

President Says It Again, but Who Listens?

To the eternal gratitude of us all President Shahabuddin continues to act as the conscience of the nation. He is using all his public pronouncements to point out the issues and institutions that need to be changed if we are to develop into a functional democracy and a viable economy. We would like to repeat one paragraph of his speech to the Supreme Court Bar Association, which we think captures, most succinctly, the feeling of the vast majority of our people. "Election rigging is a bad thing if it is done by the rival candidate or party; but it is act of patriotism if it is done by me or my party. Election is fair if I win; it is rigged if I lose, even if it is conducted by an Angel."

If we put together some of the speeches that the President has delivered in the recent past, we can see how courageously and cogently he has tried to point out some of the crucial political issues that need to be addressed by our two leading parties. Time and again he has drawn attention to the norms and practices of a parliamentary form of government, from which we seem to be drifting further and further apart. What no other President ever did before him, Shahabuddin is doing at the risk, some would say, of displeasing the very party that put him there. But he is doing so for the love of the country, its people and of democracy, and also, we would say, for the good of the government in power.

Is any body listening? Are our political leaders paying any heed to what this conscience-keeper is saying. Regrettably our unhesitant answer is NO. We fully endorse the view that the "root" cause of our political troubles lies in the political parties. In their single-minded pursuit of political power they have embraced principles, practices and people that have cast a cloud over all their laudable objectives. Winning has become the "be all and end all" of everything, and it must be achieved regardless of what it takes - violence, corruption, murder, harbouring criminals and protecting rackets and mafia.

We urge our political leaders and their respective parties to heed the timely warnings and invaluable suggestions that the President has been giving over the last few months. Do so before the criminals you are nurturing eat you all up, and the people reject this whole process in disgust.

Now Pull It Off

We commend Home Minister Rafiqul Islam for doing a good turn to the unserved cause against repression of domestic workers, especially in Dhaka city. On Saturday, on a thoughtfully conceived inspection mission, albeit propelled by newspaper reports, the minister visited DMCH to personally hear 10-year-old Mahi's tale of torture. Closely on the heels, he went to Motijheel police station and inquired about the action processed against the culprit - a police officer's spouse - who was named by the victim as early as on Wednesday.

Surprises awaited the minister at the Motijheel thana. The GD bore mark of backdated entries implying foot-dragging on the case against Runa, wife of sub-inspector Shamim. If the offence coming to light on Wednesday were taken seriously by the police, there was no way she could have escaped the hand of law particularly her house being in the vicinity of Motijheel thana. Then there was that blank piece of paper on which the signature of Mahi's brother Kabir had been obtained with an apparent intent to fill it up with words exonerating the culprit of charges. Although the minister had asked to see the paper at the police station none could present it before him for it could then be held against the person concerned as an unsatisfactory proof of his wrong-doing. Major (retd) Rafiqul Islam from his highly relevant position as the home minister has pulled up his own men asking them why a page or a serial number remained empty in the GD.

Monitoring action like this increases public confidence in the government. But this instant trust can only be longer-lasting for the government if justice is now done to 10-year-old Mahi who was brutalised in a mediaeval fashion. Just bear in mind the torture that was inflicted on her and you couldn't be anything but gritty in the pursuit of it. She was beaten blue with a stick that broke into pieces, forced to wash mounds of clothes even after the trauma and further subjected to excruciating pain as boiling water was poured down her body.

Home Minister Rafiqul Islam has a full measure of our thanks for the same-side, self-looking expose done of work at the thana level serving the cause of police transparency. He should now pull it off with justice delivered to Mahi.

Pricey Delicacy

Is it a Tantalus situation? Or Ancient Mariner? The kutchia market stalls present a picture of plenitude, laden with fresh vegetables. What a sight of vibrant life, in green and violet and yellow. One readily feels good.

And then you decide to go for the thing. Waiting out the whole of Kartik and desisting from buying in the early Aghrahan days so as not to line the pocket of the profiteer, you perhaps make a rush. A shocking disappointment comes your way. The prices have been sitting snug for over weeks at the same high perches with, say, tomato being held back rather than offered at Tk 40.

The traders say it is all because of the past week's transport strike in the northern districts. Then why are the stalls full of the green victuals? The more perishable ones do not travel from afar. The thanas and districts surrounding metropolitan Dhaka supply the megacity's needs of leafy vegetables and cauliflower etc. There must be an element of market manipulation behind the forbidding vegetable price. How to fight this and save the soul of a nation slowly but steadily coming back to the vegetables?

Perhaps it is not a bad thing that vegetables sell dear before the inevitable drop in their prices to laughable depths of Taka two or three for everything - beans and potatoes, tomatoes and the leaves. So that the grower and the trader can retain their interest. So that vegetable is cherished as a pricey delicacy. So that it tastes good and inviting well into the season.

