

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

South Africa can Provide Some Useful Lessons about Conducting Elections

by M M Rezaul Karim

THE Awami League and the opposition parties do not really want a caretaker government per se to conduct the next parliamentary election. The statement is startling, smacks of incredulity and even sounds like a joke. Yet, it is a fact. The demand for a caretaker government to hold the next general election, has been prompted by the deep concern of the opposition political parties at what they apprehend as the inability of the BNP government to conduct a fair and impartial general election. If this is so, the issue should logically be settled by addressing the root cause which originally gave rise to this demand. The caretaker government in itself is not the ultimate objective. It is a tool, a means to attain the desired goal to ensure a free and fair election unfettered by any possible interference and influence by the ruling political party capable of using, unduly and illegally, the vast authority, administrative machinery and resources at its command. The subject therefore must be addressed to seek, explore and reach a consensus for an acceptable apparatus or system which will meet this popular and democratic demand satisfactorily. It should not be an impossible task to accomplish, given the sincerity of purpose and spirit of accommodation on the part of our national leaders.

Ours is a poor country and an infant democracy. Our principal goal is to alleviate poverty and social degradation of the general mass of people. This we have aspired to achieve through democratic means for which the tradition

is yet to grow. People are happy that through a decent and universally acclaimed election, democracy was restored in the country in 1991. True, it was achieved through a caretaker government. This happened in a situation under no normal conditions. An autocratic government was pulled down from power by a spontaneous mass upsurge. At that time there was no alternative other than a neutral caretaker government, firstly to take over the administration and secondly to establish a democratic government by holding a fair election.

The common mass of people would not like to go into the constitutionality and finer points of legality to establish legitimacy of a caretaker government. They know fully well that constitutions can and do undergo changes by the will of people expressed through parliamentary representation. They are also well aware of the nature, method and acceptability or otherwise of the elections held in the country before 1991. What they want simply is to participate in free and fair elections in future, thereby helping to establish a democratic tradition for themselves. This calls for a change of heart among the constituent parties for the sake of furtherance of national interest. People expect them to sit together, to deliberate the issue and explore the possibility of a solution. All available recourses must be resorted to and exhausted before the political confrontation is pursued further. Otherwise, our people who are politically more conscious than one is given to un-

derstand, will not forgive. A possible solution that has already been spoken and written about by many is to revamp and create an acceptable Election Commission with adequate authority, exercisable power and accountable responsibility. One may argue, ours is an environment not congenial for independent functioning of an impartial and effective Election Commission and that the system has not developed itself for this purpose. But it would be untenable to hold that it should deter us from trying to create the suitable environment and to establish an appropriate system. It is well understood that tradition is not built in one day. We may not aspire immediately to tread on a position close to the well-established democracies of the West and even to some notable ones of the East. As the popular adage goes, the march of a thousand leagues starts with one step. Until we are goaded to take the first step, our desired march to true democracy will never materialise.

In this context, however, one cannot help but admire, and admire profusely, the political tradition set overnight by a nation which has so long been devoid of any tradition remotely close to it. The Independent Election Commission there held and exercised real authority, power and administrative machinery to accomplish its task smoothly, effectively and without violence. The Commission was even empowered to oversee the law and order situation during the election, choose the administrative machinery to conduct the election and

appoint as many as nine thousand officials to act as independent monitors to ensure free and fair election. In fact, the ruling white government was rendered practically ineffective about the time of election. It seems South African blacks and whites rose to the occasion and graduated in politics with distinction without even going to a school, thanks to the political foresight and statesmanship of their leaders — Mandela, de Klerk and even Buthelezi. It is most remarkable, may astound, that the whites and the blacks ended their long bloody conflicts and manifested admirable pragmatism by burying apartheid and charting out a common political course of action. It is also incredible that the two black rivals — the ANC and Inkatha, who were killing each other's supporters till the eve of election, buried the hatchet and laid the foundation of a potentially great democracy. This belied untoward predictions of many political observers and came as an utter delight to all.

Ours is not an exact blueprint of South Africa. But can we not learn a good lesson? Should we allow ourselves to be less patriotic? Is there no alternative than to subordinate our national interests to individual and party interests? Do we not owe something more to our people? These unhappy utterances are made more in despair than in anger. The issue can and must be settled, if we are to be judged fairly by the posterity.

