

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

Caretaker Government Offers No Solution to Our Problem

By Brig Shamsuddin Ahmed (Retd)

CURRENTLY one political issue has been agitating the minds of the educated and politically conscious segment of the people. It is the question of holding free and fair elections, to be more precise, parliamentary elections, in this country. The mainstream opposition political parties are demanding that all general elections for the next 15 to 20 years be held under an apolitical and neutral caretaker government modelled more or less on the one headed by Chief Justice Shahabuddin Ahmed in 1990-91, the only difference being that Chief Executive of this government would be Prime Minister and not President.

The *raison d'être* of their demand is simple: no free and fair election is possible under a political government. This implies, ironically though, that there had not been any free and fair election in the past nor can there be one in future under such a dispensation. True, there had not been any credible election since after the August 1975 change-over and particularly so during the infamous Ershad regime, when massive vote rigging and manipulation by the government reduced all elections to a farce. And, I am inclined to believe that the present BNP government has not fared any better either.

The concept of caretaker government conducting general election first came up when we were at the height of anti-autocracy movement during the Ershad regime. It started to gain ground again among the opposition political parties as irregularities and vote rigging in by-elections held under the present BNP government began to unfold. The Magura by-election allegedly epitomized all the electoral sins attributable to a political government.

But then does this mean that without going into inherent weaknesses of the electoral system, we have inherited from our colonial past and without trying to improve upon the system, we should experiment with an undemocratic practice of a caretaker government for conducting national-level elections? Can a caretaker government offer solution to the problem we are faced with? Wasn't there any irregularity, any vote rigging, any unfair polling at all in the February 1991 General Election held under the caretaker government of Justice Shahabuddin Ahmed? There is no denying the fact that there were instances of vote rigging and other irregularities in that election also but on a much lesser scale as compared to what had been used to witness before.

The only good thing about a caretaker government of the Justice Shahabuddin type is that it may be strictly neutral in character and may not try to influence the outcome of election either in favour of or against any political party, although this will largely depend upon the integrity, character and personality of the Chief Executive and other members of the caretaker government. The demerits of this

type of government are far too many. The very fact that it is a caretaker government which has been installed for a limited period and for a limited purpose lends itself to obvious limitations. It exists like an emaciated sick old man waiting to die soon in fact the count-down begins from the day it is in office. The administration, particularly the bureaucracy is prone to adopting a go-slow attitude towards the new interim government and a sort of inertia pervades the whole administration. Since it lacks the authority of an elected government, the caretaker government hardly governs; it merely administers. The ambience is perfect for corruption and indiscipline to breed in the administration. The government under the circumstances may not get the full measure of loyalty and cooperation from the police and other law enforcing agencies so vitally needed for efficiently conducting the polls. A lame duck government of this sort could in all probability lack the necessary means to get to know of any electoral irregularities and would smugly boast of the election having been free and fair while it was not.

Those who advocate the caretaker government theory may argue that I am being too pessimistic to see the brighter side of the picture. No, I am not being pessimistic. I am simply being realistic when I say that the caretaker government concept is not going to work. If a political government democratically elected under the auspices of a caretaker government is removed on the ground of incompetence and questionable credibility and in its place another caretaker government is installed to conduct parliamentary election for the formation of another political government, does it or does it not prove that the first caretaker government had failed and failed miserably to produce the desired outcome? After all, the purpose of a general election is to pave the way for a representative and credible government which will be responsive to the needs and aspirations of the people. And if that purpose has not been served by the last general election as indeed seems to be the case, then why cry hoarse for another caretaker government?

There is another point we must not lose sight of. Let us not try to draw a parallel between the Jatiya Party government of the fallen dictator Ershad and the present BNP government of Begum Khaleda Zia. The Jatiya Party government born out of two sham elections could never claim legitimacy. The present BNP government, on the other hand, is a democratically elected legitimate government.

It may have been ruling the country in an autocratic manner for the last three years. But it is still a legitimate government. It is a slur on the face of a legitimate political government to bow out of office and allow a caretaker government to step in to conduct general election and no political government can accept this demand. Will Benazir Bhutto re-

lish the idea of her PPP government being replaced by another caretaker government for holding next general election in Pakistan?

