

## Protecting Mahasthangarh

### Urgent steps needed

FAILURE of the Bogra district administration to protect and preserve Mahasthangarh archaeological site from grabbers despite repeated directives from the High Court (HC) against such encroachment has again prompted the highest seat of justice to step in.

The deputy commissioner (DC) and superintendent of police (SP) are now required to explain the cause of their failure to the HC in response to a summon issued by it to this effect.

We are thankful to the HC for the activism it has shown to protect Mahasthangarh, one of the oldest archaeological sites of the country. In the same breath, we cannot but express our frustration over the administration's callousness on the one hand and the irresponsibility as well as insensitivity of the local leaders of the ruling party towards the invaluable historical treasures of Mahasthangarh. This is tantamount to offending our sensibilities towards a rich cultural heritage. How could the perpetrators be so greedy and philistine about an important national possession?

What surprises us is the way the encroachers, reportedly in connivance with some responsible officials of the local administration, did go ahead with construction work in violation of both HC orders and instructions from the cultural ministry to the contrary. It has also been reported that in their last bid to cover up their offence, they even tried to hide some precious relics of the site underground.

It is indeed a matter of great concern that Mahasthangarh, whose history dates back to 3rd century BC, has become unsafe at the hands of those who should have been its protectors.

The situation calls for the government to put its foot down and take stringent measures against the elements out to destroy the site. In this connection, the authorities should also take immediate steps to bring the repeated flouters of the HC orders to justice.

## Travel within SAARC

### This is new bridge-building in offing

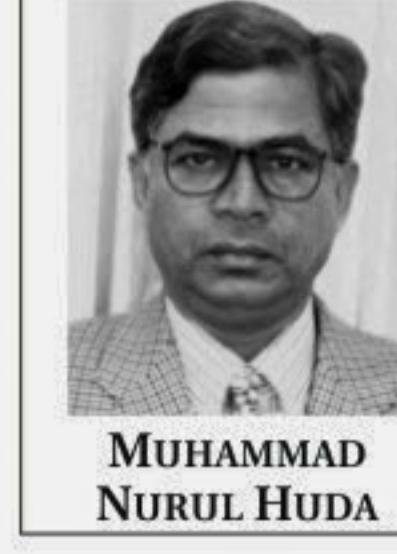
A long-awaited facility that is in keeping with the SAARC's inner spirit seems to be in the works. South Asian countries on Wednesday, as reported from New Delhi, approved a proposal to exempt 19 categories of people from visa requirement. Simultaneously, a liberalised scheme has been agreed on in principle under which long-term multi-entry visa could be issued to journalists and business and sports persons on a selective basis.

Nothing could be more auspicious than feeling welcomed in the SAARC region consisting of eight countries including Afghanistan. Their peoples have a sense of belonging which needs to acquire a tangible form through all kinds of contacts, exchanges of visits starting with professional people then evolving in other areas encompassing art and culture, science and technology and education and literature.

We are nowhere near the advanced state of no visa requirement within certain groups of countries like in the EU or ASEAN but that we have taken a modest step towards liberalisation is indeed good augury. Perhaps, a sign of shaking off some of the baggage of history and mutual deficits in trust. Building on this spirit we believe visa restrictions, particularly the overly cluttered procedures for visa application and its eventual issuance need to be simplified and applicant-friendly for the vast majority of people. That is the surest way of enhancing people to people contact which is the ultimate goal of cooperation within SAARC.

Right now the imperatives are to finalise, on an expeditious basis, the criteria and modalities of issuing visa stickers to 19 categories or granting long-term multiple entry visas to journalists, business people and sports persons. These should be strictly operated on a reciprocal and non-discriminatory basis. Then we move on from there to encompass other categories of people in laying new bridges of cooperation and understanding.

# Discountenancing the deficits



MUHAMMAD NURUL HUDA

**W**HEN the Prime Minister of the country comments that it is proving difficult to put a complete stop to the extra-judicial killings, we may

feel concerned. However, the Chief Executive has to be commended for her frankness because despite the protestations to the contrary by responsible persons in authority, extra-judicial killings are a reality.

One has to take note of the appreciative stance taken by the Prime Minister when she ventures to look at the past and see things in its historical perspective. In fact, none can take issue with her observation that the horrendous excesses of "Operation Clean Heart" of 2002 were a deep scar on nation's psyche and yet the criminal acts were accorded immunity.

In a situation as above, citizens should have a right to know if we should allow patently criminal acts to be recognised as valid modus operandi in the anti-crime operations. A pertinent query should relate to ferreting out the alleged deficits of the criminal justice administration system that have brought us into an indefensible scenario.

If one has to believe that only the worst of criminals tainted by the commission of multiple heinous crimes are dying in the extra-judicial killings, one can reasonably demand to know why such elements were not booked and tried at an earlier stage? This is only normal because if criminal cases were lodged, then investigation with a view to prosecuting was the logical course of action. It, therefore, follows that statutory investigation was not pursued in serious earnest.

