

We Condemn the Attacks on Newspapers

Any attack on a newspaper office, in whatever shape and form it is engineered and carried out, is an abominable act by itself. And if the assault happens to be as direct, brazen-faced and armed as was the one perpetrated on Janakantha office day before yesterday, not sparing another vernacular daily, Banglar Bani, then the natural question to ask is how could they summon that much bravado unless they had a helping hand from behind. Actually it smacks of a deeply rooted conspiracy against certain progressive newspapers to silence the voice of reason and sanity in society. It is all the more so because such newspapers are showing the path to the 21st Century.

As if to sentimentalise the whole episode the procession was taken out after the Juma prayers with the deliberate motive of fomenting zealotry on an issue for which remain several outlets to express dissenting views through without creating a riotous situation. This is exactly what is at issue: taking advantage of religion to serve political ends.

If some opinions carried or expressed by a newspaper evoked dislike of certain individuals or a group, they could meet the Editor and seek his clarifications, issue a counter-statement on the subject, or the matter could be taken to the Press Council or even to a court of law, depending on the pattern of response from the newspaper concerned. But since none of these civilised methods was adopted before going in for the mind-boggling action. During the last three years, there have been some two dozen dastardly attacks on newspaper offices, and yet the culprits managed to remain at large. It can be easily imagined with what redoubled energy they could spring into action at a time or place of their choice. The point is the heinous acts are the work of an uninformed bunch, fed at best on half-baked notions of right and wrong who are easily instigated from behind to pick on any pretext.

The implications of what are being done through them by working them up have assumed too grave a proportion to be brushed aside anymore. All attacks on newspaper offices have been chain, sequential assaults in a tell-tale fashion, but the latest one tops them all by rampaging through the public thoroughfares in Motijheel and pouncing on hawkers of Janakantha elsewhere as well, in an unprecedented demonstration of wrath. They want all progressive newspapers banned including Janakantha, Akker Kagoj, Bhorer Kagoj and Sangbad. Today it is one or two papers taking the brunt, tomorrow it can be the rest falling victim to opinionated terrorism. Intellectual terrorization is the worst form of impingement conceivable on free press.

We condemn the attacks on the newspaper offices with the strongest language at our command because these seek to destroy pluralism, free press and democracy and supplant them by a fascist monopoly over the national thought-process.

It is just not an assault on a newspaper or two, but an attack on the fundamental rights of free speech and an attack on the Constitution and on everything that democracy stands for.

Ways of Sharing Ganges Water

A workshop, when titled as "Women for Water Sharing," can seldom fail to cause men — almost without exception — to knit their brows. But the list of participants can more than assure any sceptic that the meet had nothing to do with anything remotely concerned with gender bias. Nor was the workshop organised by the Task Force on Women and Environment at Sonargaon Hotel a get-together for light talks. On the contrary, the deliberations were serious, business-like and pragmatic. A critical issue such as the sharing of the Ganges water between India and Bangladesh could not perhaps be treated any differently.

From this stand-point, the workshop has done quite a good job. Although it was not one of the host of inter-governmental meets held almost routinely between the two countries, the workshop has come up with a number of suggestions that deserve the concerned countries' attention. While political considerations most of the time work as a constraint for the government delegates at various levels to press for illogical arguments and not to see the other party's genuine points, here the participants, freed from any such limitations, could ask for the reasonable and just steps possible.

It is this clear vision and conscience that have prompted renowned Indian journalist Kuldeep Nayar to ask his country's government to revive the 1977 water-sharing agreement between India and Bangladesh. He did not have to mince words when he made the demand, along with other practical measures, in favour of Bangladesh. The workshop endorsed his views only too gladly. The point is to right a wrong, one that concerns as much humanitarian as legal considerations. The unilateral withdrawal of water from a common river by an upper-riparian country is both unacceptable and illegal.

The workshop seems to have been quite alive to the complexities involved and also to its own limitations. So it has sought to establish effective and broad-based contact between and among various interest groups in the two countries. The idea seems to be building an environment of trust and at the same time creating pressure on government through strong public opinions. The workshop has been very realistic to visualise a time frame of 10 years for the two governments to find a permanent solution to the problem. So it has advocated for giving a new lease of life to the 1977 treaty for that period only. By the time the contact groups will be carrying their multi-disciplinary studies alongside the governments and help in the negotiations for reaching an accord. There are even a few forward-looking recommendations in that the provision for basin-wise integrated development of all the common rivers in the region has been suggested.