Urgent Need for Electoral Reform: Some Concrete Proposals

by Dr Kamal Hossain

The problem of false voting and impersonation amounts to the denial of right to vote of the voters who are impersonated. Equally an eligible voter whose name is excluded from the voters list is also denied his right to vote.

THE need for electoral reform has acquired central focus in Bangladesh and other countries of our region since black money and arms have been identified as posing serious threats to the working of democracy.

In Bangladesh, a former President resigned under compelling circumstances in 1990 in the face of a national consensus that declared that no free and fair election could be held until he handed over power to a caretaker President. The existing electoral system has not been able to deal with that legacy, as those convicted of corruption can still delay being disqualified by obtaining endless adjournments in appeals pending before the High Court Division, and by enjoying their illegitimately acquired assets in Bangladesh and abroad, which our legal system is unable to trace and freeze as is being done by some others even in this region.

The pro-active Supreme Court in India and a dynamic Chief Election Commissioner resorted to extra-ordinary measures to overcome the deficiencies of the existing legal provisions. The Supreme Court directed the Central Bureau of Investigation to complete investigations against the incumbent Prime Minister and five Cabinet ministers.

Following the Supreme Court's directive, chargesheets were preferred against the Prime Minister and Cabinet Ministers. The Chief Ministers of Tamil Nadu and more recently of Bihar are being prosecuted. Swiss authorities have sent documents relating to bank accounts maintained in their banks to the Indian authorities.

The last change of elected government in Pakistan through early dissolution of Parliament was stated to be on the ground of its "incorrigible governance" and corruption which threatened "economic collapse". This was followed by the enactment of an Accountability (Ehtesab) Ordinance, 1996 with its declared aim being to eradicate corruption and corrupt practices from public

offices. Currently, assets of the outgoing Prime Minister in Swiss banks have been frozen.

Corruption which may be defined as "the abuse of public power for private profit" and corrupt electoral practices are viewed as a disease which has assumed epidemic proportions and is affecting the highest levels of society. In most recent elections in the region, persistent complaints have been made of the increasing use of money and of armed cadres which are maintained and equipped by large scale use of such black money. This pollutes the electoral process and makes ordinary people become hostages to arms and black money. Democracy thus ceases to be government of the people, by the people for the people and instead becomes government of black money, by and for those unhygienic elements, who deploy black money and arms to control public power.

Reform Measures

Black Money

This is the legacy of the authoritarian past which bred corruption on an unprecedented scale. A new breed of candidates with no political experience or standing buy nominations by making large payments to the parties or highly-placed party functionaries for obtaining a party ticket, and are then "paraded" into constituencies where they spend millions to have themselves elected, violating provisions of the electoral law which sets limits on election expenses, and resort to bribery of voters and election officials. The "black" money breed of candidates view election to the Parliament as an investment for access to patronage and the means of earning more "black" money. Thus, they resort to deployment of armed squads for obtaining votes and for resorting to bribery of vot-

ers, election officials and polling agents and for procuring votes through unscrupulous middlemen.

Proposed Reforms

A legally binding Electoral Code of Conduct could expressly prohibit such practices and a provision could be made in the electoral law which would require disclosure of any contribution by a candidate to a party or party functionary, and the candidate should be required to file a sworn declaration with his nomination paper stating the total amount he has paid to the party and/or party functionaries during a period of six months preceding his nomination. If the statement is proved to be false, he would incur both a penalty and disqualification and the party or party functionary would also be criminally liable. Active campaigns among citizens to exercise vigilance in this regard and to create opinion against those who indulge in these practices could also make a useful contribution.

b) Restrictions on maintaining election "camps," and on the number, size and quality of posters, erection of arches etc., could also contribute to keeping down expenses.

c) A new Monitoring Division to be established in the Election Commission which should receive complaints of any breach of these provisions and enquire into them and if such complaint is proved to be true to forward the matter for adjudication. Appropriate penalties should be prescribed for the delinquent candidate and for a party and party functionaries who violate these provisions.

Publication of Assets and Code of Conduct

All persons holding elected public office and their family members should be required

periodically to file a declaration of their assets. Such declarations should be available for inspection to the members of the public. Most of the political parties had made public commitments to this effect before the last election and should be expected promptly to comply with this requirement. In the UK among measures adopted to monitor and provide checks on activities of members of parliament, a register, which is open for inspection by the public, is maintained in which members have to declare and record nine categories of interest from which they may derive financial benefits. These include directorships in companies, professional engagements, gifts, and share-holding in public or private companies above certain nominal value.

