

# Caretaker government reform redux

ABDULLAH A. DEWAN AND GHULAM RAHMAN

AFTER the publication of our article (DS, August 1) on the above captioned topic, we received several inquiries seeking clarification. Of the important personalities who called, one was a former minister during President Zia-ur-Rahman and President HM Ershad's administration, and the other one was an advisor to the 2001 Caretaker Government (CTG).

In the last article, we argued that the 14-Combined Opposition Parties Alliance's (COPA) demand for Chief Advisor to the CTG to be selected from a wider pool through dialogue and consensus seems to sincerely spare the higher judiciary from the controversy of politicisation. There was no attempt on our part to suggest in any way that the BNP government when it reformed the CTG in 1996 planned to politicise the higher judiciary for political gains.

While incorporating the CTG provisions in the constitution in 1996, the BNP government thought that former Supreme Court Justices would be the most acceptable choices to run an interim administration for holding free and fair polls for orderly transfer of power. The BNP lawmakers also foresaw the possibility that at some future point in time, former judges may become controversial and unacceptable to political parties at large. Therefore, the provision of appointing the Chief Adviser by the President after consultation with major political parties was also incorporated in the constitution. Thus the COPA's demand for forming the CTG from a wider pool is consistent with what BNP lawmakers also envisioned eleven years ago.

The controversy surrounding the appointment of the CTG chief has now surfaced with all its oddities, and the politicians must seize the moments and act like statesmen. However, there is one obstacle in the process: the constitutional provision of appointing a retiring Chief Justice or a retired Judge of the Appellate Division. Fortunately, this obstacle can be overcome by invoking article 58C (5) which states:

"If no retired Judge of the Appellate Division is available or willing to hold the office of Chief Adviser, the President shall, after consultation, as far as practicable, with the major political parties, appoint the Chief Adviser from among citizens of Bangladesh who are qualified to be appointed as Advisers under this article."

There is a simple, yet most patriotic way out of the nested

Upon presentation of the panel to the President, he will consult the Prime Minister and the Parliament's opposition leader (POL) to give him two choices out of three from which he will appoint the one common to both as the CTG Chief. The Chief of CTG then will fill in the 10 positions of advisors by consulting the PM and the POL by a similar procedure adopted by the President to appoint the CTG Chief Advisor.



Past Chief Advisors: Justice Shahabuddin, Justice Habibur Rahman, and Justice Latifur Rahman.

constitutional provisions. This requires the former Supreme Court judges to rise to the occasion. By their collective unwillingness to assume the position of Chief Advisor, they can save the country from another spell of political turmoil, thereby raising the country's image and their integrity on which people have always had great trust. There are many rationales for such a gesture on their part.

First, when political parties (and elected representatives) question the process surrounding the judges' integrity and neutrality in the discharge of duties as Chief Advisor, the provision of the constitution becomes outmoded and unworkable. The judges themselves, as saviour of their judicial traditions, should feel embarrassed and express their unwillingness to hold such a position.

Second, as honourable former members of higher judiciary, they should spare their beloved institution from becoming politicised by their refusal to be a part of CTG. Such a move to unite the people, rather than divide them, will certainly enhance the judiciary's image at home and abroad.

Last but not the least, separation of judiciary and executive is sine qua non to upholding the rule of law, an indispensable prerequisite to good governance in any country. The judges should realise that the very provision of appointment of Chief Advisor primarily from among the former Supreme Court judges

Political parties	Percent of popular votes received in 2001 election	Number of nominees in the NPC	Doubling the nominations	Final selection By FPA and COPA
A	45.01	45	90	45
B	29.47	29	58	29
C	7.50	8	18	8
D	6.15	6	12	6
E	4.84	5	10	5
F	3.54	4	9	4
G	2.00	2	4	2
H	1.00	1	2	1
I	0.56	0	0	0
Total = 100.00		Total = 100	Total = 200	Total = 100

at every election cycle is in fact a harbinger of unintended contamination of judiciary with the executive branch through the political process.

Once the judges as a group volunteer to withdraw their names from the CTG selection process, there may not be any need to amend the constitution prior to the 2007 election. The political parties can devise the fairest and most representative process with which to form an interim CTG. We believe, our proposed mechanism for formation of a Non Political Council (NPC) should be thoughtfully evaluated and debated along with other competing ideas that may come along. As requested by some readers, we worked out our

model with an example in the table above.