Clearly, the suggestions have their merits. Now let the government concerned take them seriously. If they act in a spirit of neighbourliness and goodwill, the problem arising out of Farakka Barrage can surely be solved.

The Daily Star Public Debate: What do Our Readers Think?

Election under Caretaker Government Means no Confidence on Voters

by MA Heera

IF to become a democrat is difficult, to remain a democrat is impossible, particularly in Bangladesh. We are possibly the only nation in the world who became independent twice but could not institutionalise democracy. We have failed to muster the necessary tolerance to practise democracy. Even after achieving independence twice, we are yet to grasp the meaning of democracy. We recognise our own freedom of movement, speech and association only and not of others. When we impose our wish on others we very easily forget there are others with similar rights. Even leaders may not be an exception. They feel that being leaders they understand better as to what would be good for the general public.

The voters were not even asked if they want their elections held under a caretaker government or if they would like to have a mid-term election or should their verdict of 1991 election be given a chance till the end of the specified period.

The matter was neither discussed nor settled in the parliament, as we would have liked. We elected our representatives to solve our problems.

If any, in the house and not outside. Our representatives seem to have ignored us and started boycotting the parliament. They seem to forget that every five years we exercise our right to vote and elect our representatives, expecting them to do their jobs in right earnest for five years. We would judge them by their activities and choose our next set of representatives only at the expiry of the period and not before. It is however most unfortunate that some time our representatives act so recklessly that we are left with no other alternative but to act and hold mid-term elections, which are not only expensive but also at times vexatious.

In your public debate, we thought our leaders will use space of your paper with something new to say; instead they chose to spoil the debate, which otherwise could have become interesting and educative if they had avoided the same old arguments. One leader has gone to the extent of defending Bangabandhu on his formation of BAKSAL saying that he did it to unite the people of Bangladesh. He forgot that the people of this country voted for him overwhelmingly in 1970 without the benefit of

BAKSAL. His arguments to justify BAKSAL, therefore only strengthens the general belief amongst the public about attempts by the party to politicise the army, navy, air force and government officials, in short all classes of the society.

In our view election can be held under any type of government provided there is constitutional provision including the details of the framework of such government. On the other hand, the political parties must have confidence in the voters' sense of judgement, which in my view never went wrong in any of the past elections, right from 1946 until 1991.

The proposition to hold parliamentary elections under a non-partisan government gives rise to the following questions, answers to which must be found if we are to entertain the idea seriously:

1) That the non-partisan government and caretaker government are not the same. This has been amply explained by the opposition Chief Whip in his interview with The Daily Star. He said that after the expiry of the five-year term, the BNP will remain in power, not as the elected government but as the caretaker government.

But they will have 100 per cent opportunity to influence the electoral process.

2) How will the by-elections be held? Will the elected Government resign and wait in the wing to allow the non-partisan government to hold the by-elections. It assumes that the elected government of necessity will be punctuated at appointed intervals.

3) What would be the duration of the elected government? How about the continuity of the governmental actions?

4) What would be the duration of a non-partisan government? Would they be required to prepare fresh voters' lists for each election and by-elections?

5) It seems that we have to hold elections throughout the tenure of an elected government, be it a parliamentary, election, a municipal or a local government poll. We cannot perhaps hold elections on every occasion under a caretaker or non-partisan government.

6) However it is possible only if we consider the Election Commission as a sort of non-partisan caretaker government itself responsible for holding elections only. If the

powers given to EC under the constitution are considered insufficient we can make the EC more powerful by amending the constitution. We may give them enough power to commission assistance of BDR and Army, in addition to that of the police if and when necessary.

7) The voters must be made aware of their responsibility as citizens to protect their right

to vote from being usurped. 8) The political parties must ask their supporters not to give any false vote. They must expel violators of the above instruction from the party.

