

Ill-gotten wealth of Titas employees and officers

These individuals must not escape accountability

ON the face of it, the news that 126 employees and officers of Titas Gas have promised to return their ill-gotten wealth, amounting to nearly Tk. 400 crore, to the state exchequer, should cheer everyone. The task force has done a good job there. Now that these Titas Gas people, of whom a staggering 118 are meter readers turned property owners in bizarre fairy tale fashion, are prepared to give back all that wealth to the state, we can only reflect on all the rags to riches stories that we have seen take shape in recent times.

The matter of the corruption indulged in by Titas employees is but a tip of the iceberg where institutional corruption is concerned. We expect the on-going drive against corruption to go on, indeed pick up speed from here on. However, a most worrying part of all this is that it appears to render anyone willing to give up his or her illegally earned wealth immune to prosecution as well as being given continuity in his or her job. That certainly cannot be satisfying to a nation which has long suffered collectively precisely because of such corrupt individuals and organisations. It is our belief, considering the massive scale of wrongdoing committed nearly everywhere, that those who acknowledge their corrupt dealings and are willing to give up everything they have acquired through hoodwinking the nation and in brazen defiance of the law and morality should nevertheless be held to account from the perspective of rule of law. Any recovery of ill-gotten wealth is encouraging. More than that, a strict application of a process of accountability to those who have looted public wealth serves a warning to them and others about the risks inherent in living on pilferage and highway robbery.

The need for surveillance against corruption as also the requirement of internal reforms in the various utility organisations can hardly be over-emphasised. Moreover, there is an imperative in ensuring that the 480 factories which owe Titas Gas as much as Tk. 1200 crore in unpaid bills are made to clear their debts. It is this sinister combination of a propensity not to clear bills and an overwhelming desire to lay one's hands on resources that are properly that of the state which have led to poor service from and losses in utility organisations. The time to stem the slide is now.

Environment merits priority attention

Hazards are growing for Bangladesh

IT can hardly be overstated that but for the hue and cry raised by civil society leaders and Paribesh Andolon activists over encroachment on our rivers, lakes and parks we would hardly have been aware of the environmental hazards involved. The expropriation of public lands including forest resources by professional land grabbers and poachers managing impunity to legal action during successive governments left the nation poorer on many counts. Huge acreage of land went into wrongful possession diminishing space for development projects as tree cover dwindled and the natural drainage channels got clogged.

On another level, water logging in the cities resulting in cesspools, piling garbage only fractionally disposed of, and the dilapidated transports spewing carbon monoxide have exacerbated the levels of surface and air pollution to the degradation of the overall environment around us.

While reclamation of land in illegal possession is very much an administrative-cum-legal issue that needs a separate strategy to be addressed, in the immediate term, what we can do is to re-equip the Department of Environment with necessary gadgets, manpower, and above all, legal teeth to perform its multifarious tasks effectively.

When we are wrestling with such routine environmental concerns, an overarching challenge stares us in the face. Already Bangladesh has been exposed to climate change which bore down on us through two successive floods and cyclone Sidr to top these off. The intensity of the calamities proving catastrophic gave a foretaste of things to come with global warming eventually raising the sea level to drown nearly one-third of Bangladesh. It is necessary to get our act together to face up to the challenge through galvanisation of national resources with the media playing its due role. We also need to be part of regional and international strategies to prepare ourselves adequately to tide over the horrific environmental crisis on the horizon.

It is in this backdrop we are heartened to learn that Dr Atiq Rahman has won the Champions of the Earth Award 2008 from the United Nations Environment Programme in Nairobi. At the helm of the Bangladesh Centre for Advanced Studies (BCAS), 'he transformed the NGO into a leading think-tank in South Asia on sustainable development issues.' We congratulate him on his success.

Obama plays offense

As Barack Obama rolled across rural South Carolina last week on his campaign bus, he spoke with Newsweek columnist Jonathan Alter about the new rougher tone of the campaign, his prospects in a general election and getting things done in the presidency.