The premonition is that proper investigation was blocked and stalled by vested groups that wielded considerable political influence and power. In plain words, criminal elements were misused for so-called political gains. In the process, helpless people had to

watch silently when their near ones were killed or properties forcibly taken away and often compelled to pay toll without protest. The utter lawlessness created a debilitating despondency amongst the general population that lost faith in the due process of law. No wonder in Bangladesh today we have silent and vocal admirers of lawless actions.

It has been reported that prosecu-

culture and pressure to achieve quick results? Is it uncommon for our police to often come under tremendous pressure to achieve quick results?

Experience indicates that on account of malfunctioning of the crim-

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tion cases often failed as sufficiently credible evidence could not be gathered, that State witnesses were terrorized who did not reach the Court and that investigation at times were perfunctory. All these are illustrative of an unhealthy scenario in the law and order business. The considered view is that this has not happened overnight and that the accumulated defaults of many have brought us to this sorry state of affairs.

When unhealthy influence is exercised or exerted in the domain of regulatory organs of the State, the end result is invariably tragic, and putting the rails back on track may prove to be a daunting task. However, since we cannot reconcile to unacceptable actions, we have to rise above factional interests and re-establish the administrative ethos; we have to effectively demonstrate that the State itself is the complainant against the criminal predator and that unbiased effective investigation is its sacred responsibility.

The question now arises why the law-enforcers resort to short-cut and extra-legal methods in the performance of their duties? Does it result from ambiguous legislation vulnerability to legal sanction, occupational

inal justice system the people expect, nay demand, of the police to take laws in their own hands, especially when dealing with the dreaded terrorists and hard-core criminals.

There is demand for ruthless counter measures, irrespective of the price that has to be paid in terms of human rights. Thus abuses of authority in such situations flourish not only because official negligence or acquiescence, but rightly or wrongly broad sections of the people consider that in spite of their excesses the police are carrying out an important and unpleasant task for preservation of the society and the State. Herein lies the responsibility of the police leadership to check such drifts.

It has to be borne in mind that the practice of policing to break law in the name of law enforcement is totally unacceptable and intolerable and has no place in a democratic society governed by the rule of law. It is objectionable because it is arbitrary as a process and random in its effects. In fact, in a democratic polity, order maintained by repression and criminality is ultimate disorder because it creates a link between social order and atrocities.

Under the circumstances, it is

essential to build up an organisational culture that frowns on abuse or misuse of force and authority. Therefore, emancipator human rights training should be a continuous process, particularly for the field-level personnel.



Adherence to human rights norms by senior officers is necessary to build up proper organisational ethos.

One has to remember that policing is a field of activity in which interaction between the world of the powerful and the world of the powerless are manifested. Hence, police practices must emphasise principles of purpose and principles of values.

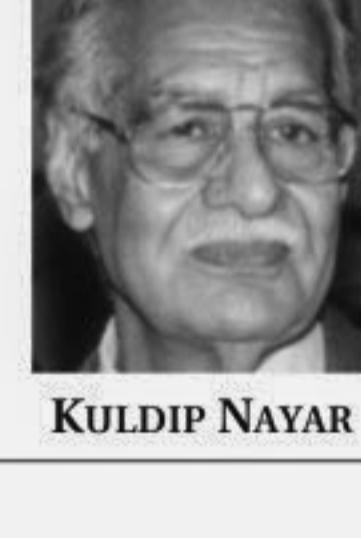
We should be able to create a situation wherein law enforcement officers shall not invoke superior orders or exceptional circumstances as a justification for torture or other terminal measures. We have to see if police deviance is symptomatic of a systemic-wide problem.

Efforts should be made to insulate the police from extraneous pressures and yet make it accountable to the people. A neutral and professional police can perform their duties in an efficient and impartial manner thereby functioning as powerful protectors of human rights. This needs political will and commitment and also strong public pressure to bring about systemic reforms in police.

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## BETWEEN THE LINES

# Commitment to normalisation



KULDIP NAYAR

**I**N a barren relationship, even a small shower makes the difference. The ground is broken. India and Pakistan have been distant neighbours for

more than six decades. That foreign secretaries of the two countries met and did not disperse in disgust is news. But when both are satisfied after the talks, they make a big splash.

India's Nirupama Rao said that they discussed all pending problems before the two countries. Pakistan's Salman Bashir admitted that there was a meeting of minds. This is a positive development. Both have affirmed in a joint statement "the need to carry forward the dialogue process." This means that the foreign ministers of the two countries will be meeting soon at Delhi.

I was confident that the dialogue would move further. Both countries had assailed each other for public consumption. The road was clear to go ahead. On the eve of the meeting, Pakistan said that India was not doing enough to pursue the Hindu terrorists in the bomb blast on the Samjhauta Express. This was in response to New Delhi's regret that enough progress has not been made on the 26/11 Mumbai attack. And Lashkar-e-Toiba chief Hafeez Saeed threatened that India should either quit Kashmir or be ready to face a war.