The formation of NPC is necessary to produce a panel of three nominees for a position of Chief Advisor and 20 nominees for 10 advisory positions in the CTG. Their qualifications and eligibility requirements are being non-partisan, politically neutral, and with no criminal records. As proposed in the August 1 article, the NPC may be composed of 100 members to be nominated by political parties based on the percentage of votes received in the 2001 election.

Parties which received less than one percent popular votes are considered "noise makers" and will have no representation. However, this can be negotiated by the parties concerned. A

hypothetical example of the formation of NPC is shown below. Based on the actual 2001 election results, number of members in the NPC may be slightly greater than, equal to or less than 100, depending on fractions.

Note that Column 4 in the Table is added in case one wishes to make the selection of NPC members somewhat more participatory. That is, each eligible party may nominate two candidates for each membership position in the NPC for review and consideration by other parties. For example, an opposition party, say B, which received 29.47 percent popular votes will submit a list of 58 eligible persons for acceptance by the ruling FPA of which 15 will be selected by the ruling FPA for party B's representation in the NPC. For acceptance of FPA's nominees, the same procedure would apply except that the opposition parties would act as a combined group. The final membership count is displayed in Column 5 which shows the same exact number as in Column 3 but some of the individuals in Column 5 now could be different than those in Column 3 because of a process of selection of 1 out of 2. In the process, no party can reject any other party's nominee except for proven disqualifications.

Once the NPC is formed, its members will elect a panel of three nominees for a position of Chief Advisor and 20 nominees for ten advisors to the CTG. This panel may consist of people from within and outside the NPC. The NPC will produce a panel either by consensus or by majority of two thirds.

Upon presentation of the panel to the President, he will consult the Prime Minister and the Parliament's opposition leader (POL) to give him two choices out of three from which he will appoint the one common to both as the CTG Chief. The Chief of CTG then will fill in the 10 positions of advisors by consulting the PM and the POL by a similar procedure adopted by the President to appoint the CTG Chief Advisor.

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# Among the Scholars

## LETTER FROM AMERICA

Rhodes Scholars represent America's cream of the crop. From the presidency on down, they have held positions as Governors, Senators, Congressmen, head of armed forces and spy agencies, Supreme Court Justices, top athletes, actors, singers, writers, and brilliant scholars. Regardless of their party affiliation, Rhodes Scholars tend to be moderate and enlightened.

DR. FAKHRUDDIN AHMED writes from Princeton

ON July 15-17 weekend, there was a reunion of Rhodes Scholars at the campus of the University of Pennsylvania, Philadelphia. Assembled was a glittering array of scholars, excelling in their area of expertise. Between the hospitality suites, receptions, luncheons and dinners, where Rhodes scholars were seated, either according to their residential houses, decade of residence, or year of matriculation at Oxford, there were several get-togethers and small symposiums. Dr. John Hood, the current Vice Chancellor of Oxford University, who is also a Rhodes Scholar from New Zealand (1976), opened the reunion with an address in the plenary session.

Rhodes Scholars represent America's cream of the crop. From the presidency on down, they have held positions as Governors, Senators, Congressmen, head of armed forces and spy agencies, Supreme Court Justices, top athletes, actors, singers, writers, and brilliant scholars. Regardless of their party affiliation, Rhodes Scholars tend to be moderate and enlightened. With a well-documented history of misleading the Americans, one cannot imagine someone like President Bush or his vindictive neo-conservative amen corner of being Rhodes Scholars. They are not.

Although he was scheduled to come and speak, President Clinton (1968) did not come because of his trip to Africa. Fellow Arkansasian, former Commander in Chief of NATO and last year's Democratic Party primary candidate, General Wesley Clark (1966), came and participated in a symposium entitled, "A New Era in Transatlantic Relations?" In person, General Clark turned out to be a man of rather modest physical stature. He lamented America's misadventure in Iraq.

The General, who is credited with saving the Muslims of Kosovo, recalled how frustrating, yet, how vital it was to have a coalition of European nations backing his Kosovo mission. He contrasted that with the Bush administration's go-it-alone policy in Iraq and its disastrous aftermath. The General, who was also courted by the Republicans before he decided to be a Democrat, recounted how surprised he was to see the Republican gatherings so gung ho about attacking Iraq and how contemptuous they were of the dissent of traditional allies such as France and Germany.

