

## More Responsibilities for DCC

Mayor of Dhaka City Corporation, Mohammad Hanif has rightly pointed his finger to a problem this city has been facing for long. The remedy he has suggested for its solution also looks quite reasonable and practical. It is the DCC's legal control — if not full at least a substantial but effective amount — over the various service agencies of the city. Understandably, the mayor has been prompted to put forward this idea more from his concern for improving the services of the utility bodies through the avoidance of unplanned and uncoordinated works by them than from any obsession for power. The mayor in fact wants a co-ordinator's role and, if need be, to exercise some authority.

No one should qualify better for the job of bringing order and discipline in the disorderly, disparate and go-alone essential services than the mayor who has been elected as the city father by popular vote. Our experiences are so far bitter. Water and Sewerage Authority (WASA), Dhaka Electricity Supply Authority (DESA) and Telegraph and Telephone (T&T) find it a most suitable time for digging the roads immediately after they have been carpeted. And once so dug, they are left open or unrepaired for months — if not for years — together.

So Mohammad Hanif has sought to remove the causes of such dislocations and the huge wastages that follow. We believe he has not asked for his impossible. The important point however is to give the process an institutional shape, one that will vet and approve of the order of works undertaken by different essential services. Perhaps an advance planning will be needed to bring in the coordination among the various service bodies. The DCC can do this job efficiently if some responsibilities and power are delegated to it. Under the present arrangement the essential services are not accountable to the people for their performances — at least not directly so. This situation is expected to change with the DCC taking over some of the responsibilities under scrutiny.

What we stress is the development of an effective system. The aim is to avoid taking senseless projects and programmes and doing foolish experiments at the expense of public money. When road islands were broadened, narrowed, removed and even relaid, there were none to take the responsible persons to task. The legacy has not been done away with yet, all because of the lack of coordination and politics of expediency. To bring an end to such practices, it has become incumbent upon the democratic government to stream-line the responsibilities as precisely as possible.

The DCC is not necessarily going to be an isolated island or a paradise of its own in a country encumbered with poverty. But as the first elected mayor of this city, Hanif knows better than anyone else how difficult it is to administer a near megalopolis with none of the advantages enjoyed by its counterparts in the developed countries. If this disadvantage is further accentuated by non-cooperation for various other authorities and agencies, the DCC may be discredited to some extent but the real casualty will be the city's amenities and the institutionalisation of the mayoral office.

There is no point continuing a tug of war between various authorities and service bodies. Defining each one's respective area of responsibility and power has to be done within a democratic system. Nobody ought to enjoy absolute power nor made totally ineffective. A balance has to be struck so that each one knows his parameter and acts accordingly like the parts of a machine for its smooth running. Hanif has a point that deserves careful considerations. A workable formula has to be worked out so that both lapses in tackling city crimes and undesirable dislocations and superventions can be effectively addressed. What matters is the improvement of service and law and order situation.

## Playing at being Ostrich

The justification of maintaining an expensive and coercive machinery as the government lies first in the expectation that it would grapple with challenges and more often than not come out successful, benefitting the collective existence of the society in a state. And then governments have from time immemorial developed stratagems to cloud this clear issue. The more inept the government the greater must be their success in confusing the people of the state about the true challenges against the social being of the people. Most governments find it handy to disinform people and make up challenges out of no basis in reality.

As a government benefiting from all preceding ones' accumulated experiences, practices and, more importantly, governmental lores, our present team in power are proving adept in all the wily ways of staying in power. They are most welcome to that for after all governance is not a moralist's convent or cloister. Ershad introduced certain innovations contributing effectively towards the same end. One of those is treating the unpleasant challenges as fit subjects for waging a war of attrition — or to simply wait out the challenges. Which cannot but remind one of our most celebrated poetical wisecracks — *Aundho bole ki protoy bondho thakey*: you cannot overcome a holocaust by simply closing your eyes to it.

For full fortyfive days the government has been trying assiduously to emulate the proverbial ostrich by closing its eyes to the fact of two hundred thousand teachers staying out of about 12,000 schools of the nation. The hope is that teachers would be compelled by the weight of both their worsening material condition and frustration due to government unresponsiveness and also of the increasing loss of public sympathy to their cause to go back to work.

No doubt, this stands to help the government as a strategy to teach the unsavory ones a lesson. But this is also a government of the three to four million students whose classes are now closed for such a long time as also of the two hundred thousand teachers. This is a government for the whole nation which is being harmed irreparably by this continuing strike.

