

Scenario 68

SC's JUDGMENT ON NRO [2009]:

WITH REFERENCE TO SCENARIO 49 OF VOL-II:

Ms Benazir Bhutto, during her last days in exile, had agreed to negotiate a deal with the then military ruler of Pakistan, Gen Musharraf, under an umbrella of the American and British guarantors. It was a successful deal but then no body could imagine that the general populace of Pakistan would not fully agree with this discriminatory document. The reasons were obvious. It did not apply to all citizens of Pakistan equally; it was focused on some while ignoring others.

Pakistan Peoples Party [PPP]'s deal with Gen Musharraf, resulting with promulgation of ***National Reconciliation Ordinance [NRO] of 5th October 2007*** by Gen Musharraf, was generally termed as 'controversial'. It was rumoured that this deal had left PPP's supporters in shock ahead of BB's expected return on 18th October 2007 to Pakistan after eight years of self-exile. Till then the PPP affiliates were known as the liberal, moderate & secular bastion of resistance against military rule in Pakistan.

It was known to the media that Gen Musharraf had advised Benazir Bhutto to put the NRO off until his [General's own] election would be legitimized by the Supreme Court, but who cares such sermons in politics. From Benazir Bhutto's viewpoint, the said ordinance was coined, urged and justified in the name of '*smooth return to democracy*'. It was wrong; the final 'package of reforms' contained little more than the withdrawal of corruption cases against both of the PPP leaders; and that too as verbal assurances only.

Benazir Bhutto had to do it for her husband Mr Zardari. She had got finalized the deal after about a year of secret negotiations including two one to one meetings with Gen Musharraf in UAE; in January & July 2007 resulting as NRO signed in by Gen Musharraf only a day before his presidential election. In return for this amnesty, the PPP had legitimized Gen Musharraf's election by not resigning from Parliament and provincial assemblies; as the other opposition parties had done. The PPP abstained from the process to save face, a walkout by its parliamentarians from the National Assembly giving gloss to a token protest.

Replying criticism on the PPP on this count, Hussain Haqqani had once said in '*The Nation*':

'That the cases against Ms. Bhutto had been hanging over her head for years without investigators unable to find the evidence to secure even a single conviction. It was now up to the people to decide if those charges were true; pointing to the inclusion of the words "politically motivated" in the ordinance as an admission by the regime that the cases were nothing but vendetta.'

The NRO withdrew all corruption charges filed against those in public office before the day Gen Musharraf seized power from Nawaz Sharif. This benefited Ms Bhutto, her family and friends, cases against whom were filed by the Sharif government. It also provided for withdrawal of criminal cases registered from 1986 to 1999 against political activists like MQM. The ordinance also included changes in election laws so that results, once declared, could not be tampered with.

More improvements in PPP's understanding with Gen Musharraf came after the presidential election and it brought more concessions, but the circumstances started changing with high velocity. Meanwhile, Benazir Bhutto had to defend PPP for approving an Anglo-American plan to keep Gen Musharraf in power. Ms Bhutto's main aim was then focused to keep PPP workers docile and satisfied. PPP's companions and supporters were not absolutely cheerful with this deal because the NRO had not included the cases against Sharif family, or some way out for the missing people allegedly taken away by Pakistani intelligence agencies.

On the other hand the PPP had to battle the ruling PML(Q) in coming elections. Backed by the establishment and Gen Musharraf himself, the PPP was expected to put up a fierce fight with Chaudhrys of Gujrat to make its way through. Though Gen Musharraf needed the PPP politically, he had felt threatened by its strength in the elections; one reason why he tried to discourage Benazir Bhutto from returning earlier. Contrarily even free and fair elections would not have guaranteed to keep PPP's seats intact which the PPP were having in the assembly then, had BB delayed her arrival in Pakistan obliging Musharraf's advice.

NRO CRITICIZED AT HOME:

It is on record that certain party rebels like Aitzaz Ahsan and Raza Rabbani, had openly questioned Benazir Bhutto's negotiations with Gen Musharraf for extending PPP's favour in his election, but BB was really shocked when PPP's old friend, *Naseerullah Babar*, quit PPP saying that '**Gen Zia hanged Zulfikar Ali Bhutto in 1979; Gen Musharraf killed the PPP on October 5, 2007.**'

Ms Bhutto felt more embarrassed when the hidden faces of both Muslim Leagues manoeuvred the media campaign against BB trying to convey an impression to the people that 'the military has once again managed to make politicians look ugly.'

What happened afterwards? Only days after Benazir Bhutto's arrival in Pakistan, when a bench of the Supreme Court of Pakistan was to decide a petition challenging the constitutional validity of Gen Musharraf's re-election as president in the controversial elections of 6th October 2007, the General, as Chief of Army Staff, suspended the constitution, jailed several justices and lawyers of the Supreme Court including Chief Justice Iftikhar M Chaudhry, ordered arrest of political dissidents and human rights activists, and shut down all private television channels.

It was 3rd November 2007, when Gen Musharraf declared a state of Emergency in Pakistan which lasted until 15th December 2007. During this time, the constitution of the country remained suspended; a serious tragedy it was during which a new PCO was brought forward.

A day before departing for Pakistan, Benazir Bhutto had sent, from Dubai, an e-mail to PPP's friend Mark Seigal in United States. It was done so because Ms Bhutto was feeling insecure in Pakistan. Ms Bhutto had named Gen Mushraf, Ejaz Shah (Intelligence Bureau Chief then), Ch Pervaiz Elahi (Ex-CM of Punjab) and Hamid Gul (ex ISI Chief) responsible if she would be assassinated. With 18th October blasts in Karachi, a concerted effort to eliminate her, her apprehensions were proved correct. She had escaped in Karachi attack but the culprits took her life about two month later.

[The above narration was kept on record as a piece of history. Zardari was not in Pakistan then and Benazir Bhutto was busy in her election campaign. The elections were announced for 8th January 2008 but the episode of 27th December 2007 removed her from Pakistan's political scene; great tragedy it was.]

In nut shell the history witnessed that apart from some bureaucrats, the NRO pact was to favour the PPP and MQM leaders or workers. The NRO was a ploy to further the political interests of Pakistan Army's Chief of Staff, Benazir Bhutto and the US, UK and NATO powers who had strived hard to promote that Musharraf - Benazir deal; in their own individual interests particularly.

MQM's deputy parliamentary leader in the National Assembly Syed Haider Abbas Rizvi told the Press on 16th October 2007 that the founder of the MQM, Altaf Hussain, might be among the top beneficiaries of the National Reconciliation Ordinance (NRO) if the law gets no objection certificate from the Supreme Court.

