

## Exalted image of the judiciary

Chink even in the perception is unthinkable

THE reallocation of power of the HC division bench of Justice Shah Abu Nayeem Mominur Rahman and Justice Shahidul Islam from writ to civil appeal hearing would have passed off as a routine affair in normal circumstances. But given the particular backdrop it was set against, public mind couldn't but be exercised over the jurisdictional change of the bench concerned.

It is this bench that had declared illegal the government sanction to try extortion case against detained former prime minister Sheikh Hasina under Emergency Power Rules (EPR) and quashed the trial proceedings. HC even granted bail to those convicted in the cases under EPR which was later to be reversed by the SC. It may not appear as mere coincidence that the order changing the jurisdiction came before the final hearing scheduled for March 19 on a writ petition challenging the validity of not holding national election in the '90-day stipulated time-period.

There is, in fact, a pattern to the recent happenings. The HC bench gave orders and verdicts which when they went to the Appellate Division would be either stayed or cancelled. There is no second opinion that reallocation of jurisdiction between benches may turn out to be an imperative necessity in that certain judges could be more competent and better suited to cope with particular tasks than others. And the CJ is not only within his powers to effect it but is also the best judge of what needs to be done. The question however relates to the timing of it -- on the heels of a particular set of circumstances as cited above.

But this is not without a precedent. The same judge Nayeem Mominur Rahman had shown-caused the four-party alliance government as to why the appointment of Justice MA Aziz as Chief Election Commissioner will not be declared illegal since he retained the position of justice of the Appellate Division. Justice Nayeem was divested of the writ power soon thereafter. Incidentally, when Justice Ruhul Amin became the Chief Justice, Justice Nayeem got back his writ hearing power.

We want the judiciary to enjoy the highest moral standing and impeccable credibility. For, we strongly believe that democracy, justice and people's rights are best served when the judiciary enjoys the highest public esteem.

The point we are trying to drive at is after the separation of the judiciary from the executive, the concept of independence of the judiciary has been placed on an exalted pedestal. At a time like this, question should not arise in the public mind that there could even be any perceived interference in the affairs of the highest judiciary.

## Eid-e-Miladunnabi

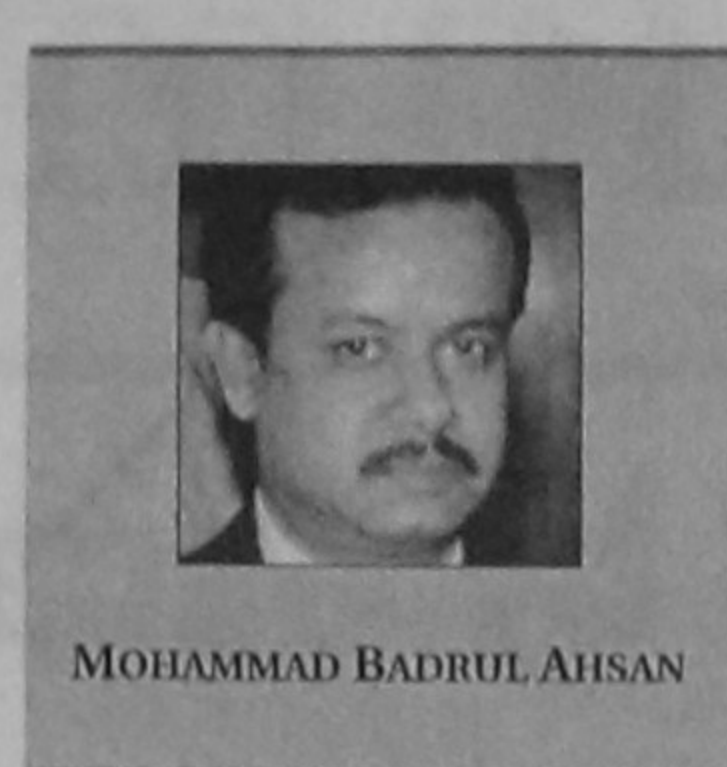
A time to reassert faith and its values

EID-e-Miladunnabi is that time of year when we go back to the values of life and faith as espoused by Prophet Muhammad (peace be upon him). In a larger sense, we renew on this day the principles that came into the lives of all those who believe in the oneness of the Almighty, indeed in the majesty of His power to inspire us into a full flowering of our intelligence and intellect. And within such a flowering comes the fundamental premise that life on earth is but a shadow of the bigger reality awaiting us in the life hereafter. That reality is but the idea that here on earth we follow a path set for us by the Almighty, a path that has been explained to us in all its finer details by His messenger.

