

## Back to confrontation

See reason, refrain from violence

As the two major political parties are again going for a showdown today, we can only hope that they will be judicious enough to avoid a murderous collision course. The 14-party alliance is enforcing a countrywide blockade, while the 4-party alliance has announced their plan to counter it on the streets. So the conditions for eruption of violence are very much present here. But we still expect the parties to avoid a direct clash, and if they do, our fears will be proved wrong.

Things should not have been allowed to come to such a pass where only the road to confrontation is open. The popular expectation was that the parties would reach an understanding, instead of taking the violent course. That hasn't happened and the people will blame the parties for this failure.

It is unfortunate that the problems could not be resolved amicably, but now the parties have to at least make sure that innocent people don't suffer as they did during the agitation in late October. We appeal to them to avoid the kind of barbarity, which resulted in so many deaths and badly bruised our image abroad. Well, it is clearly not enough to say that the dead were victims of mob violence, which could not be controlled. If the political parties cannot rein in their supporters, they should not arouse them to frenzied action, in the first place. The dire need of the hour is that the politicians refrain from making provocative statements, the consequences of which are bound to be negative.

The caretaker government, for its part, has to play a neutral and proactive role so that the parties do not resort to any desperate move. The four-party alliance government, it is widely believed, treated the opposition with undue harshness - a conviction amply supported by mass arrests and police action on the opposition activists. To regain the AL-led opposition's confidence, the government has to treat all the parties equally and dispel doubts that have already crept in regarding its ability to deliver.

The blockade and the plan to counter it are extreme measures that will only add to the great political uncertainty prevailing in the country. The parties must realise the truth and spare us the trouble of having to endure further violence.

## Remarks of the president

Was it necessary?

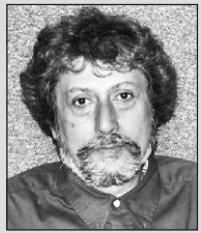
WE would like to think the president who is also the chief of the caretaker government has realised the confusion created by his remarks regarding the nature of the present government. Given the current state of political tension it had conveyed a very wrong signal to the public, apart from eroding the neutrality of the caretaker government. And one cannot fault the people for thinking that the current dispensation was in fact an extension of the 4-party Alliance government. Not only was the comment ill advised, the timing of the statement inexplicable, that had much to do in compounding the misunderstanding. Was it at all necessary?

The president must not lose sight of the fact that he is wearing two hats, whether by compulsion of circumstances or by design, and it is the caretaker hat that invests him with all the executive authority in the same degree and manner as that of a prime minister in a parliamentary form of government. Therefore, any allusion to any other kind of rule was bound to raise apprehensions in the public mind.

However, we are heartened by the clarification of the Bangabhaban and are looking forward to a more dynamic functioning of the caretaker government. Although, in this regard we are constrained to say that the advisors are not being taken into confidence and utilised in the manner they might be. That he chose not to invite them to his meeting with the bureaucrats has added to the apprehension among the people that the advisors are being sidelined. This was another avoidable fallout of the president's meeting with the bureaucrats and his remarks.

We note with disappointment that the council of advisors although have gelled as a team has not been utilised to the full. The authority of the caretaker chief is the constitution and his advisors are equal to the ministers; and this is his actual source of strength. It is for the president and the chief of the caretaker government who must make them act as one team to fulfill the most important task that the Constitution reposes on it - the holding of a free and fair election. The caretaker government, therefore, must rise above all personal likes and prejudices to do that.

## The deception points



SHAHNOOR WAHID

DAN Brown's (of Da Vinci Code fame) novel Deception Point deals with one of the most important features of politics in Washington - deception. Many critiques have labeled the story as "incredible" and "over-stretched," but they have done so only because they have no idea of how the game of politics is played in Bangladesh. Maybe, just maybe, Dan Brown came to know something about us, and our politics and was deeply inspired to write Deception Point.

But we may say this with full conviction that it would take lot more than a cursory look to fathom the degree of deception, intrigue, sham, trickery, and lies that shape politics in Bangladesh. Compared to what has been happening in this country, the plot in Dan Brown's book is mild and bland, and the power-hungry politicians of Washington look like innocuous schoolteachers.

To go a little deeper into the subject, let us start with the power sector in Bangladesh. Can any corrupt government of the world, past or present, match the deception that took place in this sector for the last five years? Citizens

sweated profusely during the frequent and long hours of power outage, and vital factories and industries lost business. And all the while, if you remember, the state minister in charge of the ministry for four years kept giving one explanation after another as to why electricity was playing truant. To pacify angry citizens, he and his team spun stories about how various power plants were being installed and how the modernization of old ones was going on. Accordingly, millions of dollars came to be poured into the sector in the name of improving electricity generation and distribution system. But nothing happened on the ground. While huge sums found their way to the pockets of the syndicate godfathers, the result remained the same -- a big zero.

