

How free is our civil society?

MASIHUR RAHMAN

THE Chairman of the Board of Investment withdrew the defamation case against the Trustees and the Executive Director of the Centre for Policy Dialogue through the good or bad offices of some diplomats. The eminent citizens had earlier taken anticipatory bail from the High Court and petitioned the same Court for quashing the case. The case hit the news headlines; the withdrawal of the case was reported in small prints. This was a drama of bathos.

The parties to a private dispute are competent to reach a settlement out of the court. This was a private dispute which had serious public implications involving the freedom of an independent think tank, of the accused persons who are eminent citizens, the position of the complainant in the official hierarchy, and finally the involvement of the diplomats to diffuse issues. The out-of-court settlement might have served some short term interests but produced some long-term deleterious effects.

Incomplete judicial proceeding

I had been a magistrate some forty years ago. In those days, only summons was issued in complaint cases. If the complaint related to an offence which could lead to capital punishment if proved, the police was asked to conduct investigation. Warrant of arrest would be issued if the investigation turned up some preliminary but persuasive evidence of guilt or the accused did not surrender to the court after repeated summons. The legal principle is that every person is innocent until proved guilty; do not arrest and deny freedom to anyone until there is some evidence and a reasonable apprehension that the accused would abuse freedom to prejudice the trial. One person's complaint is not sufficient evidence to deny freedom to another person.

The Trustees are well known citizens of this country. I had known, worked and interacted with them for a long time. In case of Professor Rehman Sobhan, it goes back about half a century since my

enrollment at Dhaka University. As to the others, I had been a junior colleague or worked with them on the boards of directors or committees and debated issues in seminars and outside. I cannot say the same about Chairman Rahman; I came to know of him only after he took a public office. Differences of time and occupation separate us.

The eminent accused learnt about the warrant at the seminar or just before coming there. They put up a bold face as sense of honour demand of them. I tend to believe that they were puzzled about the case which they had expected the least. They might have felt uncertain also about how the agents of law would treat them until bail was obtained. Some of them contacted ministers and got the assurance that the warrant would not be executed at least for a while: a welcome reprieve. Next day they obtained anticipatory bail from the High Court. This was their first brush with possible arrest in a criminal case.

Had the case run its full course, one could expect a precedent or clarification as to how courts would deal with complaint cases, defamation cases by public servants in their official capacity or as private individuals. Public officials are open to public criticism which is part of accountability. If the old practices were still valid or rehabilitated, the ordinary people would get protection. Only a few people can afford to secure liberty from the High Court. The Supreme Court has shown the spirit of judicial activism in some cases e.g. separation of the judiciary, how to deal with arrests under Section 54 of the Criminal Procedure Code, preparation of the electoral roll. However, none should make guesses as to what the Court would do.

Unimproved statistical system

The bone of contention is statistics. BOI Chair claimed that the foreign direct investment was larger than what CPD reported. CPD uses the data reported by the Bangladesh Bank and some other international agencies; it does not produce its own statistics. The statistics differ because of definitional and methodological differences. The Balance of Payments Manual 1993

published by IMF lays down the standards for balance of payments statistics. The BoP data are integrated with the national income accounts prepared in accordance with the System of National Accounts 1993 published jointly by UN, IMF, the World Bank, EC and OECD. The concepts and the methods are to be followed faithfully or the data would lose credibility. Liberty with data is patriotism in its proverbial use.

The organizational responsibility for preparing statistics has been specified by the government. The Bangladesh Bank is responsible for and prepares the most reliable balance of payments, financial and monetary statistics. The Bangladesh Bureau of Statistics

viz. improvement of the institutional capacity for good statistics and the cavalier attitude to statistical data taken by the public officials. BBS is (perhaps) the weakest agency of the government, which has been further compounded by downgrading it as a directorate of the Planning Ministry headed by a non-professional officer of the generalist civil service cadre. It is time the government and the donors paid attention to the national capability for statistics, particularly of BBS.

