

What Election Commission can do?

KAZI ANWARUL MASUD

SINCE the Election Commission is a constitutional body and supposedly independent the Chief Election Commissioner (CEC) and his two newly appointed deputies should resign their posts to make way for a complete overhaul of the Election Commission. To quote Wordsworth that as "life is short and time is fleeting" the tenure of the present government is drawing to an end in a few months time and there is no constitutional way of transferring power except through free and fair elections. The opposition 14-party combine has already refused to participate in an election under the present Election Commission and with the "fake" voters' list (now declared illegal). Another election without the participation of all major political parties will lack legitimacy and will further compound the confrontational politics in Bangladesh.

We could draw lessons from the recent events in Thailand where not only Prime Minister Thaksin Shinawatra resigned from his post though his Thai Rak Thai Party secured more than fifty percent of the votes cast in the recently held controversial elections, but the country's Constitutional Court declared the election as null and void, rejected the Election Commission's proposal to hold fresh elections in late October, and also asked the Election Commission to resign as it had lost the confidence of all the political parties.

Bangladesh CEC's position has become more untenable with the Appellate division's rejection of his appeal against the directives of the

By any standard the CEC and the Election Commission appear to have lost the confidence of the people at large. In such a situation it would be in the interest of the country if the controversial persons were to remove themselves, as Nixon did after the Watergate scandal, and save the country from further agony. We sorely need a free and fair election under an acceptable caretaker government, Election Commission, and reformed electoral laws for the progress and peace in the country.

High Court that the existing voters' list be updated and no fresh voters' list need be prepared. Now legal experts are trying to fathom the implications of the judgment and whether responsibility can be ascribed to the CEC for the lost time and money spent on preparation of the new voters' list which in any case flies in the face of population growth rate, estimated total number of population of the country and is also full of holes because of exclusion of many people from the list and inclusion of "fake" voters therein.

One wonders why Bangladesh does not borrow a leaf from the experience of West Bengal where the Left Front won the elections for the seventh successive time since 1977 winning 235 out of 294 seats in the West Bengal Assembly. Neither the Congress nor Trinomul Congress nor the BJP has leveled any complaint to the Election Commission about any election irregularity. It was truly amazing to watch on television young Debashish Sen, the State Chief Election Officer, laying down his diktat which was followed to the letter by all the political parties. Except religion, and West Bengal truly professes secularism, there should not be many differences between the Bengalis on the two sides of the border. Then why is it that in these days of waning communism people continue to vote again and again the Left Front to

rule the State? One obvious reason is their respect for law and institutions. The other reason could be the almost total incorruptibility of the leaders.

Buddhadev Bhattacharya reportedly lives in a modest apartment with his wife, daughter and mother, and lives on his salary like any middle class Bengali. The denial of party ticket to contest the elections to a number of Ministers in the last cabinet due to their alleged failure to perform well the responsibilities ascribed to them and the induction of new faces in the Ministry and the Assembly is because the Left Front is wedded to the principle of performance based reward and punishment so alien to politics in Bangladesh. Like the Chinese leaders Buddhadev Bhattacharya has no hesitation in welcoming investment, both domestic and foreign, in furtherance of industrialisation of West Bengal. In other words, the Left Front government, as it should be in a democracy, is promise bound to deliver political goods to the people. It can safely be assumed that the repeated victory of the Left Front in the elections since 1977 is because of the satisfaction of the electorate of the performance of the government. This "satisfaction" of the electorate can only be shown through elections for which a faultless voters' list is sine qua non.

CEC through his unilateral decision to go for a fresh voters' list opposed by the two then Election Commissioners has displayed bad judgment. One wonders whether the order to engage enumerators to prepare the fresh voters' list was given in a transparent manner. After all, six hundred million taka out of a budget of 146 crore taka has already been or is in the process of being spent on a project now declared illegal. Who, one may ask, will bear the responsibility for the wastage of this colossal amount of taxpayers' money? Can an individual's ego be a sufficient defence or is it to be added as a fraction to the huge amount of money that is wasted by the government every year through inefficiency and corruption? US Assistant Secretary of State Richard Boucher in his most recent testimony to the US House Subcommittee on South Asia and Pacific identified "corruption and governance which are a drag on the country's economy...(and) keeping Bangladeshi people from realising their potential and preventing the levels of growth that would make significant progress in reducing poverty".

