which is no less than that of Iraq and the potential of deployment of weapons of mass destruction -- either during or after the pre-collapse of the regime -- is

fargreater.

Both South Korea and China have nightmarish vision of millions of North Korean refugees pouring into their territories after the collapse of Kim regime. Despite its image of Stalinist asphyxiated control over the people, it is believed that North Korea is informally controlled as independent fiefs by local party bosses who are immersed in widespread corruption and trying to circumvent a failing central government.

In the case of meltdown, US along with China, South Korea, and Russia are expected to pick up the pieces. But then one should be cautious in writing an epitaph for the Kim Jong Il regime too soon, as the Western prediction of demise of Iranian theocracy is yet to come to pass.

Besides, there is no reason to believe that South Koreans are eager for reunification given the fact that they will have to foot the bill for the poverty stricken North Korea in a post-Kim unified Korea.

Though China is the main fuel supplier and the country giving largest amount of food aid to North

Korea and therefore supposedly has the most influence on Kim Jong Il regime, the nuclear test has put Beijing in an embarrassing position by adversely affecting China's efforts to keep a peaceful external environment essential for Chinese economic development and integration into international community.

The test also creates doubt about Chinese influence over North Korean regime and its credibility in international affairs. This perhaps explains the strong worded statement issued by Chinese foreign ministry after the nuclear test, expressing Beijing's firm opposition to the test.

The aberrant North Korean behaviour also fundamentally changes geo-political structure in the region and could spur a nuclear arms race among Japan (discounted by Prime Minister Abe), South Korea, and Taiwan to the detriment of China's long-term security interest.

North Korean dependence on China became apparent when during the recent visit by a special Chinese envoy to Pyongyang Kim Jong Il not only regretted the embarrassment caused to China by North Korean nuclear test but also promised not to undertake further tests and also to join the six party talks so long as abjured by North Korea.

However, Kim's promise to rejoin the six party talks is conditioned upon the US withdrawing economic sanctions against North Korea. Concurrently, the diplomatic efforts by the new Japanese prime minister through his visits to China and South Korea and US secretary of state's visits to China and Japan must have cautioned Kim Jong Il

that the international community would not tolerate reckless behaviour by the North Korean regime.

The nightmare scenario for the international community is the possibility of North Korea transferring nuclear materials to Iran and/or non-state actors. Such a possibility cannot be totally discounted. Demented rulers threatened by unraveling of their dictatorships are most desperate people who can do anything to hurt the "enemy" in the last throes of their rule.

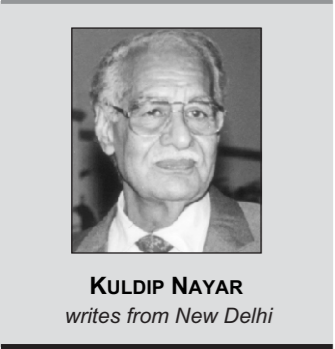
President Bush reiterated that "opposing proliferation is one of the highest priorities of the war against terror," as terrorists if they ever gain WMD would kill hundreds of thousands of innocent people "without hesitation and without mercy."

He assured that the US would continue its vigilance against proliferation through enhanced intelligence capabilities; interdiction of materials and technologies in transit; insistence on multi-lateral approach as in the case of North Korea.

It is now recognized that the real danger to international security and stability is the possession of WMD by rogue states and terrorists. International vigilance, particularly by P-5 of the UNSC, is essential to guard against the possibility of nuclear weapons and/or technology falling into the hands of non-state actors. Rogue states have to be identified, isolated, and punished for the slightest infraction of non-proliferation regime.

Kazi Anwarul Masud is a former Secretary and Ambassador.

## Eight annas in a rupee



KULDEEP NAYAR  
writes from New Delhi

**T**HE Manmohan Singh government has run through half of its term. Achievement-wise, it is eight annas in a rupee. The cabinet reshuffle -- although a substantial one because of changes in the major portfolios of Defence and Foreign Affairs -- catches the headlines, but does not add to the value.

The ruling Congress is still groping for something that can give it the image of pro-poor, pro-Dalit, and pro-minorities. A new policy on reservations may lessen the party's support among the Other Backward Classes because the vocal and the influential section among them are all creamy. More seats in technical

## BETWEEN THE LINES

**The Manmohan Singh government has run through half of its term. Achievement-wise, it is eight annas in a rupee. The cabinet reshuffle -- although a substantial one because of changes in the major portfolios of Defence and Foreign Affairs -- catches the headlines, but does not add to the value. The problem with the Congress is that it has run out of ideas. It is indulging in cheap gimmicks.**

institutions spread over the years may not regain the confidence of the upper castes it has lost. More harmonious approach is needed. The Haj subsidy has made the minority like the Sikhs demand that their expenses to Nankana Sahib or Panja Sahib in Pakistan should also be partially defrayed.

