

# The Bus To Pakistan: Jaw-jaw, Not War-war

Pratul Bidwai writes from New Delhi

**The reason for the apparent Indo-Pakistan thaw is threefold. First, both governments are under international pressure to prove that they can reduce high mutual hostility post-May 1998. Secondly, both Mr Sharif and Mr Vajpayee know that they can score over their domestic rivals and gain some goodwill by defusing tension, at least in some areas. Above all, "bus diplomacy" is an acknowledgment that large numbers of Indians and Pakistanis are fed up with age-old relations of enmity and hostility.**

SUDDENLY, India-Pakistan reconciliation is in the air. A welcome sign of this is the resumption of cricket tests between the two on Indian soil after eight years and the sight of thousands of Indians applauding Pakistani cricketers. There is more cross-border camaraderie too: 35 Indian MPs visiting Lahore — the first such visit ever — activists attending a peace conference in Karachi, and mustachioed Rincollans (alumni of the Royal Indian Military College) sharing a few chota pegs — after decades. Amidst this comes the news of Mr Atal Behari Vajpayee's plan to ride the first bus service to Lahore. Mr Vajpayee has his own domestic motives (trying to win minority support), as does Mr Sharif, in resorting to "bus diplomacy". But that should obscure the importance of what is happening.

I say this despite the extremely dim view I take of Hindutva, its pathological anti-Pakistan agenda, and the dismal performance of Mr Vajpayee's government, as well as Mr Sharif's. "Bus diplomacy" is a good thing because the two governments have implicitly come to acknowledge the need to mend their tattered relations.

They are for the first time doing so bilaterally, without bringing in third parties. This represents a gain even if the dialogue does not produce quick results. So, the more the bus trips, and the greater the mutual official competition to appear reasonable and generous, the better for us.

"Bus diplomacy" is not the result of some new-found wis-

dom after India and Pakistan's nuclearisation. Nuclear weapons don't instill sense or sobriety. The US and the USSR came to the brink of nuclear war innumerable times. The USSR and China fought a bitter conventional war for years across the Ussuri river. Nuclear deterrence is not just immoral; it is fragile and fallible.

India and Pakistan have not even begun to acknowledge the risks and dangers of their nuclearisation. They are still trapped in boastful "my-bomb-is-bigger-than-yours" rhetoric. Their rulers and generals have little confidence in, or firm knowledge of, each other's capabilities, preparations or doctrines, which are shrouded in secrecy. They cannot switch to transparency mode and suddenly start negotiating risk reduction.

The reason for the apparent Indo-Pakistan thaw is threefold. First, both governments are under international pressure to prove that they can reduce high mutual hostility post-May 1998. Secondly, both Mr Sharif and Mr Vajpayee know that they can score over their domestic rivals and gain

some goodwill by defusing tension, at least in some areas. Above all, "bus diplomacy" is an acknowledgment that large numbers of Indians and Pakistanis are fed up with age-old relations of enmity and hostility. They know that scare-mongering about the "enemy" obscures misgovernance and domestic policy failures.

Popular aspirations for normalised Indo-Pak relations make the new thaw both interesting and potentially durable. Popular sentiments are for the first time becoming inputs in the shaping of India-Pakistan relations. If there is one loud and clear message from opinion polls, from resolutions of the Pakistan-India Forum for Peace and Democracy, from Track-II exchanges between military leaders and NGOs, it is that ordinary citizens want an end to India-Pakistan enmity.

The vicious cycle of threats, military preparations, further threats and more hostility... That is why official cussedness in not granting visas to more than two journalists "from the other side" has not prevented 20 Indian publications from recruit-

ing stringers in Pakistan. The 1990s have seen more cultural exchanges across the border than any other decade. There have been dialogues involving trade unionists, between industrialists, among social scientists, and most impressive, between schoolchildren. There is a vibrant programme to promote secular-democratic values, called "Khoj", between schools in Bombay and Karachi.

This exchange will grow as the Delhi-Lahore bus starts plying. The bus, it can be safely predicted, will prompt a demand for more, freer visas, and re-opening the Bombay and Karachi consulates, which bureaucrats will find hard to resist. The exposure of Indians and Pakistanis to one another's cities, cultures, monuments and homes is extraordinarily important. Our stereotyped view of each other as monsters and villains will come under questioning. This will weaken the prejudiced preconception that Hindus and Muslims cannot co-exist, and that India-Pakistan hostility is inevitable.

