

Our move for arbitration

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M. SHAH ALAM

ONE very positive development in the last couple of years has been the considerable increase in the people's awareness of the potentials of our sea resources. Our people are also becoming more aware and appreciative of the fact that unless we resolve the problem of delimitation of the maritime boundaries with our neighbours, this will pose formidable barriers to the exploration and exploitation of our resources.

The last several months have witnessed some major incidents and developments in the Bay; Myanmar's oil and gas exploration activities in our maritime zones and our vehement and effective protests against such moves; ineffective and inconclusive negotiations with India and Myanmar; our exploration moves in blocks 5, 10 and 11 and oil; the Gas Protection Committee's agitation, including calling of hartal, against certain provisions of the production sharing contract (PSC) with foreign companies; India and Myanmar's claims over some parts of these blocks; and lastly, the Bangladesh move for arbitration under the United Nations

Convention on the Law of the Sea (UNCLOS) provisions.

The importance of these issues has substantially increased in view of the discovery of huge gas and oil reserves by India and Myanmar in the adjoining maritime zones, clearly indicating possible existence of such reserves in our zones, which are partially claimed by the neighbours.

With our concave and the neighbours' convex coasts, and also the adjacent rather than opposite location of these coasts, our plea for the rule of equity has undoubtedly priority over the rule of equidistance pursued by the neighbours for the delimitation of the boundaries.

Although our position is supported by UNCLOS provisions, and many international judicial and arbitral decisions (North Sea Continental Shelf Cases, ICJ, 1969; Anglo-French Continental Shelf Arbitration Case, 1979; Tunisia-Libya Continental Shelf Case, ICJ, 1982; Libya-Malta Case, ICJ, 1985) and bilateral agreements (FRG-Netherlands, 1971; France-Spain, 1974; GDR-Denmark, 1988; Colombia-Panama, 1976), the law of maritime delimitation is still rather weak and yet to be clearly and firmly established to compel the concerned

parties to fulfil their obligations.

While the rule of equity is universally acceptable in principle, it is not easy to prove the points of equity. It would require hard negotiations with the partners, and persuasion and skilful advocacy. This is where we have not been very successful so far.

Our present principles of drawing baselines from where the various maritime zones would be measured are not supported internationally, nor they are consistent with the provisions of the UNCLOS, and are vehemently opposed by the neighbours. As a signatory to the UNCLOS we need to review our position.

In view of our inability to explore and exploit the sea resources on our own, we need to go for PSC with foreign companies. We seem to be divided amongst ourselves, while we need to be united in our approach towards PSC. PSCs are hard realities for a developing country like Bangladesh. No government will sell-out to foreign interests at the cost of its own.

Model PSC 2008 has come under criticism. The government must explain and clarify any confusion about its serving national interests. National disunity on this will only play into the hands of the neighbours, and might cause the foreign companies to shy away.

It ought to be remembered that in view of the massive exploration activities conducted by India and Myanmar in close proximity to our maritime zones -- including many disputed zones -- it has become imperative for us to start our own exploration works with or without foreign companies. This will strengthen



Demarcation is necessary.

our claims over these zones and our negotiating position.

We believe that our readiness, capability, expertise and sense of urgency to engage the partners in effective negotiations have increased. This is critically important in view of the fact that India and Myanmar have already submitted their claims to the UN Commission on the Limits of the Continental Shelf, and Bangladesh has to submit its own by July 2011.

Now Bangladesh has decided to move for arbitration under UNCLOS provisions, and accordingly notified India and Myanmar about her intention. We hope

our policy makers have taken the right decision, and our neighbours would look at it positively. This is the time to better prepare our expertise and arguments to advocate in the arbitration.

However, there are certain things to take into consideration. Amongst all the means and modes of peaceful resolution of any dispute negotiation comes first, and is most desirable. Only after all efforts at a negotiated settlement have been exhausted are other means resorted to.