The author is a former chief executive of a pharmaceutical company currently working as a senior executive in a NGO working in the health sector.

Editor's Note

Due to the immediacy of the topic, and the large number of readers' comments that we have received, we have decided to allocate one additional page during the next few days to the Public Debate. We hope to print as many of the write-ups as we can, and close the second phase of this debate in the next few days.

The Daily Star takes this opportunity to thank the political leaders for participating in our debate, and expresses its sincere gratitude to the readers for sending in their write-ups.

We believe that our humble effort has helped to clarify some of the complex issues, and gave a chance to our readers to voice their concerns.

We apologize to our readers, who may not be that keen about the 'Public Debate', for the changes in our regular pagination. We hope you will appreciate the reasons behind it and as such, bear with us.

Options to End Deadlock on Caretaker Government Issue

by Amir-ul Islam

TO start with it is important to identify and understand the demands of the Opposition. On the basis of the interviews in The Daily Star, and statements as published, the stand of the Opposition may be summed up as follows:

(a) To have provisions in the Constitution to be introduced by way of a Bill providing for holding of general election of members of Parliament on its dissolution under a caretaker government to be headed by a neutral person.

(b) Such caretaker government will enter upon the office only after the dissolution of Parliament and will remain in office till a new Prime Minister is sworn-in after having secured a vote of confidence in the new Parliament elected through a free and fair election (which is already mandated under the Constitution to be held ordinarily within three months and can be extended by another three months only for any Act of God i.e. devastating flood, cyclone or like disaster making it impossible to hold the election within the first three months period).

Assuming that there are two core demands of the Opposition, the concerns and objection of BNP ministers, as could be gathered from their interviews, again in The Daily Star, and statements may be summarised as follows:

1. Firstly, there is no constitutional provision for a neutral interim government.

2. Secondly, the concept of a neutral caretaker government is beyond the constitutional concept which, if allowed, will be violative of fundamental structure of the Constitution, particularly when the Constitution does not contemplate any government to be headed by a non-elected person.

3. Thirdly, there is no precedence of having election under a neutral caretaker government anywhere else in a parliamentary democracy.

4. Fourthly, there is likelihood of having a deadlock in agreeing on the person for heading the caretaker government.

The first argument is redundant since the demand of the Opposition is based on the obvious realisation that there is no provision in the Constitution for an interim government. Hence is the need for change. This argument is another manifestation of the communication gap between the party in power and the Opposition.

Secondly, with regard to the question of precedence. Why must we look for precedence elsewhere when we have our own precedence of having the election under a neutral caretaker government of which the present government is a direct beneficiary? Every democracy has its own growing experience which it owes to its own history and political culture. The argument as to the lack of precedence was most vigorously argued by the ministers of Ershad regime. But people of this country led by their political leadership which included the present party in power created the precedence with their own ingenuity. Bangladesh's innovation not only worked but received universal acclamation and raised interest in other countries as institutional model. It has worked in Pakistan as well. If it has worked once and in our own country there is no reason why it can not

work again and in future as a continuous and permanent institution. We are rather lucky to have a model to work on. Through a careful and critical evaluation, an institutional model can be developed for installing a neutral government without any party affiliation.

There is no single mould or model for democracy, or for that matter the method of electioneering. In South Africa, election has taken place under an arrangement for multi-ethnic society with multi-party system in order to share power in a true democracy. They have even proportional representation in the same cabinet, majority and minority sharing power in proportion, despite their diametrically opposite views points and traditional feuds for hundreds of years. There is no precedence of South African model anywhere else in the world for multi-party system of democracy. Lack of no precedence does not necessarily follow that the model would not work.

Though in South Africa they did not have a neutral caretaker government by removing the sitting president Mr de Klerk, yet they worked out a scheme under which a high powered Transitional Executive Council (TEC) was formed. Its managing committee has one delegate from each party to adjudicate any dispute in coordination with the Independent Election Commission

able to find the element of caretaker government even under the present dispensation of our own Constitution. Suppose, on the advice of the Prime Minister the Parliament is dissolved today or is dissolved at the end of five years then, as under the present dispensation, Begum Khaleda Zia, the present Prime Minister, is expected to continue in office under Article 57 (3) of the Constitution which provides that "Nothing in this Article shall disqualify the Prime Minister for holding office until his successor has entered upon office."