Actually the disease of rigged and unfair election that we suffer from has no cure in the caretaker government. The cure lies in wholesale reform of the entire political system, the political culture we have inherited from Pakistan. Unfortunately our political field has become far too muddy and slippery and players used to playing fair game are heavily outnumbered by those who can easily gain control of the ball by rough tackle and foul-play. One can hardly play fair game and score goal. It is always the rough tacklers and foul players who get the better of their opponents. Today the political arena of our country has been totally vitiated. Politics no longer means service and welfare of the people. It has become the profession of earning a livelihood and building personal fortunes through misuse of power and position. As a member of parliament and as a minister one can expect a fat salary and other allowances together with various perks and privileges — pension, duty-free import of luxury car, free use of telephone, free travelling by air or by train within the country, diplomatic passport etc etc. Hence the scramble for politics.

Education, talent, honesty, efficiency, patriotism are no longer of any value in politics. The political parties seem to be on the prowl for money and muscle. If you do not have enough money and also enough facilities otherwise admissible on official tour.

1. After the announcement of election schedule for various constituencies by the Election Commission, the government will not transfer any official from and to any area without the express approval of the Chief Election Commissioner.

2. The Chief Election Commissioner will have the power to remove or dismiss any official on ground of misconduct or questionable neutrality.

3. Prime minister and ministers campaigning for their party candidates or for themselves will do so in official capacity but as private citizens at their own expense or at the expense of their party. They will NOT use any government transport or other government facilities otherwise admissible on official tour.

4. Distribution of relief goods and cash donation etc in the name of mosques, madrasas, orphanages, educational institutions etc by way of influencing voters will be strictly prohibited. Punishment for violation of this order may lead to disqualification of the candidate being campaigned for.

5. There shall be no election camps of political parties within the vicinity of polling centres. Instead, there shall be an information centre set up by the Election Commission close to each polling centre to help voters find their name and number in the voters' list.

6. The Chief Election Commissioner will have the authority to call in BDR and Army for maintenance of law and order in and around polling centres and for security of ballot boxes.

We must call a halt to this political culture. Politics must be freed from the evils of money and muscle power. Corruption and violence must be stamped out, root and branch, for politics. That politics in meant for the service and welfare of the people has to be ensured. Let us make politics less lucrative so that people who take to politics in order to earn their bread and butter and make personal fortunes shy away from politics and find some other avenues. If all our political leaders are men and women of honour and integrity for whom having the opportunity to serve the people as their chosen representatives and the honour attached to

this is all that counts in an election, there can hardly be any fouling of the air during election as we find in western democracies.

Let all our politicians, the lawyers, the intelligentsia put their heads together and introduce political reforms to this end. We have to move fast as time is running out. We have already wasted good 23 years of our national life. Meanwhile let the government and all opposition political parties sit together and work out a plan to make the Election Commission a really independent, powerful, effective and accountable national institution capable of conducting all elections as free and fair as possible. In my view, the following steps will strengthen the democratic process and have a positive influence on the conduct of elections:

1. After the announcement of election schedule for various constituencies by the Election Commission, the government will not transfer any official from and to any area without the express approval of the Chief Election Commissioner.

2. The Chief Election Commissioner will have the power to remove or dismiss any official on ground of misconduct or questionable neutrality.

3. Prime minister and ministers campaigning for their party candidates or for themselves will do so in official capacity but as private citizens at their own expense or at the expense of their party. They will NOT use any government transport or other government facilities otherwise admissible on official tour.

4. Distribution of relief goods and cash donation etc in the name of mosques, madrasas, orphanages, educational institutions etc by way of influencing voters will be strictly prohibited. Punishment for violation of this order may lead to disqualification of the candidate being campaigned for.

5. There shall be no election camps of political parties within the vicinity of polling centres. Instead, there shall be an information centre set up by the Election Commission close to each polling centre to help voters find their name and number in the voters' list.