The author is a former Ambassador, and is presently member, Council of Advisors, BNP.

We must Look for Constitutional Solutions to this Problem

by A Citizen

I have read with interest the arguments published for and against the proposition in the public debate and feel tempted to put in a few words. Let me first sum up the arguments published till date in favour of the proposition. Mr Zillur Rahman has attributed Vote rigging, Vote dacoity, terrorism, influencing of the Election Commission (EC) and Govt. Servants by the ruling party as the main reasons for demanding general election under care-taker Govt. He listed six allegations against the party in power which has influenced the result of Magura-by-election in their favour. He has also cited the role of Chief Election Commissioner (CEC) at the time of Magura-by-election as a proof of Govt. interference. Mr Nasim and Mr Suranjit Sen Gupta asserted that Govt. servants have a tendency to serve the party in power during elections. Other mentionable points raised by the other exponents of the proposition are more or less covered by nine points of Begum Sajeda Chowdhury. Another common point is the failure of the Govt. to deliver goods.

Now let us examine these points one by one. Mr Zillur Rahman's allegation about Magura-by-election could be pursued in a constitutional manner. The constitutional way of redressing these grievances are known to all — to file a case with the Election Tribunal and submit proofs in favour of their allegations. If it is argued that sub-ordinate courts are influenced by Govt. then they could have pursued it to the highest Court of the land. No person in right mind will suggest that Govt. can influence the Supreme Court presided over by Chief Justice Mr Shahabuddin Ahmed and legal department headed by Barrister Aminul Huq an ardent supporter of Awami League. They did not even pursue the matter with the Election Commission. Instead of adopting the constitutional means they choose the unconstitutional way of street agitation, hartals. It's lead us to believe that AL has no evidence to substantiate their allegations. Mr Zillur's last point about role of CEC during Magura-by-election shall be explained by CEC. He owes an explanation to the nation about his abrupt change of programme on the previous day of election. It is high time he should come out with it.

I cannot agree with the assertion of Mr Nasim and Mr Suranjit that Govt. servants have a tendency to work in favour of the ruling party during election. Govt. servants recruited after independence are mostly veterans of liberation war. Many of them fought alongside AL, others recruited around 1980 and later on are also politically conscious people. So the assertion of Mr Nasim and Mr Suranjit is not based on facts. Perhaps as the Govt. servants do not dance to the tune of AL, they are to bear the blame. It may also be noted that Govt. servants are now quite organised and nobody can intimidate them anymore. Our bureaucracy is now more independent than at any other time and Mr Sengupta, knows it very well.

Now the arguments of Begum Sajeda Chowdhury, common to the exponents of the proposition, are: 1. Failure of the BNP Govt. to implement

the joint declaration of three alliances, 2. non-implementation of the four points agreement, 3. non-repealing of Special Powers Act and enactment of Anti-terrorism Act and 5. politicalisation of the Govt. machinery. These are the issues upon which people will give their verdict in the next election — not concerned with the holding of poll. Again failure of the Special Parliamentary Committee to probe the Irrigation Minister is in my opinion failure of the AL. As BNP has agreed to allow the Special Parliamentary Committee to probe specific allegation against the minister, though denied full-fledged inquiry into the ministry, AL should have taken the opportunity and gone ahead to probe it.

No Govt. in its right sense will allow a Committee to go on fishing expedition into a Ministry. If AL had succeeded in probing a single allegation of corruption, people would have loved to believe the others being also true. But now the position is reverse. People believe that these allegations as labelled by AL are political stunts. 3. BNP Govt has no mandate to repeal the Indemnity Act. All these points discussed above have no bearing at all on the fairness of an elec-

tion. 6. EC is a constitutional body. If it allows itself to be influenced by any party, I shall blame the CEC and ECs for their failure to discharge their constitutional obligations. If they cannot work independently, they should resign, making the cause known to all. No political party will dare to take this risk. 7. Holiganism is nothing new in third world countries. 8. Mirpur Poll results were counted to the satisfaction of the opposition. 9. Delay in declaration of Mayoral election results shall not be construed as such. It may be noted that in 1991 Poll the results of Dhaka City Constituencies were delayed and declared at the last stage. However, points 7 to 9 can be redressed constitutionally — so these again cannot justify the proposition. Bribing of electorate, false voting etc. are also common to developing countries. Another allegation that Govt. failed to deliver goods has no bearing on the issue.