The head of the CIA under President Carter, Stansfield Turner (1947), chaired a session on "The Role of Intelligence on National Security." I asked the Democratic Senator from Maryland, Paul Sarbanes (1954), privately what America should do in Iraq. He told me a story, the moral of which he summarised at the end: "I voted against the bill authorising President Bush to use force in Iraq. You should ask those who voted for it to answer your question."

The New York Times columnist Nicholas Kristof (1981) participated in two sessions, "Do We Have an Obligation to Undertake Humanitarian Intervention Abroad?" and "The Media and 21st Century Politics." I told Nicholas to tell Tom Friedman that Muslim Americans are furious with Friedman for his malicious statements about them. Nicholas said that he does not see Friedman that often because Friedman lives in the Washington, DC area, but will tell him what I said when he sees him. Anyone reading Nicholas Kristof will appreciate his humanity, as exemplified by his highlighting of the rape of Pakistani physician Dr. Shazia Khalid. Dr. Shazia was raped by a Pakistani Army Captain in Baluchistan, and instead of punishing the culprit, the government of General Musharraf drugged her, and threatened her and her

relatives with death if she did not keep quiet, and finally expelled her to London. The humanity of Kristof (Rhodes Scholar) contrasts sharply with the anti-Muslim, anti-Arab hypocrisy of Tom Friedman (Marshall Scholar).

The qualifications for the Rhodes scholarship are changing. Academic excellence was and continues to be the top criterion. However, whereas excellence in extracurricular activities, as evidence by achievements in sports, used to be a major factor, "extracurricular activities" has now evolved into any activity besides academics, such as writing of a book, founding or editing magazines, proficiency in music, excellence in social service, and so on. Most Scholars these days are close to geniuses. I asked a Scholar sitting next to me at a joint session what he did and he said, he had done his D.Phil. in Economics from Oxford in three years, researched at Harvard, was a professor at Princeton, and now teaches at Yale! The writer encouraged a batch-mate of his, who was a long term mayor of Baltimore, to run for higher office. Another batch-mate of the writer, who works at Princeton's plasma physics lab, is on the short list to win the Nobel Prize!

Unfortunately, the writer had to listen to some bad news. During the plenary session, the Warden of the Rhodes House and former Vice Chancellor of Oxford, Sir Colin Lucas, announced that the lone Rhodes scholarship awarded annually to Bangladesh has been suspended for five years. This humiliating news devastated the writer. Apparently, Bangladeshi scholars have not been performing well at Oxford. Surely, there are exceptionally talented students in Bangladesh worthy of the Rhodes. Clearly, they are not being selected. Something must be done to correct it.

# The atomic bomb and fading memories

MONZURUL HUQ

A day after the atomic bomb was dropped on Hiroshima, the imperial headquarters in Tokyo issued its first statement reflecting the official position of Japan concerning the attack. The statement mentioned that while it appeared that the enemy had used a new type of bomb, the authorities in Tokyo were looking into the situation in detail. Two days after the announcement, a second atomic bomb was dropped on Nagasaki, and by then it became clear that the new weapons of mass destruction dropped on both cities heralded the start of a new era in human civilisation, characterised by an unprecedented destructive effort to wipe out masses with a single strike.

If Japan was not sure about the type of bomb used on Hiroshima, this was not the case for the United States. President Harry S. Truman, announcing the news from the cruiser, Augusta, in the mid-Atlantic, said the device contained 20,000 tons of TNT and was more than 2,000 times more powerful than the largest bomb used to date. The bomb, known among its inventors as "Little Boy," was dropped at 8:15 local time from an American B-52 bomber named Enola Gay. It devastated an area of five square miles and more than 60 percent of the buildings of the city were destroyed.

The official Japanese figure released afterward put the death toll in Hiroshima at 118,661 civilians. But later estimates suggest the final toll was about 140,000 of Hiroshima's total population of 350,000. In addition, many have also suffered long term sickness and disability. Later it has become a regular yearly practice for the city administration to add the names of those who have died from cancer and other long-term ailments over past year to the list of victims preserved at a memorial dedicated to them. Last year 5,142 new names were added, raising the toll to 237,062.