The historical joke is on record that among the **long list of 'cases' against Altaf Hussain**, one was that he had stolen a policeman's cap during a scuffle. Mr Rizvi secastically affirmed that *'Yes, it is true. An FIR was filed with the Liaquatabad Police Station several years back against our leader in this connection'.*

There were about eight thousand cases against the MQM workers; over 200 cases against its leadership. NRO was challenged in the Supreme Court immediately after its promulgation.

On **16th December 2009**, a full strength bench (of all 17 judges) of the Supreme Court of Pakistan, gave a unanimous verdict on constitutional petitions no: 76-80 of 2007 and seven miscellaneous ones, filed by twelve different persons including Dr Mobashir Hassan, PPP's former Federal Minister of Pakistan; Roedad Khan, a former Federal Secretary; Qazi Hussain Ahmed, then Secretary General *Jamaat e Islami* (JI) and Shahbaz Sharif, the Chief Minister of Punjab.

A few lines from ***the 'Dawn' dated 19th December 2009:***

'Uncertainty, if not panic, is detectable in the ranks of the PPP brain trust.....Sections of the media have gone into overdrive against NRO beneficiaries; panic, glee, consternation, joy amidst the welter of emotions; few have thought to step back.

It is a process with no precedent in the country..... It is imperative that the judiciary should develop a road map to restore the pre-Oct 5, 2007 position of the NRO beneficiaries undoing an illegality, however blatant, must be done along legal principles, not political expediencies.

The PPP-led government must resist the urge, if any, to respond to its detractors. Instead, it must demonstrate a genuine will to implement the SC's order.....'

NRO'S PROCEDURAL WHEELS:

The background facts, as enumerated above, were that on 5th October 2007, a National Reconciliation Ordinance (Act of the Parliament No:LX) of 2007 (NRO) was promulgated by the then President of Pakistan, Gen Musharraf, apparently exercising his powers conferred by clause (1) of Article 89 of the Constitution. Through this Ordinance certain amendments were made in the Criminal Procedure Code (CrPC) of 1898, the Representation of the People Act of 1976 and the National Accountability Bureau Ordinance (NAB) of 1999.

By means of Section 2 of the NRO, Section 494 of CrPC was amended. Likewise, vide Section 3 of the NRO and Section 39 of the Representation of the People Act was amended; Sections 4, 5 & 6 of the NRO amended Sections 18, 24 and 31A of the NAB Ordinance respectively; whereas through Section 7 of the NRO, Section 33F was inserted in the NAB Ordinance. These petitions came up for hearing before the Supreme Court on 12th October 2007.

The Supreme Court had observed that:

' however, we are inclined to observe in unambiguous terms that any benefit drawn or intended to be drawn by any of the public office holder shall be subject to the decision of the listed petitions and the beneficiary would not be entitled to claim any protection of the concluded action under Sections 6 and 7 of the impugned Ordi-

nance, under any principle of law, if this Court concludes that the impugned Ordinance and particularly its these provisions are ultra vires the Constitution of Pakistan'.

The history took another turn when on 3rd November 2007 emergency was proclaimed in the country by Gen Musharraf (President & COAS at the same time) under the garb of Provisional Constitution Order (PCO). Provisional Constitution (Amendment) Order 2007 was also issued, whereby, Article 270AAA was inserted in the Constitution, which provided protection to all the laws including Ordinances in force on that day. The interest behind the insertion of Article 270AAA was that the NRO should stay and prevail for all times to come.

It remains a fact of the history that Mr Asif Ali Zardari was lucky on two more counts in addition to the sympathy vote for the PPP accumulated after Benazir Bhutto's untimely assassination. Firstly the NRO signed between Benazir Bhutto and Gen Musharraf and secondly the PCOed lot of judges in superior courts brought in after 3rd November 2007's Emergency. Mr Zardari was there to extract maximum benefits from both of those boons. He got all the criminal cases and enquiries against his person and his team finished within days from the courts comprising of judges who were highly insecure.

Very few people know that during negotiations between her and Gen Musharraf, Benazir Bhutto did bargain only over those cases in which the husband and wife both were involved and not those criminal [including murder of Shahnawaz Bhutto] cases in which Mr Zardari was otherwise named. Those criminal cases against him were got cleared by Mr Zardari at the first priority from that insecure PCOed judiciary which task was not otherwise possible without NRO in place.

MR ZARDARI BREWED MAXIMUM BENEFITS:

After February 2008 elections, Mr Zardari immediately went to Raiwind to see Nawaz Sharif and pledged that the judiciary of 3rd November 2007 would be reinstated as their first priority. Subsequently four more mutual meetings in Islamabad, Murree, Dubai and London [9-10th May 2008] were held on the same issue and two written agreements were also signed commonly known as Murree Declaration and Dubai Accord but Justice Iftikhar M Chaudhry and his judicial team were not reinstated.

The intelligentsia was aware that Mr Zardari had held those meetings in series just to linger on the PCOed judiciary of the then CJP Abdul Hameed Dogar which was in fact entrusted [*on 15th February 2008; three days before elections*] an agenda of clearing all pending cases against him and the PPP stalwarts. This Himalayan task could only be accomplished by the Dagar's insecure judiciary none else.

On that day of 15th February 2008, Mr Zardari had moved a Constitutional Petition no: 265 / 2008 in the Sindh High Court (SHC) praying that all pending cases against him in Pakistan and abroad, on the instance of NAB or otherwise, should immediately be withdrawn. The petition contained the following points:

- *Claim no: 156 of 2006 filed by NAB against them in the High Court (Queens Bench of Commercial Division) London [it was regarding Rockwood Estate Surrey commonly known as Surrey Mahal] should be withdrawn under the provisions of NRO 2007.*
- *Joint Petition preferred before the Swiss Government asking Investigating Magistrate Geneva to proceed should be withdrawn under the provisions of NRO 2007.*
- *References no: 14 / 2001 (Assets Case), no: 41 / 2001 (SBS Case), no: 23 / 2000 (ARY Gold Case), no: 1 / 2001 (Resource Tractor Case) and no: 6 / 2000 (Polo Ground Case) all the five lying pending before the Accountability Court II Rawalpindi should be withdrawn under the provisions of NRO 2007.*

- *References no: 59 / 2002 (BMW Case), no: 35 / 2000 (CoTechna Case), the two lying pending before the Accountability Court III Rawalpindi be withdrawn under the provisions of NRO 2007.*

Similar two Constitutional Petitions no: 76-77 / 2007 were already lying pending in the Supreme Court because both were challenged or objected by the opponents on the basis that NRO, under which the petitions were asking for relief, was not justifiable before the law.