True, this is not going to cause a foreign policy revolution. After all, Kashmir is not

an easy issue. India cannot be persuaded even to admit it is a "dispute". And for many Pakistanis, Kashmir represents the "K" in Pakistan's primary identity.

But citizen-level reconciliation could at least generate a countervailing force. It will promote the realisation that our problems are largely domestic in origin.

We must take a mature view of how relations between states get shaped. Thorny disputes can take decades to resolve. But that need not prevent less thorny issues from being sorted out. There is no reason why we cannot straightaway resolve Siachen and Wular, build up trade with Pakistan, and allow free exchange of books and periodicals, even while engaging in long-winded talks on Kashmir and nuclear restraint.

Jaw-jaw is always better than war-war. The scope for improving India-Pakistan relations is huge. Clandestine trade between them alone runs at \$2 billion, or over 10 times India's exports to Pakistan. This should be brought overground.

Most narrow differences in the prices being quoted for power purchase from Pakistan, itself welcome. India should not try to beat the price down to three cents a unit, when it is itself contracting private licensees domestically at six cents. People who were born on the other side of the border should have the right to visit the place of birth at least once in a lifetime. If the bus service opens the way to this, it will have served a good purpose: political motives notwithstanding.

None of these issues is a national issue. None of these emerges from any policy decision of the government. In regard to removal of the CEC, the government has little to do. The government may pressurize the CEC for resignation. That will not be ethical. At the same time general public have a right to know the specific charges substantiated against the CEC. To our knowledge, the CEC remained as one of the most competent civil servants in the country throughout his career.

BNP alleged on 4 Feb. 1999 that CEC was behaving like "an activist of Awami League". A few days later a member of the BNP advisory committee calls the CEC as "suave and bright" and advises him to resign because his predecessor justice Sadeq also resigned. The advice of the BNP advisor is not clear as to why the present CEC should resign. Is it because BNP chairperson desires it can there be any sense in it? If the CEC is a strong Awami League sympathiser, how BNP could win by-elections in Manikganj and Barisal?

One of the recent demands of BNP was to select CEC from among the judges and not from among civil servants. If BNP cannot have trust in the bureaucracy how can it run the

# Hartal : Is There No Alternative?

by ABMS Zahur

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government if it ever comes to power. In one of her recent public meetings BNP chairperson sought the cooperation of bureaucracy. Is it not inconsistent? No doubt with consistency a great mind has nothing to do.

Reform of the commission if at all necessary cannot be done quickly. It is a lengthy procedure and needs considerable time. The introduction of identity cards for voters also needs 2/3 months. In fact hartal will be a major cause for delay. Release of political prisoners can be an issue for discussion in a cool and peaceful atmosphere between the government and the pro-hartal opposition parties.

Apparently the unity of the seven parties aims at capturing power at any cost. The reason for Jamaat to unite with BNP is understandable. Without the omission of proviso of art. 138 of Bangladesh constitution (right to freedom of association) in 1976 the party could not have reborn. The existence of Jatiya Party as a major one is at stake. Already a few senior members of the party refuse to tow with Ershad who is yet to prove his worth — fully competent to clearly represent a government of the people and by the people. His present image may not help BNP to brighten its prospect for increased acceptability.

Let us discuss in brief about the activities of Awami League. No doubt that as party in opposition they resorted to hartal for 173 days. This certainly obstructed the smooth running of the BNP government. The general public were not happy about the way the Awami League was causing losses to the public. The Awami League may openly admit that their political struggle resulted in impeding economic development. They may explain that without resorting to hartal they did not have any other alternative. We find no harm if Awami League appreciates certain good deeds of the past regimes. This will not be harmful for the party.