The classic tale of deception and lies in the history on Bangladesh centered around the rise and widening of the network of some dangerously armed religious fundamentalist elements throughout the country in last five

years. Though the names of some of the ruling party MPs were mentioned in various media and which were also on the record of the police stations of the area. But the government chose to remain on denial mode from day one and its spokespersons kept on spinning incredulous and incredible stories until the day when bombs were exploded by the JMB activists in 64 districts in a synchronized manner.

This particular event and the explosions of lethal bombs in various public places that killed a number of people caused the baffled administration to come out with the worst possible "truth" under the garb of deception. They came out with dubious explanations regarding the rise of the fundamentalist elements, carefully choosing words so that no one could accuse the government of giving them shelter or patronage.

And then at one point of time they chose to play hide and seek game as to the whereabouts and

arrest of the top JMB leaders. It was only after extreme national and international pressure that the law enforcers finally flushed the rats out of their holes.

Even after their arrest, the authorities preferred to play hide and seek in the literal sense of the term. They were taken from one place to another in complete secrecy and they were denied the chance to talk to the media. People wondered what would the extremist elements have to say to the media, and why should the authorities stop them from doing that? Yes, they were given death sentence by the court, but the immediate past government did not have the heart to hang them for the obvious reason of not upsetting some of the Islam pasand political parties. They have to rely heavily on them during the next elections.

The next deception case that will go down in history as unique and unparalleled is the creation of the "Voter List" by the Election Commission. Never before has so



much energy been spent by the authors to produce something so flawed, taking recourse to deception, trickery, and lies. They not only came up with one dubious reason after another to confuse the people, they even showed the audacity to play down the decisions of the Supreme Court and High Court with regard to the preparation of the list that is so vital for holding of a free and fair election.

Last but not least, the intrigue that played the dominant role in the latest political developments in the country centered on the appointment of the chief of the caretaker government. The memory is still fresh in the minds of the readers so there is no point going

over that here. Nevertheless, one has to give full credit to the authors of the cloak and dagger intrigue that kept the entire nation on tenterhooks for days.

The brilliant manifestation of deception and intrigue that we have seen during the last five years would beat the collective creative ideas of not only Dan Brown but also his illustrious predecessors like Alistair McLain, Ian Fleming, Wilbur Smith, and Steve Berry. It would be a lifetime's effort for a novel writer to be able to understand ten percent of the intrigues that shape our politics.

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## Verdict on Saddam



KAZI ANWARUL MASUD

SADDAM Hussein's trial and verdict could constitute a "Grotian moment" defined as a "legal development that is so significant that it can create new customary international law or radically transform the interpretation of treaty-based law."

The Tokyo trial of 1946 established the principle of "command responsibility" -- the duty of a military or civilian commander to prevent military personnel from committing war crimes and crimes against humanity.

The Nuremberg trial followed the same principles in line with the London Agreement signed in 1945 by US, UK, France, and USSR, in which the accused were charged with crimes against peace; war crimes i.e. violation of laws and customs of war; and crimes against humanity such as extermination of racial, ethnic and religious groups and other large-scale atrocities against civilians.

At Nuremberg the judges refused to accept the argument that the accused were not legally responsible for their offences as

these were performed under the orders of superior authorities.

Civilization demands that if there is a conflict between the laws of the land and the commonly accepted moral code of conduct then the legal orders of the day do not have precedence over the other. As the Nuremberg Tribunal put it: "The test is not the existence of the order but whether moral choice (in executing it) was in fact possible."

Though, in the cases of Nuremberg, Tokyo, and Saddam trials, the commonality is found in the fact that all were being conducted by the victors/occupying powers, in Saddam's case the defense raised the argument that the formation of the Iraqi High Tribunal (IHT) by the occupying power (US) violated the Geneva Convention. The prosecution responded that the legitimacy should be found in the ex post facto approval of the Tribunal's statute by the elected Iraqi National Assembly in August 2005.

Professor Michael Scharf has opined that in convicting Saddam Hussein the principles of direct responsibility and command

responsibility establishing criminality has to be established that Saddam Hussein had issued orders for the attacks and the subsequent brutalization of the civilians living in Dujail or failed to prevent or punish subordinates for unlawful acts.

The Tribunal apparently rejected the defense argument that the action taken in Dujail was to punish terrorists who tried to assassinate then President Saddam Hussein. But then the international community could call for a comparison of Saddam's brutalities with those of the occupying powers in terms of necessity, proportionality, and treatment of subordinates.