6. The Chief Election Commissioner will have the authority to call in BDR and Army for maintenance of law and order in and around polling centres and for security of ballot boxes.

Should the government and opposition political parties refuse to have a dialogue to end the present impasse in the light of views expressed above, the country may soon be plunged into darkness again. We are passing through a very critical time in the history of our nation. The forces opposed to our independence and our democratic policy are lying in wait to strike us. Let all freedom loving and democratic-minded people rise to the occasion. Let national interest prevail over party and individual interests.

(The writer is a former Military Secretary to President of Bangladesh)

Looking at it from the Constitutional Stand-point

By Md Moksudur Rahman

BEFORE giving any opinion on the proposition it is necessary to consider the existing provisions in the Constitution and the relevant laws regulating parliamentary elections. Democracy means a Government of the people, by the people and for the people, and election is a recognised means to establish such a Government on the basis of the choice and consent of the majority of the voters expressed through periodic elections. So, it is essential that the people are allowed to freely choose their representatives in elections which are ensured to be fair and free. Otherwise the very purpose of holding elections will be defeated.

Keeping in view the importance of fair and free elections in a democratic society, our Constitution has provided for the Election Commission to perform the functions of conducting elections for the office of the President, the members of Parliament and other elective local bodies. The object in setting up the Election Commission is to ensure fair, free and impartial election. In order to achieve the object of fair and free election, the Election Commission must itself be independent in the exercise of its functions, that is, free from influence by any quarter.

Articles 118 to 126 of our Constitution deal with elections including the appointment of Election Commissioner and settlement of election disputes. Article 118(1) provides that the appointment of the Chief Election Commissioner and other Election Commissioners (if any) shall be subject to the provisions of any law made in that behalf, made by the President. The tenure of Office of the Election Commissioner is five years from the date on which he enters upon his office. Sub-article (4) of Article 118 declares that the Election Commission shall be independent in the exercise of its functions and subject only to the constitution and any other law. No qualification for the Post of Election Commissioner has been laid down in the Constitution. But in order to secure independence of the Election Commissioner it is provided in Sub-article (5) of Article 118 that he shall not be removed from his office except in like manner and on like grounds as a Judge of the Supreme Court may be removed by the President if the Supreme Judicial Council consisting of the Chief Justice of Bangladesh and the two next Senior Judges, after making inquiry reports to the President states that in its opinion the Judge has ceased to be capable of performing function of his office or has been guilty of gross misconduct (Article 96).

It is pertinent to refer to the Provision for appointment of Supreme Court Judges and their independence. Article 94(4) of the Constitution provides that Subject to the Provisions of this Constitution the Chief Justice and other Judges shall be independent in the exercise of their judicial functions. The Chief Justice and other Judges shall be appointed by the President Article 95(1) of the Constitution. The independence of the Supreme Court Judges was never questioned on the ground of a particular regime in view of the public importance of the functions assigned to the Election Commission. Supreme Court Judges, either sitting or retired, have all through been appointed as Election Commissioner. Mr Justice Idris, Mr Justice A K M Nurul Islam, Mr Justice A T M Masud, Mr Justice Sultan Hosain Khan and now Mr Justice Abdur Rouf. They were all appointed as Chief Election Commissioner. Even the Election Commissioner was also appointed from amongst the Judges of the Supreme Court. Mr Justice Abdul Jalil has recently been appointed as Election Commissioner.

The functions and responsibilities for holding elections are vested in the Election Commission by Article 119(1) of the Constitution, which provides that the Superintendent, direction and control of the preparation of the electoral rolls for elections to the Office of President and to Parliament and the conduct of such elections shall vest in the Election Commission which shall, in accordance with this Constitution and any other law

obtaining opinion of the Election Commission. So, in substance the disputes as to the disqualification of members of the legislatures are to be decided by the Election Commission in India.

