

Caretaker government: Fair and free elections

KHANDAKAR QUDRAT-I ELAHI

ELECTION is the foundation of the democratic political system, for the public, the supposed sovereign authority of the state, chooses its deputies through this method. If the general election is judged to be fair and free by the public, the elected politicians are accepted as legitimate public deputies. Thus, the fair and free general election is the first fundamental requirement of democratic governance.

In democratic systems around the world, the state bureaucracy and/or the election commission conduct the general election, which is generally called by the elected political party in power. The party continues to conduct all the normal businesses of the state. However, if it fails to earn voters' favour, a new political party is sworn in as the new government.

In our country, this system was first replaced in 1990 by forming a caretaker government (CTG) to conduct the general election. The system was later institutionalized in 1996. The reason was that the people in power used the state bureaucracy to rig the election result in their favour.

The past CTGs had been very successful in conducting the general elections. This has created a kind of impression in the country that the CTG can conduct "fair and free" general elections. And we often rejoice our achievement by claiming that this is a model for electoral reform in the Third World countries, where vote-rigging makes general elections meaningless.

This enthusiasm about CTG's

electoral ability seems to be over-rated. The CTG can certainly hold fair general elections, but it cannot make them free. The reason can be understood only by defining the true meanings that the adjectives, fair and free, imply in the context of elections in democracy.

The general election in democracy involves two parties: (i) politicians who compete in the election

and all candidates enjoy equal campaigning opportunities.

Free Election: This concept is, however, difficult to define, for it is both subjective and relative. The free-ness of an election implies voters' volition, i.e., their ability to cast votes out of their free will. The question is: Under what conditions voters can vote out of free will? Citizens, as the supposed sover-

should be obvious that the concept, fair election, concerns the politicians, while the concept, free election, refers to the voters.

In our country, few politicians, no matter which political party they belong to, enjoy voters' respect. In other words, few politicians exhibit personal integrity. This means that voters know that their purpose will not be served, no matter which party

testifies, beyond all doubts, that they do not serve national interests.

Civil society is ruled by laws, which mostly reflect its past and prevailing customs and culture. Democracy is a system of values and beliefs, and therefore, is a part of the total custom and culture of a society. This makes the issue of free election very complicated. The people cannot expect free elections unless they deserve them. In other words, the people must desire democratic values in their social and political lives to have free elections. Politicians everywhere pretend to be the greatest admirers and protectors of free elections, when people desire them. The reason is that they cannot achieve their objective control the state power otherwise.

In terms of practicing democratic values, our record is regrettably poor. The current political situation is the mere reflection of this fact. There is no easy way out of this situation, for this solution demands the changing of our political customs and culture. And we simply do not know how and when this change will come. However, we can make a start toward this all-important goal by forcing our politicians to respect our verdict transmitted through the fair general election. In other words, we must make our Jatiya Sangsad effective by forcing our politicians to attend its sessions according to the spirit and letters of our constitution. And only a new law can achieve this purpose!