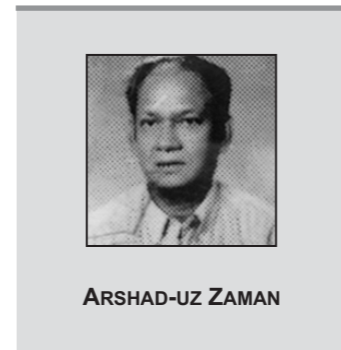
But for Bangladesh to free herself from "poverty trap", defined by Donald Rutherford as, keeping low income group at the same level of disposable income because a

country's rules on tax and benefit system penalise shift from welfare to employment income, further compounded by increasing disparity between the rich and the poor leading to social exclusion of a large number of people, immediate steps have to be taken to bring the disenfranchised within the arena of stake holders in societal development. Keeping people out either due to sloth, inefficiency or malafide intention would only further vitiate the existing tense political situation in the country. Instead we should accept Jurgen Habermas' thesis that a state's *raison d'être* lie primarily "in the guarantee of an inclusive process of opinion-and-will formation in which free and equal citizens reach an understanding on which goals and norms lie in equal interest of all".

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Iraq: More of the same?



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A new government has taken oath of office in Baghdad exactly five months after the elections and the three key positions of Defence, Interior and Security are vacant. Like previous US-led attempts to stabilise the situation in Iraq, will this also prove to be a non starter?

The daily dose of death in Iraq -- according to that day's count it was more than two dozen -- is destabilising different parts of the country. The opponents of the occupation regime were giving their answer to the ceremonies within the highly protected Green Zone. In fact this death through suicide bombings, planting of mines and various other methods have become routine affairs and death toll of the Iraqis has virtually ceased to be significant. The American death toll has crossed the 2000 mark.

There were no celebration for this event of oath taking although the Iraqis are reported to have strongly haggled for positions in the Cabinet. As is well known it is the Shias, who have come out as victors in the elections, the Kurds in the North following and the Sunnis, who were the real rulers during the Saddam Hussein regime, third. In fact Sunnis had to be coaxed to join the election

THE HORIZON THIS WEEK

Longer the occupation regime continues, more plausible becomes the unthinkable -- splitting of Iraq in three parts. Has a great power like the US taken into consideration what such a situation would entail? The option for the US has become awfully limited. Time for a hard decision seems to stare in the face.

Security Adviser of President Bill Clinton clearly stated that the presence of US troops in Iraq was the real problem and suggested that the US look for an honourable way out.

That way, it would seem no other than pulling the huge US force out of Iraq. The US has done it before in Vietnam in less honourable circumstances, than what seems possible in Iraq. Nobody seems prepared to buy the proposition of exporting democracy into the inhospitable Middle East. The situation in Afghanistan, where the Taliban appears to be rearing its head again, is a strong reminder that that rocky country is even less fertile for democracy.

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On the news that a government had taken oath in Baghdad US President George W. Bush, with his wife Laura standing by his side, expressed satisfaction that finally a government was in place in Baghdad. There was no enthusiasm in his gesture and that for good reason. Along with the pictures of the oath taking ceremony came pictures of death and arson and the body count was more than two dozen of whom some were Americans. It is clear that the opponents of the occupation regime will not stop until the foreign troops have left Iraqi soil. Brezinsky, the National

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The import regime and the challenge of export diversification

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PEOPLE are breathing a sigh of relief that the predicted doom and gloom that was expected to follow the end of the Multi-Fiber Agreement (MFA) hasn't materialised in Bangladesh. In fact exports of readymade garments have held up well over the past year. Yet this relief is a double-edged sword, because it means that Bangladesh's export basket is becoming less, rather than more, diversified. Export diversification continues to remain a challenge.