Today, we observe much more than the day of birth and the day of death of the Prophet of Islam. We celebrate today the essence of his teachings; and central to those teachings is the belief, as he espoused it, that all life must be lived in nobility and therefore away from any manner of temptation. Prophet Muhammad (pbuh) instilled in us the lesson that faith is a calling (higher) than all other aspirations. Islam, he taught us, is much more than a matter of belief in the afterlife. In point of fact, it is a code of life which we are expected to follow in the everyday pursuit of life. While self-abnegation is a principle of faith, it is equally true that divorcing oneself from reality does not and cannot sustain faith. In the practice of his own life, the Holy Prophet left us a very large number of good instances from which to draw not only inspiration but sustenance as well. One of the cardinal teachings coming from him is that liberality of thought, in the sense that believing individuals must be tolerant in their attitudes, is what we need to rekindle in ourselves today.

Today it is the glow of faith, as lit up by the examples set by the Holy Prophet himself, that we seek to nurture anew in ourselves. Eid-e-Miladunnabi is a moment when we test the resolve in us to follow the course set for us by Prophet Muhammad (pbuh).

## We should take offence



MOHAMMAD BADRUL AHSAN

A foreign diplomat is going door to door peddling wisdom to our political leaders. If you check the television footage of their meetings with her, you will be reminded of kindergarten students sitting in their class. The fawning politicians gather around the honourable guest, their faces dripping with humility and smiles. You don't have to be a wizard to guess whose wish is whose command.

Yes sir, the lionised leaders of our republic look covered before the mighty emissary of a superpower. As it happens in nature, so it happens in politics, in the age-old law of matsayana the big fish always devours the small. Our fiery leaders are calm and callow in the presence of the foreign envoy. I don't know about you. It appears to me that the chargé d'

## CROSS TALK

Yes, she wants to convey that her government wants to see national elections held within this year. No matter. Yes, her government wants her to talk to our politicians. No matter. These are positive indications that when the United States speaks, everybody listens.

affaires of a foreign embassy wants to take charge of our affairs.

What is happening has happened before, to juntas in Latin America, strongmen in Africa, rulers in Asia, and potentates in the Middle East. The behaviour of our political leaders comes in that long tradition of obeisance which created Anastasia Somoza in Nicaragua, Saddam Hussein in Iraq, Reza Shah Pahlavi in Iran, Fulgencio Batista in Cuba, Augusto Pinochet in Chile, and countless other mindless autocrats, not necessarily in that order. But there was some beauty to it, a façade of national pride, which glossed over the invisible hand of foreign influence. At least it looked as if the dictators were in control of their countries, the external interference coated with the righteous patina of the Cold War.

One example is worth mentioning. The US government had ordered its ambassadors to warn Latin leaders not to carry out

assassinations. When Orlando Letelier, a Chilean socialist leader, was gunned down in Washington DC in 1976, it was found that the American ambassador in Chile hadn't conveyed Washington's warning to Pinochet, because he was afraid the dictator would take offence.

Why doesn't anybody care if we are going to take offence? Why don't they care that it's odd when a sovereign nation must leave the reins of its politics in foreign hands? Understood, a meddling superpower wants to push its whims down our throat. Understood, we are in the stranglehold of a hegemonic force. But where is the diplomatic finesse whereby powerful nations are pleaded not to make a public spectacle of the political tutelage of weaker nations?

Ambrose Bierce, an American satirist, once quipped that "war is God's way of teaching Americans geography." By extrapolating the

same humour, it can be said that diplomacy is America's way to teach other nations that democracy in the rest of the world is government of the Americans, by the Americans and for the Americans.

It remains the strength and weakness of democracy that one size must fit all, the tailor-made American prescription where people are free to choose their governments so long as those governments are of American choice.

Turn the page for an illustration. In 1928, the Columbian army machine-gunned hundreds of workers in the town of Ciénega. The Columbian government claimed that the violent incident was necessary to avoid an American intervention on behalf of the United Fruits Company.

The upshot is that in the magical world of American influence, governments of other countries are ready to kill their own people

to protect American interests.