When the then SC got known that the PPP had won enough seats to make out the government after general elections of 18th February, the SC's bench comprising of CJP Abdul Hameed Dogar, J Nawaz Abbasi, J Faqir M Khokhar, J Ijazul Hasan and J Ch Ijaz Yousaf issued orders for the subordinate judiciary on 27th February 2008 that the petitions filed by the PPP or Mr Zardari be dealt with priority.

For 27th February 2008, those petitions against NRO were fixed but kept pending except that the order dated 12th October 2007 was vacated by the court saying:

'These Constitution Petitions are adjourned to a date in office due to indisposition of the learned counsel for the petitioners.

Meanwhile, in view of the rule laid down in the case of Federation of Pakistan vs. Aitzaz Ahsan (PLD 1989 SC 61), the observations made by this Court in Para 8 of the order dated 12.10.2007 in Constitution Petitions No.76-80 of 2007 to the effect ('words of above paragraph reproduced here') are deleted.

Resultantly, the Ordinance shall hold the field and shall have its normal operation. The Courts and authorities concerned shall proceed further expeditiously in the light of the provisions of the Ordinance without being influenced by the pendency of these petitions.'

Going back for a while, the Proclamation of Emergency of 3rd November 2007 as well as other extra constitutional instruments were (managed to be) challenged before the Supreme Court through **Tikka Iqbal Muhammad Khan vs General Pervez Musharraf**. The then CJ Justice Hameed Dogar heard it in a bench and declared that announcement of Emergency, the PCO of 2007, Provisional Constitution (Amendment) Order 2007, the Oath of Office (Judges) Order 2007 and the President's Order No.5 of 2007 were validly enacted (**PLD 2008 SC 178**).

Consequently, on the very next day two judges bench of the Sindh High Court [SHC] named J Khawaja Naveed and J Allah Sain Dino took cognizance of Petition no 265 / 2008 mentioned above and issued instructions to the subordinate judiciary of Sindh, NAB Offices and the Accountability Courts of Rawalpindi to submit written reports that all the cases against Mr Zardari, criminal or of civil nature, had been withdrawn by the prosecution.

The above offices were also ordered that no further cooperation of any kind be extended to the foreign countries in any case if related with Mr Zardari or the PPP office bearers.

The 'compliance' reports were submitted to the Sindh High Court by all concerned on subsequent eight (8) dates till the whole lot of cases were sent into cold room; last being 16-17th September 2008 when the NAB authorities had placed that famous letter from the AG's Office telling the SHC that Swiss Magistrate had been told to end the investigations because the Pakistan government was not interested in its follow up.

Peeping into the political arena of those days, it remains a fact that while Nawaz Sharif and his colleagues were jumping with joy over the negotiations with Mr Zardari to reinstate CJ Iftikhar M Chaudhry's judiciary, Mr Zardari was gaining time to get his cases concluded from the Kangaroo courts keeping them under pressure. The Murree Declaration was signed on 9th March 2008 setting out a time limit of 30 days. Actually it was the 30-day's deadline for

PCOed judges. Those PCO judges had in their minds that their future survival depended on Zardari's deep smiles and delight.

Thus just after four days, on 12th March 2008, CoTechna case was finished. On 14th March 2008, BMW reference was finished in the Accountability Court III of Rawalpindi presided by Judge Saghir Ahmed Qadri.

On 24th March 2008, another PCO Judge Sofia Latif acquitted Mr Zardari in the famous double murder case of Justice Nizam Ahmed and his son with the consent of the Special Prosecutor Ne'mat Randhawa.

On 7th April 2008, another PCO Judge of the SHC J Peer Ali Shah cleared Mr Zardari from the murder case of Mir Murtaza Bhutto; just one day before the 30-day's dead line. ***The last three cases were declared as decided 'in routine' and not under the NRO provisions.***

The PPP leadership requested Nawaz Sharif to extend the deadline for reinstating the defunct judiciary by ten more days.

On 15th April 2008, the District & Sessions Judge Hyderabad was moved that Mr Zardari be acquitted in another famous murder case of Alam Baluch and astonishingly, next day the Sessions Judge issued orders of Zardari's acquittal in the said murder case.

On 13th May 2008, another PCO judge of the SHC Justice Binyamin signed acquittal orders of Mr Zardari and Wajid Shamsul Hassan [Pakistan's High Commissioner in London] in that case of smuggling eight (8) suitcases of antiques via PIA from Pakistan for Surrey Palace under the garb of diplomatic immunity. This court order was also issued out of the NRO's purview.

On 16th September 2008, the two members bench [again; J Khawaja Naveed and J Allah Sain Dino] of the SHC disposed off the said Petition no: 265 / 2008 dictating that the learned Deputy Attorney General (DAG) had confirmed in writing and assured otherwise that the Swiss Court's proceedings had been ended and the High Court (Commercial Division)'s proceedings at London had also been stopped. The petitioner's lawyers Abubakr Zardari and Mr Hyder Ali did not press for further action thus the petition stood disposed off.

NRO DIED AMIDST GIMMICKS:

All the above mentioned and other alike cases were mainly dealt with by Justice (Rtd) Malik Qayyum as Attorney General and his Deputy Salman Aslam Butt who had been assuming those offices since Gen Musharraf's days. When the entire task was successfully accomplished and all the cases and enquiries were made dead and the files got isolated from the respective courts, Malik Qayyum was once again removed from his office unceremoniously and Latif Khosa was made the new Attorney General.

Till then Gen Musharraf was there as the President. When Mr Zardari got the whole cleansing job finished, he at once contacted Nawaz Sharif again [on 7th August 2008] to negotiate another accord to expel Gen Musharraf from the presidency and made another false promise with him to rehabilitate J Iftikhar M Chaudhry and his team within 72 hours.

The innocent Nawaz Sharif again fell prey to Mr Zardari and agreed to stand besides the PPP in the Parliament for General's impeachment which drama ultimately ended [on 18th August 2008] with the resignation of Gen Musharraf from the presidential slot.

Mr Zardari again refused to oblige his accord, pushed aside the judge's case and started moving towards the presidency announcing that ***'political accords are not Qura'an & Hadith'*** to be followed so sacredly.

[Keeping the record straight; *those were the Americans who piled up the pressure on Gen Musharraf to quit as army chief, the corps commanders never opted to*

request Gen Musharraf that he should quit the power game. The judicial crisis and the lawyers' movement had weakened Gen Musharraf but only up to a point.

External factors played a decisive role in determining the outcome. Moreover, Pakistan was wholly sovereign in its nuclear program; the rest were merely the cries to keep the general populace worried all the time.

