

Chief Adviser in Davos

Some cogent points made

At the world stage Chief Adviser Fakhruddin Ahmed has forcefully reiterated his government's commitment to holding national elections by the end of 2008. Speaking at the plenary session on the Quest for Peace and Stability at the World Economic Forum, the CA regarded the 'biggest challenge of Bangladesh' as ensuring the sustainability of the policy and institutional reforms of the caretaker government beyond the elections.

His emphasis seems to be on political and electoral reforms underpinned by an understanding reached with political parties for their ratification by the successor elected government, so that the country does not return to pre-1/11 situation of a democracy only in form rather than substance.

The Election Commission had already engaged political parties in intensive consultations over reform of the electoral process. This was to have been completed in November last year. But the EC's invitation to acting secretary general of Saifur Rahman-led faction of the BNP was promptly disputed by Delwar Hossain in the court. Stay order was given by the Honourable High Court with show cause issued on the EC. Efforts are underway to expedite the legal process so that the matter is solved one way or the other.

As for political reform, the chief adviser has already called for a dialogue with the political parties. The CA has made clear the timing of the dialogue though, saying that it should follow completion of the EC's talks with political parties, precisely with the legitimate leadership of the BNP. We understand that fixing a clear-cut set of agenda for government's talks with politicians will be facilitated when the agenda for electoral reform will have been disposed of. A draft ordinance is already in place which is likely to be given finishing touches after talks with BNP. So, the electoral reforms won't be long in coming. With that, will be paved the dialogue between the government and the political parties. They should sit with an open mind to ensure participation of all political parties in the election and a free, fair and credible election culminating in successful transition to an elected government.

The CA's reiteration of commitments has been reassuring to the nation and we believe to the outside world as well.

Gas pipeline blaze

Lack of supervision of pipeline appalling

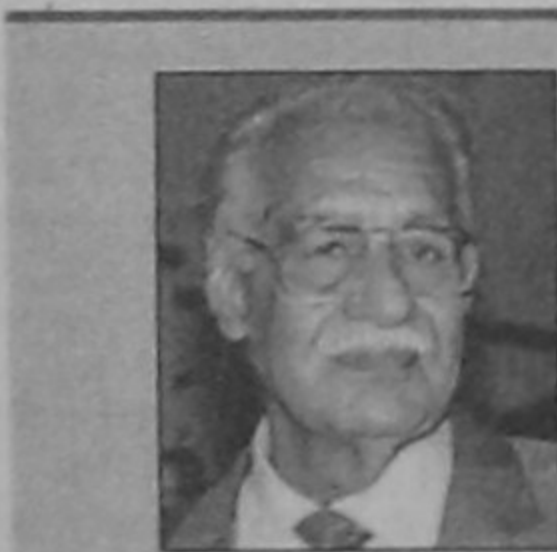
The incident of underwater gas pipeline going up in flames on the riverbed of river Turag after having been hit by a passing trawler is a deplorable one indeed. The accident damaged the gas pipeline, burnt away huge amount of gas and also damaged wires of an electric transmission line overhead. It was a double loss of national resource and property. It is also a glaring example of how our precious national property remains unprotected and at the mercy of some careless people.

The accident exposed the loopholes that exist in the maintenance of pipelines of Titas Gas Transmission and Distribution Company Ltd. The heavily loaded trawler should not have been allowed to pass through the spot under which the distribution pipelines crossed over to the other side. We believe, had there been regular supervision or some kind of warning system at the particular spot the accident could have been avoided. It is also a fact worth keeping note of that the possibility of accidents becomes greater in winter when water level in a narrowing river like Turag goes down considerably. There is no denying that miles of gas pipelines remain unprotected in most areas and the authorities only jump to action when an accident occurs.

We believe that natural gas is one of our precious natural resources; therefore, its conservation and prudent use are pressing imperatives. At the same time, maintenance of gas field equipment and transmission pipelines must be made foolproof to avoid damage and wastage through accidents like the one at Turag. Henceforth we hope the authorities would be proactive in maintenance and protection of the valuable national wealth.