It was the American oil interest, which had led to the overthrow of Mohammad Mossadegh in Iran in 1953. In 2003, an article in Le Monde Diplomatique claimed that the real plan behind the Iraq invasion was to flood the world market with Iraqi oil and drive the price down to \$15 a barrel. The United States wanted to kill three birds with one stone: stimulate its economy, destroy the Opec cartel and strike a blow at the "rogue states" like Venezuela and Iran.

American interest works in mysterious ways. And if the American diplomat in Bangladesh is running around, she isn't doing that legwork for nothing. Yes, she wants to convey that her government wants democracy in Bangladesh. No matter.

Yes, she wants to convey that her government wants to see national elections held within this year. No matter. Yes, her government wants her to talk to our politicians. No matter. These are positive indications that when the United States speaks, everybody listens.

But is that all America has in mind? It could exert its influence to bring together our politicians. It could exert its influence so that these leaders could be nice to each other, like they have been nice to

its chargé d' affaires.

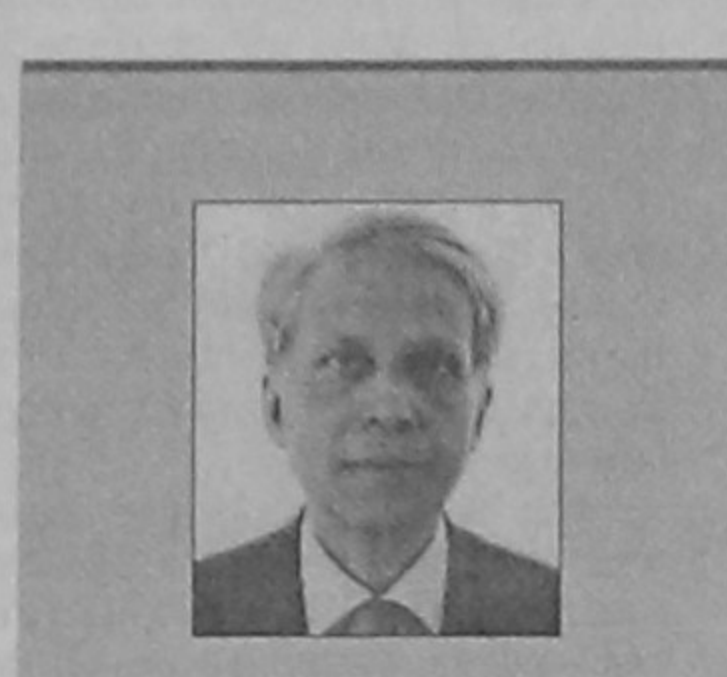
Who is to blame for it? No doubt foreign governments are responsible, but most of the fault lies with our politicians. It's their ingratiating habit, self-serving motives and lack of dignity, which embolden foreign hands to put their fingers in our pie. A recent story in the media is a case in point. A Saudi prince has sent a luxury gift to one of our former presidents.

One must be curious to ask why anyone should give anything to an autocrat who has been long ousted from power. The Bill Clintons, the Jimmy Carters and the Nelson Mandelas of the world also receive donations, and they do philanthropic work. In our case we have got a dandy, who will ride around town in his shining car and show off that he has got friends in a faraway kingdom.

In less than a week, we shall have our 37th Independence Day. There will be speeches, parades, cultural events and other festivities. We shall show the world that we know how to celebrate our freedom. Why do we need foreign diplomats to tell us how we should exercise that freedom? Next time they do that, can we not take a vow? We are going to tell in their faces that we take offence!

Mohammad Badrul Ahsan is a banker.

## Pakistan: The challenges ahead



MUHAMMAD ZAMIR

THE complex and torturous process associated with any election to the Pakistan National Assembly and the Provincial Assemblies has finally been completed. Despite explosions, murders and suicide bombings, the Pakistan Election Commission has been able to conclude its responsibilities -- official notification of the results, and the distribution of the reserved seats for women and the minorities.

The Pakistan National Assembly is in business and a coalition government is in place in the new political landscape of Pakistan. In the previous elections of 2001 under the Musharraf government, it took more than 40 days to hand over power to the representatives. This time it has taken nearly four weeks. This, however, may be construed as only the first step. The door towards democracy and stability has been opened, but there are still many challenges that have to be confronted by the new coalition government. It will require patience, bi-partisanship and understanding between the principal stakeholders -- the larger political parties, the armed forces and the bureaucracy. There will have to be political will and careful planning as to the strategic objectives.