This is the Constitutional scheme for holding Parliamentary elections and taking decisions on election disputes by the Election Commission and the Election Tribunal. The detailed provisions for holding elections of the members of Parliament by the Election Commission have been made in the representation of the people Order, 1972(P.O. 155/72 of 1972). The said provisions cover the election processes beginning from calling for nomination papers and ending with the publication in the official Gazette the names of the returned candidates in each Constituency. Provisions have also been made for trial of election petition calling in question the election of any member. The election petition is to be presented to the Election Commission, which is to appoint Election Tribunals for the trial of election petition. A person, who is or has been District Judge or an Additional District Judge is qualified to be the member of the Election Tribunal.

The foregoing analysis of the Constitutional Provisions and the election laws shows that the Government has no role to play in holding elections of the members of Parliament, except to make available such staff as may be necessary for the discharge of the functions of the Election Commission. So, it is a mistake to suppose that the elections are held by or under the Government.

As pointed out by Mr Abdus Salam Talukder, besides conducting parliamentary elections in 1991, the present Chief Election Commissioner (CEC) also conducted polls of some 4000 Union Parishads, about 100 municipalities and four City Corporations. The CEC also successfully conducted 16 by-elections of the Jatiya Sangsad. Assuming that a caretaker Government is formed for a period for holding the general election of the members of the Parliament can it be kept in office for holding by-election, if and when necessary, and for holding elections to the local bodies?

The institution of Election Commission is a basic feature of our Constitution and the institution is vital in a democratic society for ensuring free and fair elections. If the Election Commission lacks any capacity in any respect to discharge its function independently in the true sense, its deficiency of power may be met by legislation in the Parliament in consultation with the Election Commission, which is in the best position to point out the loop holes in the

(a) hold elections to the Office of President;
(b) hold elections of members of Parliament;
(c) delimit the constituencies for the purpose of elections to Parliament; and
(d) prepare electoral rolls for the purpose of elections to

the office of President and to Parliament.

Similar provisions have been made in Article 324 of the Indian Constitution including those relating to the appointment and removal of Election Commissioners. The manner of dealing with post-election disputes has been provided for in Article 125 of our Constitution.

Free and fair elections are a basic postulate of a free democratic society. If elections are to be fair and free, they must not be rigged, that is, managed or conducted fraudulently. To guard against this evil, Article 119 of our Constitution provides for the aforesaid steps to be taken by the Election Commission, which is declared to be independent by Article 118(4) of the Constitution, as the exercise of their judicial functions. Fair and free elections, according to the framers of our Constitution, as of the Indian Constitution, required an independent body to hold, conduct and supervise elections, and also required independent bodies to decide election disputes. Article 66(4) of the Constitution has conferred jurisdiction on the Election Commission to decide the dispute as to whether a member of Parliament has, after his election, become subject to any disqualification mentioned in Clause (2) thereof or as to whether a member of Parliament should vacate his seat pursuant to Article 70.

Article 103 of the Indian Constitution makes a similar provision for decision on such dispute by the President after

obtaining opinion of the Election Commission. So, in substance the disputes as to the disqualification of members of the legislatures are to be decided by the Election Commission in India.

This is the Constitutional scheme for holding Parliamentary elections and taking decisions on election disputes by the Election Commission and the Election Tribunal. The detailed provisions for holding elections of the members of Parliament by the Election Commission have been made in the representation of the people Order, 1972(P.O. 155/72 of 1972). The said provisions cover the election processes beginning from calling for nomination papers and ending with the publication in the official Gazette the names of the returned candidates in each Constituency. Provisions have also been made for trial of election petition calling in question the election of any member. The election petition is to be presented to the Election Commission, which is to appoint Election Tribunals for the trial of election petition. A person, who is or has been District Judge or an Additional District Judge is qualified to be the member of the Election Tribunal.

The foregoing analysis of the Constitutional Provisions and the election laws shows that the Government has no role to play in holding elections of the members of Parliament, except to make available such staff as may be necessary for the discharge of the functions of the Election Commission. So, it is a mistake to suppose that the elections are held by or under the Government.