Dependent civil society

The diplomats who brokered the compromise fund both CPD and BOI. They possibly felt embarrassed to support the

technological capacity for production, which is realized in a market economy, provides large material benefits to the people. Accumulation of wealth and investment is made possible by effective security to life and property provided by a strong state and efficient government. The market is an impersonal system of exchange which destroys the personal and community relationships existent in a traditional economy based on barter. The state with its administrative capacity expands control over the lives of the individuals and the communities. The concept of the civil society addresses these inter-wined problems as well as the social

arbitrariness and excesses of the government. Ferguson made the radical assertion that a government, which represses the civic associations, is illegitimate.

Hegel, one of the greatest modern philosophers, advances a concept of the civil society which is subversive of the liberal constitutionalism. Human beings do not possess any inalienable natural rights; the state creates whatever rights they have. The state is the arbiter of the human rights, there being no authority superior to the state to sanction and legitimize them. The civil society includes the economic sphere and the social groups as well as the administrative and judicial institutions between the

1970s reasserted the liberal tradition. Initially, the civil society directed its criticisms against bureaucratization and, in the samizdat literature, deviance from the constitutionally granted rights and freedoms. The civil society reached an accommodation with the state power as 'a sphere of autonomous, ostensibly non-political, social activity and did not challenge the state's control over the main levers of power.' The incipient civil society eventually scaled up into political movement for successful regime change.

The civil society as the organizations which act as agents for delivery of public (also merit) goods and services has emerged as a new paradigm. This can be traced to the weakening of social democracy and the welfare policies in the industrialized countries, reduced role of the state in production and supply, and acceptance of the market as the efficient economic system. The NGOs occupy an intermediate space between the market and the government. As Anthony Giddens observes, NGO is the third sector which is neither market or private nor government. This reveals the conceptual problem of the new paradigm which lacks a positive distinguishing feature. The organizations which conform to the new format are evolving.

The industrialized countries have witnessed erosion of the community cohesion as well as social capital. Many in these countries -- for example Amitai Etzioni see civil society activism as the means for reviving the spirit of community service and cohesion. In their view, the generous state welfare provision has induced the habit of dependence on the government and sapped the community spirit. Civil society activism can roll back the welfare state, which gives the concept a conservative tinge despite its focus on the old fashioned liberalism.

The tribal structures 'pulverize the individual' in that the clan controls the whole life of its members and there is no distinction between the private and the social/political spheres. Ernest Gellner argues that the civil society is necessary to protect individual liberties in the democracies replacing the tribal governing

structures. It has implications also for societies hurtling towards or indulging religious fundamentalism, which aims at a state that controls the private and the public life of all people.

Where are the civil society and NGOs in Bangladesh located in the conceptual map? The NGOs are the service delivery agents primarily. Some of them carry on advocacy of social policies and values, which are difficult to isolate from the political and belief systems. The ideological premises determine the kind of laws and policies as well as their administration and the services the government provides. Whether acting as delivery agents or advocates of values and policies, the civil society organizations are limited by what is administratively approved by the government. The support from the donors, which is available only for tasks they approve of, does not make any significant difference. The NGOs operate within the narrow space of overlapping approvals of the government and the donors, which allows extremely limited autonomy. The rules and the largely discretionary approval procedures push the civil society in Bangladesh towards an illiberal corner.

The diplomats glossed over the important issue i.e. the free space available to the civil society. Freedom is critical for organizations like CPD: the right to think independently implies the freedom to differ with the government without coercion by any government institution or public official. Harassment by public officials is also coercion. Freedom of thought is a right guaranteed by the Constitution. The conciliation brokered by the diplomats indulges the subversive concept of the right with respect to civil society. Their intercession is short-sightedness and superficial which does not help growth of autonomous civil society.

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(BBS) is responsible for preparing the national income accounts, including compilation of the sectoral statistics. BBS collects some data directly such as the major crops and manufacturing (rice, jute, etc) and compiles certain other data received from the concerned agencies (Ministry of Livestock & Fisheries, Ministry of Agriculture, Bangladesh Bank, etc.). The quality of good statistics is the coherence of the several sectoral and national accounts data.