Majority of our people may be illiterate and poor with little opportunity or capability to be aware of the development efforts of the governments. They can understand the good deeds and the bad deeds. Twisting a truth may temporarily help to overcome a crisis but it does not help in the long run to build an image. Confrontation in the form of street rallies and processions not only increases the determination of the opposition it also helps in strengthening their unity. The independence movement of Bangladesh gathered strength from the repressive measures of Pakistani government. None is more con-

versant about this truth than Awami League which was struggling for the rights of the people since its birth in 1949.

It would be wrong to assume that hartals for 173 days helped Awami League to win the June 1996 election. The main reason for Awami League's coming to power was the farcical election of Feb. 1996. This election gave impression that BNP was more interested in retaining power and less interested in people's welfare. If BNP for that matter the allied parties for that non-participation in the pourashava election may bring the national election they are mistaken for the following reasons:

i) It is not correct to equate national election with local government elections. National elections are fought on party basis, whereas pourashava elections are non-party elections.

ii) A number of pro-BNP candidates are contesting in the pourashava elections. If some of them are elected that may be embarrassing for the party.

iii) A substantial portion of BNP (particularly the younger ones) has not fully accepted the idea of joint political programmes with a deputy like Ershad. The students' wing of BNP never liked Ershad. (The role of the students for winning the 1991 election was critical for BNP).

iv) Close association with Jamaat may not be palatable for freedom fighters in BNP.

v) Majority of the front ranking BNP leaders are without adequate political background and depend heavily on the good wishes and popularity of the chairperson. It is extremely doubtful if such leaders will be able to utilise the opportunity that may be created due to the mistakes or folly of the Awami League.

People in general appear to be interested in the pourashava elections. Submission of such a large number of applications in the face of hartal call indicates the degree of their enthusiasm. The agitations of the opposition parties may not dampen their spirit for participating in the elections.

Under the circumstances it appears to be appropriate for the pro-hartal parties to concentrate on one point, i.e. release of political prisoners. This need dialogue between the Awami League and the pro-hartal parties. The President may be approached by both the sides for mediation so that peaceful atmosphere returns to the country recently ravaged by the unprecedented flood.

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# Is Vajpayee's Visit to Lahore by Bus a Cosmetic Exercise?

by Barrister Harun ur Rashid

**Although the bus travel by the Indian Prime Minister could be perceived as a symbol of reconciliation, the fact of the matter is that both leaders seem to have ducked the big things which underpin the good neighbourliness and the stability of bilateral relations.**

to be seen as so powerful as not to be accommodating or friendly with each other. They sometimes come through to outsiders as uncompromising and tough against each other. They appear to give impression that they need not consider each other's wishes.

The foreign policies of both countries seem to oscillate between extreme toughness and sweetness. In my view, this contradiction arises from the antagonistic relations between India and Pakistan on the Kashmir dispute. India wants to show that it does not lose Kashmir territory and any compromise on the Kashmir issue mean humiliation. Pakistan, on the other hand, appears to be equally adamant not to compromise its claim on the Kashmir territory in its totality.

The Pakistan Prime Minister's proposal and its acceptance by his counterpart in India demonstrate the dichotomy

in action of both leaders. It mirrors the perplexity as to how to reconcile the conflicting noises made out by them at various times.

There is a view that the chief purpose of the proposal of Pakistan and its acceptance of India is to shore up their standing before their own people and the international community that the relations between the two countries are on an even keel and warm and the strained relations arising out of the nuclear tit-for-tat response last year are a matter of the distant past. Both countries wish to be seen as responsible and want to dispel the fear that the nuclear weapons rivalry would not proceed in the sub-continent. Another purpose appears to be to convince the US to end the economic sanctions imposed upon both the countries soon after the explosion of nuclear devices.

Behind this apparent sweetness and cordiality, both coun-

tries seem incapable of dissipating the suspicion and ill will which infected their relations, principally because of the Kashmir dispute. Until and unless the political leaders of India and Pakistan take political risks and compromises to settle peacefully the Kashmir issue, this cosmetic exercise of public relations is of no lasting use. Although the bus travel by the Indian Prime Minister could be perceived as a symbol of reconciliation, the fact of the matter is that both leaders seem to have ducked the big things which underpin the good neighbourliness and the stability of bilateral relations.