American alliance! One can't get up a fine morning and say that no NATO containers will pass through Pakistani territory. Yes, one can negotiate better deals with any of the paymasters.

Mr Zardari was part of this larger design. Gen Musharraf didn't quit the presidency just like that. The Americans wanted him out because by then he was of no use to them. The US has fine-tuned the art of getting rid of troublesome allies but Zardari was tailor-made for American requirements.]

However, the Supreme Court's bench under CJP Iftikhar M Chaudhry, vide its judgment dated 31st July 2009 (**PLD 2009 SC 879**) declared all the aforesaid five instruments, including NRO, to be unconstitutional, illegal and void *ab initio* deleting Article 270AAA from the Constitution.

Consequently the NRO, as well as 37 other Ordinances, 'protected' under the umbrella of Article 270AAA and sanctified by the judgment passed in Tikka Iqbal's above referred case by the SC during CJP Hameed Dogar's time were left open to be considered and validated by the Parliament.

For this purpose the life of the Ordinances stood extended for another 120 days in case of Federal Legislation and 90 days in case of Provincial Legislation. The Supreme Court gave an opportunity to the ruling Governments in Islamabad and Provinces to legitimize their acts, actions, proceedings and orders, initiated, taken or done under those Ordinances by placing them before the Parliament or Provincial Assemblies with retrospective effect.

The PPP's government had felt it an easy task and opted to handle this job amidst high hopes. The NRO was placed before the Standing Committee of the National Assembly on Law & Justice in its meeting held on 29th & 30th October 2009. During the discussions and deliberations, some of the members did not agree with the decision of the Committee and left the proceedings in protest.

However, on 2nd November 2009 the Committee recommended that, after the proposed amendments in the Bill for enacting the NRO, the same may be passed by the Assembly. It may not be out of place to mention here that despite finalization of the report of the Standing Committee on NRO and before its approval by the Chairperson of the Committee, the Presidency asked the Federal Minister of Law [Dr Babar Awan] to withdraw the Bill under Rule 139 of Procedure & Conduct of Business in the National Assembly; reasons were not declared.

The PPP's efforts to table the Ordinance in the National Assembly could not materialize because they were not able to cultivate favours of 51% members sitting on the treasury benches. Amongst the PPP's allied parties only Awami National Party (ANP) could extend them help whereas the MQM and the JUI had opposed it. This exercise brought no cogent results because some of the PPP's own members had refused to accept the NRO.

Contrarily, the PML(N) and PML(Q) openly contradicted the said law, terming it 'black law', in the house and JI conducted voluminous rallies on roads and in all cities to mould the public opinion against it. As a result, the NRO could not be passed by the Parliament within its extended life; therefore, it lapsed on 28th November 2009.

However, Mr Zardari's cases could not be reopened because his legal team, under the able guidance of J (Rtd) Malik Qayyum had timely managed to get orders and judgments from the respective courts '**over & above the NRO's purview**'.

When the PPP government failed to congregate parliamentary backing for the NRO, the Supreme Court started hearings on that ordinance on 7th December 2009. Embarrassed by its failure to get the NRO passed by the Parliament, **the PPP government refused to defend the ordinance** before the Supreme Court.

Even this wasn't the end of the matter.

When the Supreme Court sought information concerning the details of NRO beneficiaries, the government made futile attempts to mask such information. The revelation of the nature and extent of the charges and the names of the beneficiaries, many of whom were continuing to occupy key positions within the government, had caused significant erosion of political credibility of the PPP government in general, and of President Zardari in particular.

At the very beginning of proceedings in the Supreme Court, the Attorney General's Office submitted that the Federation or the PPP's government had no intention to contest the petitions seeking NRO as void. Mr Shah Khawar, Acting AG had submitted in writing that:

'... The Federation believes in supremacy of the Constitution of 1973 and the Parliament. That the National Reconciliation Ordinance 2007 was promulgated by the previous regime and I am under instruction not to defend it.'

Kamal Azfar, senior ASC had submitted on behalf of the Government that:

'... those who have benefited under the NRO should be proceeded against under the appropriate laws before the courts having the competent jurisdiction; as factual matters need to be determined by the trial courts.'

The Supreme Court, giving a short order on 16th December 2009, announced and declared that promulgation of the NRO was found against the national interest and the substance embodied therein was contrary to its preamble. Thus, it violated various provisions of the Constitution; therefore, the NRO was declared to be an instrument void *ab initio* being ultra vires and violative of various constitutional provisions including Article Nos. 4, 8, 25, 62(f), 63(i)(p), 89, 175 and 227 of the Constitution.

Furthermore, all steps taken, actions suffered, and all orders passed by whatever authority or courts of law including the orders of discharge and acquittals recorded in favour of the accused persons, were also declared void and of no legal effect. It was also declared that all cases in which the accused persons were either discharged or acquitted under Section 2 of the NRO or where proceedings pending against the holders of public office had got terminated in view of Section 7 thereof, would stand revived and relegated to the status of pre-5th October 2007 position.

Under this order of 16th December 2009 all the concerned courts including the trial, the appellate, and the revision courts were ordered to summon the persons accused in such cases and then to proceed in the respective matters in accordance with law from the stage from where such proceedings were terminated in pursuance of above provisions of the NRO. Respective governments and all relevant authorities were directed to offer all possible assistance required by the competent courts.

On the same lines, all cases which were under investigation or pending enquiries and which had either been withdrawn or where the investigations or enquiries had been terminated on

account of the NRO were revived and the relevant competent authorities were ordered to proceed in the said matters in accordance with law.

Any judgment, conviction or sentence recorded under section 31-A of the NAB Ordinance or if any benefit derived by any person in pursuance of Section 6 of the NRO were also declared null and void and consequently of no legal effect; reverting the case to pre-5th October 2007 position.

The Supreme Court had also taken notice that the then Attorney General Malik Qayyum had acted at his own to contact the foreign authorities or courts contrary to the provisions of Article 100(3) of the Constitution. Therefore, such communications sent by him to the Swiss authorities to abandon the Government's claims of huge amounts of allegedly laundered monies by Mr Asif Ali Zardari & others were declared to be unauthorized, unconstitutional and illegal.

The Federal Government and other concerned authorities were ordered to take immediate steps to seek revival of requests and status of GoP's claims and the competent authorities were directed to proceed against Justice (Rtd) Malik Qayyum in accordance with law for his illegal conduct. Prior to the NRO ruling, the ***New York Times*** had reported that:

'Indignant Supreme Court judges demanded to know why \$600 million in the suspect gains of President Asif Ali Zardari had been given back to offshore companies in his name rather than returned to the national treasury; where they said it rightfully belonged.'

