

The caretaker government and the next election

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THE 6th Jatiya Sangsad sat for the first time on the 19th of March 1996. Three days later the 13th Constitutional amendment bill was introduced into the house. The bill was sent to select committee, and the final draft returned to the house on the evening of 25th March. After an all night debate, the house unanimously passed the bill at 5AM on 26th March. It was gazetted on the 28th and became law. This was the only legislative act of the 6th Parliament, which was then dissolved. The BNP government of Prime Minister Khaleda Zia resigned on the 30th of March, and the first constitutional Chief Advisor of a non-party Caretaker Government, retired Chief Justice Habibur Rahman took office the same day.

The 13th Constitutional amendment was the culmination of two years of combined opposition movement to ensure that future elections to parliament in Bangladesh were held under a non-party, neutral government, thereby ensuring a level playing field for all participants. Though the bill was introduced and passed by the BNP controlled parliament, it had opposition approval. Unfortunately, exigencies of time did not allow a lengthy debate and though the bill was finally there in black and white, it would have a lot of gray areas. This lengthy bill for ensuring a fair election had only one sentence about elections, "The non-party Caretaker Government shall give to the Election Commission all possible aid and assistance that may be required for holding the general election of Members of Parliament peacefully, fairly and impartially." It was almost superfluous as Article 126 already stated "It shall be the duty of all executive authorities to assist the Election Commission in the discharge of its function". So what new powers or means would the caretaker government have in its task of ensuring a fair election? Apparently none.

Tenure and powers of the Non-Party Caretaker Government (NPCG)

The NPCG takes office within 15 days of dissolution of parliament and remains in office till the next Prime Minister enters office. While this may appear to give no fixed time frame, Article 123(3) mandates that a general election of members of parliament must take place within 90 days of the dissolution of the previous parliament. This time frame cannot be extended without violating the Constitution, and as such the tenure of the NPCG can be taken as around 90 days. A detailed process of selection of the Chief Advisor (CA) is laid down. The CA will head a non-party government of not more than 10 other Advisors (to be appointed by the President on advice of the Chief Advisor), all of whom will be collectively responsible to the President. The executive power of the Republic shall be exercised by Chief Advisor, "and

shall be exercised by him in accordance with the advice of the Non-Party Caretaker Government." The NPCG will carry on the routine functions of an interim government, and, "except in the case of necessity for the discharge of such functions it shall not make any policy decision." The Chief Advisor will have the status and privileges of a Prime Minister, but will not have his or her powers. He is to act on advice of his Advisors.

The President and the NPCG

During the life of the Parliament, "The Cabinet shall be collectively responsible to Parliament". However, during the period of the NPCG, "The Non-Party Caretaker Government shall be collectively responsible to the President". This in fact means that the Chief Advisor and the other Advisors are accountable to the President for their actions, just as an elected Prime Minister and the Cabinet is accountable to Parliament. Moreover, though the executive power rests with the CA, the 13th Amendment says, "provisions in the Constitution requiring the President to act on the advice of the Prime Minister or upon his prior counter-signature shall be ineffective". This in effect sets up a second power equation. The President may not be bound by the advice of the NPCG and does not need their prior approval to take an executive decision. In addition, the supreme command of the defence services, shall vest in the President, and during the period of the NPCG, be administered by him. This power was amply demonstrated in 1996 when President Biswas used this provision to curb the adventurism of then Chief of Army Staff. During this period, the President also has unfettered legislative powers under Article 93, which allows him to make Ordinances. The NPCG will not enjoy this power as, a) its policy-making options are restricted, and b) it is not mandatory for the President to accept any legislative proposal. With these dual centers of power, the concept of the caretaker government can only work if there is a good understanding between the NPCG and the President.

The letter of law versus the spirit of the concept

The 13th Amendment left the conduct of the election to the Election Commission. It has taken away no powers nor given it any additional ones. It has merely created an interim non-party government to carry on the day to day functions of governance. However, the public expectations from the NPCG are much more. The opposition demand in 1995 and 1996 for a caretaker government to oversee a general election stemmed from the belief that the government in power may use a pliant administration to help its candidates in the election. After all, it is the administration that actually conducts the polling (from scrutiny of nomination papers to voting, counting and the declaration of

results). It is the administration that

the major ones. The large number of administration is fast eroding, and ment. However, unlike previous

Without the scope of immediate redress of voting irregularities, elections can never be free or fair. The Election Commission, democracy institutions, prospective observer groups need to address this issue in all seriousness, and develop such a system. The sacrifices for democracy and fair polls made by the people of this nation demands this in the least.

provides law and order cover. People have seen successive governments use the administration for political ends. As years have gone by this has become more blatant to the extent that many members of the administration have become politicised. This is true of not only any one party, but also all

bureaucrats joining political parties immediately on their retirement (particularly if an election is forthcoming) proves this point. For every bureaucrat that retires and joins, there are many others in service waiting their turn. With a deteriorating law and order situation, public confidence in the neutrality of the

its expectation from the caretaker government, increasing.