Statistical discrepancy is not unique to Bangladesh. Denis Healey reported that the estimates of deficits varied widely when he was Chancellor in Harold Wilson cabinet. If they got some of the 'healthy estimates' earlier, they perhaps would avoid the constipating prescription of IMF. Nigel Lawson, Margaret Thatcher's Chancellor, admits that the medium term financial programme (MFTP) was based on estimates of inflation widely divergent from the final data.

The only sensible solution to the problem of data is to improve the institutional capacity of the national statistical system. The diplomatically brokered conciliation glossed over the substantive issue

feeding protégés. The support for the two organizations stands on different footings. BOI is a government organization; the assistance for it is part of the aid to the government. CPD is a non-government organization; the motivation for supporting it is to strengthen societal capacity for independent action i.e. strengthen the civil society for independent thinking on policies. The diplomatic intervention is just or unjust to the extent it enhances or constricts the civil society.

The civil society is a complex and contested term. It was articulated at length during 1750-1850; then it disappeared from central focus of political and sociological discourses; and the interest in civil society revived in the late 20th century in the context of the demise of the communist states, the weakening of social democracy and community cohesion in the industrialized countries, and the global expansion of democracy. This essay makes only a modest attempt to identify the important themes in order to set the context.

The threat to liberty and freedom arises from the modern economic and political systems. The

mechanisms for containing the intrusive state and the arbitrary government.

The early writers on the civil society -- Adam Ferguson, Thomas Paine and Alexis de Tocqueville in particular -- emphasized liberal constitutionalism as the safeguard for freedom and liberty against the intrusive state and the arbitrary government. Human beings, who possess inalienable natural rights, set up the state to promote those rights. The government has no right but only obligations. The state derives legitimacy from the consent of the people formulated constitutionally; the government gets legitimacy from the consent of the people articulated continuously through parliamentary and representative mechanisms. A modern democracy may become an elected despotism, using (abusing) its power to make laws and the administrative capacity. They suggest a constitutional solution which specifies the rights, distributes powers among the organs of the state, and secures entrenchment of the constitution through special procedures for amendment -- modeled USA. Equally strongly, they suggest civil society activism to resist the

'constitutional monarch' and the family or the individual. The pursuit of conflicting interests by the constituent members generates disharmony and fragility in the society. The state expresses the unity of the society which is secured through law and administration. The civil society in Hegelian state owes its existence to discretion of the government and lacks autonomy.

The anti-liberal tradition takes on a new meaning in Marxist discourse which holds that the forces of production determine the social relations and the forms of the state. The Marxists -- Antonio Gramsci for example -- also argued that the cultural beliefs have an enduring and autonomous life which shapes the ideas about legitimacy of the economic and political systems. Efforts are needed to change the ideas of legitimacy embedded in people's consciousness. The left-wing parties in Europe undertook programmes to create social awareness among their potential supporters; Castro talked about creating the new man imbued with socialist ideology.

The civil society movements in the communist countries since late

Are we advancing towards a fair election?

SABBIR AHMED

RECENT political crisis stemming from the Awami League (AL)-led opposition's reform proposals for the caretaker government (CG) and the election commission is at its final stage. The time for relishing avoidance of responsibility by the ruling Bangladesh Nationalist Party (BNP) is over as the opposition threatens to pose a 'do or die' challenge stressing upon 'no reforms, no election'. Many believed that the present political crisis could have been averted had both the parties been sincere from the beginning. Being at the helm of state affairs, BNP possibly could have shown a bit more sensitivity to the opposition's demands. But if Awami League along with Jamaat had launched movement against the BNP government from a simultaneous platform during 1995-1996, its intransigence this time in refusing to sit for a dialogue with the government's team because of Jamaat's presence in it, was not prudent enough. It seemed as a showdown of AL's political expediency to trap BNP just before the election. Moreover, dictating the terms of negotiation, being on the receiving end, was not a sensible proposition either.