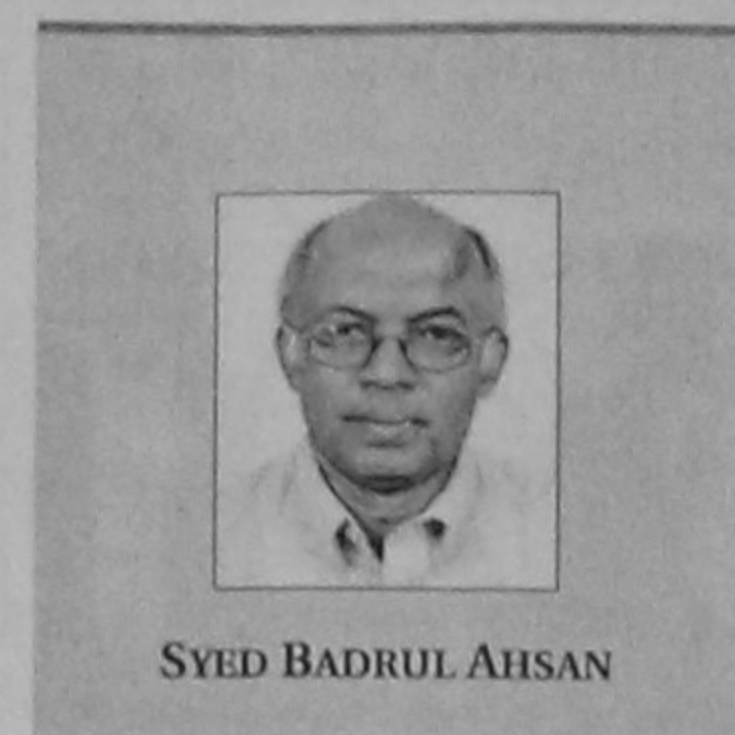
JONATHAN ALTER

Alter: You're clearly not comfortable taking part in what Bill Clinton called the "contact sport" of politics. Obama: It's not my preference. Do you remember when (Michael) Jordan's Bulls were playing the Detroit Pistons? They had the "Jordan Rules" (defense). (The Pistons) would just knock 'em around. They didn't care. It wasn't a pretty sight. But until the Bulls learned to push back, it was going to be hard for them

to win. It's not something I shy away from, but not something I relish. We're not going to back down. It's part of what's at stake here: can we change our politics? The premise of the charge on your "present" votes in Illinois is that you were gutless.

That's the irony of it. I was often the only one voting present. If I was playing politics, I would have gone along with the other 58 (state senators). I would not be standing on my own. The premise doesn't make

Suharto, September 1965 and East Timor



SYED BADRUL AHSAN

MAHATHIR Mohamad's assessment of the recently deceased Suharto does not hold up to scrutiny. The former Malaysian prime minister, while paying tribute to the late Indonesian dictator, has informed us all that reports of General Suharto having had any prior knowledge of the 1965 coup in Indonesia are nonsense.

Now place Mahathir's comment beside that of Tan Sri Ghazalie Shafie, once Malaysia's deputy prime minister. In May 1994, addressing a group of South Asian media personalities in Kathmandu as a special guest, Shafie left everyone surprised by his revelation that towards the end of 1964 the Malaysian government, then led by Tunku Abdul Rahman, had made contact with an Indonesian military officer named Suharto about the prospects for a change of regime in Jakarta. He did not elaborate, probably out of a realisation that he had already said more than he needed to.

And then there is the strange case of Colonel Latief, one of the officers involved in the terrible happenings on the night of September 30, 1965. Soon after Suharto was forced from power in 1998, a long-imprisoned Latief expected the new president, B.J. Habibie, to set him free.

GROUND REALITIES

Few will shed tears for Suharto. Those who will, and do, must be counted among those in whom the principle of the dignity of the individual has gone grossly missing. Nothing can be more demeaning for the world we inhabit than the sight of men who scale the peaks soaked in the blood of others, stay on top in defiance of all decency, and then pass into death without morality and the wheels of justice having had them pay for their misdeeds.

Habibie had already released from long confinement a good number of former PKI sympathisers and supporters and military officers General Suharto had put away once he gained power after the chaos that had been given out as an attempt by the communists to seize control in Jakarta. As Latief would recall, he was with General Suharto on September 30.

Plans had already been put in place by Suharto, with Latief and other officers, to kidnap seven generals allegedly plotting a coup against President Achmad Sukarno, produce them before the president and thereby force them to reveal details of the "conspiracy."

Suharto and Latief were, from such a perspective, pro-Sukarno officers, or at least Suharto tried giving that impression. In the event, forces loyal to Suharto kidnapped the seven generals, and six of them were murdered soon after their abduction by Suharto loyalists. Latief, with a number of other officers, was quickly placed in imprisonment. General Suharto then let the world in on the news that the Partai Komunis Indonesia (PKI), which at that point had a membership of 20,000,000 Indonesians, had conspired to kill the generals. It was a lie. It remains a lie.

