

Where do we go from here?

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ELECTION is the king-pin of any democratic system. The people of the country are considered to be the owners of the country just as the general members are the owners of any organization. It is not practically feasible for the owners as a whole to carry out the affairs of the organization by themselves. They elect a managing committee to run the organization on their behalf. The managing committee, in turn, appoints managers to conduct the routine business of the organization.

Similarly, the citizens as a whole cannot run the affairs of the country by themselves. They have to elect a single person, or a group of persons, to carry out the business of the state on their behalf. The elected persons may, by design, be entrusted with specific responsibilities; for example a group may be entrusted with the task of law making only, another group with executive responsibilities, or the same group may be entrusted with both the jobs. An election system is country specific and position specific.

The president of Bangladesh, before the 12th Amendment, was elected directly by eligible citizens of the country through straightforward counting of votes cast. At present, the president and the prime minister of Bangladesh are indirectly elected by the members of the parliament, following divergent procedures.

In Bangladesh, we follow the Westminster type of parliamentary democratic system which hinges on constituency based elections. The country is divided into a number of constituencies, 300 in case of Bangladesh. Voters in each constituency elect a lawmaker, the member of the parliament (MP), through direct franchise.

The parliament is supposed to make laws, monitor the work of the executive government and hold the government accountable through committee hearings, deliberate on important national issues, give rulings and take very high-level decisions on such matters as declaring war or amending the constitution.

In the Westminster type of democracy, the elected lawmakers also form the executive government. The majority party first elects the leader of the house who is then invited by the president to form the executive government. The leader of the house is thus sworn in as the prime minister of the country. The prime minister selects a number of persons as ministers (in the case of Bangladesh at least 90% have to be MPs) who form the cabinet or the government.

It is a veritable drawback of the Westminster type of parliamentary system that some representatives, who are elected as lawmakers, ultimately become ministers to wield supreme executive power of the country. Their parliamentary colleagues, the MPs, who are left out ardently believe, not without reason, that they have a right to share executive power, at least in their own constituencies. This militates against the concept of elected local government.

Ministers appreciate the grievances of their colleagues and try to appease them by conferring substantial executive power to the MPs in their respective constituencies. As a result the position of MP is very lucrative. It is worthwhile to invest hefty resources to garner this position.

The ruling party, particularly the ministers and, a fortiori, the prime

minister enjoy enviable executive power in Bangladesh in the absence of any effective system of checks and balances in the framework of the executive government or the legislature. They are presented with a "winners take all" situation.

In the Westminster type of parliamentary democracy all other parties, except the ruling one (the majority party), are reduced to insignificance. They have very little power or position in the governance of the country. In a confrontational political scenario the activists of the opposition parties are subjected to excruciating persecution and deprivation.

The situation is exacerbated if members of the ruling party firmly believe that they have a free field for long five years, after which they will again be subject to evaluation by the voters. The long tenure of five years, coupled with such an attitude in the absence of any executive and legislative checks and balances, is apt to make the ruling party despotic, and the opposition desperate. This soon degenerates into a corruption ridden and volatile situation. In this system there is no room for recall, referendum or extraordinary general meeting.

The ruling party will continue to linger on as long as it commands a simple majority in the parliament, which it ordinarily does, buttressed by the provision of Article 70 of the constitution. One thing is, therefore, clear: winning the elections is a big deal in this scenario; no one would like to be defeated. Losing the elections is very costly: financially, physically, and psychologically. The main contending parties, and the individuals, would like to win at any cost: by hook or by crook. The genesis of electoral corruption, to a great extent, lies in the system itself.

Corruption may find its niche at every step of the electoral process, starting from the delimitation, down to vote counting and announcement of the result. Some of the corruption is of generalized nature, and some are area or person specific. The coinage of the word "gerrymandering," manipulating the area of the constituency, indicates that such electoral corruption was in vogue in the developed western world as well. In developing countries the incentive for electoral corruption is extremely high because of low per-capita income, high illiteracy, lack of good governance, weak infrastructure, poor law and order situation, protracted judicial procedure and weak monitoring system.