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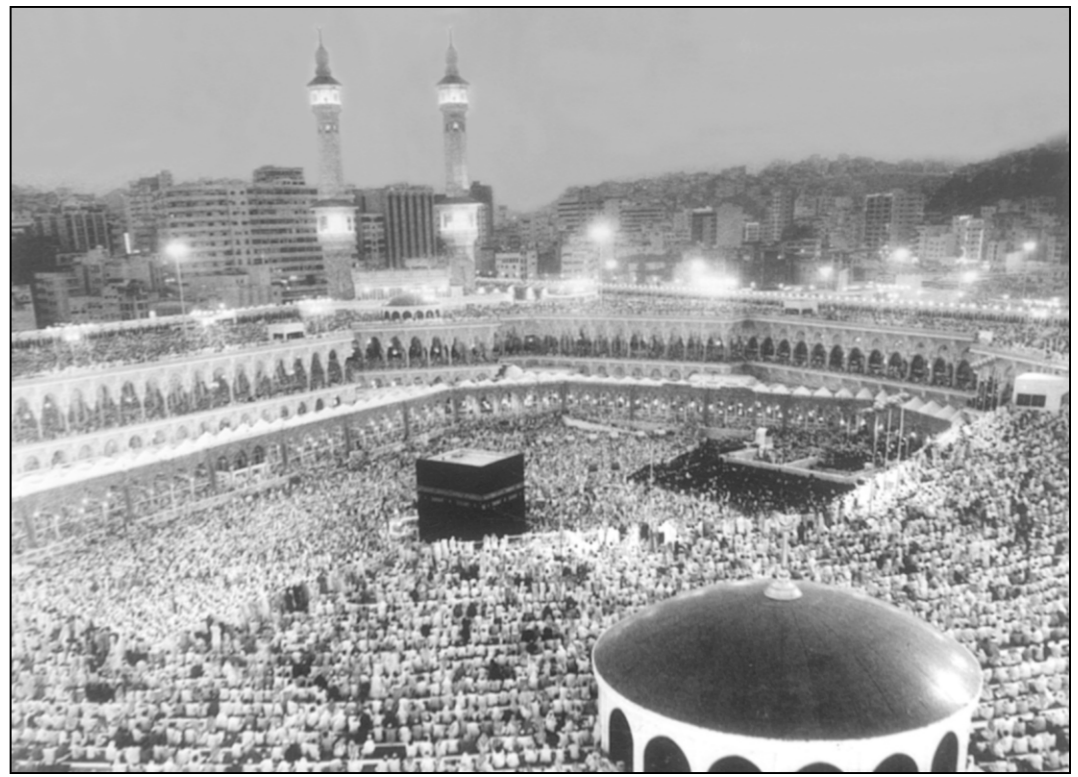
Fair Election: Fairness of an election can be defined as complete neutrality of the election authority with respect to two conditions: (i) the creation of an election environment in which all candidates enjoy equal opportunities to influence the voters and (ii) an unbiased vote counting. In other words, an election is said to be fair if vote counting is impartial

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From the above definition, it

they elect. This, in turn, implies that the election will never be free, no matter how fairly it is held. The general election, in our situation, merely means that the voters are periodically asked to choose among corrupt politicians for exercising the state power. These elections are not held for the voters' interests; they are held in the interests of our political parties.

This is the reason why the CTG can never make the general election free, although it can make it fair. And the very establishment of the CTG system is the living evidence to confirm the truth of this fact. Voting is the citizen's sovereign right. Our politicians cannot guarantee this disinterested right. How can we expect that they will protect our rights where they have genuine interests? Our national history



A general view of the Holy Mosque at Makkah during Hajj

Holy Eid-ul-Azha: Sacrifice of animals is symbolic

KAZI AULAD HOSSAIN

IT would be worthwhile to refer to Ayat 9 of Sura Munafiqun of the Holy Qur-an and see what Almighty Allah says in that Ayat. He declares, "Oye who believe! Let not your riches or children divert you from the remembrance of God. If any act thus the loss is their own."

It is evident from the aforesaid Quranic Ayat that bringing smiles on the faces of the poor and destitutes in other words taking care of them on the day of Eidul Azha will also mean Remembrance of Allah or "Zikrillah". While commenting on the term "Zikrillah" or "Remembrance of Allah" referred to in the said Quranic Ayat, a commentator of international repute Allama Abdullah Yusuf Ali says, "Remembrance of God includes every act of service and goodness, every kind thought and kind deed for this is the service and sacrifice which God requires of us." In this connection we may now turn our attention to the institution of sacrifice and also to the rites meticulously followed by the Muslims all over the world on the solemn occasion of Eid-ul-Azha. Millions of unblemished cows, goats, camels, rams etc are sacrificed in the name of Almighty Allah every year on the auspicious occasion of Eid-ul-Azha in commemoration of the supreme sacrifice made by Prophet Hazrat Ibrahim Khalilullah (Friend of Allah) by sacrificing his own dear son Hazrat Ismail (A.S) at the behest of Allah Rabbul Alameen.

