

Here we go again

AL does not seem to understand that hartal only punishes the people and not the government

It seems to be so difficult to extend an unalloyed compliment to our political parties. If they do one thing right, they counter it by doing more things wrong. Just as we were preparing ourselves to compliment the Awami League for its decision to join the parliament (which actually amounts to ending a stubborn foolishness that really does not deserve any compliment) we have been rendered a body blow with the opposition party's decision to go for a hartal. What is the purpose for this economy-damaging action? If it is to raise public awareness about the so-called "anti-people" budget or to condemn the murder of the BUET student then why not go for massive public demonstrations? Why not hold public meetings in major towns of the country and mobilise the people behind the AL's point of view? Those are the hard options, and require hard work to implement. Party workers and leaders will have to get out on to the streets under the hot sun or a pouring rain and spend some money (a lot now a days, we are told) and even face hostile reactions from the people in general, who have long rejected hartals as suicidal.

On the contrary, to call a hartal needs nothing. Just publish a press release and then use some innocent under aged street children to break some cars that may venture out or harass some rickshaw puller (who cannot enjoy the luxury of a hartal because he has a family to feed), hold a demonstration of a handful of people near the zero point -- and you have a "successful" hartal. And of course end the day by congratulating the people for "spontaneously" participating in the hartal.

When will our political party's sadistic attraction for hartal end? We have written it many times and we repeat it today that hartal as a political weapon has been discarded all over the world, and it is time that we do so here. Is there no one in Awami League, a party with such a glorious and eventful past, a party that played such a pivotal role in our independence struggle to tell its leaders that they-by calling hartals-are destroying the country they helped to create. They are appearing more and more as a party out of tune with the economic realities of the time, a party out of line with the notions of competitiveness of a globalised economy, a party out of rhythm with the concept of time (what is a purposeless hartal but waste of a nation's time) in the age of Information Technology. AL must extricate itself from the prospect of these damaging images sinking into people's mind.

Final point, whatever happened to Sheikh Hasina's promise as the PM that she will never call a hartal again, even when in the opposition.

Afghan assembly inaugurated

An opportunity presented for national reconciliation

LOYA Jirga, the traditional grand assembly of Afghanistan belatedly opened on Tuesday after some initial hiccup. The delay has been caused by behind-the-scenes spade-work designed to ensure 'national unity' on the choice of the future head of government in Kabul. The primary task before the Jirga comprising 1500 delegates from across the country and the Afghan Diaspora is to select a new government following the expiry of the interim government headed by Hamid Karzai. By hindsight, the latter was a compromise choice of a crisis group put together in Bonn by an international coalition on December 3 last year in the wake of the US invasion of Afghanistan.

Aside from selecting a longer-term interim administration, so to speak, the grand assembly is expected to address the broader and far-reaching issue of paving the way for establishing a democratically elected government in Afghanistan. Opinions that were not heard before would be ventilated now reaching out to a wider Afghan audience at home and abroad.

The government that emerges out of the participatory process in the grand assembly will have the onerous responsibility of carrying forward national reconstruction and relief activities that were often impeded by armed fights between war-lords who occasionally challenged the authority of Karzai.

However, the latter seems set to head the upcoming government of Afghanistan. Under the US pressure, ex-king Zahir Shah, 87, who had earlier indicated his willingness and availability to serve his country in any capacity that the Jirga deemed fit for him has stepped aside for Karzai. Even former Afghan president Burhanuddin Rabbani who had expressed his intention to contest Hamid Karzai for the post of the head of state has also stood down.

Ex-king Zahir Shah who arrived to an enthusiastic reception in Kabul after three decades of exile in Italy retains the potential to play a unifying role in a divided country. He has eschewed monarchy thereby firmly committing himself to a democratic agenda. He can not be ignored in any way as he represents the majority Pastun community. It would, therefore, be wise for Karzai to cultivate King Zahir Shah as a sobering influence on an otherwise bristling ethnic matrix of the Afghan society.