It, however, remains to be said that Titas Gas authorities should take measures to improve the distribution of gas to the city households. In many areas of the city gas pressure remains low for months together though clients have to pay the fixed charges. This is a basic civic amenity that the government has to ensure to every citizen. The authorities concerned, therefore, need to address the complaints of the citizens on a priority basis and do the needful at the earliest.

No respite from Hindu-Muslim Taliban



KULDEEP NAYAR
writes from New Delhi

"WILL you arrest anybody and identify him by any name that suits your case?" a judge asked the police while setting Aftab Alam Ansari free. He was imprisoned on suspicion that he was involved in the serial blasts at the courts in Lucknow some two years ago. He is an electrician working at Kolkata in the government's power corporation. He was picked up from there. The UP Police chief described him as a "hard core" belonging to the Harkat-ul-Jihad-i-Islami (HUJI). Sheepishly, the police have admitted that it was a case of "mistaken identity."

What Aftab went through in jail is too familiar in the subcontinent to be

repeated. I do not know whether he is suing the authorities for his illegal detention. But this is a case which some NGO should take up to demand not only compensation for him but also punishment of those who misused the law. It has become a practice with the police to arrest anyone without even a semblance of evidence to allay the people's fear in the wake of a blast.

One more example of the police getting away with "false testimony" has come to the fore. This is the Bilkis Bano case in Gujarat. Eleven people who raped her and killed 14 of her relatives, including her three-year-old daughter, have been sentenced

The dilemma of defining terrorism



MUHAMMAD NURUL HUDA

HERE are credible reports to understand that an appropriate legislation to fight the menace of terrorism may see the light of the day in the not-too-distant future. The advisory council has reportedly made some observations on the draft legislation and the law ministry is expected to come up with a revised version shortly. According to media reports, one element of such observations relates to the phrasing of an acceptable and workable definition of terrorism. This writer wishes to take the opportunity to share his thoughts on ideas and some concepts on the subject.

Defining terrorism is, without doubt, an exacting task, particularly when there is as yet no universally accepted definition of the subject. One has to remember that such a law affects every single citizen, provides the executive a permanent alternative to the existing penal and criminal procedure and shall invariably infringe on the right to information. However, on account of objective conditions, it is no longer a question of whether we at all need an anti-terrorism legislation but actually the details of what shape such a law should take.

In the sub-continent the terrorism laws have tried to be all-inclusive in their definitions of terrorism often

including a wide range of acts that qualify as terrorism and factors that contribute to terrorism. In the west, however, the definitions have been far narrower. It needs to be mentioned that the problem of defining terrorism remains fundamentally unresolved even in the United States.

One would perhaps be right to say that a great deal of ambiguity stems from the use of ideology to justify acts of terror. Experienced observers say that the use of ideology has often been an alibi. Some would say that acts of terror should be divorced from context. Enforcement veterans would argue that terrorism should be viewed as any act that tries to disrupt attempts at reconciliation. One has to perhaps admit that in the absence of a global framework, domestic legislation is an effective legal remedy against terrorism.

One may have good reason to pinpoint the double-edged nature of terrorism laws and express premonition about the abuse of such laws. However, the fear that a law is liable to be misused cannot be a justification for not having legislation at all.

For our proposed legislation to be acceptable from a definitional point of view, the understanding of terrorism must not be kept so loose that it becomes an instrument of government abuse. This is so because in our situation the authority is quite often

under pressure to produce results in anti-militancy drives. A sense of desperation creates the urge to bypass the law itself.

Definitions of terrorism in the sub-continent have been "maximalist" in its coverage. The rather cumbersome definition of a terrorist according to the Indian "Terrorist Affected Areas (Special Courts) Act 1984" is "any person who indulges in wanton killing of persons or in violence or in the disruption of services or means of communications essential to the community or in damaging property with a view to

(a) putting the public or any section of the public in fear

(b) adversely affecting the harmony between various religious, racial, language or regional groups or castes or communities

(c) coercing or overawing the government established by law

(d) endangering the sovereignty and integrity of India"

The above definition is definitely maximalist in intent. Such definition is loose thereby allowing its indiscriminate use by security forces.