In point of fact, the PKI, though it enjoyed close links with President Sukarno and his government and certainly harboured ambitions of taking power someday, was not at all involved with the tragic events of September 30, 1965. Like all Indonesians, it was taken by surprise when Suharto and his cohorts seized the state and was positively horrified when the Indonesian army, armed with a list of 5,000 suspected communists provided by the United States embassy in Jakarta, went after its members and supporters.

In the weeks and months that followed September 1965, Suharto and his soldiers let loose a bloodbath, killing as many as 2,000,000 Indonesians and placing 700,000 more in prison without trial. A systematic campaign was undertaken to wipe out the PKI, strip President Sukarno of his authority, and establish friendly links with the West.

In the process, D.N. Aidit, the widely respected leader of the PKI, was kidnapped and murdered. No trace of him or his remains was to be found.

Dr. Subandrio, as foreign minister, the country's respected international face, was arrested, tried for his "role" in the murder of the six generals and sentenced to death in October 1966. The sentence was later

commuted to life imprisonment. Subandrio was to spend twenty-nine years in jail. When he emerged free (he died in 2004), he still refused to reveal his side of the story and appeared intent on not upsetting Suharto. It was similar, lingering fear that prevented thousands of Indonesians finally able to make their way out of prison from speaking of their experiences in the post-September 1965 period.

With Suharto now dead at the ripe old age of eighty-six, it remains a travesty of justice that the Indonesian judicial system was never able to bring him to trial and punish him for all the crimes committed by his brutal regime. And with brutality came venality.

In thirty two years in power, a period which saw him engineer his re-election by parliament over and over as a matter of routine, Suharto gave free rein to his children and his cronies as they swiftly and brazenly established their hold on the economy. All Indonesians knew of the corruption that Suharto's children indulged in.

None of them knew of the means by which the tide could be turned, for the Golkar democracy (and it was fake democracy which ensured that the army and its civilian loyalists, through a political party they called

Golkar, would always guarantee Suharto's hold on power) the dictator had put in place was a system that rendered the regime immune to prosecution of any kind. Besides, there was the added measure of Suharto's friends in the West finding in him a strong base for an upholding of their political and economic interests in the country.

The opportunities that opened up for it in September 1965 had been translated into privileges the West was not going to fritter away through asking Suharto to democratise his regime.

You only have to hear what John Pilger has to say in his seminal work, *The New Rulers of the World*. Months after the military seized power under Suharto, notes the Australian journalist, representatives of Western multinationals, with men from the new Indonesian dispensation in ingratiating attendance, gathered in Europe to stake their claims to Indonesia's natural resources. Of course, it was all couched in soothing language. These firms were all ready to assist Jakarta in harnessing its resources in the interest of its people.

Today, as you survey the scene from this distance in time, you realise only too well whose interests the 1965 coup served. Western firms greedily went into Indonesia to have Indonesian workers make products for buyers in Europe and America. A worker who produced a pair of Nike trainers in a Jakarta factory was paid scandalous wages that equalled no more than the price of the strings used on a single pair of trainers. But the firms in the West were happy and, in Jakarta, Suharto's family was ecstatic with all the money it was funneling into its coffers through commiserating nearly everything it sets sights on.