Ninety-day is very little time to create a level playing field. While the Election Commission can plan well in advance of the actual election date, the NPCG only comes into being after dissolution of Parli-

am, this time around we all know who the next Chief Advisor will be. Under the spirit of the caretaker system, the President can sound him out as to his acceptance of the position, and if he is agreeable, a shadow council of advisors can be formed. The President and the shadow NPCG can begin to plan the measures they will need to take to restore public confidence in the administration. This will give them a very valuable extra 30 to 45 days. In the absence of a legal cover, the shadow NPCG can operate out of the President's secretariat.

Tasks ahead

It is not the task of the NPCG to do post-mortem on the previous government's policies, nor to publish papers on what the next government should do, as some past Advisors have done. It is also not their task to correct or try to redress perceived wrongs of the previous government. That is a task for the next administration. Their main job is to try and ensure the neutrality of the administration, particularly those officials who will actually conduct the election, and those who will be responsible for law and order. This is not too difficult a task as it is public knowledge that recent postings, particularly at district level, are seen to have been motivated by needs other than purely administrative. The shadow NPCG can plan their own corrective measures that they can implement immediately on taking office.

However, the biggest problem of the NPCG will be to restore and maintain law and order. The actual situation is likely to deteriorate initially, and handling is a matter that requires a lot of advance planning. Any extra time that the NPCG can get will be vital to implement their decisions immediately on assumption of office.

Election day

While the period leading to Election Day is important, it is the Election Day itself that is vital. The Election Commission promises to ensure a free and fair election. There will be a large force of local poll observers. The European Union, National Democratic Institute (NDI), The Commonwealth Secretariat, and a host of other international organizations are also likely to send observers. These local and foreign observers promise to watch for irregularities. But they are limited by the present system, or practices followed on Election Day, from ensuring an acceptable level of fairness. In 1996 the Centre for Analysis and Choice (CAC), of which I was a member, acted as coordinator for the EU election observer team. On Election Day I traveled with a team

in Comilla region. In a couple of places we came across evidence of voter intimidation in way of preventing them from going to the polling centers. There were no nearby officials or law and order personnel to report to. By the time the team returned to the Capital at night, the vote counting was over and any scope of official redress gone.

Any single constituency in Bangladesh has over 100 polling centers. Voting begins in the morning and closes at around 5 PM. Then the vote count begins. Each centre declares its own vote result. In any one constituency, irregularities do not occur in every centre. It is usually in two or three centres of any particular candidate's influence that rigging takes place. In those centres the supporters of the candidate take over the centre, throw out the opponent's polling agents and literally stuff the ballot boxes. The results in those centres will show between 95 to 98 per cent casting against an average of say 65 to 70 per cent, and almost all of the votes (95%+) will be for the particular candidate. These 8,000 to 10,000 votes may make all the difference in the results, which will have been declared before any observer, or official can report the irregularity. True, the loser can file an appeal, but in the meantime the election has been stolen and all the work of the observers gone down the drain. The EC also has little scope of addressing the issue as the returning officers may have validated the results. This is the single biggest problem that will face the EC.

The other problem is the question of actual law and order. Violence does not necessarily occur at the polling centre. Often, when a candidate's supporters know that their main opponent has more support in certain areas, they try to create disturbances in those localities to prevent the voters, particularly female ones, from going to the polling centres. Should there be violence in some areas that prevent voters from going to vote, it will not necessarily be reflected in the actual voting at the polling centre, and though the results are influenced, there is no immediate scope of redress. However, there is a simple way to resolve these issues.