This is no way to govern. The students and their parents and the teachers and their dependents form a formidable part of the electorate. How does the government propose to stand up to their scorn indeed? It is, at this stage of the impasse, specially imperative for the government to open a dialogue and strike a solution without any further loss of school days.

## The Question of Legitimacy Lies at the Core of Stability of any Polity

by Amir-ul Islam

WHAT is the object of the purpose of having an election after all? If one were to ask the party in power about the purpose of election it would perhaps respond by saying that the purpose is to remain in power and of course in order to remain in power we must get majority and it can only have legitimacy if we can secure the majority through an election. So there is no alternative to an election in a democracy.

If the same question was put to a Party in opposition it would probably say that this is the way to have succession of power and the Party can go to power only if it wins an election. So from a Party point of view, it is like a race either to win or to lose.

People, for this purpose can only be identified by the Party as voters. They are at best the supporters like that of 'Abahani' or 'Mohamedan'. Like the new Captains of the teams the concern of the leaders of the parties will then revolve round the question whether the rules will help to win or lose in a given situation without realising that it might even spoil the game if win or loss become the only concern.

This pattern of party perception may perhaps explain the reversal of the role as Mr. Moudud Ahmed, one of the vigorous advocates opposing the interim government during Ershad's regime, points out in his own words 'in 1990, when the opposition parties had raised this question, the erstwhile ruling Jatiya Party (JP) leaders used the same languages the present BNP leaders are using: That the demand for interim government is unconstitutional'. (Daily Star, May 21).

It may be interesting to ask the BNP leader whether such a stiff resistance to the idea of an interim government and their arguments are precipitated by the concern, as expressed by Mr Saifur Rahman: "For our party to bring a Bill for neutral government is to ask for committing political suicide" (Daily Star, May 26). For an outsider it is difficult to imagine how a caretaker government can be suicidal to BNP, while they are the best beneficiary of it having won the majority in the Parliament through election under a neutral caretaker government.

It is evident, therefore, that the ministers perceive the rules of the game on the basis of whether they can win or lose. This is the survival or suicidal syndrome which apparently dominates the present political issues. But even taking that as it is, let us try to understand how an election under a government headed by its own leader is going to help that party.

Is the resistance to a change for having an election under a neutral care-taker government motivated by the fear that they would not have any chance of winning such an election. But instead of following the 'suicidal' course as characterised by the Finance Minister, BNP if follows the 'survival instinct' and holds an election under its leader remaining the head of the government, and (without practising any unfair means in case the assumption of Mr Saifur Rahman is correct that BNP has not learnt how to tamper with the electoral process) even wins the election such an election will certainly not bring to BNP the same legitimacy as it enjoys now, having been elected under a neutral government.

Why should BNP throw away their only stock in trade which they enjoyed for the last three years. If BNP on the other hand bulldoze an election under a government headed by its leader like Ershad did in 1988, would that election give any legitimacy to it? If, however, BNP expects to win the election, then they should be the one who would be most eager to hold it under a caretaker government in order to derive the most out of it by securing the undisputed legitimacy to power.

BNP ought not to forget that this legitimacy of their power is a great contributory factor to the stability of the government, despite their mounting failures during last three years. If the BNP ministers are asked, if instead of BNP, Awami League was in power, whether BNP would prefer to have an election under Awami League government rather than under a neutral caretaker government? The honest answer will probably be that they would, under such circumstances, prefer a neutral caretaker government. If such be the case then there is an underlying consensus for holding election under a neutral caretaker government.

In Pakistan Mr Bhutto had to go to gallows following the collapse of democracy because of the same legitimacy crisis; Nawaz Sharif's government could not stabilise as the election was held while he headed the government. On the other

hand, Benazir Bhutto, despite all the odds against her, is enjoying at least the benefit of legitimacy of her government beyond any doubt. The question of legitimacy is at the core of stability of any polity. In democracy it emanates from the power of the people which can only be realised through the exercise of their own free will in choosing their government. Even the poor and illiterate electorates of our country are fully aware of this right. To them the permanent issues is not who wins or loses. It is, to them, a question of being master of their destiny even though for a few moments, and may be only once in 5 years. Those very people who are called the 'little man' have been paid the highest tributes by Sir Winston Churchill as the key source of democracy. "At the bottom of all tributes paid to Democracy," as he said, "is the little man, walking into a little booth with a little pencil making little cross on a little bit of paper... no amount of rhetoric or voluminous discussion can possibly diminish the overwhelming importance of the point."

The party in power maintains that it is not the government but the Election Commission which conducts the election and CEC is independent under the Constitution. Ministers argue that by improving the electoral laws and the system such as providing identity cards and harsher penalties for violation of election laws it is possible to ensure fair election. It would, therefore, not be prudent, according to the hon'ble ministers, to change for something which is unknown and without precedent. Furthermore, it is argued that to replace an elected government by a non-elected government even though for a short period, would be tantamount to going beyond the Constitutional concepts.