This, then, is the legacy that

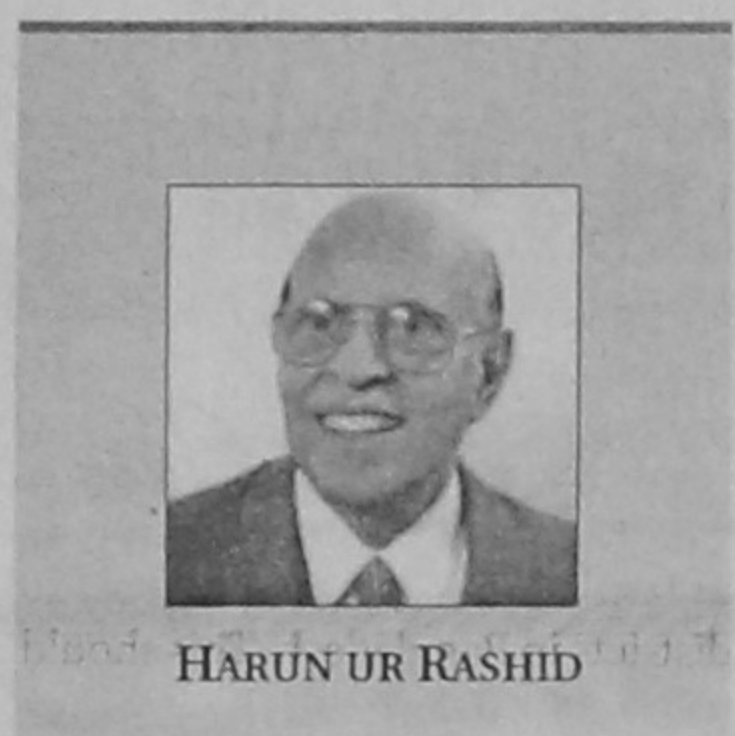
General Suharto leaves behind. And more. It was his regime that left the people of East Timor, today Timor Leste, traumatised for twenty four years following the Indonesian army's conquest and colonisation of the island once the old Portuguese colonial power departed in 1975. The Timorese independence leader Xanana Gusmao was arrested and taken away to Jakarta as soldiers went about disbanding his Fretilin party.

Of the 650,000 Timorese who inhabited the island in December 1975 (for that is when the Indonesian military invaded), 250,000 would lose their lives in their long struggle for freedom and at the hands of Suharto's forces. US President Gerald Ford and Secretary of State Henry Kissinger, meeting Suharto on the eve of the Timor invasion, quickly led the general to believe that Washington would look away as his army went into occupying the island. In 1966, as the bloodbath inaugurated by General Suharto went on, the philosopher Bertrand Russell served a severe indictment on what the regime was engaged in. "In four months," said he, "five times as many people died in Indonesia as in Vietnam in twelve years."

Few will shed tears for Suharto. Those who will, and do, must be counted among those in whom the principle of the dignity of the individual has gone grossly missing. Nothing can be more demeaning for the world we inhabit than the sight of men who scale the peaks soaked in the blood of others, stay on top in defiance of all decency, and then pass into death without morality and the wheels of justice having had them pay for their misdeeds.

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Bangladesh & UN Convention on the Law of the Sea



HARUN UR RASHID

THE United Nations Convention on the Law of the Sea (UNCLOS) of 1982 is a document, which has taken almost a decade for its completion. Unlike the past four UN Conventions on the Law of the Sea, this Convention is much broader in scope and governs use of the world's oceans, especially establishing ground rules for everything from navigation to deep-sea mining.

The Law of the Sea Convention protects its members' navigation rights to the oceans. It establishes limits for marine boundaries and rules for extracting resources among states and preserving the health of the seas. And it sets up a way to resolve disputes about these issues.

Furthermore, the steady melting of the sea ice in the Arctic and Antarctic -- caused largely by global warming -- has opened up new inaccessible parts of the world to shipping and potentially vast deposits of oil, natural gas, mineral resources. In this context, the importance of the UNCLOS has increased. Although the first session of the UN Conference took place in 1973, its substantive session took place in July 1974 in Caracas in Venezuela. (The writer attended the conference as a representative of Bangladesh). The Conference was chaired first by the Sri Lankan Ambassador to the UN, Hamilton Shirley Amerasinghe.

Common heritage of mankind
One of the concepts that underpin

BOTTOM LINE
It is noted that the definition of continental shelf has been given both in legal and geological terms. In geology, the continental margin includes continental slope and continental rise, but in legal terms the continental shelf includes both these geological structures. The continental shelf of Bangladesh constitutes a gradual slope from the coast because of inflow of the billion tons of silt from its rivers and, accordingly, many experts claim the continental shelf of Bangladesh may easily extend to 350 miles, subject to the conditions of the UN Convention.

the Convention is that the maritime area beyond the national jurisdiction is a "common heritage of mankind." Maltese Ambassador Avid Pardo first articulated this concept in 1967.

Malta is a small country in the Mediterranean, and the country felt that the sea-bed and ocean floor under the high seas should be considered "the common heritage of mankind," meaning that no country could own or utilise for its benefit the maritime area beyond its national jurisdiction.

By declaring this concept, Malta has emphasised that small countries without great technical expertise for exploration will derive benefits from the exploration and utilisation of the sea-bed of international areas.