As pointed out by Mr Abdus Salam Talukder, besides conducting parliamentary elections in 1991, the present Chief Election Commissioner (CEC) also conducted polls of some 4000 Union Parishads, about 100 municipalities and four City Corporations. The CEC also successfully conducted 16 by-elections of the Jatiya Sangsad. Assuming that a caretaker Government is formed for a period for holding the general election of the members of the Parliament can it be kept in office for holding by-election, if and when necessary, and for holding elections to the local bodies?

The institution of Election Commission is a basic feature of our Constitution and the institution is vital in a democratic society for ensuring free and fair elections. If the Election Commission lacks any capacity in any respect to discharge its function independently in the true sense, its deficiency of power may be met by legislation in the Parliament in consultation with the Election Commission, which is in the best position to point out the loop holes in the

obtaining opinion of the Election Commission. So, in substance the disputes as to the disqualification of members of the legislatures are to be decided by the Election Commission in India.

This is the Constitutional scheme for holding Parliamentary elections and taking decisions on election disputes by the Election Commission and the Election Tribunal. The detailed provisions for holding elections of the members of Parliament by the Election Commission have been made in the representation of the people Order, 1972(P.O. 155/72 of 1972). The said provisions cover the election processes beginning from calling for nomination papers and ending with the publication in the official Gazette the names of the returned candidates in each Constituency. Provisions have also been made for trial of election petition calling in question the election of any member. The election petition is to be presented to the Election Commission, which is to appoint Election Tribunals for the trial of election petition. A person, who is or has been District Judge or an Additional District Judge is qualified to be the member of the Election Tribunal.

The foregoing analysis of the Constitutional Provisions and the election laws shows that the Government has no role to play in holding elections of the members of Parliament, except to make available such staff as may be necessary for the discharge of the functions of the Election Commission. So, it is a mistake to suppose that the elections are held by or under the Government.

As pointed out by Mr Abdus Salam Talukder, besides conducting parliamentary elections in 1991, the present Chief Election Commissioner (CEC) also conducted polls of some 4000 Union Parishads, about 100 municipalities and four City Corporations. The CEC also successfully conducted 16 by-elections of the Jatiya Sangsad. Assuming that a caretaker Government is formed for a period for holding the general election of the members of the Parliament can it be kept in office for holding by-election, if and when necessary, and for holding elections to the local bodies?

The institution of Election Commission is a basic feature of our Constitution and the institution is vital in a democratic society for ensuring free and fair elections. If the Election Commission lacks any capacity in any respect to discharge its function independently in the true sense, its deficiency of power may be met by legislation in the Parliament in consultation with the Election Commission, which is in the best position to point out the loop holes in the

(a) hold elections to the Office of President;
(b) hold elections of members of Parliament;
(c) delimit the constituencies for the purpose of elections to Parliament; and
(d) prepare electoral rolls for the purpose of elections to

the office of President and to Parliament. Similar provisions have been made in Article 324 of the Indian Constitution including those relating to the appointment and removal of Election Commissioners. The manner of dealing with post-election disputes has been provided for in Article 125 of our Constitution.

Free and fair elections are a basic postulate of a free democratic society. If elections are to be fair and free, they must not be rigged, that is, managed or conducted fraudulently. To guard against this evil, Article 119 of our Constitution provides for the aforesaid steps to be taken by the Election Commission, which is declared to be independent by Article 118(4) of the Constitution, as the exercise of their judicial functions. Fair and free elections, according to the framers of our Constitution, as of the Indian Constitution, required an independent body to hold, conduct and supervise elections, and also required independent bodies to decide election disputes. Article 66(4) of the Constitution has conferred jurisdiction on the Election Commission to decide the dispute as to whether a member of Parliament has, after his election, become subject to any disqualification mentioned in Clause (2) thereof or as to whether a member of Parliament should vacate his seat pursuant to Article 70.

Article 103 of the Indian Constitution makes a similar provision for decision on such dispute by the President after

obtaining opinion of the Election Commission. So, in substance the disputes as to the disqualification of members of the legislatures are to be decided by the Election Commission in India.