The basic thrust of the definition of terrorism as laid down in the "Prevention of Terrorism Ordinance 2001" India, is motive

"In this controversial law, 'Whoever

(a) with intent to threaten the

unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people does any act or thing.... in such a manner as to cause or likely to cause both death or injury... or detains any person or threatens to kill any person...."

(b) or is or continues to be a member of an association declared unlawful under the Unlawful Activities (Prevention) Act... commits a terrorist act."

So from a focus on the 'act' itself, the definition of terrorism is expanded to 'an act of association' with a terrorist group. The idea again is simple, to include patrons and harbourers of terrorist groups, and fringe supporters in the ambit of the anti-terrorist law. This has been directly lifted from the British Law which draws up a list of 'proscribed organizations' to which membership, funding or open support within the territory of the UK is banned. This list is periodically reviewed, with an intention of making the fight against terrorism in line with threats to internal security.

The way in which the British Home Office expanded the concept of a Proscribed Organization to make it applicable across the broadest spectrum is interesting. On the one hand, it is precise and unambiguous. It even attempts to measure

and list what acts would constitute 'support' to a banned organization, something which had been left to law enforcers to interpret so far. In all, while broadening its applicability, it narrows the definition of terrorism itself.

The terrorism law, in order to serve the avowed purpose must not allow a situation to develop wherein its interpretation becomes the turf of politicians and subject to their personal prejudices and opinion. At the same time the bigger concern as to whether and to what extent, activism - religious, political or ideological - be set aside from terrorism. The core question is: should motive define terrorism?

One cannot be oblivious of the very real possibility that an anti-terrorism law might be used by unscrupulous or vindictive governments to neutralize opponents. This is not intended to ignore the difficult task of removing the possibility of subversive activity cloaking itself as 'conflicting ideology'.

The Washington based RAND foundation lays down a few indices on the basis of which terrorism can be defined:

(1) Political Motive: RAND talks of "an act of terrorism as a crime in the classic sense such as murder or kidnapping, albeit for political motive"

(2) Attention grabbing Motive: RAND argues in its presentation before the US administration that "terrorism contains a psychological component-it is aimed at people watching." The identities of the actual victims or targets of attack, RAND says, are secondary or irrelevant to the terrorists' objective of spreading fear or alarm or gaining concessions.

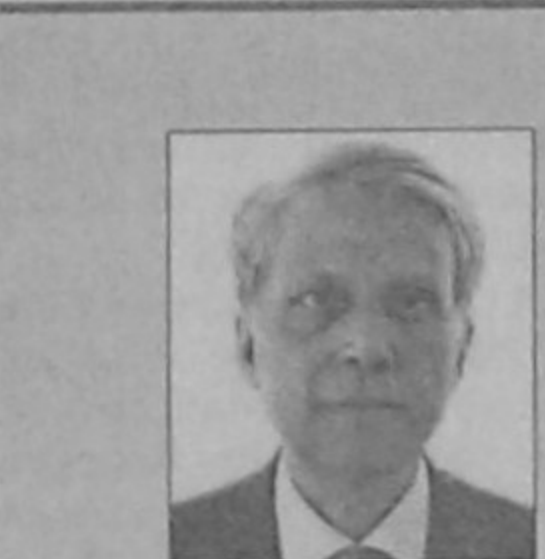
One has to remember that while every terrorist may be a criminal, every criminal cannot be given the label of a terrorist. The enforcement authority must not be allowed to circumvent the criminal law while applying terrorism legislation. There is, however, a pressing need to draw tougher law to discriminate between terrorists and ordinary criminals.

The law against terrorism in USA has traditionally looked at the act, the motive as well as the persons or audience the act is directed at. The Indian and British laws do not quite reflect the American discreteness, as shown in RAND definition mentioned hereinbefore.

