

The reforms agenda

Lifting ban on indoor politics will clear the air

LAW and Information Adviser Mainul Hosen's assertion that the government is not considering lifting the ban on indoor politics until reforms are brought about in the political scene merits comment. It does so because of the widespread, and growing, feeling in the country that the current state of confusion and doubt as far as politics is concerned needs to be brought to an end. One can surely suggest that at this stage there is quite clearly an atmosphere of suffocation where freedom to express political opinions is concerned. The on-going ban on indoor politics is symptomatic of such a feeling. Rather worryingly, this feeling comes in the knowledge that the ban on indoor politicking is not quite being applied in the case of those who are up and about as far as forming a new political platform is concerned.

Broadly speaking, the nation agrees that reforms across the political spectrum, and that includes essentially some much needed transformation in the way the political parties are operated from within, are an inevitability if democracy is to be made meaningful. Indeed, in the past many weeks the interest generated in the Awami League and the Bangladesh Nationalist Party in favour of reforms is evidence of a changing mindset not only among the top political figures but also their followers. We believe that the train of reforms that has begun to move will, in time and in a clearly natural manner, yield the results the nation expects. However, for anyone to suggest that political activities, even on a limited scale, must be put on hold until such time as the reforms are completed is to impose a conditionality that should not be there. And there are all the reasons why we say this. In the first place, the Election Commission, frustrated though it is by the government's refusal to lift the ban on indoor politics, has already got down to work through pilot voter ID projects in Gazipur. In the second, the Anti-Corruption Commission has been going full steam ahead in its crusade against criminality.

Given these realities, a bit of a leeway for politicians, through relaxing the ban on indoor politics, can only help to carry the party reforms process further ahead. The law adviser's idea of a roadmap to elections will definitely acquire more substance once politicians are permitted to engage in consultations among themselves. The need, eventually, is to create an enabling atmosphere for democracy to resume its journey, this time in a purposeful manner.

Belated repairing of pumps

Well into water logging season, the lapse is unpardonable

THIS year the recent incessant rains caused severe waterlogging around the entire flood protection embankments. So far most of the water could be flushed out into rivers Buriganga and Balu by opening the sluice gates. This has been possible since the rivers were flowing below the danger level.

However, it has been pointed out by WASA that if the water level rises by another two feet, waterlogging may reach catastrophic proportions. Authorities of the Water Development Board have also indicated that they would be forced to shut down the sluice gates in order to prevent river water entering the city. In case of water entering into the city, the pumps will have to run on a 24-hour basis to drain out both rain water combined with waste water as well as river water.

In the meantime, WASA has reportedly placed 23 pumps at Titipara and another 53 at Rampura. But the ones at Rampura are being repaired and readied only now. WASA authorities have also said that even if the number of pumps were doubled it would not be able to free the city of waterlogging

We thus find it rather absurd that WASA is carrying out repairs of pumps only now in order to make them operative, at a time when we are already well into the monsoon season and living under the looming threat of waterlogging of crisis proportions. It is our expectation that in the monsoon season concerned agencies should be in a state of high alert and preparedness to tackle waterlogging problems.

We also strongly recommend that the WASA and the Water Development Board should be made more effective and through their collaborative efforts be able to deal with this yearly phenomenon in a more efficient way. Government should also come forward in strengthening these agencies with more resources, both technical and otherwise.

In the meantime, we urge the administration that those found guilty of negligence in their duties as evidenced in the case of repairing the pumps at this late hour, whether of the WASA or any other related agencies, should be taken to task.

SAARC and ground reality

S. I. ZAMAN

THERE has always been a reluctance from the regional powers to get Iran on board in any regional cooperation. The post-revolution Iran, in particular, has witnessed a subtle shunning from the regional powers – as though it's a "hot potato". The erstwhile RCD, formed in 1962, was an exception since this was during the Shah's regime, which was totally pro-US. Of course, the RCD failed to deliver any positive cooperation and was eventually dissolved in 1979, after the fall of Shah ECO was formed in 1985, which only exists in a very shaky foundation. Post 9/11 has changed the geo-political scenario of the region; the US reigns; the supreme in

the world political theatre.