Have we exhausted our efforts, means and ways for a negotiated settlement? More than thirty years of negotiation is

no indication of the failure of negotiations, because serious negotiations are still ahead. Only the last couple of years have witnessed some dynamic moves for negotiations.

In view of our foreign minister's recent visit to India and the forthcoming visit of the prime minister, with the agenda presumably including the maritime delimitation issues, chances for a negotiated settlement with India appear brighter than any time before. We hope that the negotiations will not suffer because of our move for arbitration.

Despite all the importance attached to arbitration, negotiation is the friendlier way of peaceful settlement of disputes. But the move for arbitration is not an unfriendly act either. It is hoped that, notwithstanding the element of rivalry present in the arbitration process, the other parties would agree to arbitration as required under UNCLOS and take it in good grace.

More importantly, the process of arbitration must not negatively impact the negotiations that are going on with our friendly neighbours. Rather, the move should indicate a sense of urgency of the matter, leading the parties to more intense and fruitful negotiations.

This is exactly what was echoed in the words of the Bangladesh foreign minister when she announced the decision to go for arbitration at a press conference on October 8.

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The never ending saga

The question is, how are the competing interests of various warlords, Afghan Taliban, Pakistani Taliban and Pakistan and India going to be accommodated for a solution? The solution has to satisfy the minimal interests of the west but is nowhere on the horizon.

M.B. NAQVI

MOST minds are now concentrated on the implications and consequences of the Afghanistan war. It is in its eighth year and no end seems to be in sight. American public opinion is now veering away from supporting the war, and a majority seems to prefer its coming to an end no matter how. Obama, whose popularity is at stake, is being assailed by the Republican right for being soft. The Pentagon is also pressing for extending the war's scope by augmenting American troops by 40,000 and keeping Nato there.

The American administration is in the process of devising a new strategy because the Af-Pak strategy of March last does not seem to have produced encouraging results. Indeed, the western generals in Afghanistan are signaling that a victory is no longer possible. The best thing to do is to augment the American force by another 40,000 and keep pressure on Nato to also stay the course. With better situation on the ground, it will be possible to end the war by finding an honourable exit strategy.

The new strategy that America may adopt might itself be a major factor in the war's continuance. Thus, it is too early to say anything about it. American public opinion is now a cognisable factor in addition to the Pentagon's recommendations. Britain has already ended its

participation. Other Nato allies are also disheartened. This is the background against which, on the battlefields of Afghanistan, the awesome western military machine has not gained a decisive advantage in virtually eight years, and most thoughtful people are recommending an exit route. The Taliban are resurgent and they have fought the western military to a stalemate. (There is no question of Taliban defeating the western military machine as a whole.)

European and American forces have been unable to subdue Afghanistan as a whole even by imposing a government of their choice. The outside world is also keenly interested in the outcome of the Afghanistan war. China, for instance, has come out with a forthright statement: US should wind up its war in Afghanistan and get its forces out as quickly as possible. There is no talk of victory or any conditions. The Chinese saying something so clearly is a major development, and they may not be alone in demanding America's withdrawal.

This is also the time when Shanghai Cooperation Organisation (SCO) is going to meet. It reflects the interests of many Asian powers, including that of Russia. No one wants the war to continue. The SCO meeting is almost certain to echo the Chinese view. No one seems to have the stomach for a continuing war like this any more. It is possible to conclude that SCO will also reflect the



A usual sight.

Chinese demand on the West to stop fighting and get itself out.

Their security is threatened by the designs of the proponents of a new Islam that is more militant, more extreme, more violence prone and is, on the whole, oriented to re-creating conditions that obtained in Saudi Arabia 1500 years ago. Women's and human rights are anathema to them. But is the fearsome version based on Islam's own principles? They are taking some of the Islamic teachings to an unnecessary extreme. No one had in the past gone so far to recast Islam like this. China's Xinjiang is threatened by this distorted Islam. Other Muslims states in Central Asia are also threatened by it, as is Russia.