One may have to admit that there is an inherent subjective element in the implementation of even the most precise, narrow, definition of terrorism. At the international level, there is no legislation, no convention which can be used as a tool for global cooperation against terrorism. Such cooperation in the form of legislation would require the elimination of all ideology, motive, compulsion, or long-term goal from such a definition. One has to remember that the blurring of the definition would give rise to unnecessary debate. Bridging the ideological divide between nations could help in finding an acceptable definition of terrorism.

Muhammad Nurul Huda is a columnist for The Daily Star.

EU gets more involved in the Balkans



MUHAMMAD ZAMIR

A feeling of relief has swept across the EU after the recent signing of the Lisbon Treaty late last year. Apprehension still exists about the subsequent ratification process but it is now generally agreed that the last Council has been a "watershed" for the EU. A year ago, few observers would have predicted that, at the end of 2007, the EU would be ready to move on after having agreed on a new Treaty.

The European Council Summit in December 2007 brought to an end the cycle of institutional reforms initiated six years ago at Laeken, near Brussels, with the famous Declaration that launched the Convention on the Future of Europe. With the formal signing of the Lisbon Treaty, a chapter in the European integration process characterized by recurrent intergovernmental conferences aimed at revisiting and revising the EU Treaties has come to an end. The Presidency Conclusions agreed at the Council should enable "the Union to fully concentrate on addressing the concrete challenges ahead."

It is now being anticipated that if the ratification process can be successfully concluded, then EU institutions can focus their attention on more urgent and concrete policy issues, starting with the status of Kosovo (and its potential ramifications) and other topics already on the agenda for the March 2008 European Council.

The Kosovo conundrum has

POST BREAKFAST

The EU Foreign Ministers' meeting on 28 January is squeezed in between the two rounds of the presidential elections in Serbia, i.e. at a very delicate moment in domestic politics. This may force the postponement of some decisions to late February or even early March -- that is, until after the presidential elections due to be held in Russia. In the meantime, NATO has expressed its readiness to beef up its 16,000-strong military contingent in Kosovo if need be, to deter any possible escalation of violence on the ground.

continued to be an area of interest for me as a former Ambassador to Bosnia-Herzegovina. In this context I have followed closely not only the report delivered by the troika (EU, US and Russia) on 10 December on the negotiations between Belgrade and Pristina, but also the decision taken by the Speaker of the Serbian Parliament (in the absence of an agreement between the government coalition parties) to set the first round of the presidential elections for 20 January, with a run-off in early February. The Foreign Ministers of the EU-27 took stock of the situation on 10 December and, after that, Russian Foreign Minister Sergei Lavrov asked once again for further negotiations.

The Presidency Conclusions delivered on 14 December after the Council Summit were articulated around four elements -- acknowledgements by the EU-27 -- (1) that the troika had achieved some results (commitments to restraint on both sides) but had also "exhausted" its function; in other words, there were no more margins for a negotiated and bilaterally-agreed solution to the problem; (2) that (a) the status quo in Kosovo was unsustainable; and that (b) there was a "need to move forward towards a settlement" that is "essential for regional stability"; (3) that such a settlement would constitute "a sui generis case that does not set any precedent," and (4) that "the EU stands ready to play a leading role in strengthening stability in the region and in imple-

menting a settlement defining Kosovo's future status". Such a movement forward was strategically significant. The consensus achieved on these initial elements was not a foregone conclusion: it did not exist a few months ago, and it looked in doubt even a few weeks ago. In other words, the EU, which appeared to be reluctant to agree to some form of independence for Kosovo, have now accepted this common approach.