Suggestions such as introducing identity cards and providing for harsher punishment for violation of electoral laws may help to reduce false voting, and impersonations. However, the main concern of the opposition is how to prevent the state power, patronage, the control of electronic media, the black money and illegal arms from being used for influencing the election result.

Except expressing some very genuine sentiment by the Finance Minister such as he is, "overwhelmingly interested in a free electoral process in which the voters exercise their franchise free from fear or favour," there is no indication as to how it can be achieved; yet my friend Mr Saifur Rahman by saying so has nevertheless echoed the universal wish and sentiment of the entire people of Bangladesh.

Information Minister asserts rather bluntly that there is no problem; because one can have fair election only under an elected government and since they are elected, they will give us a fair election. At the same time he points out that it is not the government but the Chief Election Commissioner which conducts the election and EC is independent under the Constitution. The same Minister, however, while referring to the Election Commission under the previous regime, called it a "stooge of the government" and stated that "The Election Commission was used to give the illegitimate regime a so called legitimacy through the process of sham elections".

Information Minister's assessment, if correct, would prove the following:

(a) Constitutional guarantee for independence and security of tenure of the Election Commission and the law and the judicial background of the Commission remaining the same, as it was during the previous regime, it could still be used as a "stooge" for giving legitimacy to a government through a 'sham election'.

(b) Law and the working of the election machineries are such that it can be twisted and bent whereby the Election Commission could be reduced to a rubber stamp or a mere post office for sending out ballot papers and for consolidating the counts sent by the returning officers to be published and publicised either with or without its concurrence or consent.

It would be curious then to find out as to why under the same set of Constitutional provisions and laws with the same set of persons with similar backgrounds the country could get different species of election as it did few under the Ershad Regime and the one under Mr Justice Shahabuddin and the by-elections under the present incumbent in power.

By applying a simple exercise in deductive reasoning these samples would land us with an answer that one of the significant distinctions of 1991 election was that there was no

party government in power and there was no perceived interest in influencing the election result by using state power in one way or another.

It also perhaps explains why the same Chief Election Commissioner who earned so much of goodwill and an image for himself for having conducted a free and fair election under a neutral government failed to deliver anything near it during the impugned by-elections, despite the fact that as Mr Menon says "the Chief Election Commissioner is a fine person". (Daily Star, May 29).

The Chief Election Commissioner, however, independent he might be, can not, under the present circumstances, prevent a minister from sending out relief materials to a constituency or distributing cheques to schools and mosques or distributing work order or doling out state patronage in any particular constituency in a selective manner, nor can it prevent transfer or posting of an O C or an S P or a T N O, nor it prevent the ministers flocking to a constituency. There is no mechanism yet known to the Election Commission whereby it could prevent the Prime Minister from making a speech to the effect that if the constituency wanted development for their area they should vote for her party.

The discredit, if not all, of a rigged election has to be owned by the party in power. This was mentioned by some of the leaders about the instances of rigged election so overwhelmingly dominating our not-too-distant political past. Hence it is difficult to imagine or expect a free and fair election from any party government in power till the institutional safeguards are firmly rooted in our soil.

While speaking on the question of caretaker government a point that the Prime Minister makes is significant as when she claims that an interim government can not be a substitute or an alternative to an elected government. This comment is significant for two reasons. Firstly, she says something over which there is hardly any discord, as Mr Suranjit Sen Gupta in his interview makes it very clear that "the elected government would run the country for five years, while the caretaker government would conduct the general election only". (Daily Star, May 18). The same is also reiterated by Begum Motia Chowdhury. (Daily Star, May

31).

The second significant aspect of that statement of the Prime Minister is that there seems to exist a serious gap in communication and understanding of what the opposition is really asking for. She may not be adequately advised by those whose immediate reaction is to instinctively reject any stand taken by the opposition, good or bad.

A classic example of such an instance was cited by Mr Menon. On the fateful night of December 5, 1990 while the country was listening to the most persistent, vigorous and the most rigid doctrinal arguments of the then vice president on TV against having an interim government (which were perhaps more vigorous and rigid than any of those advanced by the present Ministers) little was known that resignation letters of Ershad and the then vice president were being prepared to facilitate the formation of the interim government.

By taking the queue from what the Prime Minister said we arrive atleast at one consensus that caretaker government is not a substitute nor an alternative to an elected government. As a matter of fact, the purpose and object of the caretaker government is to make the elected government more powerful and stable by providing it with the legitimacy of an elected government beyond any reproach.