Free and fair poll is the most important pre-requisite for a democracy. So it is to be ensured. Now the question is how? Whether by constitutional means or through extra-constitutional means. I am confident giving the right sort of cooperation by all political parties a reasonably free and fair poll can be assured within the constitutional frame work.

The learned Constitutional experts may ponder on the subject. I, in my humble way, put in a few suggestions through adoption of which a reasonably free and fair poll can be assured within the Constitutional frame work if the political parties extend

their full cooperation. To achieve our goal we shall have to first strengthen the EC and make changes in the electoral process. In this behalf following steps may be considered:

1. CEC and ECs shall be nominated for a fixed term and to be approved by the House by a two third majority of the members present and voting. Once appointed they cannot be removed before the expiry of the term unless impeached by the Parliament. An EC may be removed on the recommendation of the CEC.
2. The EC will not allow itself to be influenced by any party, Govt. or opposition. If any such attempt is made EC shall resign en masse making the facts public. No Govt. will dare to take such risk.
3. To ensure free hand EC shall prepare its own budget and which shall be placed before the house within the frame work of national budget. Govt will ensure timely release of fund accordingly.
4. EC will have the sole right to govern the officers put under its control.
5. EC shall have excess to

cers to submit confidential report about violation of election rules, laws or procedures directly to them on the basis of which EC may even postpone the election of a particular constituency.

11. EC shall be empowered to declare any election null and void, if charges of fraud or violation of election Code are proved to its satisfaction.
12. EC shall frame a set of rules for observation by the contesting parties and candidates. These rules shall be framed with a view to check vote rigging, false voting, intimidation, illegal gratification, spending of money for campaign, manner in which to campaign, and others to ensure free and fair election.
13. EC will appoint and authorise officials with Special Powers to deal with holiganism, Terrorism and Violation of election code/rules instantaneously.
14. Every candidate shall nominate polling agent for every polling station. If any candidate fail to nominate polling agent or nominated polling agent failed to turn up, the candidate shall have no right to question the polling of that centre. No agent will be allowed to leave the polling centre before completion of the counting of votes and signing the result sheet. Any discrepancy observed by an agent shall be reported to the Presiding Officer before leaving the centre by an agent. The Presiding Officer will supply a copy of the result of the centre to each agent duly signed by him and the agents present.
15. EC shall issue an identity card to every eligible voters who shall present the same at the time of voting. Presiding/ Polling Officer shall put his/her seal and signature in the space provided for the purpose on the card and allow the voter to vote.
16. Govt. transport or other facilities shall not be used by the candidates of the ruling party or opposition while campaigning.
17. No commitment of any kind shall be made for and on behalf of the Govt. during the election. But a candidate in his individual capacity may make commitment to his constituency.
18. Neutral observers from abroad may be invited by EC to observe the holding of election.

The above measures together with others I believe will ensure a reasonably free and fair election. It may be noted that independence of an institution shall be guarded by the persons incharge of it. EC shall jealously guard it for the sake of the nation. In India CEC Mr T N Seshan has proved that EC can function independently though it may occur displeasure of political parties both in power or opposition.

The author is a resident of Dhaka and an arid Star reader. His name is withheld on request.

Tried Methods Available to Ensure Free Polls

by Dr Ahmed Kamal

THE Awami League (AL) and the Jatiya Party (JP) concern for a 'free and fair' election for the next parliament has turned into a political crisis through their boycott of the parliamentary sessions on the plea for a caretaker government before the next election. The concern supposedly had its origin in the victory of BNP candidates in the by-elections for all the three parliamentary seats recently vacated. The opposition feared that the way these by-elections were conducted, especially in Magura, was indicative of the pattern for the next Parliamentary elections. Pending judgment on the validity of these allegations, I would unequivocally stress the need for a 'free and fair' election for evolving a democratic social order in the country.

To differentiate my position from these parties, I would only add that when this demand is made on behalf of the electorate, it is very unclear how the electorate has been involved in articulating and formulating this demand. 'Free and fair elections', as the practice goes, means an unhindered opportunity for the political parties in mobilizing the people using all forms of persuasion to vote for them rather than any politicization of the issues for which the people are to vote. Moreover, with a dubious track record behind them both the AL and JP so far have failed to generate confidence among the public in their commitment for a 'free and fair election'.