However, despite all ups and downs, the call for a secretary level dialogue by the ruling party could be a good initiative to break the ice. In order to attain success from a one-on-one dialogue, both sides need sufficient home-work to accommodate the concerns of alliance partners. Time is running out, casting shadow over the prospects for a dialogue.

Whatever the prospects are looming large, there is no denying that the opposition has pointed out some genuine issues for reforms; if accepted, they will definitely contribute to the democratic consolidation in the country. However, a lacunae still persists in such demands. The opposition is firmly opposing a particular individual face -- the Chief Advisor. Here institutional reform should be directed to ensure the 'non-partisan' identity of the chief advisor. Changing of the person is necessary but institutional reform

certainly helps to keep the individual's behaviour on the right track.

The present crisis seems to be lingering and falling on the shoulder of the next caretaker government. Then the caretaker government will have to take some extra care to deal with the left-over political crisis.

Not surprisingly, the new team of the caretaker government will be burdened with responsibilities more than their usual task of assisting the Election Commission to hold a free and fair election.

In fact, the ruling BNP has almost made the caretaker government's mandated task difficult. Caretaker government

a neutral person, so has it the Chief Election Commissioner MA Aziz and his three other colleagues who have been directly or indirectly picked by the incumbent BNP. One cannot simply dismiss the opposition's accusation as entirely baseless. Justice Hasan has served the BNP in different capacities being a member of the party. Given the patron-client political culture dominant in our politics, we can hardly trust him to be fair even if the NDI certifies Hasan as acceptable.

Prime Minister's sensibility has been called into question due to her irresponsible remarks. She seems to have gone her fullest

getting little benefits from the exposure of BNP's glaring failures in delivering services such as water, electricity and most importantly the price-hike of essential commodities. AL's leading and pro-active role in case of reform proposals is pushing people's issues behind the screen. BNP is perhaps skilfully cashing in on this gimmick.

Amidst the turmoil, BNP is befriending Ershad in the hope that he will add more strength to determine BNP's return to power. But ridding Ershad of corruption cases one after another is, no doubt, a foul practice in politics. It reminds us of the Machiavellian

has now apparently made it clear that opposition's demands are logical and legitimate. However, changes of individual faces cannot work as palliative for having "non-partisan" person as the chief advisor. Institutional reforms are the real options. Politicians have to ponder over how they can make the Election Commission really independent of the government's influence. The cost of ad hoc reforms is huge and the common people should not bear such cost.

If conflict resolution is handed over to the next caretaker government under the leadership of Justice K M Hasan, how are they going to deal with it? Will both BNP and AL give up their ego and sit for a dialogue under the lead of a controversial figure? I wonder if AL would be willing to sit. It will certainly be rejecting Justice Hasan as chief advisor. In that case, the onus will naturally fall on the shoulders of the President. President can act as the go-between. There are alternatives stated in the constitution. Article 58c (clauses 4, 5 and 6) clearly gives alternative options for the chief advisor to the President. The President can avail one of these options to resolve the crisis so as to avoid having Justice Hasan as the chief advisor. Thus in so far as the caretaker government remains weak, the President remains the most powerful institution. Will the President be able to go above the partisan interests? We can at least hope for the best.

The worst case scenario is that BNP may replicate the 1996 model, adding another taint to its political history. Presumably BNP will refrain from taking such a risk once more. On the contrary, an equally important point to be noted here is that grassroots leaders of AL are prepared for elections. AL will, therefore, be desperate to create congenial atmosphere. Finally, there has been growing involvement of the external actors, pushing both sides to resolve the crisis through dialogue.

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NATIONAL GIRL CHILD DAY

Educate girls for social benefit

PARVEZ BABUL

BEGUM Rokeya wrote in her 'Sultana's Dream', "We have no hand or voice in the management of our social affairs. In India man is lord and master; he has taken to himself all powers and privileges and shut up the women in 'zenana'. In fact this situation not changed much, there are still miles to go to make Rokeya's dreams true; she had dreamt for every girl to be educated, self-reliant, empowered and a decision-maker. We have to follow the path of Begum Rokeya for educating our girls and bring them into the mainstream of development. We should remove the obstacles that deny them, specially girls, adequate education. Also we need to keep in mind all the imperatives to reach the goals of Poverty Reduction Strategy Paper and Millennium Development Goals.