The area now comprising Bangladesh has, unfortunately, been a laboratory for all types of electoral corruption. At macro-level, the results of some elections were more acceptable than those of others. Maybe they reflected popular opinion and were acceptable to people in general. At micro-level, the elections have almost always been fraught with corrupt practices. At this level elections might have been free, but one cannot assert with certitude that they were fair at the same time.

It is most damaging for a country if its election process is vitiated with corrupt practices.

In the presidential system, the result of a vitiated election is readily perceptible: the country is burdened with a bad chief executive. In a parliamentary democracy the people, though apparently electing a candidate to represent them in the national assembly, actually elect a probable top executive.

If the election is corruption-ridden and sub-standard the cor-

The unbridled opportunities that ignite the infernal urge of the elected executives and lawmakers to acquire wealth through shoddy means must be extinguished through legal and administrative reforms. The process has to be relentlessly pursued till such time when the major defects and inadequacies are fully removed, because if systemic defects persist corrupt practices cannot be effectively addressed. This might call for major constitutional reforms as well. The convoluted nature of the work should not deter us if we really mean business. We should be ready to take any measure if a thread-bare discussion finds such measures to be rational, benign, and necessary for the nation.



rupt people will not only take their seats in the parliament, they will also fill in the positions of top executives (chief executive included) at the national level. At the local level they will exercise the power of the top executives without formally assuming their offices. In order to save a country from administrative, financial, legal, security, human and environmental disaster, electoral corruption has to be addressed in right earnest.

In order to address the corrupt practices it is necessary to first identify systematically the nodes of corrupt practices at both macro and micro levels, or better to say, at the national and field levels. Corrupt practices, broadly, fall in two categories: (a) those relating to appointment, financial, legal, security, human and environmental disaster, electoral corruption has to be addressed in right earnest.

- Appointment of chief election commissioner and election commissioners.
- Appointment of chief advisor, and other advisors, of the caretaker government.
- Appointment of very important functionaries at the national level
- like cabinet secretary, principal secretary, home secretary, establishment secretary, secretary, information secretary, foreign secretary, chiefs of the three services, Inspector General of Police, director general of BDR, DGFI, NSI, military secretary to president and chief advisor, private secretary and press secretary to chief advisor.
- Appointment of returning officers, assistant returning officers, presiding officers and polling officers.
- Appointment of deputy commis-

sioners (DCs), superintendents of police (SPs), upazila nirbahi officers (UNOs), upazila election officers and officer in charge of the police station (OCs), assignment of commanding officers of security forces including army.

- Accreditation of non-government election observers.
- Appointment of official election observers.
- Assignment of election agents.
- Malpractices under category (b) at the national level are in the following areas:
 - Delimitation of constituencies. Preparation of voter list.
 - Fixing criteria for disqualification of candidates.
 - Framing, including amending, of election acts or ordinances, and framing the compliance rules thereunder.
 - Keeping Election Commission under the administrative control of the government.
 - Distribution of work and delegation of power among different groups of election functionaries.
 - Overall security plan for conducting elections.
 - Including decisions with respect to staggered elections.
 - Allocation of radio and television time to party leaders and candidates.
 - Setting up of an election monitoring system, and also the system for listening to grievances of the political leaders and candidates.
 - Allocation of election symbols among political parties
 - Setting up procedure to adjudicate election disputes prior to, and in the wake, of elections.
 - Overlooking glaring violation of election rules by major political parties and political heavy weights
 - Announcing election results from Election Commission and by the national broadcasting centers.