How much power or voice do the SAARC member countries really have, when it comes to condemning coercive pressure from a super-power? Is it not apparent that US is actually calling the shots when it comes to making a regional strategic, economic and political decision? Is there really any imminent threat to the region should Iran be accommodated in the SAARC? Does Iran really pose a threat to the region? If Iran is indeed accommodated in the SAARC, there are some advantages. Right now India has an overwhelming dominating presence in the SAARC club. Iran's presence might turn out to be a balance in the power equation. And let's not forget Iran is a regional power in terms of its

vast energy resources and as well as having a powerful voice globally.

On the cultural context, since the middle ages Iran (Persia) and the Subcontinent had numerous political, social and intellectual exchanges. Persian was the language of the ruling class up until the fall of the Mughals, in circa1857. Moreover, Farsi used to be taught in schools as a second language or as a classical language. Persian influence on the Muslim architectural structures throughout the subcontinent is abundantly ubiquitous. Hindi, Urdu and other south Asian languages are filled with numerous words from Farsi. Thus, a cultural juxtaposition exists however feeble it may appear.

However, SAARC, as of now,

failed to deliver anything resembling progress, be it economic or cultural exchanges. There are still skirmishes and exchanges of gun fires between Indian BSF and Bangladeshi border forces, and across India-Pakistan border. As of now, a regional common economic market is still a fool's dream. Only people who are benefiting from SAARC are the ministers, bureaucrats and the retinue of hundreds of mini-diplomats of the member countries – The money spent on a summit could be better utilized on some more pressing need of national importance. A big chunk of the population in South Asia live in dire poverty, average per capita income of this region is around \$300; nevertheless, there has not been any dearth

of funding these SAARC summits to the tune of thousands of dollars.

SAFTA became operational almost a year ago and two months ago the 14th SAARC Declaration was adopted in New Delhi, but the problems and roadblocks are still preventing a regional integration of trade and services. The 14th summit came out with this bold declaration that India is going to allow reduced-tariff trade flow across border, which is yet to see the light of day. Bangladeshi trade goods are still waiting in the stockpile for the green light. And, consequently, all efforts to move forward towards establishing a greater and result-oriented regional cooperation to bring prosperity to the region's hundreds of millions of suffering humanity are being aggra-

vated. It seems waiting for the fruits of SAFTA or indeed SAARC is like "Waiting for Godot". Is it our "anti-quoted" bureaucracy, or is it that there exists a separate political (and economic) agenda of the member states (unknown to the other members) that is making these bottlenecks and frustrations?

M. Dubej in Economic and Political Weekly, April 7, 2007 writes this about SAFTA, "Economic integration in southAsia has remained a non-starter even after 22 years of the South Asian Association for Regional Cooperation. The misplaced and exaggerated security concerns of India and Pakistan are a huge hurdle. The emphasis in these countries needs to shift from state security to human security". Indeed, it's a non-starter of a

colossal proportion.

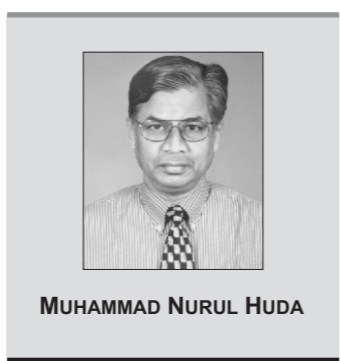
Apparently, SAARC exists only through the countless high-profile diplomatic summits and meetings. A countless number of papers are read, hours and hours of closed door discussions and debates are held, nevertheless, the reality is a zero-output in real term. Nevertheless, after every summit (over the last 22 years), the regional PMs, Presidents, and myriad of Ministers and diplomats have always come out with statements like, "Summit has been fruitful", "Summit has been a turning point", "Summit pledges to combat poverty" or some such similar political rhetoric. Indeed, the words are good for press conferences. And if one sifts through the myriad of papers, documents and agreements

related to SAARC, one would find beautifully and meticulously crafted visions for regional development and prosperity. However, none of the member countries (in particular India and Pakistan) have put their money where their mouths are!