Bangladesh and International Criminal Court



HARUN UR RASHID

THE setting up of permanent International Court came into reality when on 11 April last, 60th instrument of ratification of the Statute of Rome of 1998 was deposited with the UN, a necessary condition for its existence. The UN Secretary General called the setting up of the Court as "a giant step forward in the rule of law that a few years ago nobody would have thought possible." The need for setting up a permanent Court was felt as a deterrent for horrendous crimes perpetrated on individuals by despots and dictators on their nationals during peace and civil war situations.

The Rome Statute was adopted and signed by 120 countries in 1998 after a five-week long conference in Rome. Only a few countries did not sign it (China, Algeria, Libya, Israel, the US and Yemen). The Clinton administration later decided to sign the Statute but this month the Bush administration withdrew its "signing" from it, much to the disappointment of many countries.

The Court will come into being on July 1, 2002. The first assembly of States which ratified the Statute will be convened in September to elect 18 judges who will sit on the bench at The Hague. It will fill a void in not being able to put on trial many lead-

ers responsible for gross atrocities, often against civilian population. They escaped from trial because there was no permanent International Criminal Court.

The idea of a permanent International Criminal Court is not new. In the aftermath of the Second World War, the Nuremberg and Tokyo Criminal Tribunals were established in 1946 to try top German and Japanese war leaders of committing the most heinous international crimes,

individuals who are responsible for international crimes. In other words, individuals are to be treated as "subjects" under international law and that those individual persons are accountable and stand trial under international law.

International crimes fall under the 'universality principle', meaning that they are so repugnant to humankind that every State can arrest and prosecute those accused or extradite them to another State for putting

international crimes. The UN Security Council set up in 1993 and 1994 two Adhoc Criminal Tribunals -- one at The Hague to deal with atrocities in Bosnia and Kosovo and the other in Arusha (Tanzania) to try accused persons of genocide of Hutu and Tutsi tribes in Rwanda. Once the trials are over the tribunals will disappear. That is why the establishment of a permanent International Criminal Court is seen as a milestone in the development of interna-

The Court will have jurisdiction over persons only when an alleged international crime is committed by a citizen of a ratifying country or if a crime occurs in the territory of a ratifying country. However, the UN Security Council is empowered to refer a situation to the Court if a country does not hold trial for the accused persons. The powers are reasonable and reflect well-established principles of international law. The Court will be able to

1, promotion of respect for human rights and fundamental freedoms for all has been included.

The Statute of Rome is based on respect for human rights and fundamental freedoms. Its purpose is to enforce law on an individual who grossly violates human rights. Bangladesh had been a scene of international crimes in 1971 by Pakistani soldiers. Had there been a permanent International Criminal Court, the 195 Pakistani military officers who were accused of their alleged commission of international crimes would not have gone unpunished.

It is desirable that Bangladesh may consider ratifying the Statute of Rome before 1st July, if not already done. Some benefits could flow to Bangladesh for its ratification. *First*, Bangladesh can put forward a candidate to the Court as a judge because only ratifying countries are entitled to nominate a candidate. It will be able to participate in the deliberation of the procedures and rules of the Court. *Second*, Bangladesh will be seen as a party dedicated to upholding principles of international humanitarian law. *Third*, Bangladesh will have the primary jurisdiction to bring to justice in the country under Bangladesh laws and within the existing system any person who commits international crimes within Bangladesh or any Bangladeshi national who may commit such crimes elsewhere. *Finally*, Bangladesh will retain an effective "watching brief" over the activities of the International Criminal Court.

Barrister Harun ur Rashid is a former Bangladesh Ambassador to the UN, Geneva.

BOTTOM LINE

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such as genocide, crimes against humanity and war crimes. The Tribunals found many of them guilty and they were executed.

Traditionally, individuals were considered as "objects" and States were "subjects" consequently of international law. This implied that individuals could hide themselves under the "veil of States". Since individuals were treated as citizens of a State, only States could put them on trial. That position was changed by the judgments of the Tribunals.