The question that arises is: can the leaders of the two countries take political risks at this time to resolve the key issue of Kashmir? The simple answer appears to be: No. Both of them appear to be in trouble politically in their home countries. Indian Coalition Gov-

ernment led by BJP does not seem to be stable and the Congress President Sonia Gandhi thought it might lapse soon. On the other hand Nawaz Sharif in Pakistan is seen increasingly dictatorial and disingenuous. His government action against the media and the institution of military tribunals in Sindh are cited as instances. Strong and stable government is able to deal with delicate issues, such as the Kashmir dispute. In the absence of stable government in both countries, both leaders are likely to avoid the real nitty and gritty issues affecting adversely the bilateral relations.

If diplomacy is about getting your way by convincing the public that it is in their interest the two leaders are to meet on 20 February, both leaders appear to have scored victories. But if it about resolving the key issue (Kashmir issue) vitiating the atmosphere of bilateral relations, it cannot be counted a success. I would argue that the proposed February meeting exposes limitations of the foreign policies of India and Pakistan.

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# A Human Rights Commission—Crying Need of the Hour

by A S M Mobaidul Islam

**In Bangladesh, we are yet to constitute any Human Rights Commission but the matter is reportedly under the active consideration of the government. Though there are some voluntary organisations who have been rendering services in respect of violation of human rights cases but that cannot be a substitute to the Human Rights Commission, which will have the force of law with ample power and jurisdiction to establish, enquire, protect, educate and promote human rights in the society.**

IT dates back to the 17th century when political philosopher John Locke gave the ideas, as natural rights of human being, which are now in an elaborated way recognised as fundamental rights, and these are rights to life, property, liberty, justice, assembly etc. The foundation of the fundamental human rights was laid in the establishment of the UN in 1945 and preservation and promotion of these rights were embodied in the relevant section of the UN Charter. "Human rights" which are inherent without which we cannot live as human beings. Human rights and fundamental freedom allows to fully develop and use our human qualities, our intelligence, our talents and our conscience and to satisfy our spiritual and other needs. They are basic for mankind's increasing demand for life in which the inherent dignity and worth of each human will receive respect and protection". (U.N. 1992).

All member States of the UN are under obligation to protect and promote fundamental human rights of their citizens in clear and unambiguous terms. Bangladesh as a member of the UN implies and imposes responsibilities in the field of protecting and promoting human rights.

Constitution of the People's Republic of Bangladesh in part II Article II states "The Republic shall be a democracy in which fundamental human rights and freedom and respect for the dignity and worth of the human person shall be guaranteed, and in which effective representation in administration at all levels shall be ensured."

Part III of the Constitution is devoted exclusively to fundamental and justifiably right. All citizens are equal before law and entitled to equal protection of the law. There shall be no discrimination on ground of religion, race, caste or sex. Personal liberty and right to life are also guaranteed and no action detrimental to the life, liberty, reputation or property of any person shall be taken except in accordance with the law. All forms of forced labour are prohibited and no person shall be subjected to torture, punishment, arrest or detention. Freedom of thought, association, speech and expression of every citizen is guaranteed as is the freedom of the press.

In view of the above it is crystal clear that there is emphasis and commitment both from national and international level regarding enforcement of human rights. Neces-

sary laws are in place. Constitutional provisions exist, the problem for us is to translate these into reality, to give an institutional shape. There is no denying the fact that human rights is a complex and evolving concept involving many aspects and component which are closely interlinked and cannot really be separated from one another. But it is essential to take steps for enforcement of human rights specially when we notice the most vulnerable sections of citizens i.e. women, children and some innocent citizens are subjected to different types of oppression, torture, detained and deprived of their right. Cases of torture and abuse of power by law enforcing agencies specially by the police, have also made the people of our country concerned. Poor and disadvantaged groups are also not in a position to enjoy their rights and privileges sometimes because of their ignorance of their rights and most of the times they are deprived because they belong to disadvantaged groups.

Let us have a glimpse of the Gender issue and that specially with reference to our society. The following table reflects the upward trend in violation of human rights of women which is simply horrible despite number of enactments to stop these criminal activities and establishment of different courts and tribunals for expeditious disposal of cases.

