

MARITIME DISPUTE WITH INDIA

As the hearing begins...

SHAHRIAR FEROZE

THE hearing concerning the delimitation of the maritime boundary between Bangladesh and India is to take place today. It was Bangladesh that, on October 8, 2009, instituted arbitral proceedings concerning the delimitation of the maritime boundary between Bangladesh and the Republic of India pursuant to Article 287 and Annex VII, Article 1 of the United Nations Convention on the Law of the Sea (UNCLOS). As Bangladesh submitted its written arguments on May 31, 2011 encompassing all maritime zones (territorial sea, exclusive economic zone, continental shelf and outer continental shelf) India made the counter move in 2012 by submitting its written arguments on behalf of their demand to Permanent Court of Arbitration (PCA) The Hague.

After the settlement of the much disputed maritime boundary issue with Myanmar some of the technical issues seemed rather confusing, especially the terms 'equidistance' and 'equity.' In maritime boundary terms the 'equidistance principle' is a legal concept that a nation's maritime boundaries should conform to a median line equidistant from the shores of neighbouring nation-states. This concept was developed in the process of settling disputes where the borders of adjacent nations were located on a contiguous continental shelf.

'Equity principle' on the other hand may sound simple but in reality it is not, since the solution itself depends on a number of geographical factors. What needs to be understood clearly is that the equity principle does not necessarily mean equal share or distribution of resources and the sea by two countries proportionately. Normally, a boundary based on equity is the result of all equitable variables available in the delimitation area combined, then balanced to evaluate the relative weight of each factor.

In order to derive the maximum benefit through the equitable solution it's the geographical factors that should be in Bangladesh's side too. For instance, the length of a seacoast in resolving a dispute becomes a big geographical factor and India's seacoast is much bigger than Bangladesh's. The UNCLOS's proposal to apply the 'equidistance principal for the purpose of maritime boundary demarcation is supported by India, but rejected by Bangladesh due to the magnitude of associated losses.

In the recent past, while disposing of Bangladesh-Myanmar dispute, the International Tribunal for the Law of the Sea (ITLOS) used a mix of two established concepts -- equidistance approach and 'proportionality' approach. The first benchmark was used from the start of the delimitation boundary to the point beyond which the territorial seas of Bangladesh and Myanmar no longer overlap. Beyond that the proportionality approach was adopted for arbitration purposes only.

Technically, we have enough reason to believe that a twin approach like the one stated above will make the verdict go in India's favour. Experts point out that under the first approach, the breadth of the territorial sea of each of the two countries is measured in such a way that every point becomes equidistant from the nearest points of the coastal baselines. Likewise, under the proportionality approach, maritime delimitation factors the ratio between the water and continental shelf areas attributed to each party, and the length of their respective coastlines. On the other hand, Bangladesh deserves a special dispensation not only because it is a

small littoral state in comparison with India but also because its coast is not a straight line but concave.

As per legal norms, Bangladesh's case has been prepared in the light of Articles 74 (delimitation of the exclusive economic zone between States with opposite or adjacent coasts) and 83 (delimitation of the continental shelf between States with opposite or adjacent coasts) of the United Nations Convention on the Law of the Sea, 1982.

If Bangladesh's method of determining the maritime boundary is accepted by the international forum then India is expected to lose control over around 2,905 sq km in the Exclusive Economic Zone (EEZ) and 1,018 sq km in the outer continental shelf. But at the same time, a verdict opposite to Bangladesh's expectations could be announced. According to an expert, over 85% of maritime disputes worldwide have been arbitrated by following the equidistance principle. The verdict could also turn Bangladesh into a 'zone-locked' country in the Bay of Bengal.

It needs to be known that application of equity principle also results in controversial outcomes as its standard can be vague and subjective also. The equity maritime zone proposed by Bangladesh is no exception as its boundary overlaps with India's and Myanmar's maritime zones, which are both recognised by the UN. So, have we thought in advance on how to face the plausible vague and subjective issues in this regard?