SAARC has become just another "exclusive club" for the political elites of the regions – just an extension of the myriad of "elitist clubs" dotted around the countries in the region a legacy of the British Raj which our elites still try to emulate, at the expense of tax payer's hard earned money!

S I Zaman PhD is a freelance contributor.

Thoughts on terrorism legislation



THE UN Committee on counter-terrorism that visited Bangladesh recently is reported to have emphasised the enactment of legislation to tackle terrorism. Being aware of the reality that framing of an appropriate legislation is one element of a proper counter-terrorism strategy, this writer would like to put forward his ideas on terrorism-related laws, in-so-far as it affects the Bangladesh polity.

The agitated citizens, along with harried law enforcement personnel and worried executives, may think that the recent incidents of terrorism are, at least partly, a consequence of weak laws. Or the ineffective implementation of existing laws? So, if laws were strengthened, and, maybe, made more matter-of-fact, is there a possibility that it might result in more contraventions of human rights in our situation?

There is a view gaining currency that ordinary laws and a normal criminal justice system have failed to cope with terrorism. At times, this failure is not attributed to corruption or inefficiency of law enforcing machinery, but to a weakness of law based on principles of liberal jurisprudence and notions of natural justice.

The reference is to principles like the right to equal treatment before law, the right to a fair trial, and right to be deemed innocent until proven guilty beyond reasonable doubt. Therefore, if the legal remedy is to be effective in dealing with terrorists, it can only do so if the aforementioned principles are overturned, and rights are taken away. This may not be an acceptable alternative in a democratic polity.

The issue of terrorism and human rights has befuddled even the United Nations, and has been a subject of debate wherever militancy, including the so-called religious type, has taken place. In this regard, there have often been

disagreements between the governments and human rights organisations.

The governments of the affected countries have on occasions made it clear that there cannot be an across the board guarantee of human rights to all, irrespective of the means they in turn use to achieve their ends, or whether they respect the human rights of a community.

The terrorists of contemporary Bangladesh, whether they are of the so-called Sarbahara type or bigoted militants, have to be seen in above light. While one may have profound

political strategy of a political party, the suspected human rights violations will undoubtedly blacken the democratic credentials of our polity.

Coming to specifics, one has to say that the process of identifying a terrorist should be discreet and transparent, and administrative and enforcement efforts should be geared towards that. In this regard, special precaution has to be taken so that our politicians do not remain under a pernicious impression that interpretation of terrorism laws is their personal turf.

One must not be oblivious of the

that every criminal is not given a terrorist label only to set in motion the expected stringent provisions of proposed terrorism legislation; because every terrorist may be a criminal, every criminal cannot be a terrorist.

The rationale of a tougher law entailing discrimination between terrorists and ordinary criminals is that bigots in our country have mercilessly killed the poor, public officials, security personnel, and a host of other innocent and defenceless people. No one can deny these stark facts by adopting an ostrich-

In view of our urgent need to fight the so-called religious militancy we may consider if the element of proscription could be a prominent feature of the proposed anti-terrorism legislation. Membership of a proscribed organisation could be a punishable offence, although the power to proscribe has been associated with fears that it infringes on the rights of freedom of association and expression. Therefore, definition of a proscribed organisation should be clear and precise, with the objective of targeting the group instead of becoming just an executive tool.

tion, if approved, could be at the level of Superintendent of Police and equivalent. We could also think of ordering the interception by a judge to keep things above board.

Our proposed legislation may think of expanding the powers of arrest for the police with a view to enhancing the pre-emptive element in combating terrorism. In other words, the police may have to be given an opportunity to act against suspects under surveillance, instead of waiting for surveillance to reach fruition before actually carrying out the arrest.

In order to minimise misuse of powers of arrest, there should be adequate judicial scrutiny to prevent law-enforcers turning into law-breakers. It is true that anti-terrorism laws are, in a sense, emergency provisions, but that should not warrant an obfuscation of legal process.