It is being said that the US had initially tried to persuade the Iraqis to exclude capital punishment from the IHT Statute but failed because it could result in the "paradox of inversion" as seen in the Rwanda Tribunal where the most culpable perpetrators escaped death sentences but the lesser mortals tried by Rwandan domestic courts were sentenced to death.

The Iraqis also wanted to avoid the Napoleonic precedent, that

unless Saddam Hussein and his collaborators were hanged the possibility of a Baathist resurrection could remain a theoretical possibility. Besides international law does not outlaw capital punishment.

Britain, however, being a state party to the European Convention on Human Rights and its two protocols relating to the abolition of death penalty, found it difficult to acquiesce in the execution of Saddam Hussein, despite the British claim of Iraq being an independent and sovereign country.

The Saddam verdict has elicited mixed reactions. Understandably the Anglo-US reactions have emphasized the independence of the Iraqi judiciary and happiness that finally Saddam Hussein has been called to account for his appalling crimes. Neighbouring Kuwait and Iran echoed these sentiments.

But France and Spain have looked at the verdict from different angles. While France fears that the verdict could incite further violence inside Iraq, Spain notes that death penalties are "not provided in any legal system

in the EU."

The UN High Commissioner for Human Rights has called for a moratorium on execution while the UN Special Rapporteur on independence of lawyers and judges has urged immediate establishment of an international tribunal to either reopen the proceedings or consider an appeal process. He has cast doubt on the legitimacy and credibility of the tribunal as it was formed during an occupation considered by the vast majority of the world as illegal.

These arguments are not being given to minimize the brutalities perpetrated by Saddam regime. The arguments are for a fair and transparent trial conducted in accordance with international standards and not influenced by the "primordial loyalties" inherent in tribalism.

It is evident from the fact that while about one thousand protestors marched the streets of Tikrit, Saddam's hometown, the Shiite-dominated South celebrated the death sentence handed out to Saddam Hussein and Prime Minister Nouri al-Maliki hoped that "the execution could partially appease the victims and stop the tears of the widows and orphans" victimized by Saddam's regime.

The Middle Eastern press, by and large, has dismissed the trial process as a farce and

some have predicted that as Iraqis and Arabs in general still view Saddam Hussein as a hero, the verdict will increase his popularity and by contrast make the Americans more unpopular.

A Jordanian paper has posed the question as to when a third case, after Dujail and Anfal, would be held to try the occupiers for "the massacre that took the lives of dozens and hundreds of Iraqis in Falluja or in other Iraqi cities and villages."

Even the Israeli paper Ma'ariv has described "this as the most ridiculous political trial in history," and Ha'artez feels that "a court ordered execution lacks the cathartic power it might otherwise have had. It can neither close a chapter nor open a new era."

Both Iraq and the Arab world will now have to gauge the reaction of the people on the streets about the verdict and then chart their political plans. As it is, these countries are going through a transformational phase of a choice between embracing modernity and going back to the fundamentals of Islam where theocracy will be a mix of both temporal and spiritual powers.

History is replete with periods of brutal dictatorships seen in the twentieth century and before. For civilization to prosper, transparency and accountability are essential ingredients in personal, national and international conduct. This argument alone should have afforded even a vile dictator like Saddam Hussein a non-controversial trial. The world, then, would have been a better place to live in.

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## Taking the bronze



ANM NURUL HAQUE

### BY THE NUMBERS

One does not really need any special research methodology to detect the trend of corruption in Bangladesh, as the corruption is all-pervasive. If any proof is needed about the massive scale of corruption in some of the ministries, it has been provided in the white paper on power sector corruption published on November 8 by the recently formed Liberal Democratic Party (LDP). The white paper said that Tk 6,000 crore was looted during the five-year tenure of the immediate past government.

BANGLADESH has been dropped to third from the first position this year after staying on top of the corruption perception index (CPI) for the last five years. Berlin-based international anti-corruption watchdog Transparency International (TI) released its report for 2006 on November 6 in which Bangladesh has been ranked as the 3rd lowest scorer along with three African countries -- Chad, Congo, and Sudan.

Bangladesh scored 1.7 points last year on a scale of 0-10 and had been at the top of the list of most corrupt countries in the world for five successive years from 2001-

2005. It was ranked 3rd from bottom this year, having scored 2.0. Among the South Asian neighbours, Pakistan was ranked 142nd from the top with a score of 2.2 points Nepal 121st with 2.5 points, Sri Lanka 84th with 3.1 points, and India 70th with 3.3 points.