Bangladesh experienced double digit export growth over the past 15 years. Yet this superior performance masks the fact that the surge was limited to one product group -- readymade garments -- aided not least by the MFA regime. With over two million jobs and 76 per cent of export earnings from the RMG sector, too much of the nation's fortune is riding on this one sector. Export concentration in readymade garments makes the economy, jobs and income, extremely vulnerable to external shocks arising from changes in global demand for RMG. The government's focus on export diversification as a cornerstone of its export policy for several years now is no doubt appropriate. The problem lies in its implementation.

Export concentration: Export concentration is not a new phenomenon for Bangladesh. For many decades prior to the emergence of RMG exports, jute and jute goods dominated the export sector making up 70 percent of exports in 1981. With development practitioners advising the need to diversify exports, developing non-traditional exports became the dominant *mantra* of export policy. Non-traditional exports implied a shift into manufac-

tures. This shift materialised for the Bangladesh economy thanks largely due to an external event -- the multi-fiber arrangement of 1974 -- that offered a lifeline for the emergence and rapid expansion of the RMG industry. Meanwhile, policy errors domestically and the emergence of jute substitutes globally soon led to a rapid decline in the export of jute and jute goods. The pendulum swung to the other extreme.

By 1990, RMG exports had overtaken Bangladesh's traditional exports and, by the close of the 1990s, *export concentration* emerged afresh, with RMG exports reaching a share of 77 percent. While Bangladesh's export growth for the last decade and a half could be characterised as robust, a sudden decline in demand for Bangladeshi RMG would send shock waves throughout the economy. Such a prospect can be avoided through the creation of a diversified export basket. But that is easier said than done.

The export diversification challenge: The absence of MFA quotas, and the consequent competitiveness pressures on the RMG sector, means export diversification takes on new importance for Bangladesh, a country that needs superior export performance in the medium -- to longer term for sustained high growth and the reduction of poverty. While global market access issues are no doubt important, Bangladeshi exporters face enormous challenges domestically that often undermine their competitive advantage. These challenges -- or constraints -- are often policy induced, or the result of institutional or infrastructural weaknesses. To foster diversification, the traditional strategy seems to have been to focus on promoting those exports that have current or future potential, often with the help of cash subsidies or other incentives.

In a world of razor edge competition, an import regime that raises import costs even slightly above world prices undermines export competitiveness. A smoothly functioning import regime with minimum transaction costs is the sine qua non of export competitiveness. Streamline Bangladesh's import regime and give export diversification a chance.

This kind of strategy is often subject to abuse and is seldom found to produce the desired results. There is little empirical evidence around the globe that such a strategy works. Export diversification is not necessarily about promoting one category of exports or the other (picking winners), but rather of creating a conducive business and policy environment in which producers of current and potential exports can maintain their competitive edge in the international marketplace.

Can a cumbersome import regime be the problem? While Bangladesh's overall exports consistently show robust growth, and new export products are coming on stream, there is not enough momentum to result in a diversified export basket. The share of exports other than garments shows no sign of increasing. The trend towards diversification is hitting road blocks some where. What might be these road blocks? We know about the infrastructure problems (power, ports, other logistics), corrupt bureaucracy, and so on. But few identify the import regime as a stumbling block to export diversification. Exports -- particularly of manufactures -- involve processing of imported inputs which have to be made available in adequate quantities, on time, and at world prices. Why at world prices? Because the duty paid on inputs adds to production costs and undermines

the competitiveness of exports. This was clearly understood by Korean policymakers who engineered Korea's export boom of the 1970s. Their job was to ensure that exporters were able to trade at world prices. Accordingly, they designed policies that allowed exporters to import all inputs and sell all exports at world prices.