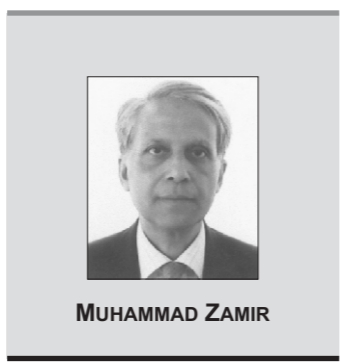
It is up to the wisdom and ingenuity of the government to turn proposals into real, enforceable acts. Let us not forget that while the terrorism threat is painfully real, the other reality of our enforcers not experiencing sudden qualitative change with respect to skill and attitude should not be lost sight of. There is no debate now about whether we need an anti-terrorism law. The question and concern relate to the details of what shape such a law should take.

Finally, the Ministry of Home Affairs must not rush through the proposed Act without the benefit of a national debate on the draft law. It should be possible for the government to draft a workable, less controversial and enforceable legislation. We may be in a hurry because of objective conditions, but an intellectual exercise of debating the delicate points of law is definitely desirable.

The government is certainly aware that our proposed terrorism law will be subject to scrutiny by international covenants to which Bangladesh is a signatory. The political adversaries have to get together on the subject and devise ways to deal with terrorism in its current manifestation. Let us remember that polemic will not heal, and a manifestly reactive community cannot start behaving in a phlegmatic manner overnight.

Muhammad Nurul Huda is a DS columnist.

Pervez Musharraf's travails continue



PAKISTAN'S top army commanders might have voiced full 'unstinted support' for the embattled Pakistan President Pervez Musharraf, but the crisis continues both in the streets (despite a ban on street demonstrations) and within the judiciary in Pakistan. Musharraf, who seized power in a bloodless coup in 1999, has been facing an increasingly strong opposition movement. Things came to a head recently with violent political clashes in Karachi that left more than 40 people dead.

Musharraf's troubles in his eighth year of office appear to have started with the removal on March 9 of Chief Justice Iftikhar Muhammad Chaudhury, the head of Pakistan's Supreme Court. The President put allegations of misconduct forward to support this decision.

The Opposition has however claimed that the suspension of the Chief Justice was linked to his being more 'independent' than acceptable by the President. It has also been underlined by them through several seminars and meetings that the Chief Justice was being increasingly seen as being a potential legal hurdle to Musharraf retaining his dual position as President and Army Chief ahead of the next election as required by the Constitution.

Musharraf, it may be mentioned, believes very strongly that any effort, from any quarter, suggesting

that he take off his uniform (which he claims 'has become part of his skin') is tantamount to sedition. It is this vein of thought which has also led the Pakistan Supreme Court to begin a hearing, since the end of May, of a petition against 'derogatory remarks made about the government, judiciary and armed forces.' In this context, comments made against the President, also the Armed Forces Chief, is being interpreted as having been made against the armed forces itself.

A complex inter-play between the State, its institutions and the individ-

reference to the Supreme Judicial Council is also invalid under law as the Chief Justice himself was an integral part and head of this Council. They have resorted to Article 209 of the Pakistan Constitution for this purpose. Citing this as legal authority, the defence team has asked the Supreme Court to 'direct that all constraints, restraints and impediments in the way of the petitioner's performing the functions and exercising the powers of the Office of Chief Justice be removed forthwith'.

It has also been argued by the

with the prosecution lawyers as to not only whether President Musharraf enjoys absolute immunity under the Constitution, but also whether he is answerable to the Court. This Judge mentioned most interestingly -- 'there is no cavil to the fact that the President enjoys no absolute immunity under Article 248 of the Constitution. What the law says is-he cannot be made respondent by his name.'

This view has questioned the basic premise of the prosecution team opposing the petition on the ground that acts of the President

media as a 'secular pragmatist seeking to restore good governance' is also under attack.

One aspect is very clear from the existing situation. Pakistan is heading into another of its cycles of mass unrest and political instability.

Pakistan, like some other countries in this region, has a patronage-based system. This has created its own matrix vis-a-vis religion and democracy. Juxtaposed together, discontent has surfaced. Till now, this disaffection does not appear to have entered the bastion of the Pakistan army-northern Punjab

lost on the opposition-particularly the two political parties of the ousted Prime Ministers Nawaz Sharif and Benazir Bhutto.