In this case a displeasure was also placed on record for Mr Nawid Ahsan, Chairman of the NAB, the Prosecutor General of the NAB and his 2nd in command namely Mr Abdul Baseer Qureshi. The Apex Court had also ordered Government of Pakistan to change that whole team.

Through this decision, Secretary of the Law Division Government of Pakistan was also directed to increase the number of Accountability Courts to ensure expeditious disposal of cases.

No formal comments as it was a decision of the Apex Court, but find below a script from most media reports of the next day' dated 17th December 2009:

From Butterscotch: Completely understandable! A landmark victory, first of its nature in the history of Pakistan.....those responsible for laundering money or accused of stashing billions must be brought to the court of justice. BUT PLEASE enlighten me:

'Will there ever like ever be any accountability process for the armed forces and the high civil bureaucrats. Military men and high bureaucracy who have made fortunes, men who are far richer than our politicians, Generals & Secretaries etc, would they ever be tried for their misdeeds.'

This is not the victory of masses or judiciary, simply put it, security establishment has done it again. Media has been constantly barking about corruption, Zardari 10%, 600 million \$ kickbacks on Agosta submarines effectively highlighting Zardari's 4.3 m \$ share yet deliberately ignoring 49 m\$ for top Navy men.

They accuse Zardari of amassing 1.7 billion \$, I can name at least 5 retired / serving Generals with assets more than 2 billion\$. What about Shaukat Aziz, what about Musharraf himself, what about Gen Akhtar Abdul Rehman and his clan, Gen Zia and family, the likes of Imtiaz Billa or the infamous Major Amir who back in late 90s had more than 500 million worth of assets!! Who's going to hold them accountable?

Is our establishment above SC judgement?'

- *Kindly help me understand.*

[Ref: Internet Site 'Changing up Pakistan' dated 17th December 2009]

From Kalsoom: Dear Butterscotch,

Again, I completely agree. You can't just single one person out in all of this. Frankly, I don't understand why the people who brokered the NRO are not vilified further – the ordinance was essentially promulgated not only to allow Benazir and her party members to run for elections, but also to preserve Musharraf's power at the time – shouldn't he be held more responsible in the aftermath of this mess?

What about the officials in the Bush administration or those from Britain who brought these parties to the table? These nations often call for "democracy" yet essentially legitimize corruption by allowing the NRO to pass in the first place.

NRO JUDGMENT - PPP's UPROAR:

At the end of the day, corruption is an entrenched feature in all societies; truer for Pakistan – it is ingrained not just in politics but in daily life – in police forces, engineering services, top bureaucracy and among the military etc. The lessons one could have taken after this court ruling was not just a witch hunt for the people on the beneficiary list, but question was why such ordinances were allowed to pass in the first place.

Why should one glorify corruption and graft and then hope for progress? Corruption remained as much as a hindrance as violence, sectarianism, terrorism etc to Pakistan's progress and prosperity.

To cut short on **21st January 2010**, the 287-page detailed judgment was penned down by the Chief Justice Iftikhar M Chaudhry. The judgment was signed by Justice Khalil Ramday on 12th January 2010 before his retirement. Citing the example of Philipino dictator Ferdinand Marcos, the ruling said that the Philippine government had also brought the looted money by the dictator back to the country from Switzerland, which could be taken as a reference.

While giving the detailed judgment on NRO case, the Supreme Court had divulged its clear intentions that the legislature should not trespass into the domain of the judiciary while making legislation. Such legislation would be against the independence of the judiciary as ensured by the Constitution. The intervention by the executive, contrary to the principles of independence of judiciary, would be taken as unconstitutional.

The 17-member bench of the apex court, in the judgment, stated that:

*'The legislature is competent to legislate but without encroaching upon the jurisdiction of the judiciary. If, it is presumed that the insertion of clause (aa) in section 31A of the NAO 1999, by means of section 6 of the NRO 2007, **[as it was apprehended then and vastly propagated in media]** is constitutionally valid even then it would tantamount to allow the legislature to pronounce a judicial verdict against an order or judgment of a competent court of law, declaring the same to be void ab initio.*

Therefore.....the action of the legislative authority [inserting clause (aa) in section 31A of the NAO 1999], would be considered a step to substitute the judicial forum with an executive authority.

Thus, it would not be sustainable being contrary to the principle of independence of judiciary, as mentioned in Article 2A of the Constitution, which provides that independence of judiciary shall be fully secured read with Article 175 of the Constitution.'

The Supreme Court had observed that right from the case *Government of Sindh vs Sharaf Faridi (PLD 1994 SC 105)* to Mehram Ali's case (**PLD 1998 SC 1445**), followed by Liaquat Hussain's case (**PLD 1999 SC 504**), this court had always interpreted Article 175 of the Constitution read with the Objectives Resolution (Article 2A) of the Constitution, guaranteeing independence of judiciary.

The judgment also described the domain of the judiciary by saying that:

'That in view of Article 203 of the Constitution read with Article 175 thereof, the supervision and control over the subordinate judiciary vest in high courts, which is exclusive in nature, comprehensive in extent and effective in operation.

Thus order passed by any court or tribunal which is not subject to judicial review and administrative control of the High Court and / or the Supreme Court does not fit in within the judicial framework of the Constitution.'

Let us move forward with another bunch of roses.

The plus and minus points on the governance of Mr Zardari be kept aside for a moment. Think that why the issues related with NRO were trumpeted at so high tone; because the army and PML(N) wanted to equalize their own scores through CJ Iftikhar M Chaudhry; though the later had already got their price of favouring the CJ in March 2009 for his come back along with his team.

To mention a few which are available on record, allegedly Nawaz Sharif was given total relief in the criminal cases of conspiracy erected against him by Gen Musharraf in the backdrop of October 1999's army coup. He got his qualification back through the Court to contest election again. He got his brother's Punjab government back in early 2009 which was being snatched by Governor Salman Taseer. He successfully managed the Election Commission and the Higher Courts to keep pending elections on National Assembly seats from Rawalpindi constituencies for the time he considered appropriate.

Nawaz Sharif, as widely propagated by the media, was also one of the actual beneficiaries of NRO when he had agreed to join hands with Benazir Bhutto in 2007 after she had signed her come back to Pakistan. He should have raised his voice against the NRO when he and his associates were coming back to Pakistan under the umbrella of the same NRO.

Even afterwards, when the PML(N) knew it that Mr Zardari had not fulfilled his promises at Murree and Bhurban in early 2008, they should have blocked his way to the Presidency. Why they remained silent and provided approval for his go-ahead. Joining hands with Zardari in August 2008 for cogent threat of impeachment of Gen Musharraf is referred here.