Staggered elections

In many countries (India, Thailand, Cambodia) where there is a resource constraint, or the level of violence is high, elections are staggered over a period of a few days. Voting takes place in, say area A, on day one. After the voting closes, all ballot boxes are brought to a central place such as the district headquarters, and kept under guard. All the resources fielded on day one in area A are then transferred to area B for voting on day four. This would include all law and order personnel and poll observers. By concentrating more resources in a smaller area, better use of manpower can be achieved. More security personnel means lesser chance of violence, and better

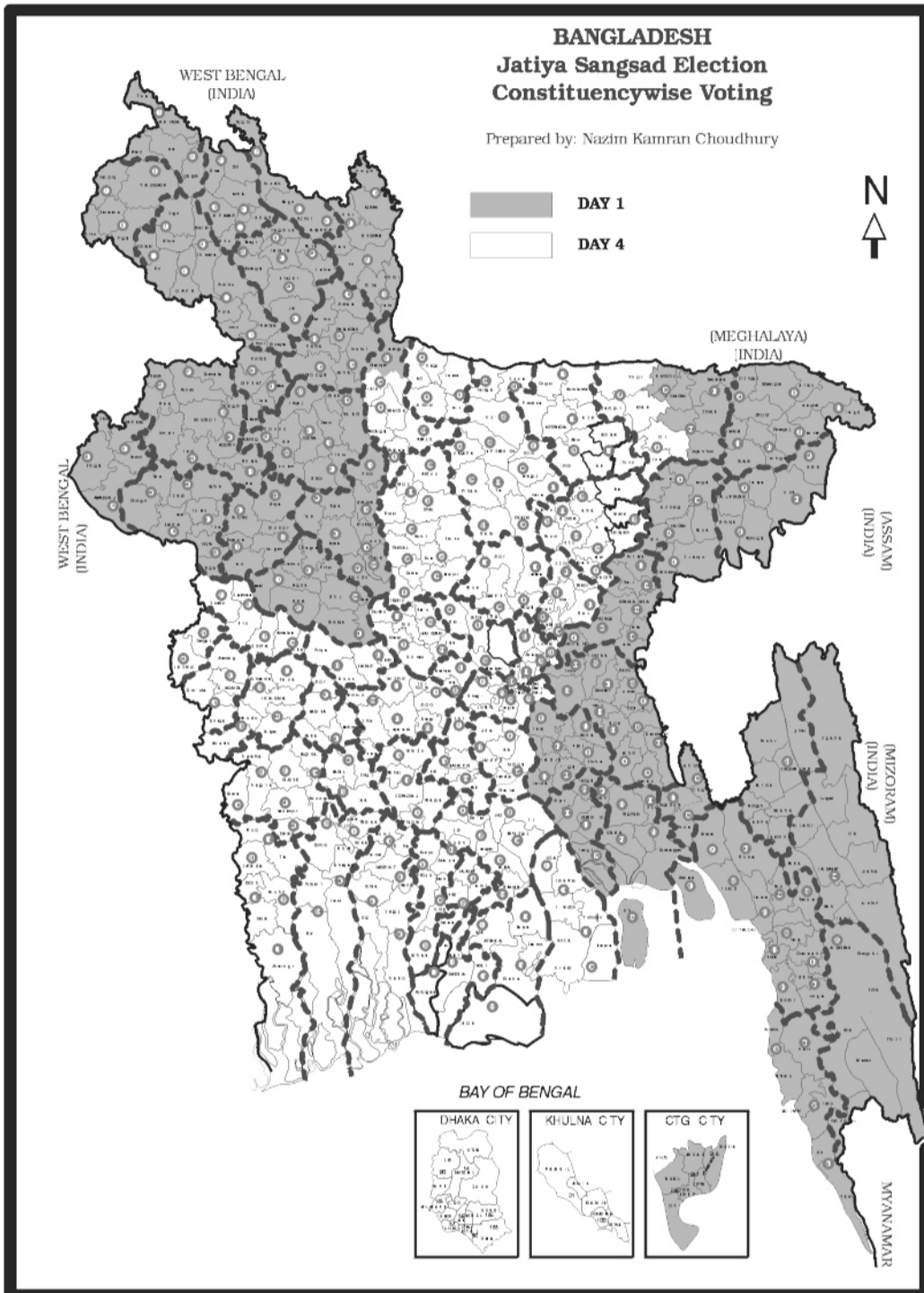
control should violence occur. There would be more poll observers, particularly foreign ones, per centre. There would be better scope of mobile observer and security units to tour the constituencies. If officials or observers reported violence or irregularities from area A, it would give the EC time to redress the issue and order immediate re-polling in the centres where problems have occurred. Voting can take place in area B on day four. Vote counting can be set for day seven, giving the EC time to redress the problems of area B. Counting begins on day seven all over the country and results are announced simultaneously. This practice or procedure would address the two main issues that may prevent a fair and free election. Firstly, it would allow better law and order control. Secondly, it would give candidates a scope of redress from "booth capturing", the single most common election malpractice.