However, if the concern is to ensure a proper election, I share it wholeheartedly, even though I am worried about the current crisis. By its very nature this concern is a derivative of a larger project of a democratic social order to which we are all committed since the overthrow of the Ershad regime. Once we accept this position we recognize that the derivative is subordinate to the larger project and should not be allowed to jeopardize the latter. This is the non-negotiable position from which I engage with the ongoing political debate.

Having set the context of this debate let me now highlight some of the arguments put forward by both the ruling and the opposition parties in order to identify the areas of misplaced emphasis, and deep-rooted confusion that persist in our political parties.

While arguing for a caretaker government in a public meeting on 20th May, Shah Moazzem Hossain, a Jatiya Party MP from Rangpur, failed to see the difficulty of forming such a government. He, in fact, refuted the constitutional argument put forward by BNP leaders which stressed on the absence of constitutional provision for a caretaker government to hold the polls. Shah

Moazzem pointed out that JP's constitution did not have such provisions either. But the JP took necessary steps to install a caretaker government in order to make the political transition as was demanded by the people. Indeed, according to him BNP can do the same.

However, the BNP leaders are all opposed to this suggestion. All the arguments advanced by them in your esteemed daily are essentially constitutional which I tend to believe is a no-win position when the will of the people is considered as the supreme arbiter in deciding such issues. This is where Shah Moazzem scores a point. But the JP and the AL in espousing the demand for a caretaker government miss a fundamental point that the caretaker government of 1991 was achieved at the end of a long, arduous and a principled struggle against not only an autocratic but also an illegitimate regime installed by Lt. General H M Ershad on March, 1982. All through the nine years of Ershad and JP rule the struggle was against a regime that usurped political power through illegal and illegitimate means. Politics in those nine years was aimed at overthrowing an illegitimate regime through a determined political struggle.

History has ungrudgingly recorded that Begum Khaleida Zia never wavered from this principled position. When this goal was reached a caretaker government was formed as a mechanism through which this political transition from an illegitimate regime to a popularly elected government could be worked out. Here lies the essential nature of the caretaker government of 1991. The spectre of illegitimacy haunted the JP till its last day in power. A caretaker government as an instrument of transition of political power only confirmed its illegitimacy.

BNP leaders so far have failed to highlight this cardinal point that participating in polls in Ershad's regime was to accord legitimacy to it, therefore a caretaker government was in complete harmony with the spirit of the relentless political struggle for democracy. Amnesia is seldom a virtue in politics.

While sharing the concern for a proper election, I suggest that there are tried methods available now to ensure it. In many third world countries it has been applied with success. Teams of overseas observers, local election-watch groups and concerned citizens should be allowed to keep vigil and many other steps can be taken by mutual and open discussions. These are by now standard practices. But if AL and JP succeed in forcing BNP to form a caretaker government to hold the polls it will not only rescue the politics of conspiracy and authoritarianism, but will also put the democ-

cratic process at par with the latter and open a chasm in the rank and file of the democratic forces.

Who needs it most other than the JP? But what is AL's interest in the game? Two inferences can be made. One is innocent and perhaps tactical. In that case, the demand for a caretaker government should be included in the election agenda. So that the electorate will know what they mean by it and how they will implement it. If the electorate agree the election after the next can be supervised by a caretaker government.

The other inference would be to jeopardise the process of democratic transition to serve some other interest. AL with its 4th amendment behind it, authoritarianism is not a serious political issue for them. Many AL positions during Ershad regime especially participation in elections was not principled at all. To elaborate this point further let me recall history here. This history still casts a long shadow on the democratic polity that we aspire to achieve.

After the 1981 poll when Justice Satter was elected president, the then Chief of Staff H M Ershad demanded a political role for the army in an open statement to the press. Instead of asking for his dismissal from the army for this gross indiscipline all opposition leaders were engaged in dialogues with him. The result

was a disaster for the nation that I shall not deal with now. Democratic politics demanded rallying round Justice Satter in thwarting the move by Ershad. Unfortunately that did not happen. The price has been too heavy for such indulgence. Even if we accept that the only aim of the opposition is to capture political power, no one should resort to means that will jeopardize the whole system of polity.