The Tribunals had laid down a very important principle of international law when it held that "Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced". Simply put, the arm of international law will extend to those

them on trial. This means that any State can arrest an individual even if that person is not its citizen or if the scene of such crimes does not fall within its territory.

The arrest of former President Pinochet of Chile (1973-90) in Britain in 1998 on a request of extradition from Spain was an instance in point. At present development of humanitarian law has reached a point that no dictator will be safe enough from clutches of law when he travels to a third country. The joke that "if a person kills another goes to jail but if he kills 20,000 he goes to Geneva for peace negotiations" is outdated in the context of advances in international law.

Enforcement of humanitarian law is getting stronger day by day. At the dawn of this 21st century, there is an opportunity to bring to justice persons who are accused of committing

tional humanitarian law.

Court's jurisdiction

The Court works on the principle of complementarity devised to preserve sovereignty of States. This means it is a Court of last resort. It will only operate where a state is unwilling or unable to put on trial persons alleged to have committed international crimes. It is a safety net for the failure of national legal systems. The prosecutor of the Court will be subject to controls and will have to seek approval from a chamber of three judges for investigations and prosecutions. This mechanism has been provided to ensure that there exists a sound legal basis for proceeding with investigation and to avoid politically motivated prosecutions. The decisions of the chamber of the Court are also subject to appeal to another chamber of the Court.

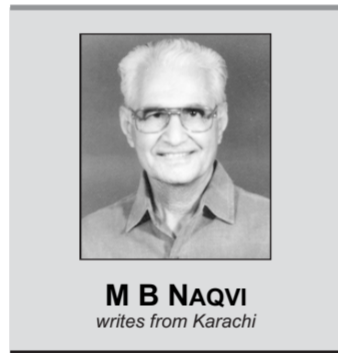
put on trial the accused for crimes committed after July 2002. The jurisdiction has not been made retrospective.

Bangladesh's suggested position

Bangladesh has a deep commitment to the rule of law and to democratic principles under the 1972 Constitution. Furthermore, the legal and judicial systems in the country are well established, just and fair and independent of the executive. Article 25 of the Constitution stipulates that "the State shall base its international relations on the principles of.....respect for international law and the principles enunciated in the UN Charter." This may be interpreted to mean that Bangladesh is bound by both customary and conventional rules of international law and by the principles described in Article 1 of the UN Charter. Among the principles enumerated in Article

Clouds of war and fears of nuke dissipate

Will polls in Pakistan be held in October?



M B NAQVI
writes from Karachi

THANKS to the foreign mediation -- yes, it was mediation except in name -- clouds of war and fears of nuclear escalation have more or less cleared from South Asia's horizon. Most Pakistanis will heave a big sigh of relief, though not all. There are those in the religious lobbies -- the true extremists even among the more radical religiously-oriented groups -- who are beside themselves with anger at Gen. Musharraf's perceived chicken-heartedness in first buckling under American pressure to ditch the Taliban regime and has now betrayed Kashmiri Jihad under the combined pressure of India and the other foreign powers. The world looks fated to hear more from these groups in days to come.

Whatever the truth about the origins or inspiration behind the new Hizb-i-Alami, or whatever is the correct name of this shadowy outfit, it is supposed to be committed to overthrowing the Musharraf regime. It is said to have owned up several terrorist acts. Among these is the bombing of a Protestant Church in Islamabad, the May 14 act in the Jammu area and the earlier suicide bombing attack on a bus of Pakistan Navy that was carrying 12 French engineers engaged in building new submarines. Not only this particular Hizb but many other extremist (read terrorist) organisations want nothing so much as a war between Pakistan and India, including its

graduation into the nuclear stage. They apparently find the prospect acceptable. Their minimum expectation from the war is the downfall and disgrace of Gen. Musharraf. But is there more to it? Who knows.