According to UNICEF, discrimination against girls is the largest impediment to achieving 'Education for All'. Though girls and boys have the same right to quality education, yet girls are more likely to be discriminated against. They receive less care, both in terms of nurturing and adequate nutritious food. Of the 700 million primary school-aged children, roughly 120 million are still out of school and majority of them are girls. In the World Education Forum in Dakar, Senegal (in 2000), 164 countries agreed to work for elimination of the gender gap in enrolment by the year 2005 and attaining gender equality by 2015. Gender gap analysis in school enrollment clearly demonstrates that more girls than boys are kept out of school. Girls in particular face adverse circumstances that keep them out of school.

The quality of education is also a significant issue. Parents with limited resources say that the quality of education matters in their decision of whether to send or keep their daughters in school. If girls are not learning at school, if what they learn is not useful or if the school environment is not safe for them, parents withdraw them from school. If quality is so important for getting girls in school and

keeping them there, then improving the quality must be high on our agenda.

Their schooling is often sacrificed for their labour at home and in informal labour markets: girls are a large proportion of 'invisible' child workers. Safety and security of girl children is important. Hygiene and sanitation is also crucial. There is evidence that having separate and safe sanitary latrines for girls -- contributes to improved girls' attendance at school. Learning to identify gender bias in the curriculum is a critical component to stop poor image projection of girls and ensure quality education for all. Teaching girls life-skills builds good decision-making and self-confidence in them.

Within the same classroom, girls and boys often have very different and unequal learning experiences. Teachers may call on boys more than on girls, or assign science and computer studies to boys and domestic study subjects to girls. Girls are often pushed into non-professional courses. These practices discriminate against girls. Teachers should receive careful training in how to interact with and encourage all students equally. They (the teachers) are at the heart of the education revolution. Education ministry, district and sub-district education officers as well as the school management committee should monitor what goes on in classrooms to make sure that teachers are not acting in discriminatory ways, however subtle and unintended.

One outcome of girls' quality education is that more women will have skills and confidence and, contribute to society in many ways. Giving girls education increased support and recognition also has an intergenerational impact. Educated mothers educate their daughters and sons. This is an invaluable outcome of basic education and key to achieving development goals.

When quality basic education is available, more girls and boys will participate enthusiastically; parents will see returns on their investments in children's education.

Increased enrolment, retention and completion rate of girls at primary level will be dependent on some affirmative actions taken by the government while past success is attributed to non-formal education programs run by the NGOs.

We know that disability is a burden, but the disability of girl children is a double-burden. So, government and NGOs should urgently come forward for enrolling especially the disabled girl children to ensure quality/ proper education for them. UNESCO-BAFED Researchers Forum conference (November 16, 2002) highlighted that a total of 89 percent of children with disabilities within the school-going age had not gained access to education in our country; 73 percent of the disabled learners faced problems while enrolling in educational institutions. Appropriate policy at the national level should be formulated for the inclusion of disabled children in the mainstream of education.

Like education, adequate nutrition is also a basic human right. Nutritional well-being and education are interlinked. Healthy bodies have healthy minds, which are able to learn. Moreover, girl's health is more important since women and girls have a higher burden of poor nutrition, which directly negatively impacts on their social and economic capabilities. Keeping girls in school for longer period can break this cycle of malnutrition. Firstly, by delaying their age of marriage and in turn their age at first pregnancy; also these girls are able to acquire new knowledge and skills of how to care for themselves and their future families in turn producing positive nutritional outcomes in their children.

The great inspiration from Helen Keller says: "Education should train the child to use her/his brain, to make for her/himself a place in the world and maintain her/his rights even when it seems that society would shove her/him off to scrap-heap".

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