For 60 years since the atomic bombs devastated Hiroshima and Nagasaki, the questions that have been raised repeatedly are yet to find conclusive answers. Was it really necessary to drop atomic bombs on densely populated cities to force Japan to surrender, or was the United States simply trying to find out what the bomb could do, and by doing so was trying to convey a clear message to the Soviets about Washington's military might?

## CLOSEUP JAPAN

Some in Japan probably are realising that time is running out. Quite soon when no atomic bomb survivors are left, for Japan it would probably mark the beginning of a much more difficult time to fight against fading memories. At this extremely difficult time for the whole world when nuclear ambitions of states are fuelling uncertainties, memories of what such weapons can do to mankind should not be allowed to fade that easily.



Never forget: Hiroshima peace quilt.

The majority in the United States hold the opinion that the use of the atomic bombs did save more lives than they had taken, as further expansion of war on Japan's mainland, they believe, would probably resulted in extremely high casualties on both sides. But in Japan, on the other hand, the majority still encounter an uneasy feeling as they face such questions and see the bombings as an unjustified act to punish a country that didn't have the power and strength to continue fighting for very long. This is why the anniversaries of Hiroshima and Nagasaki carry much significance, not only for Japanese who belong to various anti-war groups, but also for many ordinary citizens whose prede-

cessors had to go through untold sufferings and misery due to faulty state policies focusing narrowly on military strength.

The majority of those who had the misfortune to experience firsthand the aftereffects of the atomic bombing of Hiroshima and Nagasaki are in their 70s and 80s now. According to official figures, slightly more than 266,000 atomic bomb survivors live in Japan and their average age is 73. It can be said that the survivors have witnessed the emergence of three different generations in their lifetime, and with the passage of these three generations, memories of Hiroshima and Nagasaki are gradually fading.

It is true that various efforts to convey the message of Hiroshima

and Nagasaki are still underway. Every year books and manuscripts are being published and seminars and symposiums are held. But still the memory seems to be giving way to apathy or indifference. When the city of Hiroshima conducted a survey five years ago, more than half of the city's elementary school students said they did not know the year when the atomic bomb hit their city. Nearly 30 percent of junior high school students also failed to give the correct answer. As a result, despite peace memorials held every summer, even in the stricken area where the Atomic Bomb Dome stands today, memories are quickly fading. Moreover, we also occasionally come across news items that seem to be carrying a

completely different message. Two years ago, a university student from Kansai region set fire to folded paper cranes that were placed as an offering at the Hiroshima Peace Park.

In the last week of July, police in Hiroshima arrested a 27-year old rightist after he turned himself in and admitted to vandalising a memorial dedicated to nearly 240,000 victims of the atomic bombing. He told police he was offended by the word "mistake" in the granite memorial's inscription that reads: "Please rest in peace. We will never repeat the mistake." The memorial was designed by Hiroshima Peace Memorial Museum architect Kenzo Tange and was erected in 1952. It entombs 83 registers that record the names of 237,062 atomic bomb victims. Though the repair works are now underway, full restoration of the Cenotaph for the victims is expected to take at least a month. The incident also gives another example of fading memories related to Hiroshima.

But fortunately, many in Japan are also realising the importance of carrying the message of Hiroshima and Nagasaki to the younger generations in a meaningful way, so that they too can feel the importance of making the world nuclear free. Last year, a university in Japan started a "Hiroshima-Nagasaki" course, which looks into various problems concerning nuclear weapons. As part of the course, atomic bomb survivors are invited to give lectures.

Some in Japan probably are realising that time is running out. Quite soon when no atomic bomb survivors are left, for Japan it would probably mark the beginning of a much more difficult time to fight against fading memories. Fortunately, among survivors too, the realisation is quite strong and many are now coming forward to convey the message that they were keeping within themselves for very long. At this extremely difficult time for the whole world when nuclear ambitions of states are fuelling uncertainties, memories of what such weapons can do to mankind should not be allowed to fade that easily.

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# The true faith

If we desire now to emerge as effective partners in the new world of globally converging civilisations, then it becomes incumbent on us to educate both ourselves and our children about the truth of our histories and ethics so that we can repel the malaise that has overrun us from within and reclaim for ourselves our noble name and our great faith.