This Article thus gives Prime Minister a role to continue in office till her successor enters upon office after having general election within three months after the dissolution of Parliament. Begum Khaleda Zia's government thus becomes a caretaker government as soon as the Parliament is dissolved merely for the purpose of handing over the power to her successor in office. So the concept of a caretaker government is a prevalent concept which is already in the Constitution. What the Opposition wants is to make the caretaker government neutral and free from party influence.

This perhaps would take care of two more arguments advanced by Mr Nazmul Huda. Mr Huda argues that it is part of the basic structure of the Constitution that there should

including the ones who become Prime Minister and Ministers are elected only for five years and surely it is not the intention of anyone to prolong the tenure beyond that period.

Hence, after the dissolution of Parliament every one is an ordinary citizen as any other. The moral basis for any one to claim to be in office after dissolution of Parliament is not therefore on the basis of his or her status as a member of Parliament but because of a Constitutional device and necessity for filling the gap during the interim period.

Present dispensation like in many other Constitutions happen to be in favour of the Prime Minister continuing during this interim period. This is a government by holding over and not by virtue of being an elected representative. Thus, on a close scrutiny it is difficult to find any basis for a doctrinal objection as suggested by Mr Nazmul Huda, nor such objection can be based on any constitutional principle or even a political theory. If a change is sought to be brought about to suit the political need of much greater dimension in order to reinforce the power to the people through an election under a neutral government it is far from being violative of basic structure of the Constitution and would work only as a reinforcement to the basic pillar and foundation of the

their final verdict on it? Meanwhile, in the Parliament both the sides could agree to a formulation approved by the two thirds for placing it before the people who should be the final arbiter.

The fourth concern, as has been raised by some ministers of BNP, is with regard to choosing a person to head an interim government about whom there has to be an unanimity among various parties would be well high impossible. This seems to be a genuine concern. In order to remove this concern it is possible to find a formula which may be workable and acceptable to all.

Since no one has come out with any specific suggestion or formula as to how the head of the interim government can be chosen, it may be useful to offer some possible options for consideration by both the sides as well as by general people for the purpose of facilitating the discussions.

First option

To prepare a panel of, say, 15 members with the reputation of high integrity and honesty. The members should have national standing with well-known ability, objectivity and record of outstanding contribution in their respective fields and with whom public service has been of high priority in life and who are not interested in participating in the election as candidates.

Meanwhile, the Panel of 15 can serve the institutional need for good counselling as well as providing the mechanism for neutral caretaker government. (The idea for developing this panel into a possible Upper House is purely a visionary concept and not to be brought into the present debate).

Second option

To have an Election Commission consisting of the CEC along with three other Election Commissioners. On dissolution of the Parliament the Prime Minister will cease to hold office which will be entered upon by the Chief Election Commissioner, who will then appoint such persons as ministers, as he may find from amongst the panel of elders in consultation with the leader of the House and the leader of the Opposition. On taking of oath of office by the new Prime Minister after having secured the vote of confidence in the new-Parliament the interim government will automatically stand dissolved.

Last option

Instead of the CEC the Chief Justice is to enter upon the office of the Prime Minister for heading the interim government on dissolution of Parliament. (Holding of the office of Prime Minister for the interim period will not disqualify the Chief Justice or CEC, as the case may be, to resume their office on the expiry of the interim period.)

Concern has been expressed whether an arrangement of interim government is possible under the Parliamentary system. The Energy Minister seems to take the view that it is not possible under the present system when the President has no option but to appoint the person commanding majority in the Parliament. Without upsetting the main spirit of the Scheme as introduced under the 12th Amendment it is possible to inject the neutral character in the government for the interim period.

In order to show the mechanics of it, it is always fruitful to have a draft Bill so that the discussion relating to the working mechanism can be well focused both on the concept as well as on specifics. In order to do so, I would like to suggest, that it may be necessary to allow a draft Bill to be published on this Daily Star page for a meaningful dialogue.

Each of the options, as may be available, can be framed in different models and formulated into draft Bills for discussion.