Many may ask that if the west withdraws from an inconclusive war at this stage, what will happen in Afghanistan. That strategic piece of land cannot be left to its own civil wars. Isn't there any

international effort to ensure that some order stays after a new government comes into being? Can that happen in the absence of foreign "occupation troops"?

The Chinese appear to think that there should be an international conference in which representatives of all the Afghan factions should attend. The world would recommend a consensus kind of government, which would include the Taliban, warlords, pro-Pakistanis and anti-Pakistanis and a smattering of Afghan intelligentsia. They have to agree on basic terms. The difficulty arises because of the claims of pro-Pakistan and anti-Pakistan Taliban.

They talk in terms of Islam demanding, that its Shariah should be enforced and a typical Islamic State should be formed. The typical Islamic State today would be an approximate copy of the Taliban rule in Afghanistan from 1996 to

2001. This appeals to many Afghans, particularly Pushtoons. The Taliban also happen to subscribe to Pushtoonwali, which gives them legitimacy as Afghan nationalists who are fighting against an occupation army, and it becomes a national liberation struggle insofar as the Pushtoons are concerned.

But there are variants. Militant Islam is the only Islam they claim. Islam does not mean anything else, they hold. Those who differ from the Taliban are in grave error. It is this Militant Islam which is a threat to the stability and security of all the Central Asian states and China's Xinjiang province. Russia is threatened because of its numerous Muslim minorities, particularly in Chechnya. But all Muslim states are prone to be attracted to the appeal of the Taliban.

It is a piquant situation, no doubt. The UN has also called for an international conference on Afghanistan sometime this year. But the UN conference requires agreement among the Big Five, and there is some doubt that the Taliban and others in the Afghan imbroglio will listen to the demands for tolerant plurality that has obtained even among the Pushtoons. More specifically listen to Russia, China and other Central Asian states.

Afghanistan is the gateway to Central Asia. All Central Asian states are liable to be threatened by the Taliban Islam. There are other important neighbours of Afghanistan: Pakistan and Iran. India is nearby and looms fairly large in Afghanistan, especially after its vastly improved relations with the Americans. The Taliban need to listen to the outside world. But will they? This is not certain.

Pakistan has particular relevance to Afghanistan. First, because there is an overlap of Pushtoon population between Afghanistan and Pakistan. The

Pushtoons in Pakistan are concentrated along the uncertain Durand Line that never was enforced in the sense the international frontiers are. The Pushtoons were allowed throughout the last 250 years or so to go across and come back without any documentation. This is much too porous a frontier.

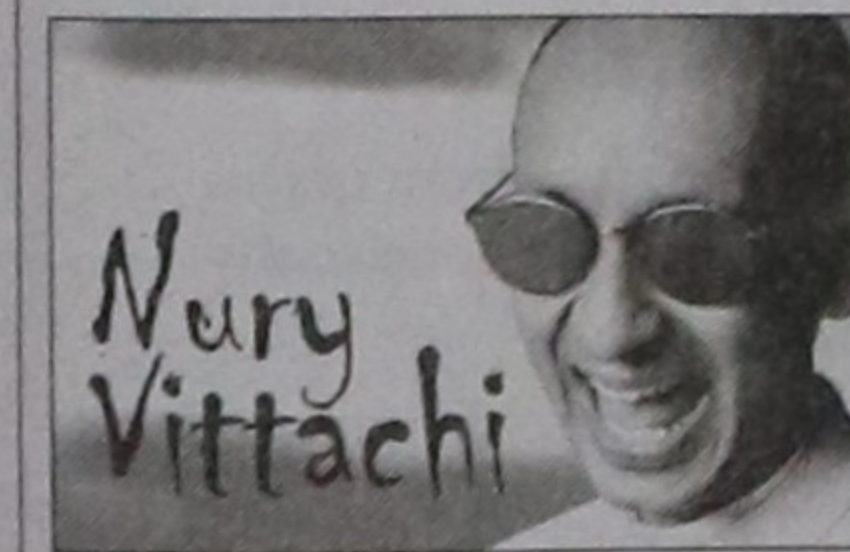
There also used to be a dispute between Afghanistan and Pakistan because Pakistan insisted that the Durand Line be recognised as the final border and the Afghans said that Pushtoon areas in Pakistan were basically part of Afghanistan and Pakistan should have nothing to do in the areas west of river Indus. Pakistanis, including many Pushtoons, laugh at the idea.