The concept caught the imagination of most member countries of the UN. And when the UN Conference on the Law of the Sea began, almost all delegates of developing countries incorporated this concept in their policy statements.

Bangladesh faces the Bay of Bengal, and the importance of its access to the open ocean can be appreciated if one considers the handicaps of landlocked countries, such as Nepal and Afghanistan. Accordingly, from the early years of its birth, it took great initiative and interest to participate in the UN Sea Law Conference.

UNCLOS regime
Under the UN Sea Law Convention,

three institutions, the International Seabed Authority (ISA), the International Tribunal for the Law of the Sea (ITLOS), and the Commission on the Limits of the Continental Shelf (CLCS) have been created.

The United Nations and the ISA recognise the desirability of achieving effective coordination of the activities of the Authority with those of the United Nations and the specialised agencies, and of avoiding unnecessary duplication of activities.

The ISA cooperates with the Security Council by providing to it, at its request, such information and assistance as may be required in the exercise of its responsibility for the maintenance or restoration of international peace and security. In case confidential information is provided, the Security Council shall preserve its confidential character.

The ISA, located in Jamaica, officially came into existence in 1994, but its first Secretary-General, Satya Nandan of Fiji, wasn't elected until March 1996.

The ISA didn't become fully operational until June 1996. It wasn't until 2000 that the Assembly of the Authority issued regulations on prospecting and exploration for poly-metallic nodules.

Currently, the ISA is financed by "assessed" contributions. This is the same scheme that the UN uses to finance itself. Certain countries are

"assessed," or told they have to pay a certain amount. In addition to the three major institutions, various commissions for the ISA, including an "Economic Planning Commission" and a "Legal and Technical Commission" have been created.

Article 163 declares that members should have "appropriate qualifications," be competent, and "have no financial interest in any activity relating to exploration and exploitation in the area." It also declares that the members of the commissions should not disclose "any industrial secret" or "proprietary data" which are "transferred" to the ISA.

Time frame: 2011 for Bangladesh

The purpose of the above paragraphs is to highlight the institutional mechanism in scrutinising claims of maritime jurisdictions, in settling of disputes among nations, and establishment of equitable regime of exploration of high seas under UNCLOS.

Bangladesh ratified the UNCLOS in 2001. It is expected that by 2011 Bangladesh will have to declare its maritime claims, including its continental shelf, and communicate it to the UNCLOS institutions including CLCS.

Bangladesh law
During the '70s, Bangladesh was the first South Asian country to enact laws on maritime areas. In 1974,

Bangladesh Parliament adopted a law known as the Territorial Waters and Maritime Zones Act, Act no. XXV, (as a Director General of the Foreign Office, the writer was involved, among others, in the preparation of the drafting of the law)

The law has allowed the government to declare its jurisdiction on maritime areas, including its baseline, from where the territorial waters are measured.

Besides internal waters, there are four maritime areas on which Bangladesh has claimed its jurisdiction. They are as follows:
• Territorial Sea
• Contiguous Zone
• Exclusive Economic Zone
• Continental Shelf

Whatever remains beyond the national jurisdictions is a part of the high seas, and the sea-bed and ocean floor are to be regarded as the common heritage of mankind.

It is noted that Bangladesh law was adopted long before the UNCLOS came into existence.

Maritime zones of Bangladesh

Through the rivers of Bangladesh, about 2.4 billion tons of silt flows annually into the Bay of Bengal. The country's 720-kilometre coastline is heavily indented and dotted with small islands/islets. The water of the coastline is very unstable and non-navigable, except by country boats.

For Bangladesh, a normal baseline is not appropriate, and straight baseline is the one that suits it. The delineation of straight baseline is recognised in the UN Law of the Sea Convention.

Bangladesh's baseline was notified through a gazette notification of April 16, 1974 issued by the Ministry of Foreign Affairs.

Under the law of 1974, Bangladesh claims 12 miles territorial sea and 200 miles economic exclusive zone from the baseline, and claims the continental shelf to

the outer limits of the continental margin bordering on the ocean floor or abyssal floor.

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Delimitation of sea boundaries

It is noted that Bangladesh is an adjacent state to both of its neighbours and not an opposite state. Therefore, the method applicable in delimiting the maritime boundaries between opposite states is not relevant to the one between adjacent states to achieve an equitable settlement. Furthermore, the configuration of Bangladesh's coastline warrants the consideration of "special circumstances" in terms of the UN Convention.