Ordinarily, conflicts over maritime boundaries address two issues: (1) a territorial or historical sovereignty; and (2) jurisdictional rights and interests in maritime boundaries. The latter aspect often stems from different understanding of the Law of the Sea. But here the situation is different as India recently discovered roughly 100 trillion cubic feet of hydrocarbon deposit in the deep oceanic creek, which was followed by Myanmar's discovery of another 7 trillion cubic feet of hydrocarbon deposit. These recent discoveries of large natural gas deposits have further escalated the significance of the delimitation of maritime borders. At the core of the dispute now is, who will gain uninterrupted economic use of sea bed resources?

It should be noted that India's and Bangladesh's growing demand for energy has led to offshore operation and allocation of maritime blocks for further exploitation of resources. Not too long ago such discoveries had created reason for Bangladesh to file a complaint against India's exploitation in 2006 while India counter-opposed Bangladesh in 2008. What seemed audacious at that time in this regard was that, with the boundary dispute unresolved, India declared its offshore blocks for the deep-sea natural resources, which clearly overlapped with Bangladesh's claimed EEZ. Both sides later agreed to cease any exploitation within the overlapping blocks.

Today's hearing will be crucial for future maritime boundary disputes, especially with regards to the adaptation of non-conventional demarcation of disputed maritime boundaries. Interestingly, good or bad, the verdict for the first time will help Bangladesh to have its own sea map. Beyond all -- in the age of climate change -- It also remains to be determined if the verdict of the maritime border dispute would be an apt solution to rectify ongoing damaging impacts of climate change. To end, the verdict is going to be a complex one, and no early decision is expected as hearings will continue through 2013 and even early part of 2014.

The writer is Current Affairs Analyst, The Daily Star.

TAZEEN MAHNAZ MURSHID

HERE, I explore what made the man Professor Khan Sarwar Murshid, by delving into his family history and how he responded to his contemporary society as a youth. According to family stories, Khan Sarwar Murshid (1924-2012) was descended from his father's side by Pushtun speaking officers who fortified the rule of the Turco-Afghans such as Sher Shah Suri and the Khan Pathans who were eventually displaced by the Mughals during the reign of Akbar in the sixteenth century, when Raja Maan Singh was sent by Emperor Akbar to pacify Bengal. Two war weary brothers who were comrades in arms were separated when one of them died. The survivor, Nasiruddin Khan lost heart, left the battle-field and sailed down the Ganges. He finally settled down on the banks of the Meghna River in Tripura thus founding the village of Nasirabad. Sarwar unsympathetically thought of him as a deserter. Khan bari acquired land, became powerful and was in constant competition with Rai bari to wed the most beautiful women or ride the most fancy horses. Family legend has it that their exploits were written down on papyrus leaves. I have wondered why if paper had already been invented by that time, albeit in China. It is possible that paper was not widely available in India at the time.

Family fortunes suffered largely due to the loss of land through floods and land erosion into the Meghna and subsequent feuds to recover the newly rising lands or chars on the other side of the river. Sarwar often recalled his vivid memory of how the family mosque was devoured by the river. Now that river is somewhat tamed, probably because of the dams and barrages built at the upper reaches of the Ganges in India that have slowed down the water flow to the Tripura areas. The region is still lush and green and the homesteads are well built to withstand the winds, rain and floods.

The current family homestead was founded by two brothers Madan Khan and Ditu Khan. Madan Khan, also known as Ali Ashraf Khan and editor of the journal Padma, was the father of Ali Ahmed Khan (1902-1966) who was in turn the father of Sarwar. Ali Ashraf became principal of Shyamogram Mohini Kishore Rai School and this mantle fell on his youngest son Wahid Ali Khan, who served there into the nineteen eighties. Since the nineteenth century, when this school was founded, the Khans studied in this school and then went Brahmanbaria or Comilla for further studies.

On his mother's side, the family traces its descent from the Mughal courtiers, some of whom were in the legal profession, whose services were retained by the British during the colonial period. One was a Munsef or jurist in Comilla town from whom came the name of Munsef bari. The influence of Mughal courtly culture was traceable perhaps to the early twentieth century,

Khan Sarwar Murshid: What made the man

until when family astrological charts were maintained to determine the auspicious from the inauspicious. Thursdays were regarded as special days when strategic decisions would not be taken. Among some of the stalwarts from this family still with us today is Badruddoza Chowdhury, doctor and former president of the country, son of Kafiluddin Chowdhury, M.L.A.