The following corrupt practices are resorted to by the contending

political parties and candidates:

- Spending huge financial resources on publicity, propaganda and election organizations.
- Applying force, using terror tactics to cow down or drive out the opponent, hijacking the candidate or his strategic supporters.
- Buying of votes, influence, opponent candidates or election functionaries.
- Inappropriately locating election centers.
- Putting up so-called barricades around a village or hamlet to prevent movement of voters presumably belonging to opposite camp.
- Creating hindrances for the opponents with respect to their publicity, processions and particularly on projection meetings, at times with the help of local administration or security boss in the area.
- False voting.
- Stuffing of ballots in the boxes.
- Terrorising or driving out the opponent's election agents from the centers.
- Putting dummy candidates to overcrowd the polling booth and elbow out the opponent's polling agent from the booth.
- Frighten the opponents supporters in the voter's line or around the centers, or physically drive them away.
- Decelerating the flow of voting.
- Taking full control of the centers by overt or covert application of force, or creating grave law and order situation to stop voting in the center.
- Hijacking the ballot boxes.
- Creating problems during counting the ballot papers or simply throwing away the filled in ballots.
- Destroying the result sheet, burning the polling booth or the center.
- Manipulating the results received

from polling centers, and announcing cooked results.

• Keeping all results on hold in the election commission, and announcing manipulated results over national broadcasting system.

The list is daunting. The task of doing away with all these corrupt practices at one go is an impossible proposition. The list, however, makes us aware of the lacunae and loopholes that exist in the electoral process, and the measures that are called for to address the situation. Some of the problems will necessitate a drastic overhauling of the system, which is time consuming and contentious at the same time.

A few such measures are, for example, introducing proportional system of representation to constitute the parliament instead of constituency based election, reducing the tenure of parliament from five years to four or three years, sharing of tenure by the majority party with the front running minority parties, staggering of elections to strengthen security arrangements, introducing referendum or re-call system in case of extremely bad governance. Radical as it may sound, each of the proposals merits elaborate debate; we must not shy away from them. Measures to overcome other problems may be less controversial, but they are not easier to tackle in the real life situation.

In order to remove the electoral malpractices we have to consider the corrupt practices mentioned in the list one by one, and work out detailed plans to eviscerate them by concerted effort. There cannot be any compromise on sincerity and commitment in this regard. A national consensus has to be built centering on the premise that electoral malpractices eat into the vitals of good governance, and they ultimately bring immense suffering to the common citizens of

the country.

Corrupt practices may benefit a few individuals, that, of course, happens at a great cost to the nation. The effort will face resistance, stiff at times. If strong public opinion can be created such resistance will not be insurmountable, it will be overcome. Disqualifying the loan defaulting candidates in the election, and arresting malpractices like mass copying or cheating in the public examinations are good examples in this regard.

Successive government's continued efforts, and unqualified support of all political parties in these areas, produced the desired outcome which was once considered to be impossible.

The position of the lawmakers (MPs) must be made less lucrative from business point of view, while the job content has to be enriched substantively. Elections are at present treated as investment projects with high returns. The formal and informal executive power wielded by an MP is used as the instrument to reap high financial returns from the position. Absence of any executive or legislative checks and balances paves the way for unbridled financial foray.

The situation has to change. MPs must, at the same time, be provided with adequate support services so that they can discharge their legislative jobs smoothly, and with uninterrupted attention. Strong local government, particularly at the upazila level will be of great help in this regard. It bears to mention here, at this stage, that in a democratic dispensation all executives from top to bottom should be compelled to play with-in rigid rules of the game. Room for discretion has to be minimized, and the rationale for using discretion has to be cogently justified. Areas for using discretion have to be transparently worked out and announced so that there is no room for misunderstanding. Once the prospect for financial returns declines corrupt practices will markedly wane.

Gross malpractices resorted to by delinquent candidates before, during and after, the elections have not been seriously been dealt with by the appropriate authorities. No rogue candidate has been debarred from election for his blatantly inappropriate behaviour on the eve of elections, or punished for submitting false statements after the elections. It has so far been soft-peddling all through. The delinquent candidate needs to be punished, if necessary by postponing elections in his constituency. The final adjudication of election disputes has also to be sped up to deter corrupt practices.