By contrast, in Bangladesh, with relatively high tariffs, most intermediate inputs and raw materials have to be imported on upfront payment of duties. It was extremely good policy foresight that kept the RMG sector outside this--more in line with the Korean export policy framework described above. With all its flaws, such a scheme still delivers export growth in an otherwise protective regime that would favour import substitution with its inherent anti-export bias. The RMG sector, for example, operates within a "free trade" enclave in that all imported inputs come in under a bonded system duty free. Had this not been the case, RMG exports would not have reached the heights they have given the economy's import regime which is riddled with complex tariffs and other import restrictions.

A few other selected exports, such as leather products, also enjoy the facility of bonded imports. For the rest of exports and potential exports, getting world-priced imported inputs is a challenge. The option available to

them is to seek duty reimbursements (drawbacks) from the Duty Exemption and Drawback Office (DEDO). To say the least, DEDO is dysfunctional. Because of the procedures involved, the earliest an exporter can get reimbursed on duties paid is on average six months to one year from the point of time duty was paid at the port of entry. Thanks to reported malfeasance in the drawback system, reimbursement is hardly ever 100 percent.

An example of this dilemma is the electric cable export business. Bangladesh is exporting electric cables in small but growing amounts. The industry has to import inputs such as copper rods, aluminium foils, steel tape, cable paper, which are all subject to duties of 17 percent to 29 percent. Duties paid on these inputs at the time of import will only be reimbursed after actual export of cables following which the exporter may apply for duty reimbursements (DEDO).

New exporters cannot compete in the world market if they have to pay the existing rates of duty on imported inputs and expect to get drawbacks only after they have actually exported the goods and fully satisfied DEDO. Such drawbacks seldom reach exporters before six months to a year at the earliest. Without being able to import inputs at world prices, they are at a disadvantage vis-à-vis their competitors. Export diversification

suffers, as a result. In contrast, the export basket in EPZs is more diversified. Only 48 percent of FY05 exports of \$1.5 billion from EPZ were readymade garments, with electronic goods, agro-processed goods, leather products, ceramics and home textiles, making up the rest. The EPZ's free trade regime made export diversification possible.

In all fairness, the current tariff structure does not make the job of DEDO any easier. Bangladesh has one of the five highest average tariffs among developing countries. And the structure is made complex by the application of quasi- or para-tariffs, such as supplementary duties and infrastructure development surcharges, each with a different base for computation. An import duty neutralisation scheme becomes easier to manage and involves lower transaction costs if the tariff structure is simpler and tariffs are low. Lower input tariffs also reduce the pressure for seeking tariff exemptions and -- by facilitating a more efficient duty-rebate system -- will help move the net incentives for different exported products towards a more neutral range. Finally, lower input tariffs, and therefore lower drawback and other rebates, reduce the incentives for negotiation between exporters or their agents and Customs officials and, therefore reduce the incentives for corrupt practices such as over-invoiced or misclassified export shipments

Finally, policies that promote import substitution through protection of domestic industries create an *anti-export bias*. Protection helps raise profitability of import substitutes while exports must be sold at world prices (essentially, zero protection). An import duty is therefore akin to a tax on exports because it raises relative incentives in favour of the import substitute. Although Bangladesh has managed to insulate the RMG sector from the effects of protectionist policies through the bonded-warehouse and EPZ schemes, the World Bank's analysis (Export Competitiveness and Growth, 2004) shows that further trade reforms are needed to provide comparable stimulus to other industries with the potential to diversify the country's exports.

To be sure, considerable progress has been made since the early 1990s in liberalising the import regime. Tariffs have been scaled back and rationalised. Gone are most of the import bans and quantitative restrictions, and the exchange rate regime is technically on a floating system. Measures already taken have had the effect of reducing overall anti-export bias of the import regime compared to what it was before 1990. Yet, in a world of razor edge competition, an import regime that raises import costs even slightly above world prices undermines export competitiveness.