It is understood that negotiations with India last took place in 1982, and with Myanmar in 1986. It is also important that the sea boundaries of territorial sea, economic zone and continental shelf with our neighbours -- India and Myanmar -- need to be settled for exploration and exploitation of marine resources (living and non-living).

It is commendable the caretaker government reportedly has taken the initiative to resume negotiations with the neighbours.

Barrister Harun Ur Rashid Former Bangladesh Ambassador to the UN, Geneva.

sense. Most of these were a way of me signaling something technically wrong with the bill. The fact is, I took on the tough issues in the state legislature -- on the death penalty, racial profiling. You've gone after Hillary for voting on both sides of the bankruptcy bill. Isn't that just the same legitimate legislative gamesmanship -- except in Washington, not Springfield?

It's more troubling than legislative gamesmanship. This is a bill her husband opposed in the White House. Then she runs for the Senate representing New York financial institutions and suddenly changes her position. The answer she gave (in the debate before the New Hampshire primary) is a classic Washington answer -- I voted for it, but hoped it would fail.

Isn't it accurate for a fair-minded observer to say Hillary would be more ready on day one?

No. The question isn't who's ready on day one, but who's right on day one. A mythology has been created that somehow just by being there for eight years (in the White House as First Lady), she is going to be better prepared, better organised and exercise better judgment.

But I would put my judgments on foreign policy next to hers over the last four years on Iraq, on Iran, on how would she conduct diplomacy, on Pakistan. I would argue that reflects readiness, not the fact that you sat in the White House or that you traveled to 82 countries.

On domestic policy, the critical issue is the ability to mobilize the American people to move forward. The problem on health care is not the technical one -- we all talk to the same experts. The question is who can build working majorities to push this stuff through. I don't think any fair-minded observer would suggest

that Hillary Clinton is best equipped to break us out of the political gridlock that exists in Washington.

If elected, you would be getting there as a newbie. You'd have a very narrow window to succeed.

Sort of like this campaign. We had a very short window. One of the unfair comparisons has been to Jimmy Carter or to Bill Clinton at the beginning. The thinking is, if you're an outsider, you'll make a lot of rookie mistakes and squander the first 100 days. But one thing I've shown is I understand Washington and I've got good relationships there. A lot of Washington isn't that different than any other aspect of life, whether it's office politics or jostling for status in high school. People want to be recognised, want to maintain their status, want to be respected. All good presidents had critical life experiences that helped them in the presidency. What do you bring?

I can understand people from different walks of life, understand their perspectives, see the best of them without accepting the worst in them and get them to work together. And that's partly because of what I've had to do in my life. That's what we need right now. Instead of thinking ideologically, I think very practically about what will get something done.

My relationships with the elder statesmen of the party are very good, even if they've endorsed someone else. I'm trying to move health-care reform and Daniel Patrick Moynihan and Bill Bradley and John Chafee come to me with the possibility of compromising. I'm not going to tell them it's my way or the highway (which is what he says Bradley told him happened with Clinton's plan in 1994).

Would you have Republicans in your cabinet?
No decisions, but Dick Lugar

embodies the best tradition in foreign policy. Chuck Hagel is a smart guy and has shown some courage, even though we disagree on domestic policy. Gen. Tony McPeak, former member of the Joint Chiefs of Staff, considered himself a Republican at the time George W. Bush started the invasion of Iraq, and he's now with us.

We've got a lot of disaffected Republicans, some in power, some ordinary citizens, who we can reach. That was my main point about Ronald Reagan, that there were Reagan Democrats. I think there are Obama Republicans that we can pull in.

Even great presidents accomplish only two or three big things. What will you have accomplished at the end of eight years?

We will have ended the war in Iraq in an honorable and strategic way as part of a larger process of rebuilding our standing in the world. We will

have passed universal health care and not only expanded coverage, but started on the road toward a more efficient system. And we will have a bold energy agenda that drastically reduces our emission of greenhouse gases while creating a green engine that can drive growth for many years to come.

Why do you think you're a better general-election candidate than Hillary?

I can attract independents and Republicans. In Nevada, there were votes that I got (in rural counties) that Hillary Clinton could not get. There were no votes that she got that I could not get in a general election. And it's fair to say we are inspiring people who were not involved in politics to get involved, and that changes the political map.

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