

Bomb blasts

All the reasons to take them seriously

THE explosion of some crude bombs at the railway stations in Dhaka, Chittagong and Sylhet is a harsh reminder of the fact that Islamic militants are trying to make their presence felt somehow after a relative lull in their activities. Of late, the law enforcers have arrested some militants using new labels, so that the present case in which the bombers claimed themselves to be members of "Jadid al-Qaeda", an unknown quantity, falls in a pattern. What is absolutely clear is that the extremist challenge is far from over.

From the clues left, the NGOs and Ahmadiyyas are their targets. If their agenda is anything to go by, the obscurantists are treading a familiar path. They have been consistently trying to obstruct social progress and destroy religious or sectarian harmony to destabilise society and thus create the conditions best suited to their brand of militancy. Things were made worse by the immediate past coalition government's denial mode to begin with which did not help organise any kind of timely resistance against the extremists. There was even a helping hand extended by some people in authority who are now facing charges in the present dispensation.

The law adviser to the caretaker government has said though the blasts did not look that threatening the government would take up the matter seriously. Of course, there is no way we can dismiss such activities lightly, for these might be just the beginning of subversive activities of far greater proportions.

The law enforcers' primary task is to find out who these people are, and how they are sustaining themselves. There is reason to believe that second string JMB leaders will try to emerge and embark on the same path of militancy that their mentors advocated so staunchly. There is no room for any complacency though the JMB was badly jolted by the executions of its top leaders. It is our firm belief though, they being in a minuscule minority, shouldn't be difficult to rid ourselves of with the help of the majority.

We must not be oblivious of the fact that when bombs, howsoever crude are cracked for making a statement or conveying a message, that too by people having a proven record of killing and maiming, there is reason to be greatly worried and not to lower our guard.

The CJ's observations

These need to be acted on

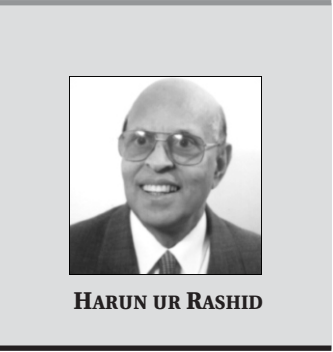
CHIEF Justice Mohammad Ruhul Amin's very cogent and forthright remarks that the irregularities in the judicial appointments will take at least 20 years to remove has created a predictable reaction in the legal circles and the intelligentsia in general seeking an early move to start the cleanup process. While the CJ has tried to stress the enormity of the mess by referring to a long time scale needed to rectify the situation it has only served to signify the pressing nature of the imperative necessity for reform.

When a judge's appointment is confirmed, he/she cannot be removed unless the person voluntarily resigns or a supreme judicial council removes him or her. The 41 confirmations made during the immediate past BNP-led four party alliance government have been largely tainted by allegations of partisanship and favouritism. The antecedents of the judges range from some of them having been active leaders of BNP at some stage through one being a BNP lawmaker in the sixth parliament to one judge against whom 'there are specific allegations of corruption'. The extension of the retirement age of the judges has had the effect of extending the tenure of the controversial judges.

The appointment of judges on the basis of political affiliation rather than merit, the practice of ignoring the chief justice's recommendations in the confirmation process and that of elevating High Court judges by superseding senior judges were relentlessly protested by the Supreme Court Bar Association. The civil society and the media also expressed their grave concern over similar trends but to no avail. All of this fell on deaf ears of the erstwhile government.

We would, therefore, endorse the idea now of an early reform of the judiciary by formation of a supreme judicial council. We can cite one instance of judicial council having been formed under pressure by the alliance government to remove Judge Syed Shahidur Rahman, its appointee, on grounds of receiving bribe. The caretaker government has formed a judicial council after Chittagong University had formerly cancelled Justice Faizee's LLB certificate. The precedent is worth following.

Right of return



THE difficulties in barring a citizen from entering the country of origin arise from three aspects, namely:

- notion of justice
- breach of domestic law
- breach of international law

Let us discuss the above issues in some detail in the following paragraphs.

What is justice?
According to Plato and Aristotle justice is the mother virtue, and it is whatever is due to an individual, not less and not more. Plato used the Greek word "Dikaisyne" for justice, which comes very near to the notion of "morality" or "righteousness."