This is the Constitutional scheme for holding Parliamentary elections and taking decisions on election disputes by the Election Commission and the Election Tribunal. The detailed provisions for holding elections of the members of Parliament by the Election Commission have been made in the representation of the people Order, 1972(P.O. 155/72 of 1972). The said provisions cover the election processes beginning from calling for nomination papers and ending with the publication in the official Gazette the names of the returned candidates in each Constituency. Provisions have also been made for trial of election petition calling in question the election of any member. The election petition is to be presented to the Election Commission, which is to appoint Election Tribunals for the trial of election petition. A person, who is or has been District Judge or an Additional District Judge is qualified to be the member of the Election Tribunal.

The foregoing analysis of the Constitutional Provisions and the election laws shows that the Government has no role to play in holding elections of the members of Parliament, except to make available such staff as may be necessary for the discharge of the functions of the Election Commission. So, it is a mistake to suppose that the elections are held by or under the Government.

As pointed out by Mr Abdus Salam Talukder, besides conducting parliamentary elections in 1991, the present Chief Election Commissioner (CEC) also conducted polls of some 4000 Union Parishads, about 100 municipalities and four City Corporations. The CEC also successfully conducted 16 by-elections of the Jatiya Sangsad. Assuming that a caretaker Government is formed for a period for holding the general election of the members of the Parliament can it be kept in office for holding by-election, if and when necessary, and for holding elections to the local bodies?

The institution of Election Commission is a basic feature of our Constitution and the institution is vital in a democratic society for ensuring free and fair elections. If the Election Commission lacks any capacity in any respect to discharge its function independently in the true sense, its deficiency of power may be met by legislation in the Parliament in consultation with the Election Commission, which is in the best position to point out the loop holes in the

obtaining opinion of the Election Commission. So, in substance the disputes as to the disqualification of members of the legislatures are to be decided by the Election Commission in India.

This is the Constitutional scheme for holding Parliamentary elections and taking decisions on election disputes by the Election Commission and the Election Tribunal. The detailed provisions for holding elections of the members of Parliament by the Election Commission have been made in the representation of the people Order, 1972(P.O. 155/72 of 1972). The said provisions cover the election processes beginning from calling for nomination papers and ending with the publication in the official Gazette the names of the returned candidates in each Constituency. Provisions have also been made for trial of election petition calling in question the election of any member. The election petition is to be presented to the Election Commission, which is to appoint Election Tribunals for the trial of election petition. A person, who is or has been District Judge or an Additional District Judge is qualified to be the member of the Election Tribunal.

The foregoing analysis of the Constitutional Provisions and the election laws shows that the Government has no role to play in holding elections of the members of Parliament, except to make available such staff as may be necessary for the discharge of the functions of the Election Commission. So, it is a mistake to suppose that the elections are held by or under the Government.

As pointed out by Mr Abdus Salam Talukder, besides conducting parliamentary elections in 1991, the present Chief Election Commissioner (CEC) also conducted polls of some 4000 Union Parishads, about 100 municipalities and four City Corporations. The CEC also successfully conducted 16 by-elections of the Jatiya Sangsad. Assuming that a caretaker Government is formed for a period for holding the general election of the members of the Parliament can it be kept in office for holding by-election, if and when necessary, and for holding elections to the local bodies?

The institution of Election Commission is a basic feature of our Constitution and the institution is vital in a democratic society for ensuring free and fair elections. If the Election Commission lacks any capacity in any respect to discharge its function independently in the true sense, its deficiency of power may be met by legislation in the Parliament in consultation with the Election Commission, which is in the best position to point out the loop holes in the

(a) hold elections to the Office of President;
(b) hold elections of members of Parliament;
(c) delimit the constituencies for the purpose of elections to Parliament; and
(d) prepare electoral rolls for the purpose of elections to

the office of President and to Parliament. Similar provisions have been made in Article 324 of the Indian Constitution including those relating to the appointment and removal of Election Commissioners. The manner of dealing with post-election disputes has been provided for in Article 125 of our Constitution.