Sarwar Murshid's mother Siddiqua thus came from an urban elite background, true to the nature of Muslim settlements that were essentially urban in character. At the age of 14, she married Ali Ahmed, a young man of 21. It is said that they never quarreled and addressed each other with the polite form of 'apni.' From all accounts, theirs was an exemplary marriage, for she was a wise woman and he a loving husband. His father, Ali Ahmed Khan came from a rural elite background, his ancestors having been forced to retreat from the front lines due to the changing political landscape.

But the Khan family evolved from a martial race into an intellectual race. Sarwar's ancestors became teachers, lawyers, doctors, newspaper editors and politicians. His father was a successful and well known advocate who worked in Brahmanbaria. From there he participated in pre-independence Bengal politics and was elected a member of the Bengal Legislative Assembly. Subsequently, he became a Member of the Legislative Assembly in East Pakistan. Young Sarwar and his friends campaigned in support of A.A. Khan, distributing leaflets, organising meetings. He moved to No 3, Obhoy Das Lane in Dhaka to pursue his political and legal career and be near only his son. He started a journal, prophetically called Purbo Bangla, which functioned from his garage.

A fateful accident, however, dealt a powerful blow. A road accident incapacitated his wife, whose suffering was compounded by diabetes, and he gave up his work to look after her himself. His contribution to the family heritage has never been fully evaluated until recently, and only now we begin to understand what he has left for us. He left us opulence and security, ideologies of tolerance and inclusion; he created possibilities for our mother to flourish, pursue a political career and continue to contribute to the cultural scene of Bengali theatre and art world; he steered our father to be determined in his career path; and he provided his descendants a role model of a beautiful relationship, embodied in his own married life.

I was very young when we lost our grandmother, but I remember her to be petite, fair with doe eyes and long black hair without a speck of grey. Sarwar was very close to his mother. When we moved to Azimpur Estate, our chhoto dadu, as we called her, used to rest outdoors on a reclining chair and dry her hair in the sun. One afternoon, a thief pulled off her gold necklace while she slept, and she cried out in shock or pain. Sarwar jumped over the balcony of their ground floor apartment to run to her aid. When she left the world



barely in her forties, Sarwar was convinced that there could be no God that could be so cruel. He lost faith as a result for a long time to come.

Sarwar Murshid was raised in a protective environment, because of his frail health in childhood. And hence his early education was home-based. This may have contributed to his shy disposition. He thus allowed his elder sister, Latifa Khan (Anar), who later became a customs officer, to take him under her charge. And she, on her part, defended him stoutly. Theirs was a family linked to the soil. Many people passed by for food, overnight stay, short term hospitality, or long term service. The latter were invariably looked after for life, with work, support to the family and bearing of wedding costs.

Reading, writing, studying was a passion for Sarwar from his childhood, and he would read under a kupi or candle if he was not caught. Though a very obedient child, he rebelled against social prejudices, the use of coarse language, crude behaviour, garish colours, the lack of symmetry wherever he found it, the local idea of beauty as fair and limited to the face only, the petty criticism of neighbours common in provincial towns and villages. In fact, he decided that the only way out of such a world was to create one in your image of the ideal; in which, through personal example, you demonstrate how a refined and cultured existence is possible. It is thus that he became an aesthete, through a meticulous approach to truth and beauty embodied in the personal, cultivated self.

He could achieve such a selfhood because of his heritage, his background and the people he encountered. He learnt to accept certain values and reject others. That he edited New Values appears less surprising when we note that both his father and grandfather had edited newspapers and journals. The nature and shape taken by New Values, draws also from his humanistic heritage: the influence of Gandhian non-violence and tolerance in the family, sympathy for the Swadesh movement, the wearing of khadi and interest in a United Bengal, as well as a healthy regard for theatre and dance, ideas subscribed to by his father before him.

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Sacred souls, victims of profane politics

MARTIN ADHIKARY

THE souls of the teeming millions in Bangladesh cry out for redemption! We cry for redemption and a change from what we have got so used to! Our hearts pant for release from the reign of the terror and trauma that has been the characteristics of politics in this People's Republic. People seem to have forgotten that 'all life is sacred' is the basic tenet of all religions and ethical value systems. Almost every day now innocent people are being maimed and killed. In some theological teaching, people are sacred souls since they are created in the likeness of God. But in the eyes of many of our political leaders they are just pawns for the realisation of their selfish political agenda. Politicians themselves are not affected by these violent activities; only the poor and the helpless people are. The same people who rose against the Pakistani occupation in the past and liberated their country are now rendered helpless and hostage in the hands of profane indigenous politics. This is sheer irony! How long can we continue like this?