Very strange that when this NRO law was alive, all were silent and when it went dead, every body was bent upon to hit the Presidency on this pretext. All they tried their level best to fire **Hussain Haqqani** from NRO gun but when the columnist Saleem Saafi wrote an article in 'Jang daily' in March 2009 declaring him as '**US envoy in the US**' then no one was moved to follow the writer.

BRUTUS YOU, TOO; SAYS ZARDARI:

On 30th September 2010, President Zardari dropped a bombshell in the PPP parliamentary party meeting when he made the shocking confession that he was betrayed and trapped by top players of the NRO game.

He told the shocked members that he was given certain assurances in exchange for not defending it before the SC. Without identifying anyone, Zardari said in his firm style that:

'The "players of the game" did not execute their promise and the cases against him were reopened despite earlier secret assurances.

'Though he was betrayed and trapped but he was not down and would not take any "dictation" from any one and would face the current hostile situation, as he had been doing in the past.'

That was the moment when Mr Zardari opened his heart before his party men first time and shared the top secrets pertaining to his government policy not to defend NRO in the SC a year earlier. But finally, a besieged Mr Zardari shared his secret as to why he had asked the law ministry not to take any position in the court during the hearing of NRO case, which had led to unanimous verdict of 17 judges on this controversial law.

The parliamentary party meeting was held in the Presidency with Mr Zardari in the chair; PM Gilani also attended the meeting. Senator Dr Safdar Abbasi had tempted Mr Zardari, amidst heated discussion, asking the PPP government to respect the judiciary as it had missed the bus for defending the NRO in the SC; but his voice was never given any importance in the PPP circles.

Dr Abbasi had also urged the parliamentary party meeting that it was too late to submit a review petition in the SC and challenge the unanimous verdict of the court, as the judges had already collected a lot of documentary and other relevant stuff from NAB against Mr Zardari and others. He argued that the SC had now gathered sufficient proofs to proceed further.

President Zardari had surprisingly admitted his mistake, saying the PPP government should have taken a position and defended the NRO in SC.

The fact remains that during the days of NRO case in the SC, a Karachi-based former judge had secretly met Asif Ali Zardari in Presidency. In this meeting, the former judge had advised Mr Zardari not to worry about the Swiss cases, as they were closed transaction. That retired judge had assured him that the judges would not open the cases against him.

Mr Zardari later discussed that judge's advice with his top legal aides; Babar Awan, however, had strongly opposed the idea. Awan maintained that his government should strongly defend NRO in the court with all its documentary guns and arguments, instead of leaving the field open for the judges to give any kind of judgment against him and the PPP. Babar Awan was ignored this time.

President Zardari had the shock of his life when he learnt that SC had ordered reopening of cases against him including the Swiss cases, which were closed a year ago. Zardari was said to have commented after reading the explosive contents of NRO judgment that a former judge had clearly used his credibility to trap him.

On the other count, Mr Zardari was unlucky in a way that he did not have a team of 'sincere friends' around him who themselves would have resigned from their portfolios [as Saeed Mehdi had done in Punjab for PML(N)] saying that Mr Zardari should not suffer at least for their follies.

[The National Accountability Bureau (NAB) had filed the polo corruption reference in the accountability court in 2000, and included the names of former PM Benazir Bhutto, CDA official Shafi Sehwani, Mr Zardari and Saeed Mehdi, the then Chairman CDA. Saeed Mehdi was alleged to have constructed a polo ground at the Prime Minister House during Benazir Bhutto's first term as PM.

It was alleged in the reference that the construction of the polo ground was executed on the verbal orders of Asif Ali Zardari and Saeed Mehdi. The polo ground cost an estimated Rs:52.29 million to the national exchequer while Mehdi was alleged to have embezzled Rs:0.6million.

The case was closed in 2008 after promulgation of the National Reconciliation Ordinance (NRO) and it was re-opened on 16th December 2009 after the Supreme Court annulled the NRO.

On 1st April 2011, Accountability Court at Rawalpindi had absolved Saeed Mehdi because President Zardari, the main accused in this case, had immunity while CDA official Shafi Sehwani was dead.]

More strange that so many people, including both factions of PML [(N) & (Q)], were demanding or at least expecting resignations from the President and his friends like Rehman Malik on the basis of their alleged involvement in NRO. They forgot their own history that why Faisal Saleh Hayat and Aftab Sherpao were called from London by their masters and respected them for seven years as federal ministers despite the fact that they were wanted in the NAB cases. Their cases were also running in the courts then.

When Nawaz Sharif had taken oath of his second time premiership in 1997, there were so many cases against him in various courts running active. It is on record that in July 1997 only, the Lahore High Court had given him the green slips of acquittal when the three major references of corruption against him were got fixed before Justice Malik Qayyum who issued 17 pages alike 'judgments of honourable acquittal' in those cases; details are available elsewhere in this book.

Would the Supreme Court go back to open such cases of Malik Qayyum's vicious decisions again especially when the world knows that the former Judge was removed from judiciary in an un-ceremonial and disgraceful way in 2001 and on the basis of similar jokes on High Court forum related with Saif ur Rehman's whims.

A veteran columnist of **daily 'Jang' Salim Saafi** had analysed the two situations this way:

'Why we are not crying against Nawaz Sharif for an NRO similar to this. He was even sentenced in some cases, more severe and stern to think, and his cases were also finished in a deal with an army dictator. Recall his leaving to Saudi Arabia on 10th December 2000. Benazir had also done a similar deal with the same army dictator.

*The **difference lies that one PM signed a deal to go out of the country while the other PM negotiated a deal to come back;** and more honourably to come back along with his rival politician Nawaz Sharif.*

One PM Nawaz Sharif did a deal to keep himself out of politics whereas the other PM Benazir Bhutto had done the deal to come back in politics. Who was better? Now there are cries over one later NRO but there is silence on the previous NRO.... Why so?'

Media was right to ask then if the Supreme Court was above law to make any order of his own choice.

NRO DECISION – FACTUAL UPSHOTS:

Now the other side of the picture!

The Supreme Court's short order dated 16th December 2009 gave birth to a constant tension for the ruling regime of the PPP thus starting a new era of confrontation between judiciary and the executive. NRO was universally condemned. None of the federal or provincial governments or any of the beneficiaries of the NRO had attempted to defend or support it before the Supreme Court rather they, including the president, had accepted and agreed to honour the judgment. Later, a review petition was preferred but half heartedly contested.