Type of offence	1985	1990	1991	1992	1993	1994	1995	1996	1997
Rape	248	407	392	749	335	235	651	1415	2224
Acid throwing	14	21	20	29	39	19	51	83	117
Downy	9	8	79	101	134	122	267	554	7487
Murder	1712	1904	1500	1879	2289	805	1787	1839	2426
Torture	64	250	200	217	350	469	838	1664	2129
Kidnapping	23	30	28	18	17	19	49	138	245
Women trafficking	4	12	18	32	23	18	55	65	2

Source : Women & Children Affairs Ministry's cell.

There is widespread perpetration of all types of crimes like rape, physical torture, acid attack against women belonging to all socio-economic levels. Though sometimes cases and complaints are reported but not to be registered by police and investigation are not properly undertaken. Even sometimes charges are brought against but the percentage of conviction is very negligible despite number of enactments to impose deterrent punishment and also existence of special courts to try such offences. The number of

where adequate time is also not given and thereby the grievances of the detainees, UTPs, convicts and inmates in the custody remain unattended. Police power i.e. Section 54 of the Criminal Procedure Code is another weapon by which the human rights are seen to be butchered in many cases. In the recent past, a number of incidents attracted the attention of the conscious citizens. Torture and wrongful confinement in police custody have become another reason of grave concern

and violation of human rights has become a regular and routine matter in such cases.

Delay in investigation, submission of reports (FRT or C.S.), apprehension of suspects/offenders and their production before the competent authorities causes recurring delay to start with the process of trial. Delay in disposal of cases and thereby discharge of justice specially to the inmates in custody also causes lot of harassment and expenditure to the parties involved and there also we find violation of human rights. A recent news published in a section of press late last year gives a horrifying picture of congestion of inmates in the Dhaka Central Jail. A total number of more than 7000 human beings have been kept within a space where only 2300 persons can be accommodated. The condition of the female ward is more inhuman where 700 human heads including children have been dumped where only 75 can be accommodated. The hygiene condition is not definitely beyond question and surely it is a glaring instance of violation of human rights amounting to offence. There may be hundreds of pleas or justifications for such inhuman activities and behaviour towards the inmates of jails, but against whatever grave charges they are brought in, they must not suffer beyond the provisions of law.

The constitution of the People's Republic of Bangladesh in part-II article II has ensured "the participation of women wherein it is stated "Steps shall be taken to ensure participation of women in all spheres of national life." Article 28(2) part III provides "Women shall have equal right with men in all spheres of the state and of public life" while 28(4) states "Nothing in this article shall prevent the favour of women or children or for the advancement of any backward section of citizens."

As has been stated earlier, children in Bangladesh form another most vulnerable group and most of them are deprived of their human rights and subjected to inhuman torture and humiliation. Let us try to look at the definition of a child. The majority Act of 1875 de-

scribes a person as child who is below 18 years of age. The Bengal Children Act of 1922 (repealed) described a person as a child who is below 14 years of age and the same age is applicable in respect of Vagrancy Act, 1943. The Children Act of 1974 describes a person as a child who is below 16 years of age.

Gender is also of vital importance in determining between a child and an adult. Child Marriage Restraint Act 1929 describes a person as a child under 21 years of age in respect of a male and 18 years of age in respect of a female. A person when attains puberty no longer remains a child as per Muslim law whereas a child attains majority on completion of 15 years of age as per Hindu law in Bangladesh.

The United Nations Convention on the rights of children, 1989 which is considered as "Magna Carta" for the children has unequivocally designated all persons as children who are below 18 years of age. In our neighbouring country, Sri Lanka, Special Rights of Children Act stated below, proposed for constitutional reform in October, 1997 reflects major rights of the children as per UN declaration. Every child has the right—

- \* to a name from birth;
- \* to be protected from maltreatment, neglect, abuse or degradation;
- \* to family care or parental care or
- \* to appropriate alternative care when removed from the family environment;
- \* to basic nutrition, shelter;
- \* basic health care services and social services.

As a signatory to the UN Declaration on the Rights of the Child in 1990, Bangladesh has been demonstrating through laws, acts, programmes to uphold, protect and promote children's rights which includes children's Human Rights, through governmental and non-governmental organisations.