Given the liberalisation of the economy and large investments in sectors such as power generation, telecommunications, and oil and gas which will involve multi-million dollar investments as well as large construction contracts and privatisation of publicly-owned enterprises, there is strong temptation for bidders to secure awards in their favour by undue influence through unscrupulous local agents and lobbyists. The institutional checks that have been developed in other democracies include either totally disqualifying local agents or lobbyists from playing any role in procuring and securing such contracts, or, at a minimum, to require that local agents be formally registered and that they disclose any relationship with elected representatives or public officials and undertake that such relationship will not be used for procuring any undue benefits for those whom they represent.

In the United Kingdom a Parliamentary Committee (the

Nolan Committee) published in 1995 a report on Standards in Public Life in which it elaborated recommendations to give effect to seven principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It urged the elaboration of a code of conduct for ministers and civil servants which would provide for ministers and civil servants which would provide guidance on the question of conflict of interest and obligations of disclosure. It also recommended appointment of a parliamentary commissioner (akin to Ombudsman) to exercise vigilance over compliance with the prescribed standards.

Party Finance

In India, an important national citizens' organisation, the Lok Sevak Sangh, has proposed that there must be compulsory audit of political parties' accounts and all contributions to political parties must be made by cheques to ensure transparency in political funding.

In Bangladesh, written proposals for electoral reform were submitted to the Bangladesh Election Commission in 1996 reflecting similar concerns.

The present conventional method of controlling the impact of black money on elections is through controlling expenses by imposing a Taka 3 (three) lakh limit on election expenses and requiring election expense returns to be filed. This has proved to be a blunt and totally ineffective instrument as false election expenses statements are routinely filed. An effective approach involves taking immediate measures to use the law and law-enforcement agencies to identify and deal with "black money" at different strategic points, some of which are listed below:

In addition to limits on expenses by candidates, a legal limit on expenses of political parties must be imposed, say of one crore for the entire election. In order to make this provision effective, legal provision should be made immediately by Ordinance to provide as follows:

i. Each political party must maintain accounts of all its expenses - all expenses during the period of one month prior to the date for filing nominations should be disclosed.

ii. Each political party must file a return of expenses covering all its expenses for meetings, publicity and publications.

iii. Each political party must disclose every contribution received by it and deposit the contribution in a disclosed bank account/s.

Expenses by party, friends and relatives or family relating to a candidate's election should be treated as "election expenses" so that evasion of the legal Taka three lakh limit by attributing expenses beyond this limit to party, friends and family can be stopped.

The income tax status of each candidate (together with the assets statement which is at present required) must be disclosed and solemn declaration be submitted by him or her stating that he/she undertakes to limit his/her expenses to Taka three lakh and correctly to disclose his source of funds and that if he violates this undertaking, he will immediately stand disqualified as a candidate and not be permitted to contest. The Election Commission must establish effective investigative and adjudicatory mechanisms immediately for this process.

The Defaulter's Ordinance should be strictly implemented and a defaulter's list should be published. The public should have a right to move for inclusion in the list of persons who may be unjustifiably omitted from the list.

Pending the making of necessary legal provisions by Ordinance for the above purpose, the existing Income Tax Ordinance, 1984 may be invoked to require each party to file its income tax return/s and a statement of all its assets and funds, disclosing sources from which these have been acquired.

In the mature democracies increasing concern has been expressed with regard to this problem as has been observed in the 1993 House of Commons Report on the Funding of Political Parties as follows:

"In recent years political money has been a source of notorious scandals and of deep-rooted problems in a number of western democracies. In Japan, the Recruit Scandal has decimated the country's political leadership. In West Germany, the "Flick Affair" which emerged from 1981 onwards, became the biggest scandal in the history of the Bundesrepublik. Despite the constitutional stipulation that parties must reveal their sources of money, this one concern had given illegal political donations of nearly Pound 10 million. The enquiries into the Flick empire revealed that all the main parties and many of the political leaders had been involved in massive contravention. Erhard Brinkenbergh reports that between 1982 and 1988, preliminary proceedings had been opened in more than 18000 cases involving all major parties except The Greens."

In the United States a central problem has been the inexorable rise in campaign costs. Total campaign spending at all levels in presidential election years has risen from \$ 425 million in 1972 to \$ 1.2 billion in 1980 and \$ 3 billion in 1988.

The attempt to put a ceiling on expenditures in presidential election campaign has failed because of the "gigantic loophole" of "independent" committees. As far as elections for the Congress are concerned, 15 candidates for the House of Representatives had campaigns budgets of over pound 1 million in 1986 and the means expenditure for Senate races was \$ 2.6 million. This escalation of campaign budgets was impervious of the official ban on corporate contributions and the severe limits on the permitted size of individual contributions.

In the same report, a strong view was expressed in favour of reform which would provide for compulsory disclosure of all contributions to parties and candidates, citing in support the words of the US Supreme Court Justice Brandeis: "Sunlight is the best disinfectant."