The country's problems are so deep-seated that only long-term policies will help bring Pakistan out of its current cycle of authoritarian rule, instability, and underdevelopment. That will be necessary to tackle the evil of extremism in Pakistan, and to re-establish the rule of law and more successful

## POST BREAKFAST

They also need to deal with the major issues of poverty and the high cost of living, and start investigations into the abuse of power and gross violations of human rights. They should also work for a tolerant society and give space to the voice of dissent as a basic right. The coming days are crucial for Pakistan.

development of the country's economy.

The most important single determinant of Pakistan's future remains the minds of its people. In this regard it would be worthwhile for the USA and other western powers to understand that Pakistanis should be allowed to decide the outcome of the current power struggle in Islamabad. Attempts by outside powers to influence the formulation, selection, or fragmentation of the leadership will fail, and also create resentment. Outsiders seeking to influence developments in Pakistan also need to consider the limits of their being able to establish a flourishing, pluralistic democracy in that country.

One is tempted to point out that even if there has been an election and the formation of an elected government, it has still left many loose ends for both President Musharraf and his principal ally -- the USA. Even Musharraf's close supporters are now saying that he might not be able to survive another year in office. Washington has also been left with some difficult choices.

It needs a reliable ally in Pakistan, but the multifaceted domestic political scene seems ready to produce more uncertainty in the short term. Given the scale of the US investment in Pakistan since 9/11, it will be viewed as a highly disappointing outcome for many in Washington. It will also be a major headache for the new US administration in January 2009.

It is a remarkable fact that in all probability no one really knows how much aid the United States has actually given to Pakistan. The sheer number of programs, many of them classified, has meant that

it will be virtually impossible to have an accurate overview. It has been claimed by some analysts that US aid to Pakistan since 9/11 has amounted to at least \$18 billion. That figure, it is considered, is made up of four funding streams for which there are published accounts -- Coalition Support Funds, Budget Support, Security Assistance, and Development Aid.

Classified funds have gone toward intelligence, covert military action, support to the Inter-Services Intelligence (ISI), training of Pakistani officers in nuclear safety, and cash payments to tribal leaders hired to fight Al Qaeda elements in their areas.

However, while the United States has been spending very substantial sums, militancy in Pakistan has been growing at an alarming rate. The murder of Benazir Bhutto, and the attempts on the lives of General Musharraf, the interior minister, the chief justice, the religious affairs minister, and many others, attest to this.

It would be worthwhile to note here that ten or fifteen years ago state officials in the military or the ISI allegedly sponsored most of the militant activity in Pakistan. Now ISI personnel are themselves targets. Terror is now manifesting itself through the jihadis (fighting in Kashmir), the Taliban fighting in Afghanistan, and the extremists carrying out suicide bombings within Pakistan.

When Pakistan deployed troops in Waziristan in 2004, under strong US pressure, it did so with some reluctance. Many senior Pakistani officers and experienced civil servants feared the campaign would backfire. Their pessimism was entirely justified. By 2007, the 80,000 Pakistani troops in Waziristan had achieved very little.

In fact, in August 2007, the militants captured over 200 soldiers and held them hostage for over two months.

Eventually, the men were released in exchange for the release of 28 captured militants. For the first time in the tribal area, the army has been exposed as being weaker than expected and this, in turn, has emboldened the tribal population -- not very happy news for the new coalition government.

This situation suggests that the new Pakistani government needs to concentrate more on helping the tribal elders to win back power from the militants. One way out might be to integrate the tribal areas into mainstream society, a process that will inevitably involve dismantling tribal structures.

A restrained approach will also be required in Baluchistan. The PPP leadership has already shown wisdom by apologising to the Baluch people for all the atrocities perpetrated in the past (during the past PPP governments), and agreeing to take affirmative action to alleviate the concerns of the tribal areas. The US administration needs to actively help out in this regard. It has already approved a \$750-million program for social development in the tribal areas. It is trying to replicate its efforts put in place in Iraq since 2006 with regard to certain Sunni tribal leaders.

The US administration is also planning a \$350-million program of cooperation with Pakistan to recruit some Waziri tribes or clans to fight the militants. These are constructive measures. Winning the war on terror in Pakistan (against the Lashkar-e-Toiba and Jaish-e-Mohammed) will require both military and social programs. It has to be understood that unless

handled with care, the two can be in conflict. One bomb dropped from a drone in the tribal areas can undermine tens of millions of dollars worth of pro-American attitude purchased by civilian aid programs.