But a glimpse of reports in some dailies and periodicals of our country reflects a very gloomy picture regarding violation of human rights of the children in our country,

whereas they are to receive protection from harm and abuse and develop their full potential as human beings. They are being tortured as servants and maid servant, used for commercial sexual abuses, being bought and sold like slaves of primitive days through trafficking to countries including the Middle-East where they are used for various immoral and unsocial activities. Children of even seven years of age are used as jockeys only to lose their lives in most inhuman ways.

We may not be able to bring a drastic or dramatic change to put an end to all such activities overnight but efforts are being taken by some voluntary organisations to address the problems and sometimes by rendering services to the victims by providing monetary help and playing advisory role. But this is not at all enough to cope with the situation when offences like gross violation of human rights are increasing rapidly. Lessons on social and moral values will have to be taught, nourished and nurtured at all levels and side by side there is no alternative to the establishment of Human Rights institution by the government. "This institution will be fully independent, neutral, free from pressure and will have the access to any documents/papers/materials of any office and institution both government and non-government. As for instance we can take up cases of India and South Africa who have developed Human Rights institution and by now it has taken an institutional shape."

India with a view to protecting human rights and for matters connected therewith constituted National Human Rights Commission and State Human Rights Commission in 1993 under Protection of Human Rights Act, 1993 which came in force with effect from 28th Sept 1993. In this Act as per provision of article 2(d) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the international covenants and enforceable by courts in India.

The central government shall constitute a body to be

known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to it under the Act. The Chairperson of the Commission shall be a person who has been a Chief Justice of the Supreme Court. Among the members there will be one judge from the Supreme Court and another the Chief Justice of a High Court either in service or retired and two appointed members. No sitting judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except under consultation with the chief justice of India.

The chairperson and other members shall be appointed by the President on recommendation of a Committee headed by the Prime Minister where Speaker, Leader of the Opposition, Minister in Charge of the Ministry of Home Affairs, among others, are members. The Chairperson and the Members of the Commission are appointed for a period of five years and shall be eligible for reappointment until the age of seventy years.

The Commission has got wide range of powers and functions and among others it is empowered to inquire, suo moto or on a petition presented to it by a victim or any person on behalf of the victim, into the complaint of—

- violation of human rights or abetment thereof or
- negligence in the prevention of such violation, by a public servant;
- intimation in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- visit, under intimation, any jail or any other institution under the control of the Government, where persons are detained or lodged for purpose of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;
- review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- undertake and promote research in the field of human rights;
- spread human right literacy and promote awareness through publications, media, seminars and other available means;
- encourage the efforts of non-governmental organisations and institutions working in the field of human rights etc.

power to hold inquiries and also can investigate as per procedure laid down in the Act and can arrange for speedy trial of offences arising out of violation of human rights with the concurrence of the chief justice of the High Court, by notification, specify for each district a court of session to be a Human Rights Court to try the said offences. There shall be a public prosecutor appointed by government for every Human Rights Court.

In India, since the establishment of Human Rights Commission it has received a large number of cases of human rights violation both from the members of the public and from the persons in the government. They enquired into the petition/allegations and suggested for action as per provisions of law. In South Africa, since the establishment of Human Rights Commission in 1994, it has been carrying out its activities as per mandate in the Act very successfully and the people have reposed trust in its activities. In the Composition of the Commission, though slightly different from that of India, the member including the Chairperson are appointed by the President.

In Bangladesh, we are yet to constitute any Human Rights Commission but the matter is reportedly under the active consideration of the government. Though there are some voluntary organisations who have been rendering services in respect of violation of human rights cases but that cannot be a substitute to the Human Rights Commission, which will have the force of law with ample power and jurisdiction to establish, enquire, protect, educate and promote human rights in the society. It is expected that the Human Rights Commission likely to be established in our country will work like watchdog on the government functionaries apart from looking into the complaints and petitions on different types of violation of human rights. It may be a complementary organisation but must be absolutely non-political, neutral, without any bias to anybody. There may be interactions between the Human Rights Commission and different government machinery at frequent intervals which may help the government to be just and transparent in serving the cause of the poor, and the poorest of the poor in the society, ultimately leading to services to the distressed and deprived millions of the country, consolidate democracy and establish rule of law in the society as a whole.