

The **Nation**

Thursday, 06 May, 2010

A Legal Perspective

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The UN Report has mentioned several people, implied roles to certain party workers and intelligence agencies and, based on the observations of the Report, a debate in the media has erupted in which the anchors and participants both seem to be acting as investigators. It is interesting to note that every person is finding political space from the contents of the Report to argue his respective version of BB's assassination. The Report, on the other hand, is merely a narrative of events as "perceived" by the Members of the UN Inquiry Commission and is not an exercise to affix criminal responsibilities on any relative, individual or institution. This is what the report explicitly states as well - that it's not carrying out this exercise to determine criminal responsibility. But despite the said proviso so clearly mentioned in the report, politicians, retired officers, and political workers are accusing each other as if the findings of this report have conclusivity attached to it. Whereas, the report itself states that credible and serious criminal investigations are required to be undertaken by the Government of Pakistan to determine criminal responsibility and identify those who are truly the culprits of this heinous crime.

The Government of the day, which incidentally is also an interested party to find out the culprits, now bears the responsibility to carry out the recommendations of the UN Commission by commencing or ordering the commencement of a credible and serious investigation. The scope of this investigation will not be defined by the UN Report only, but it potentially should include not only everybody concerned but would also ensure that no one is excluded. The UN Report has only indicated directions in which investigations can be carried out, whereas, the investigation of a crime has its own dynamics and investigators follow the leads as they get connected. And that is how the criminal investigation needs to be carried out. Pakistani law enforcement agencies have several officers of good standing who are well-trained in criminal investigations in this regard.

The difficulty that the Government may be facing right now is whether to arrest some of the people and officers named in the report or not? It is because the Report itself does not affix criminal responsibilities. Therefore, what should be the legal basis under Pakistan's domestic law to take a decision to arrest the concerned? If you rely on the UN Report, then it is neither admissible in the Pakistani courts of law nor does it contain evidence admissible in Pakistan while mentioning various names. The further dilemma is that if the UN Report is used as a benchmark then the Government is confronted with a possible casualty of, at least, two of its Federal Ministers.

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