Canada has undertaken extensive reforms over the last two decades to provide for regulation of election financing. Candidates are required to file election returns audited by chartered accountants, which are also to be published in a newspaper circulating within the constituency. Contributions both to candidates and to parties are required to be disclosed.

False Voting

The problem of false voting and impersonation amounts to the denial of right to vote of the voters who are impersonated. Equally an eligible voter whose name is excluded from the voters list is also denied his right to vote.

Proposed Reforms (i)

a) Issuance of identity cards, a process which could start immediately.

b) Voter registration to be started early and extensively to invite voters to register or apply for correction of entries in the voters' list. Political parties and citizens' organisations could be encouraged to take an active role in ensuring that registration is carried fairly and effectively. This could start immediately.

c) The process of preparation of voters' lists should be computerised so that corrections could be made promptly, effectively and periodically.

Violence and Deployment of "mashans"

Elections have been marred by the deployment of musclemen by the contending parties, which creates an atmosphere of intimidation and reduces an election to a contest between powerful formations where ordinary voters are objects to be manipulated, intimidated, or induced by various forms of threats either to vote for a particular candidate or refrain from voting in the elections.

Proposed Reforms (ii)

a) A legally-binding Electoral Code of Conduct must prohibit the use of black money and musclemen. A useful model with appropriate adaptations could be the South African Electoral Code of Conduct. It might be useful when adopting that Code to refer to the Indian Code of Conduct and to the one which was drawn by the Bangladesh Election Commission.

It is important to underline that the South African Code of Conduct is a legally binding code which forms an integral part of the electoral law, and is thus, more effective than non-binding codes, such as the Indian or Bangladeshi codes.

b) Immediate compliance with the Electoral Code of Conduct should be urged of those provisions in the Code which envisage renunciation of violence and prohibit maintaining of armed squads or armed student wings by political parties or candidates. Immediately upon the adoption of the Code of Conduct the maintaining such squads by any political party should be declared as illegal and would disqualify that party or its candidates from contesting in any elections.

Every party should take steps to initiate and complete disarmament of such squads within a stipulated period.

c) The compliance with an electoral Code of Conduct and especially provisions referred to in (b) above should start immediately long before the announcement of the next elections. This could be monitored by a new division of the Election Commission designated as the "Monitoring Division" and be the subject matter of prosecution initiated by it with adjudication to be carried out by another division of the Election Commission, to be known as the Adjudication Division. There is a separate Monitoring Directorate which form part of the Independent Electoral Commission of South Africa, and provide useful models.

d) The monitoring and adjudication of the electoral Code of Conduct with immediate effect is important since the environment continues to be vitiated by the violence committed by protégés of political parties and their student wings and this has contributed significantly to undermining the environment for holding to free and fair elections and nurturing of democracy and democratic institutions.

The above piece is base on a speech delivered by the writer at a seminar titled "Thoughts on Electoral Reforms" on Saturday last.

The weekly column, Perspectives by Brig. (Rtd) M. Abdul Hafiz will appear on Wednesday.

Of Monarchy and Motherhood?

Isn't it about time that we the credulous citizens of this quendom got over our infatuation with motherhood, monarchy and pseudo-royalty-like behaviour, and got on with the business of Democracy, if that's what we really want?

POSTSCRIPT

Neeman A Sobhan

NORMALLY, anything to do with the British monarchy leaves me unmoved. But, the other day, I found myself listening with a great deal of interest to the speech the Queen made at the people's banquet hosted by the PM, Tony Blair to celebrate the royal couple's golden wedding anniversary. Like a Rorschach test, different people react and interpret the same event differently, and many of my friends saw the royal inkblot variously. Some saw in the speech, testimony to the strength of the institution of marriage, some, still smarting from Buckingham Palace's cool reaction to Diana's demise, were not warm to anything the Queen had to say, some saw the role of royalty waning, some read into the display of loyalty and support, a sense of continuity of the monarchy.

As a Bangladeshi and citizen of a "democratic" country "ruled" successively by two women and in a much more overpowering monarchical sense even than the traditional one in Britain, I felt in comparison to the ordinary British *magi on the street*, quite orphane and resentful. Why should Britain have everything: a truly democratic government where those in power and those in the opposition, both behave civilly - even in the Parliament! - and to top it all, they also have a motherly looking woman as a symbolic head, who considers the people less as subjects, and more like children whose curiosity and contrariness she accepts with grace, and for whose concern her family devotes its time to charities and public acts of service.

Isn't it about time that we the credulous citizens of this quendom got over our infatuation with motherhood, monarchy and pseudo-royalty-like behaviour, and got on with the business of Democracy, if that's what we really want?

May we know from our communication minister - whether the people of Sylhet will be left at the mercy of an Oil Exploring Company, for the railway communication of Sylhet with the rest of the country even though there are many important personnel in the government who are from Sylhet. We feel they