Free and fair elections are a basic postulate of a free democratic society. If elections are to be fair and free, they must not be rigged, that is, managed or conducted fraudulently. To guard against this evil, Article 119 of our Constitution provides for the aforesaid steps to be taken by the Election Commission, which is declared to be independent by Article 118(4) of the Constitution, as the exercise of their judicial functions. Fair and free elections, according to the framers of our Constitution, as of the Indian Constitution, required an independent body to hold, conduct and supervise elections, and also required independent bodies to decide election disputes. Article 66(4) of the Constitution has conferred jurisdiction on the Election Commission to decide the dispute as to whether a member of Parliament has, after his election, become subject to any disqualification mentioned in Clause (2) thereof or as to whether a member of Parliament should vacate his seat pursuant to Article 70.

Article 103 of the Indian Constitution makes a similar provision for decision on such dispute by the President after

obtaining opinion of the Election Commission. So, in substance the disputes as to the disqualification of members of the legislatures are to be decided by the Election Commission in India.

This is the Constitutional scheme for holding Parliamentary elections and taking decisions on election disputes by the Election Commission and the Election Tribunal. The detailed provisions for holding elections of the members of Parliament by the Election Commission have been made in the representation of the people Order, 1972(P.O. 155/72 of 1972). The said provisions cover the election processes beginning from calling for nomination papers and ending with the publication in the official Gazette the names of the returned candidates in each Constituency. Provisions have also been made for trial of election petition calling in question the election of any member. The election petition is to be presented to the Election Commission, which is to appoint Election Tribunals for the trial of election petition. A person, who is or has been District Judge or an Additional District Judge is qualified to be the member of the Election Tribunal.

The foregoing analysis of the Constitutional Provisions and the election laws shows that the Government has no role to play in holding elections of the members of Parliament, except to make available such staff as may be necessary for the discharge of the functions of the Election Commission. So, it is a mistake to suppose that the elections are held by or under the Government.

As pointed out by Mr Abdus Salam Talukder, besides conducting parliamentary elections in 1991, the present Chief Election Commissioner (CEC) also conducted polls of some 4000 Union Parishads, about 100 municipalities and four City Corporations. The CEC also successfully conducted 16 by-elections of the Jatiya Sangsad. Assuming that a caretaker Government is formed for a period for holding the general election of the members of the Parliament can it be kept in office for holding by-election, if and when necessary, and for holding elections to the local bodies?

The institution of Election Commission is a basic feature of our Constitution and the institution is vital in a democratic society for ensuring free and fair elections. If the Election Commission lacks any capacity in any respect to discharge its function independently in the true sense, its deficiency of power may be met by legislation in the Parliament in consultation with the Election Commission, which is in the best position to point out the loop holes in the

obtaining opinion of the Election Commission. So, in substance the disputes as to the disqualification of members of the legislatures are to be decided by the Election Commission in India.

This is the Constitutional scheme for holding Parliamentary elections and taking decisions on election disputes by the Election Commission and the Election Tribunal. The detailed provisions for holding elections of the members of Parliament by the Election Commission have been made in the representation of the people Order, 1972(P.O. 155/72 of 1972). The said provisions cover the election processes beginning from calling for nomination papers and ending with the publication in the official Gazette the names of the returned candidates in each Constituency. Provisions have also been made for trial of election petition calling in question the election of any member. The election petition is to be presented to the Election Commission, which is to appoint Election Tribunals for the trial of election petition. A person, who is or has been District Judge or an Additional District Judge is qualified to be the member of the Election Tribunal.

The foregoing analysis of the Constitutional Provisions and the election laws shows that the Government has no role to play in holding elections of the members of Parliament, except to make available such staff as may be necessary for the discharge of the functions of the Election Commission. So, it is a mistake to suppose that the elections are held by or under the Government.

As pointed out by Mr Abdus Salam Talukder, besides conducting parliamentary elections in 1991, the present Chief Election Commissioner (CEC) also conducted polls of some 4000 Union Parishads, about 100 municipalities and four City Corporations. The CEC also successfully conducted 16 by-elections of the Jatiya Sangsad. Assuming that a caretaker Government is formed for a period for holding the general election of the members of the Parliament can it be kept in office for holding by-election, if and when necessary, and for holding elections to the local bodies?