With one such meeting point between the Prime Minister and the opposition it may be worthwhile to examine each of the points raised by her Ministers and other leaders. By a careful analysis it may be possible to resolve the differences and thus find a consensus. Because I believe that among the genuine democrats, like among the sportsmen, there can be no difference on the ground rules and even if there be any, it can be resolved through discussions.

(Part I ends)  
(The author, a Barrister-at-Law, is a leader of the Gono Forum. In Part II, to be published tomorrow, he presents various options that can be followed to resolve the present crisis.)

### CORRIGENDUM

The name of the writer of the article "A Caretaker Government is Not an In-built Component of a Democratic Order" published yesterday in this page should read "Nazrul Islam" and not "Nazmul Islam" as inadvertently printed.

## The Experiment of 1990 has to be Repeated to Overcome the Current Deadlock

by Maj. Gen. (Retd) M Shamsul Haq, Dr T I M Fazle Rabbi and Mahbubur Rahman

AS per Article 7 (1) of our constitution, the solemn expression of the will of the people and it is the supreme law of the country. Therefore, the demand for amending the constitution, making provision for forming non partisan and neutral interim caretaker Government as voiced and demanded by Awami League, Jatiya Party and Jamaat-e-Islami is the solemn expression of will of 69 per cent of the voters, nay the people of the country, for holding free, fair and honest Parliamentary elections.

Hence the said demand which has been advanced in the light of sad experiences in the recent elections, both Municipal and Parliament, of abuse of state power and resources by the party in power in the elections and by elections, during last 3 years, should not be debated or disputed, far less denied.

It is a matter of common knowledge that there is no such provision in our present constitution. But out of necessity law is made, and to satisfy the political aspirations of the majority people the constitution should be amended and necessary provision made as

per demand. Although the idea or the spirit of a Government without the Parliament is reflected in Article 56 and 57 of the constitution the scope to continue with party government is there and as such the same is not acceptable for ensuring free and fair elections.

Democracy means a Government of the People, by the People and for the People. By the above definition it was conceived and conveyed that in a democratic society there should be rule of the majority or rule by consensus. During the ancient days in the Greek City States wherefrom democracy evolved, there was never any rule by minority nor was the opinion of the minority allowed to prevail upon that of the majority citizens of the state. Unfortunately because of a defective and anomalous system of politics as well as borrowing, copying and parroting alien "Democracy" what we see today is the rule of 31 per cent voters over 69 per cent voters. The people are deprived of true democratic rule of the majority.

This peculiar situation the authors and inventors of democracy perhaps did not conceive of and would have not relished if they had remained

alive. There are people who are questioning the present minority rule over the majority in Bangladesh and asking whether it can be called a truly Democratic representative government of the people, by the people and for the people.

According to them this is debatable. It may be defined as "a government of a particular party, by that party and for that party. The constitution or the law is for the benefit of the people which can not be sacrificed at the altar of technicalities. As and when occasion and necessity arose we acted beyond the scope of available law in greater public interest and later on amended the law to provide protection, legal validity or a cover under the law in accord with the doctrine of necessity. That is our history.

In 1970, although an election was held under LFO, promulgated by General Yahya Khan, the then President of erstwhile Pakistan, the elected representatives expressing the will of the people of erstwhile East Pakistan proclaimed independence with effect from 26th March, 1971 which was contrary to LFO. But it reflected and manifested the will of the people here and their

political aspirations. Because of necessity Justice Abu Syeed Chowdhury was made President of Bangladesh outside the scope of the said proclamation of Independence since there was no provision for appointment of any third person as President between Bangabandhu Sk. Mujibur Rahman, the then President of Bangladesh and Syed Nazrul Islam, the then Vice President of the country upto the time of framing the country's constitution.

The switching over to the parliamentary system from the Presidential system of government and again reverting to the Presidential system at different times during the rule of Sk Mujibur Rahman and the rise of Khondakar Mustaq, Justice Sayeem, Sattar, Zia and Ershad to power, were through extra-constitutional means and instruments that were supra-constitutional. Many such instances are available in our political history. The last instance is the appointment of our present Chief Justice as the Vice President who later on functioned as acting President and held election to the parliament in February, 1991 and through which the ruling BNP rose to

power.

The appointment of the Chief Justice of our Supreme Court as Vice President was in violation of Article 99(1), Article 66(DD) and Article 50(B) of our constitution which existed and was valid and operative at the relevant time. That was why his actions as Vice President and acting President had to be protected and given constitutional validity by the 11th Amendment to our constitution.