Maybe the PPP was not expecting such a 'harsh' decision on NRO from the Supreme Court of Pakistan. Just after two days Mr Zardari called an emergency meeting of its Central Executive Committee (CEC) and ordered to set a campaign after he had one-on-one sessions with different party leaders, who extended all possible cooperation to the NRO affected persons within the government and outside.

At the very outset, the then Punjab Governor Salmaan Taseer and Fauzia Wahab, the PPP Secretary Information, both spoke in a defiant tone, saying how a country could ask a foreign government to open corruption cases against its own president thus making a direct hint that the PPP would not bother about the Supreme Court's verdicts.

There was a general question, however, that why was the PPP being singled out for accusations and high blame game. Other PPP leaders, especially from rural Sindh, delivered sermons in hostile tones and the provincial assembly members held press conferences in favour of the president particularly focussing on their 'Sindh Card'. A senior Punjab Minister Raja Riaz's argumentative and aggressive statement that:

'Sindh had already received two dead bodies, and if there was another dead body it would come to Punjab.'

It was disturbing for the media and the general populace of Pakistan.

The President Zardari had once tried to malign openly certain judges and some elements within the armed forces. While thinking to resign one time after the judgment he was loudly asking:

'If the NRO was bad then why nothing has been done about the person who issued the NRO.'

The fact remained that the same Supreme Court had already declared Gen Musharraf a usurper on 31st July 2009. He was sure that some people within the judiciary and army got help from the media and hatched a conspiracy to overthrow him then. He informed some of his friends immediately after the court verdict:

'I know they are putting pressure on me to resign because they cannot impeach me but I will not resign, I will fight, and I am ready to die like my wife Benazir Bhutto.'

Declaring the NRO unconstitutional, the Court ordered the government to restart cases against Mr Zardari in Swiss courts because in Pakistan he was enjoying constitutional immunity as president. The PPP was seen in a state of panic that was visible in its CEC meeting, in which its Federal Minister Khurshid Shah had made a profound statement saying that:

'We (Sindhis) have already sacrificed two prime ministers for the federation but will offer no more sacrifices for the federation in the future.'

At the same time, Aitzaz Ahsan defended the Supreme Court decision and said the judgment provided strong protection to the system and democracy. Mian Raza Rabbani had demanded dissolution of the cabinet and exclusion of some tainted ministers but the committee decided

that all the ministers facing NAB cases would appear in courts showing their complete confidence on the judiciary.

In fact the trio of Aitzaz Ahsan, Mian Raza Rabbani and Dr Safdar Abbasi had strongly argued for resignation of the NRO-tainted ministers on high moral grounds but their voices were subdued by majority of the CEC members of the PPP.

During those hard days Mr Zardari was disappointed when once PML(N)'s former accountability czar Saifur Rehman broke his silence after many years and said that cases filed by him in Swiss Courts against Mr Zardari were based on solid evidence. Mr Zardari sent a message to Nawaz Sharif asking if this was his (NS) style of reconciliation in which Saifur Rehman had been unleashed. Nawaz Sharif responded through a messenger:

'Trust me, I am not part of any conspiracy against you, I am not in touch with Saifur Rehman for a long time.'

In the meanwhile PML(N) MNA Shahid Khaqan Abbasi was given the task of making Saifur Rehman silent. To reciprocate, Mr Zardari had then called meetings of National Assembly and Senate on 4th January 2010 to implement the Charter of Democracy which had earlier been signed between Nawaz Sharif and Late Benazir Bhutto in London in 2006. But that fortunate moment never cropped up.

The political intelligentsia then held the view that had the parliament taken a strong position about corruption and corrupt people, the judiciary could maintain silence over subjects like NRO, which was pulled through in the standing committee of parliament in flip-flop manner by the PPP.

[NRO could have been approved by the parliament but the PPP's own Prime Minister Mr Gilani did not want so.]

Apparently, the government 'high-ups', tried their level best to get it adopted in the two houses of the parliament, but the political polarisation came in its way. Some of the PPP members had gone hostile; on whose instigation, it was not clear then.

After the decision of the apex court on NRO, the National Accountability Bureau (NAB) suddenly became more active and its FIA-dealing wing even super active especially in connection with the Exit Control List (ECL). On the next day of the decision, the Federal Defence Minister Mr Ahmed Mukhtar was checked and held at Islamabad Airport and was not allowed to take flight for China. He was going there to sign some official documents on behalf of Government of Pakistan.

The Federal Minister came back from Airport and launched his disapproval before media whereas the Chinese Ambassador in Pakistan officially lodged his protest. When probed, the NAB authorities took back his words saying that they had not sent the list of persons to be placed on ECL till then. Resultantly, Federal Interior Secretary, one Additional DG FIA and some other officers on duty at Airport were immediately placed under suspension for being 'over-active'.

Astonishingly the NAB was to file fresh references in several high profile cases involving politicians, retired Generals, business tycoons and bureaucrats against whom the NAB was barred from proceeding by Gen Musharraf. A number of cases of alleged corruption, which were 'made out' by the Bureau but remained inconclusive because it was stopped midway by the military regime, were also brought in light by those super-active NAB officers who were 'properly greased' afresh by some to chase their political opponents or business rivals.

The said files were pertaining to top PML(Q) leadership including all the Chaudhry brothers (namely Ch Shujaat Hussain, Ch Pervez Elahi, Ch Moonus Elahi, Ch Wajahat Hussain, Ch Shifaat Hussain and others); JUI(F) leaders Maulana Fazlur Rehman and former NWFP Chief Minister Akram Khan Durrani and Awami National Party leader Azam Khan Hoti, who was father of the incumbent NWFP Chief Minister Amir Khan Hoti and many more.

A former Chairman NAB, Lt Gen (R) Shahid Aziz, told the media that there were certain complaints about the then exiled PML(N)'s associates but the Bureau was asked not to probe them. Insiders explained that it may not be in the notice of the Chairman NAB or Gen Musharraf but the game was being played from within.

Whenever a complaint against any member of the PML(N) came up for action, the former DG Hassan Waseem Afzal invariably intervened and approached the concerned officer to twist and turn around that complaint in opposite direction thus convincing the Chairman to shelve the same in the name of 'political victimization'.

Similarly, there were more allegations against former interior ministers Aftab Khan Sherpao and Faisal Saleh Hayat but were not followed. Ansar Abbassi in the ***Jang daily of 21st December 2009*** claimed:

'..... Gen Shahid Aziz said that besides others he also recalled the corruption scandals concerning Central Board of Revenue, Pakistan State Oil, Pakistan Security Printing Press, and stamp paper fraud case. Aziz [the then PM] said that certain leading business groups were also required by NAB but their cases were not formally probed.