The concept of justice may be synonymous with what is known in Bangla as bibek, (good conscience), Jathartha (just), and nyabichar (right treatment). That means whatever goes against such concepts is perceived as injustice.

It is unjust for someone to steal from people or not give them what is owed, and it is also unjust if someone called upon to distribute something among members of a group uses an

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In the light of the above, if a citizen is barred from entry into the state of origin it arguably constitutes injustice toward that citizen.

Breach of domestic law
States are free to enact laws to determine citizenship. Citizenship is conferred on an individual by operation of domestic laws. Once citizenship is conferred on a person, he is endowed with certain political and civic rights and obligations.

Citizenship constitutes a legal attachment characterized by a genuine connection of interests and sentiments with a state. There is a legal nexus between a state and a citizen, wherever that individual may live.

Both, the state and the citizen, have certain rights and obligations toward each other. A citizen pays taxes, may join the armed forces, may vote in the election and demonstrate

commitment and loyalty to the state, while the state protects the citizen within the state and abroad.

A state protects its citizens abroad, and the passport given to the citizens requests foreign governments to allow them to pass freely without let or hindrance, and to afford them every assistance and protection that they may stand in need of while they are in a foreign country. If a citizen is in trouble overseas, the embassy looks after his welfare, and this is widely understood to be a consular function of an embassy.

If a citizen is wronged/injured by an action of another state, his state is eligible to sue the other state on his behalf. This right of a state is based on personal jurisdiction of states over their citizens.

If a citizen commits a crime overseas, he/she may be tried in his/her own country, because the state extends its personal jurisdiction over its citizens even while the citizen is abroad. For example, citizens of Bangladesh may be put on trial within Bangladesh, under Section 3 of the Bangladesh Penal Code, if they commit a crime overseas.

The close connection is emphasized in the Bangladesh Constitution, which stipulates that a person who

acquires the citizenship of, or affirms or acknowledges allegiance to, a foreign state is disqualified from being a member of parliament (Article 66.2).

The connection can be severed if that citizen becomes a citizen of another state. Even then, some states have retained provisions for double nationality. For example, a Bangladeshi can be both, Bangladeshi and British, by holding the passports of both states (British citizens now use European standard passports because Britain is a member of the European Union).

When a citizen having two passports travels abroad, the important thing is to note which passport he/she uses for his/her travel. This will demonstrate that the citizen has preferred to be closer to one state than the other by using one of the travel documents (i.e. either Bangladesh or British).

From the above discussion, it is noted that it is the citizenship, which legally binds both the state and the citizen, and other states recognize this umbilical connection.

Some writers have compared the relationship between a citizen and the state of origin to that of a parent and a child. It means that the parent

extends its long hand (jurisdiction) over the child on the basis of close connection.

That is why it is argued that if a citizen is barred from entry into his/her state, it would be construed as a breach of domestic citizenship law.

Breach of international law
Barring a citizen from entering the country of origin may tantamount to severing connections with that citizen by the state of origin. As a result, s/he may be perceived by other states as stateless, because there is no certainty of protection emanating from that state while s/he is overseas. The issue of statelessness has been a major concern in international law. International law, therefore, does not approve statelessness of a person because of vulnerability and insecurity of that person. A stateless person is often compared to a vessel without any flag in the open sea.

The Hague Convention of 1930 adopted a Special Protocol concerning statelessness. It states: "If a person, after entering a foreign country, loses the nationality without acquiring another nationality, the state whose nationality the person last possessed is bound to admit that person at the request of the state in whose territory the person is."

The UN took further initiative to reduce statelessness by adopting two Conventions:

- The 1954 Convention relating to the status of stateless persons
- The 1961 Convention on the reduction of statelessness.

The main features of the Conventions are to reduce statelessness, whatever

the circumstances.

Article 1 of the 1954 Convention defines the term "stateless person" as "A person who is not considered as a national by any state under the operation of its laws."