The institution of Election Commission is a basic feature of our Constitution and the institution is vital in a democratic society for ensuring free and fair elections. If the Election Commission lacks any capacity in any respect to discharge its function independently in the true sense, its deficiency of power may be met by legislation in the Parliament in consultation with the Election Commission, which is in the best position to point out the loop holes in the

(a) hold elections to the Office of President;
(b) hold elections of members of Parliament;
(c) delimit the constituencies for the purpose of elections to Parliament; and
(d) prepare electoral rolls for the purpose of elections to

Letters on the Daily Star Debate

Mid-term Election peddled

At present most of our political parties are trying to be united to exert a combine pressure on the BNP government to hold a mid-term election under a care-taker government. The move is unconstitutional: No election can be held under a caretaker government before the expiry of the full term of an elected government unless and until the Constitution is amended in this regard.

Now the question is whether this constitution should be amended or not? If this is so done, this will create a great political unrest in the country. Opposition in future will have a tendency to find fault with the party in power and force it to hold election under a caretaker government. It may so happen that no government will be able to last over a year or two. Frequent changes of government will lead this country to disaster and greater poverty. This will spawn more political parties with old and new politicians joining in for individual gains. All these will bring the country's image down in the international arena. ADB, IMF and other donor countries will be reluctant to do anything good for this country.

After many years of struggle a democratic government has

been formed. This process needs to be extended more and more by making the parliament strong and vigorous by active participation in its sessions. Country's interest should be above all other considerations. Our country has a number of problems that defy solution within limited time-frames. We should understand our problems and limitations and adopt a saner view of things rather than go in for political expediency.

Motius Samad Chowdhury
Phulotola Tea Estate, Sylhet.

Save Our Jatiya Sangsad

Sir, We have lost, one by one, four Jatiya Sangsads due to our own mistakes or errors committed by our own representatives in the Jatiya Sangsad. We have had enough lessons and we do not want to suffer any more.

We now feel pity and worried about our existing 5th Sangsad which came into being after a long struggle, full of sacrifices made by our people. Following free and fair general elections, held under an interim caretaker government, headed by Chief Justice of Bangladesh, the newly-elected members of the Sangsad took oath with alacrity and promptitude. But before the end of

term of five years of the Sangsad some of them detest attending and participating in the debates and discussions in the Sangsad. They either like touring remote areas in the country or abroad or just boycotting the Jatiya Sangsad. It is sessions even when in the country.

The importance of our Jatiya Sangsad, the people's republic of Bangladesh's biggest, highest and most powerful forum, is being relegated to the background. Our august national parliament is being victimised to personal whims, pride and prejudice and inefficiency of some of our members of the Parliament.

They do not like to sit inside the parliament but like criticising attacking, condemning and issuing sermons against each other outside the parliament.

Opposition parties are boycotting the Jatiya Sangsad and want a free general election under a caretaker government. Some members of the ruling party may also be wanting a dissolution of the Jatiya Sangsad.

Suppose there is no more 5th Jatiya Sangsad. How are we going to fill the vacuum? But what is the criteria, what are the modalities for forming a caretaker government? If there is no consensus of opinion among the political

leaders as to who would head the interim government then what would happen?

Now again if any political party which is now over-confident of winning the general elections under a caretaker government and forming the next government does not eventually win majority seats in the Jatiya Sangsad, then what? Repetition of Jatiya Sangsad boycotts, hartals, and street agitation once again?

No, please. We would request our honourable Members of Jatiya Sangsad to kindly sort out these problems first with foresight and efficiency, then hold free and fair general elections under a caretaker government necessary, and thus save our country from impending chaos, confusion and disaster.

O. H. Kabir
Dhaka-1203

Non-issue

Sir, The AL propaganda and publicity stunt about new caretaker government for the general elections constitute nothing but a non-issue.

The call for referendum is fallacious, as ordinary citizens cannot analyse the implications of this highly technical issue.

It is a pity to