Now the question is: what is the object and significance of such sacrifice of hundreds of thousands of cows, goats, Camels etc on the occasion of Eid-ul-Azha every year? Is it only to enjoy delicious dishes prepared with fatty meat of the sacrificed animals on the day of Eid-ul-Azha as well as on the following days remaining fully oblivious of the

sharp pinch of hunger experienced by the indigent and needy people living nearby? Do these persons who enjoy such delicious dishes or sumptuous lunch and dinner on the solemn occasion of Eid-ul-Azha after sacrificing robust and healthy cows/goats/camels, among others, think that Almighty Allah has accepted their sacrifice and is highly pleased with them? I humbly feel, He is not. Let us see what Allah Rahamanur Rahim says particularly indicating those persons who have sacrificed suitable animals on the occasion of Eid-ul-Azha (Ayat-37 of Sura Hajj). He declares in clear and unambiguous terms: "It is not meat nor their blood reaches Allah, it is their piety That reaches Him."

We, therefore, learn from the aforesaid Quranic Ayat that as Almighty Allah is also "Samad", that is, He is Absolute, He is dependent on no person or things, but all persons or things, but all persons or things are dependent on Him. In this connection it may be further stated here that the slaughter of animals is one of the ceremonies of the Muslim pilgrimage and is never considered as propitiatory sacrifice, our sacrifice of animals is in commemoration of Prophet Hazrat Ibrahim which according to Mohammed Marmaduke Pick-thall, the first English Muslim translator of the Holy Qur-an, marked the end of human sacrifice for the Semitic race.

It is not the desire of Benign Allah that the Muslims should do what Hazrat Ibrahim Khalilullah (Friend of Allah) wanted to do in pursuance of Allah's commandment vis-a-vis sacrifice of his young son Hazrat

Ismail (A.S.). Allah Rabbul Alameen actually wanted to test Hazrat Ibrahim (A.S.) to see how much devoted he was to Him and the extent of love he had for his Creator. Hazrat Ibrahim (A.S.), we all know, came out of this acid test with flying colours and Allah-knowing Allah was obviously very pleased with him. It was not for nothing Almighty Allah asked Prophet Ibrahim (A.S.) to sacrifice his dearest thing for His pleasure. It was Allah's intention that the Muslims all over the world should learn a lesson from Hazrat Ibrahim's action that if he could sacrifice his dearest thing in order to please Almighty Allah, then all well-to-do Muslims should sacrifice at least a portion of their money, wealth and property to bring smile on the faces of the poor and the destitutes, to help rehabilitate the less fortunate people of the society. Since the sacrifice of animals on the auspicious occasion of Eid-ul-Azha is symbolic it reminds us and teaches us also a great lesson to appreciate the inner meaning and significance of such sacrifice of animals. The lesson is: we should not be very careful and conscious of our gastronomic delight and other comforts, rather we should be mindful of the needs of the have-nots and the down trodden; we should be pious and virtuous as desired by Almighty Allah in the aforesaid Ayat-37 of Sura Hajj of the Holy Qur-an. Since the holy Eid-ul-Azha is one of the greatest Muslim festivals of the year we should avail this opportunity to learn and unlearn many things for our learning and implementation of that learning will please Allah Gafur-ur-Rahim.

Excerpts from the main report of Hamoodur Rahman Commission of Inquiry as declassified by Government of Pakistan

POLITICAL BACKGROUND: V (Martial Law)

NOW it is necessary before we proceed any further to understand clearly what is the meaning of the expression "Martial Law." In itself, Martial Law is really no law at all, but merely a conventional way of stating that the military commander's will is supreme. It has no application, in law, within the country and has meaning only in the event of the military occupation of a country by an alien force. It is not and never has been the legal duty of the army to substitute for the government the supremacy of its own "will" over the people. Its duty on the contrary is to come to the aid of the government itself when called upon to do so in such areas and for such time that it may be required. In the examples of so-called Martial Law imposed in undivided India or in Pakistan before the year 1958 the civil government was not displaced and

indeed Martial Law had been ordered by the civil government. The army was doing its duty by assisting the civil government when the latter's ordinary machinery had failed in any particular place and these cases have been regularised either in anticipation or retrospectively by due legislation. What occurred in 1958 was that the government was displaced entirely by Army rule. It was nothing more and nothing less than military rule. Indeed Field Marshal Ayub Khan who headed the administration of the first Martial Law agreed with us that both in 1958 and 1965 what was imposed was military rule.