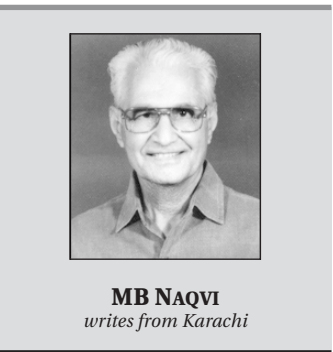
Article 1 of the 1961 Convention states: "A contracting party shall grant its nationality to a person born in its territory who would otherwise be stateless." Article 8 of the Convention further states: "A contracting state shall not deprive a person of its nationality if such deprivation would render him stateless." (In the Conventions the term "nationality" is preferred to "citizenship." Both terms are loosely interchangeable.)

Citizenship is a legal relationship between a citizen and the state of origin. The state of origin and a citizen have an umbilical relationship under both domestic and international laws. The rights and obligations of each party are reciprocal. The act of barring a citizen from entering the state of origin is not only against the notion of justice but is construed to be against both domestic and international laws.

Furthermore, the 1954 and the 1961 Conventions demonstrate that statelessness of a person is a matter of international concern, and a citizen should not be placed in such a situation. Such issues may come within the jurisdiction of the UN Human Rights Council, of which Bangladesh is a responsible member, for purported breach of human rights.

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PPP-Musharraf deal



THIS is not about whether there is or there is not a deal between Benazir Bhutto and General Pervez Musharraf. One merely assumes, for comment making, that there is a deal. It is still possible that it is not yet finalized. But there cannot be so much smoke without some fire.

The first question is: who needs a deal most? Many assert that it is Benazir Bhutto who is desperate for a deal with Musharraf. The reasons for this are well-known: She wants that corruption cases against her in the Swiss court should not be pursued, the sentence pronounced on her in absentia should not be implemented, and she should be allowed to return to participate in politics and run the election campaign of Pakistan Peoples Party. If she succeeds, she will possibly inherit the prime ministerial office, if her showing in the election is as good as expected.

From another viewpoint, it is Musharraf who happens to be in trouble and needs substantial political help in his present predicament. What is the predicament? It is the judicial

crisis he created by taking the ham-handed action against the Chief Justice of Pakistan on March 9, and keeping him incommunicado for a week after staging a well-organised police attack on the TV channel, GEO, under the very nose of the Information Minister Muhammad Ali Durrani, if not under his direction.

The legal fraternity's agitation seems to have become a self-accelerating one that, after two months, still looks likely to grow, especially as opposition parties are sure to intensify their role.

True, President Musharraf is lucky that the opposition parties are so badly divided, and that the largest mainstream party, the PPP, is ready to serve office under the uniformed president and the deformed constitution as it stands now.

This master statute subordinates the whole elected system to the pleasure of the president (Musharraf). Even otherwise, any ruler would be happy to receive the additional political support that PPP appears to be promising.

The real question is what will the deal do? Quite a few assessments have

been made. The first is that it is unlikely to stop the slide in the president's popularity; incumbency factor is gaining momentum. Then, it cannot resolve the judicial crisis one-way or the other. And this judicial crisis is the immediate problem for Musharraf.

True, PPP's accession to the Musharraf camp would strengthen his resolve, and the likelihood of his election going smoothly through the existing assemblies, as their swan song, will increase.

The thought recurs: the dynamics of the legal fraternity's agitation, and its inherent possibilities, will not be affected by Benazir's strengthening the military controlled regime. This action would be seen by most as a betrayal of the people's trust. People see PPP's place to be in the ranks of opposition to what is a military regime.

There are larger issues regarding the country's place in the world. Pakistan is a non-Nato ally of the US in the war against Islamic terrorism. But its relations with US, Nato and Hamid Karzai alike are becoming increasingly fraught with mistrust. Western allies do not appear to trust Musharraf: They

see him as half-hearted in countering Taliban, though his zeal in eliminating al-Qaeda militants continues to be praised.

The relations with America have always been a keystone of Pakistan's foreign policy, although there is some recent propaganda that Pakistan can very well do without American aid, and if America is disillusioned with the Musharraf regime, let it withhold the aid if it wants to.

Dr. Ishrat Hussain, who has been entrusted with this job, may be right; one agrees with him that it is quite feasible for Pakistan to do without the American aid that comes with so many strings attached.