Our concern for a 'free and fair' election should not threaten the transition process towards a democratic social order. Holding a free and fair election is the trusted responsibility bestowed on the BNP government by the people and protecting the democratic process is the duty of all political parties and citizenry.

I am afraid the way the AL in alliance with JP are conducting themselves might as well throw the whole nation into a situation similar to that of 1982. If that is the case all democratically minded people should warn and if necessary resist the opposition. I want to be assured that the snakes that were cleared from the premises of the parliament house at the beginning of its career did not return.

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To the Editor...

Letters for publication in these columns should be addressed to the Editor and legibly written or typed with double space. For reasons of space, short letters are preferred, and all are subject to editing and cuts. Pseudonyms are accepted. However, all communications must bear the writer's real name, signature and address.

Motive-hunting

Mr. I have gone through the Daily Star Public Debate on the proposition "should the next general election be held under a care-taker government?" How silly it is for Zillur Rahman to say that introduction of one party system by Sheikh Mujibur Rahman "gave a broad based shape to democracy" As a matter of fact introduction of one party system killed democracy.

In the fifth para of his piece in the Daily Star Mr Rahman says, "BNP was much vocal for a care taker government." Can this be any argument in favour of a care-taker government? The situation in 1991 was quite different and under the circumstances then there was no other alternative but to install an interim cabinet. In the last sentence of the same para he says that "the caretaker government of Jus-

Abul Mahmud Khan 19A/16, Block F Mohammadpur Housing State Dhaka

For a powerful EC

Sir, The Daily Star has initiated a debate on caretaker government to hold free and fair polls. The leaders of both the ruling and opposition parties have participated in the debate. All the leaders are discussing on the subject keeping their party's policies in mind. A few years back Jamaat Islami raised the issue for holding election under a caretaker government. Now all the opposition party leaders have fallen for the same. It has become a national issue. The matter may be referred to general public for eliciting their opinion. A opinion poll may be held on the issue.

The introduction of identity cards for all the voters will stop rigging in the polls to a

greater extent. The polls should not be held on the same day in all the places. These should be conducted on different dates. The date of poll of a particular area should be fixed in such a manner so that adequate security forces could be deployed for the smooth holding of elections.

The services of all the magistrates may be in the hands of the Election Commission during poll time. The Election Commission should be given all powers to conduct the election freely.

A volunteer corps may be raised during the election period to stop any untoward incident. The volunteers will also educate the voters on the importance of casting of vote. The expenditure ceiling should be strictly maintained.

Mahbubul Haque Chowdhury 153, Lake Circus Kalabagan Dhaka.

Caretaker Puzzle

Sir, Barrister Moudud Ahmed's presentation (Star, May 27) for holding elections under a caretaker government was well prepared, but from a particular angle that of a politician. Had he been in

power, he could have produced perhaps a better commentary - and against holding elections under a caretaker government — he is that versatile!

A subtractive solution is better than an additive solution. Make it simple.

A Malouaz Dhaka

Let Parliament resolve it

Sir, The present debate is on the question of holding the next general elections under a care-taker government. Well, I do not think this is a very logical and reasonable proposition.

Because it is a part of the responsibilities of a democratic government to hold election and to ensure smooth transfer of power to the newly elected representatives after that election. Of course, if the present government is to be unseated, the opposition must raise solid points in the parliament to prove the inefficiency of the present government under a duly moved no-confidence motion. At any rate, the entire issue of holding elections under a caretaker

government should be resolved in the House.

M. Zahidul Haque Assistant Professor Bangladesh Agriculture Institute.

Referendum necessary

Sir, If they are confident of victory and in order to make it convincing beyond any shadow of doubt that, that is how they feel, the BNP should readily agree to the demand by the Opposition Parties to hold the next three general elections under caretaker governments.

BNP should agree for no better reason than the inevitability that once AL comes to power fair election will never see the light of the day in this country.

All constitutional modus operandi should be worked out in advance, all loopholes closed against allegations of delicate 'manipulation' by any losing party. It is expected that the issue should be placed before the nation for referendum.

Iskander Meah Dhaka.

Gulshan North, Dhaka.