What can be done? Here is a short list of what can and should be done to create momentum towards export diversification. First, all is not lost with jute -- a natural golden fiber. In the past five years, exports of jute yarn and twine have doubled and industry insiders see a resurgence of external demand. Renewed attention to the sector with indisputable comparative advantage -- the jute industry -- is therefore warranted, not to devise policy intervention but to remove existing policy distortions. For start-

ers, current policies need to be harmonised to treat public and private jute mills at par in matters of credit access and other facilities. Second, for new exports and potential exports, the duty neutralisation scheme has to be made fully effective. DEDO needs to be completely overhauled -- modernised, automated, and made fully-service-oriented. Third, further simplify, rationalise and reduce import tariffs bringing greater uniformity and transparency to the tariff structure -- thus making drawbacks easier to handle. Fourth, gradually re-orient customs administration, leaning more towards trade facilitation and less on revenue mobilisation; in the process, shifting the burden of revenue on domestic taxes. Last but not least, continue to invest in and modernise trade logistics and infrastructure -- ports (land and sea), roads, and railways.

A smoothly functioning import regime with minimum transaction costs is the *sine qua non* of export competitiveness. Streamline Bangladesh's import regime and give export diversification a chance.

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The role of second chamber in democracy

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The legislative assembly as an organ of the government to make law may consist of either one or two houses known as unicameral and bicameral legislature respectively. The Lower House, which is normally elected by the people directly, deals with the passing of laws including the budget. The Upper House, which normally acts as a revising chamber making suggestions and recommendations to the Lower House, is a fully nominated or partly nominated or partly elected body. In the US the Senate is the only exception where the members are elected by the people directly.

The founders of the Bangladesh constitution decided to adopt a unicameral legislature. The composition and functions of the second Chamber may vary depending on whether it is adopted by a parliamentary or federal government. In a federation, in addition to its role as a revising body, it may prove effective in maintaining a balance of power among its constituent units. The imbalance of power created in the Lower House, where the members are elected on the basis of the population, may be counterbalanced in the Upper House if provisions are made for the election of its members on the basis of the federating units.

In the US such balance is maintained in the Senate where each state, irrespective of its size and population, elects two members. The US Senate helps to promote national unity among

its constituent units by maintaining a parity of representation and protecting the geographical minorities against the tyranny of the majority. The question of maintaining a balance of power among the federating units does not arise as Bangladesh consists of one province. The Senate in the US, apart from taking part in the law making process, also performs some executive functions. Such functions were conferred to the Senate in order to provide safeguards against any arbitrary and partisan actions of the President. Some important appointments and foreign treaties made by the President are also to be approved by two-thirds members of the Senate.

The Senate in the US, like most other second Chambers in the world, does not function as a revising body. Its authority to perform some executive functions in the form of confirming President's actions was designed to promote organic co-operation and check and balance between the executive and legislative branches of US government.

The Senate, as a second Chamber functions, effectively in the US without creating any rivalry between the two houses because of personal separation of power between the executive and the legislative branch under a Presidential form of government. Bangladesh cannot have a powerful second Chamber like the US because the personal union between the executive and the legislative branch in a parliamentary form of government would provide a scope for constant source of conflict of power between

The Second Chamber in Bangladesh, if composed with 50 percent of members elected by the people directly and 50 percent nominated from among the technocrats, having a different length of time from that of the Lower House, is likely to provide adequate safeguard against any tyrannical use of power by the party or parties commanding a majority in the Lower House.

the two houses. The nomination system under the bicameral legislature, provided it is properly used, may provide scope to select some technocrats as the members of the second Chamber so that the country can benefit from their technical and independent advice. Some of them, despite their interest in politics, would not become the members of the Parliament because they would not like to go through the cumbersome and expensive election procedures. Under the bicameral system, Bangladesh could have been immensely benefited from the technocrats, who as the nominated members of the second Chamber could give their expert opinion on technical matters affecting the vital interests of the country.