But one cannot help commenting that Pakistan has always found the aid to have strings attached, and has always gone along as much as it could in the past, including the recent past. But, now that a unilateral break from the other side looms, this kind of propaganda may be making a virtue of necessity.

The fact is, and no politically aware person should ignore it, that American aid, and the way it is disbursed, has been Manna for Pakistan's elite

classes. Much of the aid ends up with these social and economic elite -- and it hardly ever percolates down. Even the Americans know it.

Which is why the Yanks are so confident that stoppage of this aid would hurt the Pakistani elite, who are so used to soft living, hard. But this is something that PPP has to worry, because she may be joining a ship that is adrift and risks sinking.

On her part, Benazir is the staunchest pro-American politician in Pakistan, and she should know what she is doing by joining Musharraf: Americans may or may not like to bolster the military regime. But it is quite possible that injection of PPP into a seriously amended Musharraf system might make the latter more acceptable to the Americans in the short run: She can be trusted more than Musharraf.

The fact that BB would be discrediting herself by joining the Musharraf regime when it is at its weakest is a matter about which she should be the best judge. Whether her political stature will go up or down is what she has to examine. But, more than that, PPP would be dealt a heavy blow by this betrayal of the ordinary worker who has been brought up on a rhetoric of democracy and opposition to dictatorship.

The party will gradually lose its ability to pull votes on a big scale. Before long, it might cease to be the largest party. Indeed the chances in the 2007 election, if held, are not likely to improve by this action.

It will strengthen the military's power immensely by showing that even at such a dark hour, when the army-controlled regime run by its top general is at its weakest and faces an uncertain future, a

politician with a reputation to guard is ready to climb the general's rickety bandwagon. True, Benazir has served office under the military's guidance before. That is not something new for her. She will probably do what may be even more dangerous for democracy.

By deserting the opposition ranks in today's conditions, she will be leaving the field to MMA and PML(N), both of which have used ambiguous Islamic rhetoric, the former more substantially than the latter's rather vacuous slogans. If the agitation of the lawyers and an anti-dictatorship campaign by the opposition parties go ahead simultaneously, the ultimate beneficiary would be MMA.

Remember the 1977 agitation: it was originally about holding another, and fairer, election. But, before long, the religious parties with their stronger vocal chords, made the whole agitation morph into the demand for Nizam-e-Mustafa. That can happen again. The process of Talibanisation of Pakistan is likely to accelerate.

Finally a word about the deal's possible terms: PPP loyalists still believe that BB cannot accept this Musharraf constitution, and the president in uniform will be elected by outgoing Assemblies or another 2002-like election. She will insist on scrapping the Article 58 (2) (b).

Musharraf can be ready to accept such terms, would he have done what they did on March 9 in the Army House? He seems still determined to implement his known programme. The only likely deal is for BB to cooperate with Q League and MQM.

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Intra-party reforms and full democracy



IN response to two transatlantic telephone interviews, on April 24 and 25, by Jerome Taylor of The Independent, London, I underscored that democracy in Bangladesh has never been tried with constitutionally independent institutions of good governance, such as the judiciary, Anti-corruption Commission, and Election Commission.

I further added that the current army-backed government is genuinely committed to reforming these institutions to pave the way for a free and fair election. The accomplishments to date, and other reforms underway, are a testament to that commitment.

NO NONSENSE
Politicians who are thoughtfully demanding deep structural reforms are being singled out for admonition and censure. One wonders if party politics in Bangladesh is getting ever more knotty and unpredictable. If both Khaleda and Hasina are successfully prosecuted on corruption charges, it will leave a serious leadership vacuum because of years of autocracy in party operations.

Unlike this government, all previous military rulers were privately conniving, politically power hungry, administratively autocratic, and deliberately evasive in enacting institutional reforms.

Army chief Moeen U Ahmed's declaration on April 28, that the army will go back to the barracks and has no plan, as speculated by many, to launch a political party, has reinforced my feeling that this general isn't as dubiously ambitious, at least for now, as his former counterparts.

This seemed apparent with the preservation of media freedom even in a period of state of emergency, and undeterred support for institutional reforms for good governance. But the skeptics also advance their plausible counter-arguments.