M.N. MIRALY

THE fallout of the recent London bombings has been a renewed suspicion of Muslims, manifested by severe security measures all over Europe, such as random person-searching and DNA testing. Some officials in London have said matter-of-factly that they are certain that Muslims will understand the open racial profiling – those officials have decided, after all, that they won't be wasting time checking "old white ladies."

How is it that the inheritors of a vast and rich historical heritage that birthed varied civilisations envied for their scientific, cultural, intellectual, and artistic achievements have come today to be recognised as the poster children for terrorism? Was it not Muslims who created these momentous historical civilisations in cities such as Cairo, Baghdad, Samarkand, and Cordoba – renowned throughout the world not only for their splendour but also for their splendid spirit of innovation?

All these civilisations, and more, were celebrated by their contemporaries for their openness to people and ideas: at a time when the papal library was composed of only dozens of hide manuscripts, the libraries of Cairo and Baghdad overflowed with hundreds of paper books; at a time when Jews were persecuted in Europe, they enjoyed renown as scholars in Cordoba and power as viziers in Cairo.

How, then, did these Muslims, known for their rigorous pursuit of knowledge in all its forms, as well as their exemplary tolerance of different groups, become known today as closed-minded, overly-fanatical, slaves to "tradition"? That word "tradition" – which so many Muslims claim they are trying to reclaim – is the key. What is this tradition of Islam that made the historical societies of Muslims so successful? If indeed they found their inspiration in the character of our beloved Prophet and the words of our holy Quran, then what was it that they perceived in those two weighty things that made them the giants of their times?

The Muslim societies of history were known by their contemporaries

for their love of knowledge and their indulgence in its acquisition – "even unto China," as professed the Prophet. The intellect was prized above all things, as it was seen as the means to understand God and His Creation. Indeed, did not God make Himself known to the Prophet through the command to "Read!" since God taught man "by the pen that which he knew not."

This, the first revelation of the Quran, expressed a love for knowledge which was to become the pivot around which all the great Muslim cities flourished. Furthermore, that ardour for intellect was not hindered by any prejudice of race or creed – people of all faiths lived and worked side-by-side, inspired by an interpretation of the Quran which taught that human diversity was divinely-willed so that humans could "come to know one another," and which stated strongly that "no compulsion is there in religion."

Certainly, nothing is halcyonic, and we should be wary of falling into that trap of historicity. However, there doubtless is a discord between the great Islam of history and the Islam practised today, but from whence derives the disjunction? The last century witnessed the colonial fact and the Cold War. At the end of both, many developing countries, of which Muslim countries constituted a great number, found themselves bereft of indigenous political, economic, intellectual, and legal institutions in favour of the imported models of the colonising countries.

When the colonisers departed, most of these countries were unable to fashion for themselves functioning institutions, since those with which they'd now become accustomed were alien to their experiences on the ground. In that turmoil, exclusivist interpretations of Islam found ground. These interpretations – spread through an education system which was gifted to most of these distraught post-colonial countries from richer, more political Muslim countries – taught that present woes were a result of the evils of the West, which must thus be shunned in order to return to a pristine Islam.

This brand of Islam did not teach

that God "created mankind from a single soul," but rather that one should "slay the idolaters wherever one finds them" (a verse that scholars agree was specific to a particular incident and tribe). It spoke of an inherent incompatibility between the values of the West and the values of "Islam" and that the jihad in which humanity must perpetually struggle was a physical battle against the immorality of the West, rather than an internal battle against the universally human preclusion toward immoral behaviour.

It is this type of exclusivist Islam that has become predominant in our world, and which has become representative of all Muslims, whether we agree with its teachings or not. The last few generations of Muslims have not learnt of our great and pluralistic histories, but rather of a hateful and political Islam that never existed previously and which is contrary to the spirit of the Quran and its Messenger. How, then, can we expect others to exhibit any behaviour except suspicion towards us when our minds are poisoned by a doctrine that portrays anyone different from us as "evil"?

Though it is true that it was external factors that gave rise to the present sorry state of our faith's interpretation, it is also true that as Muslims we allowed it to occur through our ignorance of the truths of our faith. If we desire now to emerge as effective partners in the new world of globally converging civilisations, then it becomes incumbent on us to educate both ourselves and our children about the truth of our histories and ethics so that we can repel the malaise that has overrun us from within and reclaim for ourselves our noble name and our great faith.

A good place to start getting information on Muslim intellectual history: www.muslimheritage.com.

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