There are myriad obstacles to democratic development in Pakistan, and not all of them have to do with the military. Illiteracy, the feudal landowners, the lack of rule of law, the dynastic tradition, and many other factors all play a role.

The lack of democracy in the country should at best be seen as a symptom of the problem rather than the problem itself. For as long as millions of Pakistanis remain illiterate, impoverished, and unaware of their rights and responsibilities in society, meaningful democracy will not be achievable.

It is true that President Musharraf is weaker than ever, but even with a genuine civilian government, the army will remain a powerful voice in Pakistani politics. The army remains indispensable to any future political order because of the tenacious hold that it has now established in the national economy, and because Pakistan, under any government however democratic, will face armed challenges from within or without.

However, there has also been a growth in awareness that the armed forces' long and repeated interference in Pakistani politics has harmed both the political development of Pakistan and the integrity of its principal mission of national defense against the country's enemies.

Consequently, it will be quite logical to anticipate that the coalition government will now try to establish the rule of law as the most powerful organising principle, and act through it to bring together disparate elements of the Pakistani polity. Judicial independence has now become central to the calculations of the politicians. Nawaz Sharif's insistence about the restoration of the sacked judges has made independence of the judiciary the central plank for broad opposition unity.

Consensus will be needed in most areas of governance to consolidate the political transition. In Pakistan's difficult social, political and security conditions, participation of all elements of society will be needed, including the armed forces.

Gary Ackerman (D-NY), during a recent US Congressional hearing, suggested that all further US assistance to Pakistan should be put on hold till the fired Supreme Court Justices are reinstated, opposition politicians and civil society activists are released, and independent media is allowed to reopen. The Democratic presidential candidates -- Obama and Hillary Clinton -- have also underlined the need for the US policymakers to focus more on the Pakistani people rather than on President Musharraf.

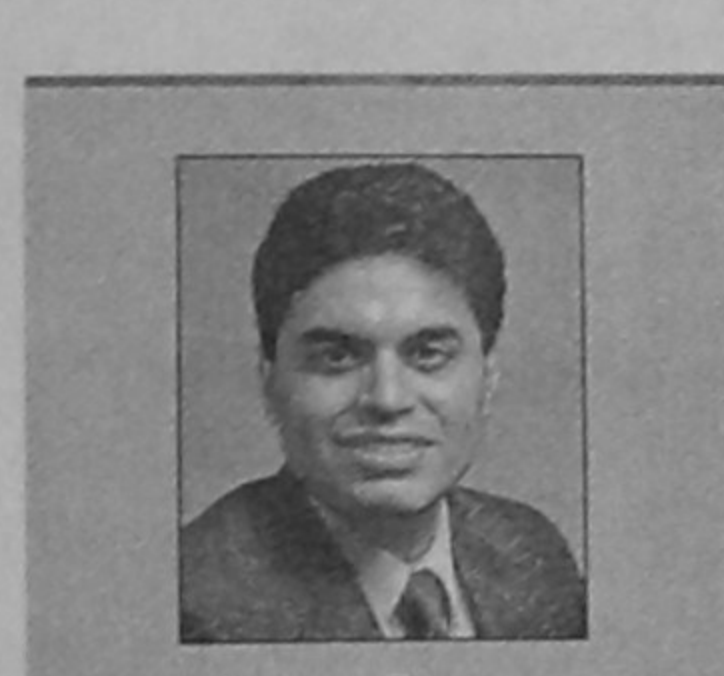
In a manner of speaking, this means that the new coalition government as well as President Musharraf are already on notice from Pakistan's allies. Others in South Asia and within the immediate region also have high expectations from the new government.

In these circumstances, on can only hope that the PPP and PML-N, now that they are in power, will try to implement the Charter of Democracy that they reached in 2006, and focus their efforts on releasing all the political workers and all those who have disappeared and are believed to be kept in military camps, on restoring the rule of law and media freedom, reinstating the Supreme Court and withdrawing all restrictions placed on freedom of expression and association.

They also need to deal with the major issues of poverty and the high cost of living, and start investigations into the abuse of power and gross violations of human rights. They should also work for a tolerant society and give space to the voice of dissent as a basic right. The coming days are crucial for Pakistan.