Any prediction of an optimistic prospect for democracy and reforms certainly runs the risk of being wrong. What stands in the way are the aging and embattled politicians, and their steadfast adherence to the old brand of politics, lead by two inept leaders. The aborted scheme to exile them, however well intentioned, was simply misguided and ill executed.

Well-intentioned -- because the whole country, except their courtiers and duped followers, would like them to be purged from politics. Misguided -- because bringing corruption charges, which may be easily framed, especially against Khaleda, would weaken their standings at home and abroad even before prosecution.

All of Khaleda's so-called advisors can be classified as accomplices in her

kleptocratic empire. They are still cajoling her to remain the leader, as if she is loaded with this attribute, to the detriment of the party and the country. Isn't it appalling that instead of impeaching her, these lackeys are still bleating their support for her; as if to say, "Whatever she did was to make the party people rich. How can we abandon her now?"

Today, BNP -- which has patented corruption, politicisation and political arrogance -- is in utter disarray, and Khaleda made it so. But many of Khaleda's courtiers still want her to lead the party, even though her continued association with the party is only hastening its disintegration.

Her not being au fait, and gross ineptitude in managing the country's affairs coupled with her incapacity to

comprehend what constitutes good governance, were the precursors to the country's entrapment in the current predicament.

What about Hasina's leadership? A coterie of AL leaders from different strata, mostly those claiming to have been marginalised in the past, expressed their resolve on April 23 to circumscribe the party president's absolute control over the organisation. Others have spoken defiantly. "We don't want an Awami League without the daughter of Bangabandhu, and people will never accept any leadership minus Hasina," said an AL leader claiming anonymity. I am not so sure that people will shed tears for either of them.

As we see, both parties are infested with courtiers whose loyalties lie not with the people or even their party, but rather with a political figure. And while what is true of Khaleda isn't necessarily true of Hasina, why should people trust her leadership and judgment after seeing the kind of candidates she nominated for the now defunct January 22 election?

While intra-party reform ideas are crisscrossing the political sphere, a cluster of politicians of different

parties, civil society members as well as some professionals have been pondering the prospect of launching a new political party. Should this move materialise, it will consist of run-away politicians from AL, BNP, and JP, among others.

If political parties are reformed, as desired by the EC and pledged by the politicians, what would be the impulsion for forming a new party, other than the fiendish pursuit of self-aggrandisement? The prevalence of self-promoting and opportunity-seeking politicians is the reason why the country has over 100 parties, and why former military usurpers could form political parties (example: JP and BNP) to perpetuate power and roll back democracy. Should such a party, if it comes to light, be sanctioned to contest in the 2008 election?

The EC's proposed three years moratorium on retired government officials from contesting election is innately weak. The prohibition should be for the first national election that follows after their joining politics. The same should apply to newly formed political parties as well.

The more germane question is: how can the run-away politicians

from AL and BNP blend under one banner, given their conflicting ideological orientations and underpinnings? AL is a liberal and secular democratic party, whereas BNP is a rightist party closely wedded to religious extremists, anti-liberation elements, and war criminals. Leaving aside the scumbags, there are, of course, good people everywhere; BNP and AL both have dutifully assembled some of those to "show and tell" for political expediency.

Politicians who are thoughtfully demanding deep structural reforms are being singled out for admonition and censure. One wonders if party politics in Bangladesh is getting ever more knotty and unpredictable. If both Khaleda and Hasina are successfully prosecuted on corruption charges, it will leave a serious leadership vacuum because of years of autocracy in party operations.

Bangladesh was ranked 75th among 165 democracies, and is grouped as one of the 55 "flawed democracies," in a global survey report released by the Economist Intelligence Unit (EIU) on November 24, 2006. That was when the rancorous politics of Khaleda and Hasina

defined the national political climate.

Although the EIU report labeled half of the world's countries as democracies, the number of "full democracies" is only 28. Of the remaining countries, 55 are rated "flawed democracies," 55 are authoritarian and 30 are considered "hybrid regimes."

After the institutions of good governance are reformed, and a free and fair election is consummated in 2008, my hope is that Bangladesh will be the 29th full democracy in the world.

But the hope will soon turn into despair, unless political parties are reformed in the true sense. That may not be enough; the reformist government also needs blanket support from major political parties, and all its international friends, in its reforms mission -- not incessant pressure for an early election.

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