Meantime, the lifting of the war clouds has suddenly brought the political agenda of the military regime into sharp focus. Time is running out on it. Gen. Musharraf had only three years. He was 'mandated' to enable the country to get back on to the democratic rails by

They are, in critics' view, simple dictation by IMF of what economic policies to follow, leaving little leeway for Pakistan's own authorities to depart from the straight and narrow as laid down by IMF. Most Pakistanis are sceptical about what the IMF prescription will do to Pakistan. They fear that already poverty's growth has been rapid under IMF conditionality -- that are at least 22 years old -- as a result of growing unemployment. Social services have been grossly

do so, of course. Hasn't other Martial Law dictators amended the Constitution of the day as they willed? And hasn't the apex court, in its inscrutable wisdom, given him an unasked for authority to amend the Constitution? True, there are so many who feel outraged at the idea that a man emerges on a white charger from the shadows and will grab the whole political system and starts changing laws and mangles the Constitution to suit his expediencies. These people refuse

ter and composition of the new National and Provincial Assemblies that are to be elected on 7th and 11th of October next. If they comprise Musharraf supporters by any chance or contrivance, Musharraf has nothing to worry about; they will rubberstamp all his actions. But if they comprise a majority of PML (Nawaz) and PPP (Benazir), he will face a major crisis of his life -- bigger than any he has faced so far. He will be on a dilemma: either he refuses to accept the results of the

government.

A lot rides on the nature of the polls. The outside world is irrelevant. Pakistan's own future will be at stake. The Army, through Musharraf's amendments wants to perpetuate its control, stranglehold as some would say, over the whole political system; these amendments will comprise additional and extraordinary powers of the President to oversee all the governance processes and shall have the ability to dismiss the Parliament (and Assemblies) and the governments responsible to them either off his own pen or on the recommendation of a National Security Council, with a majority of generals, which Musharraf wants to be empowered to recommend the suspension of the Constitution and dismissal of the normal elected governments and a few other measures.

The biggest worry of all aware citizens is whether the polls will actually take place; they can be postponed with the willing and cooperative permission of the apex court. It has throughout history given judgements in sensitive cases that pleased the dictator of the day. That postponement will create a crisis that Musharraf will be able to handle for some time. But if the polls are held and they are not free, a bigger crisis will ensue that may beget an unending division in the political life. It may inaugurate an era of popular struggle against the military's overlordship and the controlled democracy that is thus likely to be inaugurated later in October will fare no better than Ayub Khan's Basic Democracy even at its start. But if the elections are free and fair, the military might be presented with a terrible choice: accept their results and receive a setback perhaps permanent, to its pretensions and frustration of its desires; or it rejects the poll results, as Yahya Khan did, and gets ready to face similar consequences. So 'would the polls be held in October next?' is the question.

MB Naqvi is a leading columnist in Pakistan.

PLAIN WORDS

Postponement will create a crisis that Musharraf will be able to handle for some time. But if the polls are held and they are not free, a bigger crisis will ensue that may beget an unending division in the political life... But if the elections are free and fair, the military might be presented with a terrible choice: accept their results and receive a setback perhaps permanent, to its pretensions and frustration of its desires; or it rejects the poll results, as Yahya Khan did, and gets ready to face similar consequences. So 'would the polls be held in October next?' is the question.

Oct. 12, 2002. Then on the Constitution will have to be followed. But in the meantime the general has left no one in doubt that he has a long agenda of reforms -- all kinds of reforms: in the economy and in the political system. He has also put all the 140 million Pakistanis on notice that he has decided to remain the President of Pakistan so that no PM, Parliament or anyone else can tamper with his reforms. He has thus put a questionmark on both democracy and his reforms. Yes, he will restore a democracy but it will not be able to harm or hurt his reforms that will have to continue.