The second element in the changing landscape of Europe was the decision to launch the civilian mission in Kosovo in the context of the European Security and Defence Policy (ESDP). This was a primarily political decision, with the operational and technical details to be finalized at the first 2008 meeting of EU Foreign Ministers on 28 January. It is understood that plans are afoot for recruitment of a 1,800-strong force (including policemen, judicial experts and custom officials). Interestingly, the Presidency Conclusions also stressed the autonomous dimension of the EU decision, without making it dependent on a preliminary deliberation either by the United Nations Security Council or UN Secretary-General Ban Ki-Moon. The message was quite clear: the ESDP mission will be launched anyway, playing on the generic wording of UNSC Resolution 1244 (establishing a "civilian international presence") that still regulates the state of affairs in Kosovo; and deployment will begin in the first months of 2008, in

parallel with the progressive down-

sizing and phasing out of UNMIK (already well under way too). In other words, the EU-27 have decided unanimously to proceed, after many months of preparations, without waiting for a formal decision at the UN level, which remains blocked by Russian opposition. The calculation is that this may eventually lead to some sort of ex-post facto recognition by the UN, thus facilitating the final handover to European Union Force (EUFOR) Kosovo and its appointed head, the Dutch EU Council official Pieter Feith.

The future prospects regarding Serbia was the third element in the complex agreement arrived at within the EU-27. This also underlined the growing assertiveness of the EU. After reaffirming that "the future of the Western Balkans lies within the European Union", the Presidency Conclusions insisted that Belgrade was a key factor for the stability and prosperity of the whole region. The European Council also encouraged Serbia "to meet the necessary conditions to allow the Stabilization and Association Agreement (SAA) to be signed rapidly and, in the light of Serbia's considerable institutional capacity reiterated its "confidence that progress on the road towards the EU, including candidate status, can be accelerated". There was however reference to the December 2006 Conclusions, inserted at Dutch insistence at the last minute to reaffirm the conditionality still hanging over Serbia -

namely, the request for "full cooperation" with the international Tribunal (ICTY) in The Hague in the hunt for indicted war criminals, which has to be met before the SAA is formally signed and the candidate status eventually granted.

Such an approach has shown maturity on the part of the EU. This has also suggested balance and a two pronged strategy in the more or less veiled offer of fast-track candidate status (a "sweetener" for Belgrade) on the one hand and the desire to avoid a likely clash between the EU and Serbia over Kosovo. Conditionality remains, in other words, but the emphasis is more on the visible rewards for compliance (which now include also a visa facilitation and readmission agreement) than on possible penalties for a lack thereof -- in the belief that overcoming the gridlock over Kosovo, one way or another, will eventually also be beneficial for Belgrade.

It is true that such a tentative roadmap will still be a hostage to a regional and international context, which might still disrupt the consensus achieved at the EU Summit. This consensus has however created some breathing space for the local authorities in Kosovo who appear to have accepted the need to avoid not only any unilateral declaration but also the need to coordinate with the EU and the US, and wait until at least after the presidential elections in Belgrade (in order

not to play into the hands of the radical/nationalist camp).

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Since January 2008 it has been Slovenia's turn to be in charge of the EU Presidency. Slovenia is the first new Member State to take the EU helm since the 2004 enlargement. Its stint is coming at a delicate time, with the Kosovo 'file' high on the EU agenda. Less than two decades ago, Slovenia and Kosovo belonged in the same state structure, lying as they did at the opposite ends of the former Yugoslav spectrum in terms of economic and social indicators -- and Slovenia was also the first republic to secede from the Federation, in 1991. This will be a difficult test for Ljubljana, but at least Slovenia is familiar with the realities of the region and now has a tentative internal EU roadmap to follow.

Then comes France's Presidency, sandwiched between two new Member States. There is only one certainty-2008 will be a very interesting year for all Europeans.