Let us acknowledge that we are deliberating on one of the most vital issues touching upon the mechanism for exercising the power of our people through a free and fair election which concern each of our people as well as all future governments. Therefore, it is important to consider these points above the party or any group interest and I believe which I am sure would be shared by many that it is through collective wisdom only we can find an appropriate solution.

This is the second and concluding part of the writer's views on the caretaker government issue. The first part was published yesterday.

Our country perhaps needs this House of Elders which can work as an impartial guiding influence to the legislators and politicians without being involved in party politics, should the politicians feel the need for such help of the experienced people to assist them. Meanwhile, the Panel of 15 can serve the institutional need for good counselling as well as providing the mechanism for neutral caretaker government.

(IEC). The TEC also worked directly with the existing administration headed by Mr de Klerk and with the Independent Media Commission (IMC). TEC with its eight sub-councils supervised the implementation of (a) the Constitution, (b) law and order, (c) defence and national peace keeping force, (d) finance, (e) foreign affairs, (f) local and regional government, (g) women, and (h) intelligence, thus monitoring, controlling and coordinating each agency of the State and the ministries for ensuring free and fair election.

The concept of a caretaker government is well recognised even in a western democracy inasmuch as all governments adopt by tradition and convention a caretaker character as soon as the election schedule is announced. For instance, in the USA no new policy or major aid negotiation takes place in the election year.

The concept of an interim government of the type that the Opposition is talking about is not altogether an unknown concept even in Europe. There was in the Constitution of the Fourth Republic in France until amended in 1954 that in the event of dissolution of the Assembly by a government in power, the Prime Minister and the Minister of Interior should lose their posts. The former was to be replaced by the President of the Assembly, who would appoint a new Minister of the Interior with the consent of (all-party) Bureau of the Assembly, and would also bring into the government one member of each group in the Assembly not already represented in the government.

As a matter of fact if one would look closely, it is possi-

not be an interim government and, therefore, it can not be altered. But in effect we have already in our Constitution an arrangement for a caretaker government between dissolution of Parliament and the new successor entering upon his office. Hence the interim concept is neither new nor the party characteristic of such government can be conceived as being part of any basic structure of the Constitution. The basic structure of the Constitution is like the basic structure of a building or a bridge when by removal of any pillar or a beam the entire structure is likely to collapse or lose its balance.

The demand of the Opposition for changing the character of the interim caretaker government from being a party government to a neutral government for three months can hardly be imagined as causing any collapse or loss of balance in the Constitution.

The next objection of Mr Nazmul Huda is that an elected government should not be replaced by a non-elected person. It is not the intention of the Opposition to replace the elected government by a non-elected person. The Opposition's demand for having a neutral caretaker government instead of a government headed by a party leader is to ensure that an elected government is replaced by another genuinely elected government.

According to Article 72 (3) "unless sooner dissolved by the President, Parliament shall be dissolved on the expiration of the period of five years from the date of its first meeting." And Article 67 (1) (c) provides that "a member of Parliament shall vacate his seat upon a dissolution of Parliament."

A member of Parliament

Constitution.

After the dissolution of the Parliament the Prime Minister or any other minister does no longer represent his/her constituency as MP, nor is there any responsibility attached to the Cabinet to remain accountable to the Parliament. In other words, there is no accountability for the caretaker government even if it is headed by the party leader as is usually the case during the existence of the Parliament. What mischief will be done to the entire structure and balance in the Constitution if instead of a former member of a dissolved Parliament a sitting head of another constitutional institution, for instance, heads the interim government for a limited purpose and for a very limited time?

Mr Huda would perhaps say that one is elected and the other is not. However, the one who was elected has already been allowed to run his or her term, maximum of which is 5 years. After the expiry of the term he or she would have a representative status no better than any one else.

Moreover, the change in the form of government has never been objected to on the ground of basic structure and BNP has been instrumental in changing the form of government from Presidential to Parliamentary and no one raised the question that the change of government is a change in the fundamental structure.

Furthermore, the authority for changing relevant provision i.e. Article 56(4) remains with the people by way of a referendum. Instead of creating road block to change by adopting the stiff resistance to it, would it not be better to leave the matter for the people to give