The question arises what are the reforms he is so worried about? Insofar as the economy is concerned, his reforms can accurately be summed up and described: they are the same as the conditionalities that the IMF has spelled out in its Poverty Reduction and Growth Facility loan of \$ 1.5 billion for three years -- in which minor changes in the agreed targets are negotiated and approved from time to time.

neglected, despite so much rhetoric of social sectors' priority. Military expenditures and debt servicing preempt all social sector spending; except to maintain the bureaucracies little net development has taken place.

As for political reforms, they are most controversial. The central proposition of the proposed political restructuring is that the Army must have a role, indeed share, in power. With disarming candour General Musharraf has made it plain that supposedly to ensure the continuity of his reforms he must remain in power -- who will not let elected politicians change his policies. That is to say he will serve as the check on the new Parliament and the Cabinet responsible to it. That means his fiat will override what the elected government(s) and the Assemblies decide. How can that be done? By amending the Constitution of course. That opens up a Pandora's box.

Who will change the Constitution? Why? Musharraf himself will

to recognise that Mr. Musharraf has any authority to change the basic law of the land. And the changes that subordinate the Parliament and its representatives to the politics of one man (may be his whims) will not be acceptable.

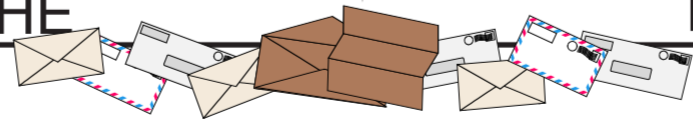
At any rate, some presume that no matter what amendments he makes, their enactment will have to conform to the procedure laid down in the Constitution which Musharraf recognises (in theory that it exists). Moreover, if there is a Constitution, the legitimacy of the Musharraf Presidency will have to come from that supreme law. In other words, he will have either to get himself elected by the constitutional college that is similar to India's or will have to be ratified by the Constitution (Constitutional amendments). The same thing will apply to all Constitutional amendments. They will have to be 'enacted' in the standard way any amendment to the organic law is enacted.

That puts all the significance and importance on the quality, charac-

elections as Gen. Yahya did in 1971, or he may have to submit to what a rebellious Parliament and other Assemblies may say or do. That may include any action in pursuit of Article Six of the Constitution that lays down punishment of death for anyone who abrogates or otherwise subverts the Constitution. Which of these two situations comes to pass will depend on how free the October polls will be.

If the polls were gerrymandered the way April Referendum was, no one will give any respect to the new Parliament and its government; they will all be seen as stooges of the Army and nobody -- Parliament, elected governments or the President or his Amendments -- will have any legitimacy or command people's respect. But if the polls are free and the new Parliament refuses to be stagemanaged the country might then embark on a democratic destination, strengthened, though the Army will have to get ready for being no more than a subordinate department of the

TO THE EDITOR TO THE EDITOR TO THE EDITOR TO THE EDITOR TO THE EDITOR



AL, hartal etc

Reading the headlines of your paper on June 12, I wonder if our political leaders even know what's going on in this country. On the one hand BNP has handed our Leader of the Opposition a golden opportunity to flay them in parliament.

To say I am disappointed in AKM Mosharraf Hossain is to say the least. I was always under the impression that he was a gentleman and an honest man for a politician. He had earlier even gotten into trouble for asking BNP MPs not to interfere in local administrative issues. Now this man is defending the very epitome of what is wrong with our politics and our country. It is indeed a sad day, Mr. Mosharraf Hossain should, if he has been wronged, publish a rejoinder to *The Daily Star*. In absence of such a rejoinder we must accept that silence assent.

Sheikh Hasina can when she wants be very caustic and engaging in her speeches. By joining parlia-

ment now she has the ammunition handed to her by the ruling party blunders to show the people why BNP is a failure. She can even use *The Daily Star* articles if she wishes which stated the increases in systems loss i.e. theft in Titas after BNP came to power.

Instead of taking advantage of this golden opportunity she calls a hartal! I can see few justifications why she would do such a thing. If Sheikh Hasina goes to parliament and skewers the government she will have all my best wishes and more importantly my vote. As for the hartal, I am fed up with her shenanigans, I have comprehensive insurance for my car and I am exercising my right not to be held hostage by driving to work.