Pakistan has had influence in Afghanistan throughout the last 30 years or more. Pakistan played a part in all the wars that have taken place in Afghanistan in recent years: one known as jihad in the 1980s and the other were the many sided civil wars in the 1990s and now in the open-ended War against Terror by America. The question is, how are the competing interests of various warlords, Afghan Taliban, Pakistani Taliban and Pakistan and India going to be accommodated for a solution? The solution has to satisfy the minimal interests of the west but is nowhere on the horizon.

Without some kind of an end result in sight, the fighting forces cannot be separated. All three groups in Afghanistan -- warlords (district commanders), Taliban and so-called central authority -- have to agree to something. Afghanistan has to be reinvented. It will take much ingenuity and international networking by various governments before any formula can be evolved.

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Witty women's car plates



WOMEN are stupid! Sometimes they are even as stupid as men! Sorry about that. Normally I would not write such (obviously untrue) rubbish, but massive numbers of females (two) complained about my recent allegation that men are the ones who waste money on personalised car license plates. In the interests of not being kneed in the groin, let me make it clear that I am an equal opportunity offender.

Women do buy vanity plates for their cars, but they usually avoid naff boasts

like cool dude and wolf. They use wit and irony.

Reader Anna Steiner of Hong Kong saw a Porsche in Sydney driven by a woman with a car license plate which said: "kept."

Nadine Newlight admitted to having a vanity plate on her classic Benz, saying "veloct." She's a fast woman, in one sense, anyway.

Anne-Maree Britton said: "I'm going to get one that says 'fox.'" An interesting choice, Anne-Maree. In Western culture, "fox" is slang for "attractive woman." In East Asian culture, a fox is a dangerous, ethereal creature, which destroys men's souls. In other words, the same thing.

Mary Lombard drives a car with a plate saying, "nye jams." The second part shows her family members' initials. The first bit stands for New Year's Eve, which is the day she met and married both of her husbands, although not at the same time.

Sometimes women and men buy witty plates together. "I was walking down the street in Toronto with a friend when we spotted 'her 280,'" said reader Ricardo Cabeza. "My friend commented, 'I bet there's another with 'his 280.' A few days later, after seeing the car, I telephoned him. 'Well, you were partly right. It's 'his 450.'" Yeah, the guy had to have a bigger, flashier one.

Farah Huq thinks having vanity plates is unwise. "If there's ever any hit and run case, with a customised number plate, it would be easier to remember and track the car," she said.

Sarah Chan agreed: "How hard would it be for cops to find a red Lamborghini with a 'stoned' license plate?"

Meanwhile, in defence of guys, several readers reported clever male license plates. Harry used to live in a US state where the number plates had a slogan along the bottom saying "Kids First." A resident with a wicked sense of humour

got a personalised plate which said: "eat the."

Readers Clare and Shamita separately saw a car in Kuala Lumpur dubbed "MAF14" (which looks like MAFIA from a distance). But they were different cars, so which has the fake plate? If they are gangsters, girls, you're probably better off not asking.

Anna Steiner saw a car carrying the name "eieio."

"I heard the driver's name was McDonald," she said. Presumably he was quite elderly and worked in the agricultural sector.

David Clayton spotted two Ferraris in Hong Kong, one saying "GO GO GO" and the other "HO HO HO." I wonder if the second was driven by a fat guy in a red suit?

But since women are the theme of this column, let's give them the last word. A reader named Bill saw a plate in New Zealand, which said "onoyne" (Oh



no, why me?). He also spotted "a wild-haired woman driving a rusty station wagon. It had a bumper sticker

announcing: 'My other car is a broom.'"

To read more on gender-neutral observations, visit our columnist at: www.vittachi.com.