Against this backdrop my fears on the deadlock were not unfounded. Salman Bashir changed a bit. He said that the terrorists did not belong to "a particular denomination." This too was New Delhi's belated realisation when it discovered that "saffron terrorists" were part of terrorism in the country. Earlier, the argument would be that all Muslims were not terrorists, but all terrorists were Muslims.

However, Saeed's cry of a war

remains unchallenged. Islamabad sticks to its line that no legal evidence has been found against his involvement in the 26/11 attack on Mumbai. But it does not justify Islamabad's silence for his saber-rattling against India in which he indulges every now and then. I concede that if the two sides had confidence in each other, they would take rhetoric in their stride.

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Yet the fact remains that New Delhi considers action against Saeed as a litmus test to lessen deficit in trust.

When Pakistan Chief Justice Iftikhar Mohammad Choudhary says at a conference in Hyderabad (India) that the democratic government, which replaced the military rule, did not undo or nullify the acts and actions of the military rule, he puts the Asif Zardari government in the dock. What Choudhary tries to convey is that the government lacked courage to fight against such forces that defy the law. Probably, the case of Saeed fits into this category.

Ultimately, the inclination of the Pakistan army chief would prevail. There are conflicting messages about General Parvez Kayani. WikiLeaks say that the agreement between Prime Minister Manmohan Singh and the then President General Pervez Musharraf was ready for signature. But General Kayani did not give his assent. On the other hand, former foreign minister Khurshid Qureshi, who was in

Delhi recently, said the agreement could not be signed because of the lawyers' strike in Pakistan.

Qureshi categorically stated that the army was on board. That does not say much because President Musharraf held sway on the army at that time. The reason why I am emphasising on the consent of the army is the position it enjoys in the affairs of Pakistan. There is nothing categorical to suggest whether General Kayani is for a settlement on the lines the two countries have sought to sort out Kashmir problem. However, at Thimpu Pakistan's foreign secretary reportedly said that the army fully backed the dialogue which he had started with Nirupama Rao.

However, what General Kayani has reportedly said earlier indicates a tough stand on Kashmir. He is said to have reiterated that the relations with India depended on the settlement on Kashmir. In an effort to know his mind, India's Security Adviser Shiv Shankar Menon wanted to meet him during the Security Conference which he and General Kayani were attending at Munich. I wish I knew whether they met or just avoided each other.

In the meanwhile, people on both sides would like to know about the agreement reached on Kashmir through back channel. When both the governments say that 80% of settlement has been reached, it suggests that certain proposals had been accepted by both the parties. What are they? There should be transparency in such things. People on both sides should know the contents of the settlement reached so far. Ultimately, they are the ones who count. Behind-the-scene talks are okay up to a point. But in a democratic structure, people are the rulers and they must know what the conditions of the agreement are.

The problem that clouds better relations between the two countries exists because Islamabad has put all its eggs in the Kashmir basket. Unless that is settled to its satisfaction, no

progress can be made on trade and the relaxation of visa to facilitate people-to-people relations. I believe that the implementation of these two points can bring the people of the two nations closer and remove the cobwebs of mistrust against each other.

I believe Nirupama Rao proposed the resumption of trade. This will create vested interests in the prosperity of each other's countries. I wish she had offered the signing of the already initiated two agreements on Sir Creek and Siachen Glacier. Islamabad would have felt assured that New Delhi was giving up its frozen posture.

Zulfikar Ali Bhutto favoured at one time a step by step approach, which India has come to adopt. But it is three decades late. He then wanted an overall settlement which Pakistan favours now. Only a dialogue can sort out the differences. Nirupama Rao has warned that for the next few months, things are not going to remain dormant. There will be a lot of activity. This confirms the report that the two home secretaries will meet before the foreign ministers do.

Nirupama Rao has said: "The intention is to resume the process." Both sides have agreed to work on the principle of "law of comity." Comity refers to legal reciprocity. It means that courts should not act in a way that demeans the jurisdiction, laws or judicial decisions of another country.

More and more talks, not just at the government level, but at the level of academicians, businessmen, lawyers, doctors, journalists and other members of the civil society are essential. Both sides should be prepared for a long haul, ready to face the ups and downs. There will be attempts to sabotage by those who do not want friendly relations and threats by fundamentalists to communalise the efforts. To counter these, the two countries have to show commitment and determination to normalise relations.

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## THIS DAY IN HISTORY

February 12

1502

Vasco da Gama sets sail from Lisbon, Portugal, on his second voyage to India.

1933

German vice-chancellor von Papen demands Catholic aid for Nazis.

1974

Aleksandr Solzhenitsyn, winner of the Nobel Prize in literature in 1970, is exiled from the Soviet Union.

1999

President Bill Clinton is acquitted by the United States Senate in his impeachment trial.

2002

The trial of former President of Federal Republic of Yugoslavia Slobodan Milošević begins at the United Nations war crimes tribunal in The Hague.

Births

1809

Abraham Lincoln, 16th President of the United States.