Finland, Iceland, and New Zealand were jointly ranked least corrupt with 9.6 points while Haiti was ranked at the bottom of the list with 1.8 points, followed by Myanmar and Iraq with 1.9 points each. A total of 163 countries were included this year in the CPI, out of which 71 countries have scores below 3 points, indicating a strong correlation between corruption and

poverty, while industrialized countries have continued to score relatively high on the CPI 2006.

There have been a lot of controversies among the ruling circle on the methodology of research for detecting the trend of corruption in Bangladesh since the country was first crowned as the king of corruption in 2001. The governments that were in power in all these years reacted negatively with increasing venom to TI, even threatening to take its Bangladesh chapter to court for what they claimed was a campaign to spoil the country's image abroad.

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detect the trend of corruption in Bangladesh, as the corruption is all-pervasive. If any proof is needed about the massive scale of corruption in some of the ministries, it has been provided in the white paper on power sector corruption published on November 8 by the recently formed Liberal Democratic Party (LDP). The white paper said that Tk 6,000 crore was looted during the five-year tenure of the immediate past government.

Corruption was in rampant during the whole tenure of the alliance government. The BNP-led alliance government suspended two fertilizer projects on the ground of corruption by the AL govern-

ment, when it came to power in 2001. But Begum Khaleda Zia inaugurated both the over-priced fertilizer plants on September 12, imposing perennial losses on the nation.

According to the TI's corruption database, over Tk 34,550 crore went down the drain from the public exchequer in six years since 2000. On the basis of 3,293 newspaper reports scanned during the year 2000, TI said that the government faced a loss of Tk 17,192.58 crore. TIB came out with the figure of Tk 11,296 crore for the year 2001. The loss of the government was Tk 4,391.67 crore in 2002. It however, came down below Tk 1,000 crore in 2003, but rose to Tk 4,130 crore in 2004.

Around 6,000 allegations of corruption against the political bigwigs, including former ministers and MPs, are pending as the ACC remains dysfunctional since its formation on November 21, 2004. The ACC failed to initiate any investigation of these allegations as it lacks any rules for functioning and the ruling elites have been making the best use of the inactivity of the ACC.

Former law and parliamentary minister Moudud Ahamed, who once claimed the formation of the ACC as a landmark step of his government in fulfilling its election pledge of combating corruption, has now crippled it. Moudud moved against a High Court order on November 1, and got the functioning of the ACC stayed up to January 21 amid growing demands for investigation into corruption of ministers and MPs of the BNP-led alliance government.

Former communication minister, Najmul Huda, who is accused of huge corruption, including CNG import scam of Tk 2 billion, took initiative for leasing 4.16 acres of railway land in a prime location in the capital to a firm for construction of a five-star hotel, without floating any tender and violating rules and procedures. The lease agreement was signed on October 19, only eight days before the step-down of the BNP-led alliance government, and is another glaring example of major corruption.

Bangladesh has also been excluded from the list of countries selected for US assistance that was provided through the Millennium

Challenge Account (MCA) funds for 2007 due to its endemic corruption. Earlier World Bank cancelled and demanded refund of Tk 6.8 crore from three projects for corruption. The international development partners including the World Bank and Asian Development Bank are always coming down heavily on the government for its failure in curbing massive corruption, for which the country is known in the world.

The fundamental problem that lies with corruption in our country is the dominance of the vested interests. The misuse of public power for private gain is the major means of corruption, which has assumed alarming proportions. Corruption is not just taking bribes; it covers a broad spectrum of misdeeds. So, it is not an easy task to curb corruption and it calls for concordant efforts from the government, opposition, and the civil society.

There is no real reason for us to be satisfied with climbing up two steps on the CPI ladder, as the improvement is not a real one. The rude reality lies in the fact that more countries have come under TI scrutiny this year and some other

countries have performed worse than Bangladesh. We fully agree with Prof Muzaffer Ahamed, chairman of the board of trustees of TIB who said: "My personal experience is that corruption has worsened in the country." All people in this country know this harsh truth, as they themselves are the helpless victims of rampant corruption.

The people at large are expecting the ACC to be activated during the tenure of the caretaker government and to take action against ministers and MPs of the BNP-led four-party government, if any specific allegation of corruption can be substantiated.

But Moudud's move is likely to stop the ACC's functioning during the whole tenure of the CTG. Now it is quite clear that the BNP-led alliance government formed the ACC only to hoodwink the donors as well as the people of this country. The people of this country will not have salvation from the curse of corruption until political power is passed on to honest and clean persons.

Anm Nurul Haque is a columnist of The Daily Star.