Some of the top business groups had confessed to have defrauded bank loans worth billions of rupees and consented to pay back the looted money in instalments, as a result of plea bargain but they, too, later did not pay the agreed amount after they had developed right political connections.'

Before the next SC hearing of NRO implementation case **on 13th October 2010**, backdoor channels tried to defuse the otherwise dangerous tension between the judiciary and the government after PM Gilani had agreed to take drastic actions to appease the apex court. The government had taken a sigh of relief after the SC accepted its plea to start hearing of the review petition on the NRO judgment pending before the Supreme Court since six months earlier.

During those backdoor discussions, it was considered that the summary would not be tabled in the court and most importantly certain actions would be taken in the light of the SC decision to send a loud message to all that the government was implementing the verdict.

Possibility was there that the parliament could take up and decide the issue of immunity to the president under Article 248 to dump the whole issue, which was the only irritation between the government and the judiciary. PM Gilani had already given a statement that he was going to fire all those ministers and officers who were the beneficiaries of the NRO.

To a question as to why the government had filed review petition in the SC when in the first place it did not defend the NRO in the court last year. It was revealed that the PPP government was feeling betrayed at the hand of a Karachi-based retired judge; as detailed above.

That former judge was considered close to the judiciary; had taken a draft with him to the President to ask his legal team not to contest the NRO case in the Supreme Court. As the top gun of the government felt betrayed, a decision was taken to file a review petition in the court and get the judgment reversed.

Perhaps that judge was known as 'Fakhru Bhai' some people opined.

SC's USELESS MONITORING BODY:

The SC had announced in their decision of 16th December 2009 that a monitoring body would be set up to chase the Accountability Courts dealing with NRO cases. It sparked a controversy of its own kind. The PPP considered it as an interference in the executive functions whereas

the PML(N) and their allies took it otherwise. The PML(N) succeeded in gaining sympathies of a former Chief Justice of the Supreme Court, Saeeuzzaman Siddiqui, who opined that:

'I don't see any constitutional or legal hurdle in the setting up of these monitoring cells by the apex court for keeping a check on the functioning of the executive.'

[The PPP media Cell came forward with high peak voices that it was being done to chase the cases of Mr Zardari to settle their old score of not re-instating the apex judiciary throughout 2008. As per their version, the judiciary had forgotten that the accused, Mr Zardari, had been unable to get justice from them for more than eight years.]

Another former SC judge Justice Wajihuddin Ahmad added that:

"These cells will monitor whether the accused persons are trying to delay the court process through wrong tactics or whether prosecution is playing its role according to the law. These monitoring cells will have nothing to do with the decisions to be made by subordinate courts.

There were many examples of such monitoring cells even in the case of the Indian Supreme Court.

*Trying to mould the things to serve some vested interests is very unfortunate on the part of certain elements who argue **why the judiciary is not considering some other cases.**"*

(Ref: The News dated 21st December 2009)

Pakistan as a country was so unlucky that both the above referred Chief Justices, one of the Supreme Court and one of the Sindh High Court, never opted to make any such 'monitoring committee' for any of their decisions and never bothered to take cognizance of any corruption case or corrupt practice at their own throughout their tenures in their respective offices; most of the NRO cases belonged to their terms though.

Under that monitoring scheme, Justice Javed Iqbal was serving as a monitor for anti-terrorism courts of Sindh; Justice Khalilur Rehman Ramday for Khyber PK province; Justice Nasirul Mulk for Balochistan ACs; and Justice Sardar Raza Khan was monitoring the performance of the Punjab ACs. Till today not even a single 'monitory report' has come on record; or if it is there, the same was not made public.

On SC's said judgment on NRO, Ali Ahmed Kurd, the firebrand leader of the lawyers' movement and former president of the SCBA, who initially kept quiet for quite some time, surprised many with his blunt criticism on NRO's judgment. **Judges should "behave like judges"**, he said.

Speaking during a talk show on "Challenges facing the judiciary", Mr Kurd said that people had reservations about the verdict handed down by the SC on petitions challenging the NRO; the judgment appeared to be based on newspaper headlines and talk shows of private TV channels.

The NAB was being condemned by the NRO beneficiaries while the Supreme Court also found NAB's incumbent Chairman, the Prosecutor General and the Deputy Prosecutor General incompetent, therefore, the apex court judgment had directed the Bureau to transmit periodical reports of the actions taken by them with regard to NAB cases to the Monitoring Cell of the apex court set up following the same order.

No such progress report was ever sent by the NAB while the apex court never considered it worth chasing its own order.

For instance, the appointment of one banker named Hussain Lawai as president Arif Habib Bank Limited (AHBL) was challenged in the Supreme Court in the third week of December 2009. A social worker Tahir Amin of Lahore had challenged this appointment under Article 184(3) of the Constitution pleading that a person of dubious character who had been an NRO

beneficiary and faced NAB cases after committing fraud of nearly Rs:1.82 billion could not be appointed as president or CEO of a public bank. Hussain Lawai had committed this fraud being the president of the Muslim Commercial Bank (MCB) and remained fugitive for over a decade.

On the request of the government of Pakistan, Interpol had arrested him from Canberra on 4th March 1998. He was brought back to Pakistan where he faced NAB cases but later he was given benefit under the NRO.

The court had admitted the plea at once for hearing.

At the same time, a venomous but an eye opening analysis of the NRO decision and its later developments was offered by Messrs Rivkin and Casey, Washington D.C. based attorneys, who had served in the US Department of Justice during the Ronald Reagan and George HW Bush administration; let us go through it now:

'Chief Justice Chaudhry's decision to overturn the NRO, opening the door to prosecute President Zardari and all members of his cabinet, was bad enough. But the way he did it was even worse..... The decision's lengthy recitations of religious literature and poetry, rather than reliance on legal precedent, further pull the judiciary from its proper constitutional moorings.

The fact that Mr Chaudhry's conduct has led some of his erstwhile allies to criticize him and speak of the danger to democracy posted by judicial meddling in politics; the stakes are stark indeed.'

Rule by unaccountable judges is no better than a rule by the Generals.

Pakistan is going normal amidst the fiction & facts of corruption, as it used to be. People are yet to see the fate of 'others' [beyond Mr Zardari] especially how [about 7750 out of 8041] Karachites got themselves absolved through making out a 'special committee' to review the NRO cases pending in NAB and the NAB Courts whereas the rest of the lot sitting in Punjab, Baluchistan, Khyber PK and Islamabad were left to go through the mill of hatred and humiliation.

Let us hope equal treatment for all in Pakistan.

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