Therefore, for the sake of democracy and representative government and to guarantee free, fair and honest elections to the parliament and also to keep it immune from rigging, manipulation, coercion, intimidation, undue influence by misuse or abuse of state powers, executive authority and public resources, the election to the Parliament must be held under a non-partisan neutral interim caretaker government. If it is denied by the party in power it will be a denial to the will of the majority people of the country which may lead to a serious crisis and deadlock. And for overcoming the feared deadlock the history of 1990 may be repeated for holding elections under a government without apparent constitutional sanction, followed by subsequent constitutional cover and validation to be provided by the elected Parliament.

After all, the present demand is a political demand, it is the people's and nation's demand. Hence it is the voice of the people and as such must be honoured and acted upon without any arrogance or prejudice. In politics there is no last word and the living human society warrants adjustment, accommodation as well as dynamism to move forward for progress, peace and stability. Failing which those who are opposing the demand will soon repent while those who are proposing it will be rewarded. Therefore, the sooner wisdom prevails the better for everybody. Let us not forget that everything has its own time and time and tide wait for none.

The authors are, respectively, former Minister and President Member of Jatiya Party; former Minister, Member of Parliament and President Member of Jatiya Party and former Minister, former Member of Parliament, Vice Chairman of Jatiya Party and an eminent Lawyer of Bangladesh Supreme Court.

## To the Editor...

**Gift of language**  
Sir, Language creates marvels. To be brief as you desire, a local dialect half charged a travel in east to an island of Bangladesh and another did the same miracle to north-east in Bangladesh for a visit to hill and lake. In Air France flight BKK-Manila, a little French brought three pretty hostesses with all beverages, tobacco, lighter, perfume free intimately, while asked if it was being in 1st class, the reply was 'no' but French by South-eastern debonair, a 1960 Rock Hudson with long hair and blue eyes. A welcome and farewell in Japanese in Hotel Da Ich forced a kimono-clad short young girl model in Osaka downtown for a long company.

Frequent Thai speaking on phone took out a graduate Thai lady from Chulalong Varsity from the other side of Chao Pray river to Lumpini Golf Club cafe and Hotel Dusit Thani on Silom Road in Bangkok. In Yokohama, little Japanese smoothened rough edges of a deal of Yuasa Auto-motive battery. Another young couple from Stuttgart over-stayed and night stopped at Saarbrücken, German language audio visual centre superior to Goethe Institute on French border as an Asian spoke fluent, flawless German. Jap royal bride was head of Eurodesk in Foreign Ministry in east Tokyo as she spoke three international languages. Another Asian went to a pawn shop in Austin,

USA, about to close and Yankee English impressed shopowner so much that he reopened the shop and offered to foot the bill for his week-end in Aquina in Mexico across San Antonio Border. In Acapulco on Gulf of Mexico, little Spanish brought down motel charge by two thousand pesos. Harvard English lecture by a Bangladeshi for 10 minutes on "Bangladeshi" brought all the girls and boys in Princeton Varsity College for autographs.

Oklahoma Night Club did not charge entry fee when an Asian although looking like Bollywood's hero spoke cowboy English like John Wayne and Clint Eastwood. The same Asian by mistake stood in "check-in" counter for a BA flight Tristar to Cape Kennedy in Heathrow and this line was only for British by birth and not British or US passport holders. The glum looking counter officer reprimanded him and then the whole world was let loose. The Asian with his movie-profile shouted in queen's English beginning with "Do you think Asians by birth are stone age fossils and high school boy scouts like you" and criticised in powerful filthy English extempore against England and the Asian said he would bring US envoy to airport as he had US Passport to downplay British attitude. Heathrow came to a halt and vice president of British Airways (Customer Services) came and apologised.

Then the same Bangladeshi accompanied his mother, from Calif, to perform Hajj in 1988, as his father was busy in EEC.

At King Abdul Aziz Airport in Jeddah, the Yemeni immigration officer was harassing all passengers, throwing away everything in suitcase, on pretext of looking for Bangladeshi cooking masala, political books, etc. Three miracle Arabic sentences, memorised in flight, reversed the attitude.

He only said, "Shokran" and "Khalas".

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**Pokrichi**  
Sir, Agriculturists, engineers, doctors and other members of the 26 non-administrative BCS Cadres belonging to the Pokrichi have long been pressing the home their 17-point charter of demands which include separation of Judiciary from the administration and a complete overhauling of the existing bureaucracy.

It is honestly expected that the democratic government will immediately arrange dialogue with the Pokrichi to find out solutions to the national problems pointed out by the professionals.

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