It is a common misconception, particularly in the army, and, we think, developed only after 1958 that Martial Law can always be imposed by a military officer in the area in which he is in command. In other words whenever a military com-

mander, however low ranking, finds that the ordinary government cannot be carried on within the area in his command, he has under some law which has authority superior to the Constitution, both the right and the obligation to impose Martial Law. General Yahya in his evidence was strongly of this view. Successive exposure to Martial Law has blurred even in the minds of non-soldiers, the definition of Martial Law.

The whole question has been examined at great length and authoritatively in the recent celebrated judgement of the Supreme Court in Asma Jilani's case and we venture to quote some passages therefrom:-

"Martial law, in the present times in England, has acquired various senses. In its original sense it is perhaps now only identifiable in the law relating to the enforcement of discipline in the forces at home and abroad. In this sense this branch of Martial Law is now better known as 'military law' and is in time of peace enforced under various statutes, such as the Army Act, the Navy Act and the Air Force Act. It derives its authority from these statutes passed by the civil law-making bodies. In international law Martial Law means the powers of a military commander in war time in enemy territory as part of the jus belli. In this sense as the Duke of Wellington once said in the House of Lords it is "neither more nor less than the will of the General who commands the army." (Hansard, Vol. CXV, Col. 880). Can Martial Law in this form be exercised within the country?

The position in England today, as mentioned in Halsbury's Laws of England, Vol. 7, Third Edition, page 260, is as follows:-

"The crown may not issue commissions in time of peace to try civilians by martial law; but when a state of actual war, or of insurrection

riot, or rebellion amounting to war, exists, the crown and its officers may use the amount of force necessary in the circumstances to restore order, and this use of force is sometimes termed martial law. When once this state of actual war exists the civil courts have no authority to call in question the actions of the military authorities; but it is for the civil courts to decide, if their jurisdiction is involved, whether a state of war exists which justified the application of Martial Law. The powers, such as they are, of the military authorities cease and those of the Civil Courts are resumed ipso facto with the termination of the state of war; and, in the absence of an Act of Indemnity the civil courts may inquire into the legality of anything done during the state of war; even if there is an Act of indemnity couched in the usual terms, malicious acts will not be protected." Under the Constitution of France, however, there is procedure available for a 'declaration of a State of Siege,' under which the authority vested in the civil power, for the maintenance of order and police passes entirely to the army (authorite militaire), in consequence of tumult or insurrection in any part of the country. On the proclamation of such a stage of siege the constitutional guarantees become suspended and the government of the affected area is temporarily placed under the control of the military. "Martial Law" in this sense, namely, the suspension of the ordinary law and the temporary government of a country or a part of it by the military is according to A V Dicey (Vide law of the Constitution, page 267), "utterly unknown to the law of England," for, it has nothing equivalent to the French 'declaration of State of siege.' This does not, however, exclude the possibility of the armed forces being employed, even under the laws of England, for the suppression of riots, insurrection and rebellion, but in this sense,

Next: POLITICAL BACKGROUND: VI (Martial Law)



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Mother's diet and baby's colic

Whenever a small baby cries and pulls her legs up to her abdomen, it is a sign of colic pain in the tummy. There are many causes of this pain. If it happens quite frequently, the breast feeding mother can try to notice if there is any correlation between what she eats and the onset of colic pain in her baby.

There are some foods like coffee, chocolate, orange, banana and spicy foods which can cause this pain through breast milk. Try to omit that food which you think could be a culprit.

Next: Around the world

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