We earnestly hope that our leaders will pay attention to the appeals of the UN Secretary-General as well as many other leaders to sincerely consider ways that would end the violent political activities. The nation looks towards our honourable president with trust that he will now be proactive to challenge our political leaders to choose the path of peace. We look to our president as a symbol of our nationhood and sovereignty. As the guardian and embodiment of our statehood it is he who has the august and very sacred responsibility of counseling our honourable prime minister to pave the way for that.

In order to hold a free and fair election a congenial environment is needed. My honest opinion is that our prime minister should not head the interim government since she is also the head of the political party which is the primary stakeholder in the government. So for the sake of peace, let her open herself to be replaced by someone chosen by a consensus of the different political parties or entities to be reached through an honest dialogue. Let the people have their say through the ballot. So let us trust the people.

We need a culture of mutual respect and tolerance, a culture of respect for the self-evident truths about human dignity irrespective of religion, race, political or ideological adherence, social status, gender and class and the like. We long to live in a political culture that will facilitate our lives towards the path of social justice, peace and progress.

Ours is a country with many frustrated hopes and dreams of the overwhelming majority of people, who are socio-economically very poor and backward. We have been freed for freedom's sake. Yet our hopes and aspirations for an exploitation free society is a far cry. A great deal depends on the mutual respect among the leaders with common and clear vision for the nation. For without a vision people perish! This pro-people vision is not impossible. The greatest need, however, is the practice of the democratic values of consideration for others and letting the people be the people.

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By THOMAS JOSEPH

- ACROSS 1 Second baseman Santiago
- 6 Instrument with 46 strings
- 10 Un-escorted
- 11 Love to pieces
- 13 Heiress, at times
- 14 Miller's salesman
- 15 Cain's mother
- 16 Behold
- 18 Picnic pest
- 19 Canadian's use of 30-Across
- 22 Chemist's place
- 23 Layer
- 24 Linda of "Alice"
- 27 Burdens
- 28 Give off
- 29 Singer Jones
- 30 November event
- 35 Historic time
- 36 Embrace
- 37 Poem of praise
- 38 Uncertain state
- 40 "Mister Roberts" star
- 42 Descendant
- 43 Pick from the menu

GALE
AX
ANT
STAR
POIT
SORBET
ASH
TAN
EISEL
SLAT

Yesterday's answer

- 1 Less refined
- 2 Full of energy
- 3 Internet connector
- 4 Lennon's wife
- 5 Cronkite, for one
- 6 More robust
- 7 Commo-ition
- 8 Hungry neighbor
- 9 Cavorted
- 12 Comes in
- 17 Flow out
- 20 Select group
- 21 Physics bits
- 24 Ranks
- 25 Uncle Sam's home
- 26 Thiamin or niacin
- 27 Want badly
- 29 Letter after sigma
- 31 French river
- 32 Orphan of the comics
- 33 Said
- 34 Decade parts
- 39 "... voyage!"
- 41 "... man mouse?"

10 11 12
13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

A XYDLBAAXR
is LONGFELLOW

On letter stands for another. In this sample, A is used for the three L's, X for the two O's etc. Single letters, apostrophes, the length and formation of the words are all hints. Each day the code letters are different.

11-4 CRYPTOQUOTE

TBV BMA BBN JZC ICLJ SVFOC

JZBJ KFTC ZBL JU UTTCV

FL JZC QZBMQC JU HUVE

ZBVA BJ HUVE HUVJZ AUFMR.

— JZCUAUV VUULCXCKJ

Previous Cryptoquote: YOU CAN'T EXPECT TO HIT THE JACKPOT IF YOU DON'T PUT A FEW NICKELS IN THE MACHINE. ---FLIP WILSON

QUOTABLE Quote

“For capital-ism, war and peace are busi-ness and nothing but business.”

Karl
Liebknecht