The role of a second Chamber in a parliamentary government as a revising body can prove to be more effective in so far as it relates to passing of ordinary laws. In a parliamentary form of government the party in power by virtue of their majority in the legislature, may if they want to, get any law passed to serve their political purpose. The opposition party's authority is

limited to making recommendations and tabling amendments with regard to ordinary bills, which the ruling party may reject or accept. In the UK the House of Lords acts as a revising Chamber. Its authority is confined to making suggestions and tabling amendments in order to persuade the House of Commons to review and not revise any particular bill. It has no authority to reject any bill altogether. The old hereditary House of Lords has been replaced mostly by appointed life peers. A significant portion of the British electorate is now in favour of introducing some form of democratic element in its composition. An introduction of a democratic element in its composition might necessitate a change in its functions in order to ensure that its effectiveness as a revising body can be strengthened.

In the UK the existence of an unwritten constitution has rendered it unnecessary to amend the constitution. The passing of any law by a simple majority is likely to have the same effect as amending the constitution. Although at present the House of Lords has no right to reject any bill altogether, such power may be

granted, in some form or other, following the inclusion of a democratic element in its composition. Provisions may be made so that its authority is confined to making suggestions and recommendations in all matters except where it is likely to infringe the constitutional or the individual rights. In such cases the Commons should not be given the right to override the decisions of the Lords. Such compromise would maintain its status as a revising body, while improving its effectiveness as a Second Chamber as far as it affects any legislation dealing with the constitutional or the individual rights. The British government, while taking into account the opinion of the public and the other political parties, should decide whether or not a change in its composition should also be matched by a corresponding change in its functions.

The party in power in a parliamentary government may require the support of the opposition to amend the constitution because it normally requires a two-thirds majority, which they normally may not have in the legislature. The provisions for a second

Chamber with an authority to act as a revising body could serve a useful purpose to protect the people against the tyranny of majority rule in a parliamentary democracy. In the absence of a second Chamber to put a check on the unrestricted power of the Lower House there is a danger that the ruling party, provided they have a two-thirds majority, may if they want to, amend the constitution if they find any of its provisions blocking their attempt to pass a law in order to serve their political motives. Although it may not be always the case, the ruling party may occasionally have a two-thirds majority in the legislature.

Like the UK, Bangladesh has a parliamentary government where a party or the combination of parties is to form a government who are likely to command a majority in the legislature. The government with its majority in the Parliament can get any bill passed without accepting any amendment made by the opposition. In the UK it may happen, although in rare cases, that the government can get a bill passed with the support of the opposition members, despite the fact that the bill was not backed by its own mem-

bers. Occasionally, the government may also accept any amendments made by the opposition. The political parties in Bangladesh have not yet achieved the political maturity so that they can refrain from abusing their power by virtue of their majority in the Parliament.

The arguments outlined above should, I think, make a valid case for the adoption of a second Chamber in Bangladesh. Should it act as a suggestive body like other second Chambers? It cannot be given the same power as the Lower House to make it a rival body. Its authority should be confined to making suggestions and tabling amendments, coupled with the power to overrule the Lower House with regard to bills designed to amend the constitution. Such provisions, if incorporated in the constitution, will not only provide a safeguard against ill-considered and hasty legislation but at the same time will help to refrain the government from amending the constitution in order to serve their political interests.

How the second Chamber should be composed would depend on the purpose for which its provisions are made in the constitution: Should it act as revising Chamber, accepting the ultimate authority of the Lower House or should it be something greater, more like the Senate of the US? Any second Chamber having the same power as the Senate of the US must be composed on the same basis as the Lower House. In other words, its members should be elected by the people directly. Opinion may differ as

to how the second Chamber should be composed but every body should agree that the second Chamber, provided it acts as a revising body, should not be directly elected by the people in order to ensure that it does not become a source of constant conflict of power. A second Chamber, if elected by the people directly, is likely to undermine the supremacy of the Lower House affecting the fundamental principle of parliamentary democracy.

However, the Second Chamber in Bangladesh, if composed with 50 percent of members elected by the people directly and 50 percent nominated from among the technocrats, having a different length of time from that of the Lower House, is likely to provide adequate safeguard against any tyrannical use of power by the party or parties commanding a majority in the Lower House.

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