Unfortunately, in the last twenty five years no election case has been finally disposed of, creating a feeling among corrupt candidates that once elected they will never be dislodged through legal process. As a result of the protracted legal process the constituents of Bholal-1 constituency remained unrepresented throughout the whole tenure of the 7th parliament. A prompt disposal of the case would have tremendously helped to remove unfair practices in the elections.

Be it in the management of the state, or of the company, the balance between the owners and the managers is very delicate, particularly when it is a tenurial appointment. If the managers grossly fail, and there is no chance of improvement, the owners can assert their position in the annual general meeting, or the extraordinary general meeting, to unseat

the management team. At one time managers were thought to be stolidly perched in their positions within the tenure stipulated in their covenants.

The situation has changed. The general body and the governing board are increasingly asserting their inherent authority to recall the blatantly nonperforming managers. Legal instruments have also been devised accordingly. This trend has created an effective pressure on the managers to perform, and not take the company for a ride. Such arrangements, unfortunately, do not exist in many countries. In the absence of well developed democratic values and tradition, electoral victory in these countries is construed by the winners as a lease award to rule the country for a fixed time, usually four to five years.

The owners of the country remain completely powerless, and at the mercy of the elected rulers during this period. The only option available to them is street agitation or general strike which may turn out to be destructive at times. This is not a desirable option. However, in many countries, including Bangladesh, this proved to be such an effective option that the term "people power" has been coined to characterize this phenomenon. Such happenings are extra constitutional and it is always desirable to avoid such incidence.

One way for that will be to introduce a mid term referendum system in which people will indicate their preference about the continuance of the ruling party in power. If the ruling party fails to command a minimum percentage of votes cast they will hand over power to a caretaker government within, say, 60 days for holding fresh elections. This will provide an effective cushion against tyrannical or insensitive behaviour on the part of the elected government on the one hand, and obviate the need for extra constitutional means to assert people's right. It deserves a serious discussion.

The observations and analyses above indicate that a two-pronged operation has to be launched in tandem in order to eliminate corrupt practices in the elections:

- Malpractices and criminal moves have to be adequately addressed by the election authorities, administration and judicial outfits of the state.
 - The unbridled opportunities that ignite the infernal urge of the elected executives and lawmakers to acquire wealth through shoddy means must be extinguished through legal and administrative reforms.
- The process has to be relentlessly pursued till such time when the major defects and inadequacies are fully removed, because if systemic defects persist corrupt practices cannot be effectively addressed. This might call for major constitutional reforms as well. The convoluted nature of the work should not deter us if we really mean business. We should be ready to take any measure if a thread-bare discussion finds such measures to be rational, benign, and necessary for the nation.

4-party alliance's dream march

Though an adviser like Dr Akbar Ali Khan feels for the president's exalted position, the president-cum-chief adviser is more worried about his benefactors' interests. Anyway, the bottom line is that the 4-party alliance is now enjoying an unprecedented dream journey, sponsored by their party-nominated president turned CA. And, if anything miraculous doesn't happen in between, they can rest assured that they can wrap up the ensuing elections, no matter whether the other political parties including 14-party alliance join or not.

KAZI SM KHASRUL ALAM QUDDUSI

IS this anything short of a dream march for the immediate past government or 4-party alliance? Yes, everything is taking place just as they want and, on occasion, beyond their wildest imagination. Almost all the political parties, other than BNP and Jamaat, and a large segment of civil society were against announcement of polls schedule before printing of the electoral roll, but the Election Commission (EC) declared, rather hurriedly and surreptitiously (and seemingly

outrageously under the present circumstances), the election schedule for the 9th general elections, just as the 4-party alliance wanted.