Tristram Dhaka

The new budget

The Finance Minister has presented this fiscal year's budget and made many assumptions without providing any statistics. He is saying that

imported reconditioned vehicles pollute the environment. Are there any statistics to prove that? As far as I know, only the two-stroke engine vehicles pollute more than the so-called 'new' vehicles from India. In a city where a decent public transport system is totally non-existent (like the Sky Train of Bangkok or MRT of Singapore) a Japanese reconditioned vehicle is a lifesaver. Yet the Finance Minister wants us to buy a 'new' vehicle because the taxes have been lowered and they will pollute less!

Taxes have been imposed on computers just when it is becoming a necessity even with the middle-class families. The FM argues that taxes have been imposed on computer and computer materials to 'prevent smuggling'! But isn't it the government's duty to control smuggling? Why would the people suffer for the government's incompetence?

Taxes have also been imposed on English Medium Schools. But who would end up paying the taxes? Surely not the school authorities but

the students. The government should try to increase exports, find new markets and market new products to increase its revenues instead of burdening the citizens with more and more taxes. And more importantly, they must try their best to control corruption in government as well as in public sector. Otherwise it is the general people who would be affected year after year.

Masood Rahman Dhaka

Banning on reconditioned car

Due to their immense passion over cars, most Japanese people change cars in frequent interval resulting in world's largest used car market. Japanese used cars are even exported to United States let alone almost all countries in South America, Africa and parts of Asia (Dubai being one of the major centres for Japanese used car market). Bangladesh is not even considered as a

market for Japanese used car, it's too small for that.

How many people in Bangladesh have the ability to buy new cars? Do you have any idea how much a new car would cost with all those taxes? With limited public transportation facilities, what do you think is the decent choice of transportation for middle-class in Bangladesh? Only new 'Indian' cars?

I doubt that this decision was based solely on environmental considerations. Rather it's likely that this came out as lobbying pressure of an influential group interested to monopolise Bangladeshi car market for some neighbouring country.

Syed Ishtiaq Ahmad One-mail

Import of reconditioned car has been banned due to environmental impact? What environmental impact? The reconditioned cars that were imported couldn't be older than five years. The argument of environmental hazard is thus baseless. If the government is trying to protect

the dealers of new cars then why not give the small importers a fair chance by letting them import used cars along with new cars?

Rana Chowdhury USA

I am sorry but I can't applaud banning reconditioned car. World's largest car user group uses reconditioned car. And Bangladesh has become a junkyard of Japanese automobile is far from the truth. A 5-years-old car is almost a new car for countries like Bangladesh. How many people in our country have the ability to buy new car?

And as regards environmental issue, reconditioned car pollutes the air less than 1 per cent comparing to 2-stroke engine automobiles and 30-years old vehicles like bus and trucks. If the government is so concerned about the environment they must ban those scrapped vehicles first!

Haroon Rashid One-mail

Indo-Pak conflict

After reading a number of letters related to the current Indo-Pak crisis, I have come to a conclusion that our views on war and peace is still confused by a very narrow sense of nationalism. This is a confirmed notion that as nations grows older, its national spirit grows younger and this is not happening in India and Pakistan. India and Pakistan both are politically separated for more than half a century, but they are still imprisoned by their animosity towards each other which is distracting their attention from a common enemy known as 'poverty'. This enmity is a vicious circle, which is promoting petty nationalism, corruption and keeping the vast majority of these two countries in subhuman conditions. And this laughable nuclear capability which they have achieved after deceiving millions of peoples from their rights to have a good life is a hollow pride. The position of Pakistan is more precarious than India in every respect.

Another most important factor is that Pakistan is still far away from its coveted goal of national integration. The nation is mentally and politically fragmented and any serious jerk into its geographical structure will bring tragic results. Pakistani government before embarking on a war with India must understand this grim reality.

Akbar Hussain Toronto, Canada