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Gujarat continues to be in the grip of Hindu Taliban. The sainiks destroyed the NDTV office at Ahmedabad a few days ago because the channel reported M.F. Hussain, a world-famous painter, as one of the people's choice for the Bharat Ratna, the highest civilian award. Compared to the Hindu Taliban, the Muslim Taliban may be less active. But they are very much there. They demonstrated against the Godrejs, a house of industrialists, last week because they had hosted Salman Rushdie, the author of Satanic Verses. Nobody in the community dared to speak against them. People were simply afraid of what the fundamentalists might do to them.

to life imprisonment. At last some persons have been punished, thanks to the persistence of Bilkis and Teesta Setalvad, a human rights activist, supported by the media. Yet, five policemen have been acquitted. Bilkis wants to pursue their case of "false testimony." The case had to be heard outside Gujarat because of pressures within the state. Yet the main culprit, state chief minister Narendra Modi, who had planned and had the ethnic cleansing done, moves around freely because there is no "legal proof" against him. The Navavati Commission appointed to find out those responsible for the carnage has been sitting for the last

five years, still examining witnesses. Modi without a qualm of conscience has the audacity to talk about the Centre's failure to curb terrorism when he was touring Tamil Nadu and Maharashtra. What happened in Gujarat was something more terrible than terrorism. The visiting British Prime Minister Gordon Brown has announced financial help and his government's support to a concerted action against terrorism. And he wants Pakistan to be part of the drive. But he should know that terrorism is only a symptom, not the disease. Fundamentalism has very much to do with it. The terrorism witnessed in Gujarat was the work of Hindu fun-

BETWEEN THE LINES

damentalists. Without curbing them or their counterparts among Muslims, there can be little progress on this front.

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of explanation, much less condemnation, from the BJP spokesman, Ravi Shankar Prasad, otherwise an urbane person. When the entire structure of his party, the BJP, has been built upon anti-Muslim sentiments, its youth followers, the sainiks, are only instruments of terror and tyranny, at the beck and call of the party.

The same sainiks or their type broke the glasses at the NDTV office in Bhopal. This is the capital of the BJP-run Madhya Pradesh. It is assumed that no action will be taken against them as well. True, it is a minor incident compared to the Ahmedabad one. What the nation must realise is that Germany was not taken over by the Nazis in one day. They nibbled at the country ideologically and socially.

People would shrug their shoulders that the NDTV incident did not hurt them. The Nazis too did not take on all the people at one go. Only one set of them was attacked first. The other sections left aside asked themselves why they should raise their voice when they had not been touched. Ultimately, when the Nazis came for the last set of people, there was nobody left to speak out.

The Muslims accused in the

Godhara train arson case have been denied even a fair hearing and deprived of basic freedom. In all there were 135 accused in the incident. The last bail order was granted by the Gujarat High Court on October 30, 2004. The court has simply not heard any bail application since. Many serial discrepancies in the arrests, some glaring inconsistencies, have been pointed out to the state which simply refuses to address the concerns. Compared to the Hindu Taliban, the Muslim Taliban may be less active. But they are very much there. They demonstrated against the Godrejs, a house of industrialists, last week because they had hosted Salman Rushdie, the author of Satanic Verses. The demonstrators demanded a boycott of goods produced by them. Not many Muslims were associated with the hoodlums. But then nobody in the community dared to speak against them. People were simply afraid of what the fundamentalists might do to them. In fact, the fear they instill in the general public is their weapon. They have already silenced the government of India in the case of Taslima Nasreen, a Bangladeshi author. It has put her in a house at Delhi, isolating her from the outside world. She has protested against the "house arrest" but neither the government nor

the Muslim community is sensitive to her freedom. I do not know why New Delhi is soft towards fundamentalists. The example of Pakistan is before us. There was a time when the madrassas and maulvis did not pose any danger. Religious parties would never cross a double digit in elections to the provincial and national assemblies. The madrassas went on brainwashing youth studying there. Lakhs of them are now an integral part of the Pakistani society. The government did not lift even a finger against them. Now that they have begun to challenge the state, the army has been deployed to curb them. A score of suicide attacks on it has demoralised it. Six soldiers were beheaded at a paramilitary camp in South Waziristan.

Still, the terrorists have come to occupy a large bit of Pakistan's territory. The entire Waziristan is under their command. President Pervez Musharraf has tried to convince Europe which he has toured that the terrorists have been nearly ousted from the country.

Very few believe him. That is his and Pakistan's tragedy. His credibility is zero.

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