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

## Stuck in Iraq loop



FAREED ZAKARIA  
writes from Washington

THERE is a paradox in the current situation in Iraq. We are told that the surge has worked brilliantly and violence is way down. And yet the plan to reduce troop levels -- which was at the heart of the original surge strategy -- must be postponed or all hell will once again break loose.

Making sense of this paradox is critical. Because in certain crucial ways things are not improving in Iraq, and unless they start improv-

ing soon, the United States faces the awful prospect of an unending peacekeeping operation -- with continuing if limited casualties -- for years to come.

In a brilliant and much-circulated essay written in August 2007, "Anatomy of a Tribal Revolt," David Kilcullen, a veteran Australian officer who advised Gen. David Petraeus during the early days of the surge, wrote, "Our dilemma in Iraq is, and always has been, finding a way to create a sustainable security architecture that does not require 'Coalition-in-the-loop,' thereby allowing Iraq to stabilize and the Coalition to disen-

gauge in favorable circumstances." We have achieved some security in Iraq, though even this should not be overstated. (Violence is still at 2005 levels, which were pretty gruesome.) But we have not built sustainable security architecture.

How does one create a self-sustaining process that leads to stability? Do we need more troops? Longer rotations? Kilcullen points in a different direction: "Taking the Coalition out of the loop and into 'overwatch' requires balancing competing armed interest groups at the national and local level." In other words, we need to help forge a political bargain by which Iraq's

various groups agree to live together and not dominate one another.

"These (groups) are currently not in balance," Kilcullen wrote, "due in part to the sectarian biases of certain players and institutions of the new Iraqi state, which promotes a belief by Sunnis that they will be the permanent victims of the new Iraq. This belief creates space for terrorist groups, including Al Qaeda in Iraq, and these groups in turn drive a cycle of violence that keeps Iraq unstable and prevents us from disengaging."

Watching the recent spike in

suicide bombings, one has to wonder if we are watching precisely that cycle start up again. The sectarian tensions in Iraq have not improved much. The Sunni militias -- who switched sides over the past six months -- have developed some trust for the United States but little for the Iraqi Army.

Reports suggest that as the Iraqi Army gets stronger and better trained, and gets more expensive weapons -- none of which are shared with the Sunnis -- the latter are becoming more worried that they have made a bad decision. In the crucial province of Diyala last week, thousands of members of "Concerned Local Citizens" groups (CLCs) stopped working in protest over the sectarian activities of the local police force and its chief. US officers have kept promising that a significant number of CLC members would be given jobs in the regular Army and police.

That does not appear to be

happening anywhere near as fast as it should. At the same time, the new provincial elections that Sunnis and many Shiite groups have demanded for years have once again been delayed. Maj. Gen. John Kelly, commander of US forces in Anbar province, publicly warned that if these polls were not held as promised by October 1, it could mean more violence.

There has been some positive news reported in the past few weeks. On closer examination, it is more hype than reality. Two of the laws passed, one reversing de-Baathification and the other offering a limited amnesty to former insurgents, have been worded in such a way that much will depend on how they are implemented -- by the Shiite government.

The reason these assurances were written into law in binding terms was, of course, that Sunnis place so little trust in the good will and fairness of that government.

When Baghdad promises to administer oil revenue wisely and fairly, though there is no law telling it precisely what to do, its claims are met with mistrust and unease by the Sunnis and the Kurds.

A Pentagon report to Congress last week admitted that "all four components of the hydrocarbon law are stalled." The law on provincial elections passed but was then vetoed by the presidency council, specifically by Shiite Vice President Adel Abdel Mehdi, whose party now runs most of southern Iraq and does not wish to take its chances in new elections.

It's worth noting that the laws that passed did so only after months of intense wrangling, which produced an 8282 tie that was broken by the Sunni speaker of Parliament, Mahmoud al-Mashhadani. Finally, all these measures I've mentioned add up to only three or four of the 18 benchmarks set out by the Maliki

government and the Bush administration to judge their own progress.

It's possible that the uptick in violence, the tensions in Diyala and other such signs are just twists and turns in Iraq's troubled path. That is probably the way they will be read in the current atmosphere of self-congratulation in Washington. But they might also be signs that the architects of the surge -- chiefly General Petraeus -- were right all along when they said that the purpose of the military deployment was to buy time for Iraqis to make political progress. One year into the surge, five years into the war, those metrics have not improved. That's why American troops remain stuck "in the loop" in Iraq.

Fareed Zakaria is Editor of Newsweek International.

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