The problem with the Congress is that it has run out of ideas. It is indulging in cheap gimmicks. No doubt, AK Anthony, elevated to the Defence, belongs to the Christian minority. But he is not an evangelist, nor a firebrand to go down well among the Christians, frightened by the anti-conversion bills which BJP state governments are pursuing

relentlessly. I personally think Anthony would have been better in the External Affairs. Pranab Mukherjee, no doubt, brings maturity, but Anthony would have added freshness to the misty corridors of foreign office.

The latest device intended to attract attention rather than fulfill a useful purpose is the garibi hatao program. It is going to boomerang because people associate the program with the emergency. It was at best an economic package to counter the harsh rule that the extra-constitutional authority, Sanjay Gandhi, had introduced. The manner in which the institutions were destroyed at that time -- the press

gagged and one lakh people were detained without trial -- are fresh in people's mind even after 30 years. And of all the persons to announce the program was Information and Broadcasting Minister Priya Ranjan Dasmuni, a drummer of the emergency. Why can't the Congress pick up people with a cleaner image (AK Anthony is a welcome example) and go back to its old traditions of associating itself with the common man and his problems?

The Congress is fortunate that the BJP, the main opposition party, is immersed in communal politics which the nation on the whole does not accept. Nonetheless, it is difficult to explain what overtook the

Congress to divide the country politically. True, it feels irritated over the stance of some non-Congress states, particularly UP. But this is in the scheme of things which a federal structure represents. The answer does not lie in the conclave the Congress has held of its party chief ministers exclusively. At best, it is a sectional response to the country's problems which demand a consensus.

This type of political caste system was never prevalent earlier. Whether the centre was ruled by the Congress or non-Congress government, it was a concerted effort. During the regime of Jawaharlal Nehru, India's first prime minister, all states except Kerala were under the Congress. But Nehru was particular to invite Kerala to every meeting he would convene to discuss the country's problems. He used to write a fortnightly letter to all the chief ministers to give them a sense of participation at the centre. Even Mrs Indira Gandhi, who made no secret of her dislike for the opposition, did not divide the country into Congress and non-Congress states. Whatever her other limita-

tions, her approach was always national.

The conclave had before it serious subjects like agriculture, India-Pakistan relations, and the Naxalites. There was useful discussion and some policy announcements were made. But the party's forum is not the right platform to do so. Why is the centre reluctant to call the meeting of the National Development Council which has all the chief ministers and union cabinet members on it? The new agricultural policy that Dr M.S. Swaminathan, an expert, has outlined in his report for the second green revolution requires active participation of all states, not those of the Congress-ruled alone. Nearly 40 years ago, the first green revolution made India self-sufficient in food-grains. The second one needs not only massive investment but a united response to ensure food for the 1.4 billion people in a decade's time.

To give agriculture the topmost priority is a welcome step. But Prime Minister Manmohan Singh's exhortation to the Congress chief ministers to be "role models" suggests

that the non-Congress states cannot be role models. Agriculture is a state subject. Even if all the Congress chief ministers were to concentrate on agriculture, they would cover only one-fourth of the country. The Congress-ruled states are: Assam, Punjab, Andhra Pradesh, Himachal Pradesh, and Delhi. Both Maharashtra and Jammu and Kashmir are coalition governments. How can the four plus two half states usher in a green revolution? The conclave had not invited even Union Agriculture Minister Sharad Pawar because he did not belong to the ruling party.

The separation between the loyal and others, the pure and the impure, is the Sonia Gandhi-Manmohan Singh brand of the Congress. It is parochial and dangerous. It smacks of arrogance of power. True, the Congress is leading a coalition for the first time at the Centre and it has to herd the flock closely. But it cannot divide the nation into the Congress men and the non-Congress men.

The Congress leaders do not seem to realise what harm they are doing to the country's emotional

integration. They should introspect why the nation which blindly followed it has mostly left it. Years in the wilderness have not taught the party any lesson. The Congress and the country are not synonymous. At least, the Congress with its long traditions of unity and pluralism should not be guilty of something which the parochial elements may exploit.

If my memory does not fail me, I do not remember even the BJP, during its rule at the centre, convening a separate meeting of the BJP chief ministers to discuss national problems. Probably, the Congress got the idea when the BJP high command instructed its chief ministers not to apply VAT in their states at the time when the rest did.

The BJP has adopted the same attitude of not prescribing the books that the centre has produced. It is going to play havoc with the students -- and the history -- if the books are revised with the change of government at the centre. If the Manmohan Singh government could rise above party interests, it will, indeed, be an achievement.

Kuldeep Nayar is an eminent Indian columnist.