Interestingly enough, the election schedule is usually declared 45 days before the election. This time, however, it has been done 54 days earlier. And the 10 advisers were also in the dark before the declaration. Moreover, a writ has already been filed against such a declaration. Thus, the haste in the declaration itself speaks of the real intentions. Admittedly, 4-party leaders, including Begum Khaleda Zia, were pressing the

government for days to declare the election schedule regardless of genuine demands of other parties.

Khaleda Zia repeatedly called for immediate announcement of the election schedule, and reminded the EC of the fact(?) that it is none of EC's business to take note whether other parties join or not. Although previous Election Commissions used to consult with political parties before declaring the schedule, the current EC, under self-declared CEC Mahfuzur Rahman, did care a fig for it. Meanwhile, the president appointed two new election commissioners after days of pondering.

One of them was reportedly an aspirant for BNP nomination for the next general election.

The 4-party alliance's dream march, however, started with the assumption of the post of Chief Adviser (CA) of the Caretaker Government by President Iajuddin Ahmed. They initially wanted KM Hasan as the chief adviser. They, in fact, got more than they could have hoped for, as Iajuddin Ahmed volunteered to promote their cause, no matter whether relevant constitutional provisions were violated or not. He was the president, and he had the power to grab the position of chief adviser, and

more so as the 4-party alliance wanted it.

Arguably, almost all parties, including international organizations, were demanding reconstitution of the Election Commission and removal of the controversial CEC. But, CEC MA Aziz, rather disgracefully, opted for three months leave with the prospect of coming back at any stage (many, however, think that he might control things from his residence), despite so much national loss due to his idiocy and obstinacy. Reportedly, MA Aziz and his family were more inclined towards resignation, but he ultimately opted for leave, just as the 4-party alliance wanted.

The 4-party alliance leaders' fondness for him, before and after his taking leave, bears testimony to the fact that Mr. Aziz is popular with the BNP-Jamaat top-brass. And, as soon as Aziz went on a leave, Mahfuzur Rahman

declared himself the acting CEC - no matter that there is no provision for acting CEC in the constitution -- on the strength of his seniority, in accordance with the wish of the 4-party alliance which was communicated previously to the president.

Admittedly, one of the significant demands of the 14-party alliance was a meaningful reshuffle of the administration for creating a level playing field. Reportedly, the reshuffle is now almost complete. Various newspaper reports, however, reveal that the reshuffle was not only eyewash, but it also reinforced settings of the 4-party alliance. Meanwhile, ex-energy adviser Mahmudur Rahman recently arranged a clandestine party for the former and current bureaucrats who were beneficiaries of the previous 4-party alliance government so as to -- as reported in the media -- ensure

the 4-party alliance's victory in the next general elections.

Besides, the home secretary, who was alleged to have been responsible for the army deployment scandal, along with the president's controversial adviser, Moklesur Rahman Chowdhury, continues to aid (dominate!) our president, despite genuine reasons for replacing them. The president's undue favour to such people, in fact, is reflective of two things: one is how meaningful(!) the reshuffle might have been, and the other one is how sincere(!) the president-cum-chief adviser is in creating a level playing field for an acceptable election.

Meanwhile, the all-powerful president-cum-CA continues to either overrule or bypass the 10 advisers who are, and have proved to be, competent and committed to assist the CA in creating an enabling environment

for a free and fair election. And this attitude of the president-cum-CA towards the advisers is also reflection of the 4-party's expectations from him. A good number of advisers have already expressed sheer frustration. One of them even commented that they were feeling like doormats.

Though an adviser like Dr Akbar Ali Khan feels for the president's exalted position, the president-cum-chief adviser is more worried about his benefactors' interests. Anyway, the bottom line is that the 4-party alliance is now enjoying an unprecedented dream journey, sponsored by their party-nominated president turned CA. And, if anything miraculous doesn't happen in between, they can rest assured that they can wrap up the ensuing elections, no matter whether the other political parties including 14-party alliance join or not.

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