Press reports have indicated that both parties in general and Bhutto in particular, after trying to achieve a deal with Musharraf, is now carefully watching the situation in the streets. The mainstream political leadership is in exile but they also appear to be using every opportunity to fuel the judicial crisis. They believe that unless the present military dominated government is able to broaden its base, it will be presiding over growing disorder that will eventually lead to the generals themselves insisting on a change of government.

Nevertheless, there is also an underlying paradox in such an assumption. The opposition knows that any alternative political process will require the army's full support if they are to govern effectively (and contain extremist violence). Herein lies the crunch. Consequently, there does not appear to be a simple solution to this complex issue. The attempt to brow-beat a judge has opened new pressures and fissures within the socio-political fabric of Pakistan. It has also raised uncertainty within the electoral framework.

I conclude in this context with an observation made by Tariq Ali in 'The Guardian' of 17 May. He has mentioned 'There is an easy solution. The general should discard his uniform, the judge should forgo his wig, and the two should battle it out on the electoral terrain.' I completely agree.

President Musharraf has great will power. He has done many good things in the last few years. However, what he probably requires right now, is self-appraisal and humility. This is the only way towards national reconciliation in his troubled country.

Muhammad Zamir is a former Secretary and Ambassador who can be reached at mzamir@dhaka.net

POST BREAKFAST

This time round, there are very high stakes in Pakistan. On the negative side, Pakistan continues to be menaced by the conflict in Afghanistan, pro-Taliban unrest in its tribal areas bordering Afghanistan and the spread of Islamist extremism elsewhere in the country. It is also under severe pressure from Washington. All these elements have not been lost on the opposition-particularly the two political parties of the ousted Prime Ministers Nawaz Sharif and Benazir Bhutto.

ual has surfaced in Pakistan. It reminds one of a strange parallel that existed during the reign of French King Louis the XIV. He practiced absolute power and stressed the fact that he was the embodiment of the State.

It is such a view and approach that has also led the Pakistan police to register cases of sedition against 200 lawyers in Karachi. They had taken part in protests to express solidarity with the suspended Chief Justice during his visit to the port city last month.

The constitutional status of Chief Justice Chaudhury as a judge is presently under review in Pakistan. His lawyers have sought multiple reliefs from the Supreme Court on the ground that the President cannot file a reference against a sitting Chief Justice of the Supreme Court. It has also been stated that such a

team of lawyers representing the Chief Justice that members of the Supreme Judicial Council (including Justice Javed Iqbal and Justice.A.H. Doger) do not have the right to be part of this Council because of their 'known personal bias' against Chief Justice Chaudhury. This defence team has also challenged the holding of this Council's sessions in camera. They consider such a step as being ultra vires to the Constitution and a violation of the fundamental rights of the Chief Justice.

Matters have now become further complicated through an observation made by Justice Khaliur Rahman Ramday, a Pakistan Supreme Court Judge (as part of the 13-member full bench) hearing the suspended Chief Justice's petition challenging the Presidential reference against him. Justice Ramday has differed openly

cannot be challenged in the Court. Justice Ramday has subsequently gone one step further. He also tried to present his views in the context of Islam, the foundation of the Islamic Republic of Pakistan. He underlined that Islam attaches special importance to justice, prayer and philanthropy. Consequently, he added, 'where there is an issue of justice, it becomes a matter of public importance and in this backdrop, the Chief Justice's case is also a matter of public importance.

The ramifications of this opinion are significant. It reveals the deep cleavage that has emerged within Pakistan over absolute governance. It also reiterates that the President is in hot water despite the government's claims of Musharraf having presided over a period of sustained economic growth and relative stability. His reputation in the western

(from where most of the army is recruited). If it does eventually spread into that sensitive territory, it will create division within the army's ranks. Senior generals who are still supporting President Musharraf might then be persuaded to reexamine the evolving deteriorating scenario and decide whether the President was still acceptable or whether there have to be changes for facilitating a fair election and good governance.

This time round, there are very high stakes in Pakistan. On the negative side, Pakistan continues to be menaced by the conflict in Afghanistan, pro-Taliban unrest in its tribal areas bordering Afghanistan and the spread of Islamist extremism elsewhere in the country. It is also under severe pressure from Washington.

All these elements have not been