Bangladesh scenario

In case of Bangladesh, staggered elections are very practicable and voting can be held over two days. Voting can be held in Rajshahi Division west of the Jamuna, and in Sylhet and Chittagang Divisions in the east, on day one. Resources then can be moved from Rajshahi Division south to Khulna and Barisal Divisions, and Rajbari, Faridpur, Gopalganj and Shariatpur Districts of Dhaka Division. From Sylhet and Chittagang Divisions, all resources can move west and north to the rest of Dhaka Division. Voting in these areas can take place on day four. Counting would be on day seven, and results announced the same day.

The only problem I foresee is a logistical one of safely carrying the ballot boxes from all the centers to the district headquarters, and guarding them without losing public credibility. This too is not insurmountable and in areas where communications are difficult, certain Upazilla headquarters can also be used for storing and counting centers. The transporting and guarding of the ballot boxes is one area where our armed forces can play an important role, as they seem to be the only institution still enjoying public confidence. With their resources and trained manpower it should be a piece of cake for them.

Without the scope of immediate redress of voting irregularities, elections can never be free or fair. The Election Commission, democracy institutions, prospective observer groups need to address this issue in all seriousness, and develop such a system. The sacrifices for democracy and fair polls made by the people of this nation demands this in the least.



Excerpts from the 'declassified' main report of Hamoodur Rahman Commission

MILITARY ASPECT-XII

Narrative of events in East Pakistan from 21st November to 3rd December, 1971

ON the night of 20th and 21st November, 1971, the Indian army openly launched an attack with one infantry brigade supported by armour and airforce in the Jessore sector. Simultaneously attacks of lesser strength were also launched in other sectors in East Pakistan borders with India. Though the Indian government still claimed that the offensive had been undertaken by the Mukti Bahini, it was clear from the composition of the forces and the magnitude of the encounters that the Indian regular forces had blatantly invaded into Pakistan's territory. This involvement of the Indian armed forces was also subsequently admitted by the Indian prime minister by the announcement in the Indian parliament that her forces had now been granted permission to enter East Pakistan in 'self-defence' and that the tank advance on Sunday 20th November was aimed at pushing back Pakistani forces who threat-

ened Indian defensive positions in the Boyra area north of Calcutta and opposite Jessore in East Pakistan. (vide Pakistan Times of 26th November, 1971).

It is not possible at this stage to give a very accurate account of the battles developing in East Pakistan from this day onward, as neither the key personnel concerned with these operations nor the relevant documents, such as war diaries, final orders, instructions, minutes of conferences, etc. held immediately before or during the war, are now available.

Information gathered from the situation reports initiated twice a day by the headquarters, eastern command, for general headquarters, headquarters chief martial Law administrator, or headquarters National Security Council and the president, however, reveal the following situation sector-wise:-

JESSORE SECTOR

This sector comprised the civil division of Khulna and the district of Faridpur (all areas south and west of rivers Padma and Meghna). This was

the area of responsibility of the 9th division commanded by Maj-Gen Mohammad Hussain Ansari. He had at his disposal the following formations and units on 20th November, 1971:-

- (a) 57 brigade; Meherpur-Darsana-Jhenida-Faridpur.
- (b) 107 brigade; Jessore-Satkhira.
- (c) 314 (A) brigade ad-hoc headquarters with one wing of EPCAF

area including Khulna and south. (d) Headquarters CAF Barisal for internal security of districts of Barisal and Patuakhali.

(e) 3 Independent Armour Squadron (M-124 Chaff tanks) (f) CAF-3 wings (EPCAF). The headquarters of this division, which was initially situated at Jessore, was shifted to Maghura just before 20th November, 1971.

The Indians attacked in this sector with the following forces:-

- (a) Headquarters 2 corps - Krishannagar
- (b) 4 Mountain division (3 brigades) - Plessey-Berhampur area.
- (c) 9 Infantry division (3 brigades) - Ranaghat-Bongon area.
- (d) 50 para brigade group at Barackpur.
- (e) 45 Cavalry (PT-76 tanks) under command of 9 division.
- (f) BSF - five battalions.

The attack launched by the Indians on this sector was mainly directed at the capture of Jessore. It moved from the northern flank, i.e. from the direction of Chuagacha. It came in brigade strength (350 brigade ex-9 division) supported by a squadron of tanks and a squadron of IAF planes. It commenced after a heavy concentration of artillery fire and over-ran our border posts near Shahzadpur, Mashia, and Charabari.

The enemy also succeeded in capturing Fatehpur but was halted on the line of the Kobadak River in front of Chuagacha and Garibpur. The enemy, however, regrouped

and renewed its attack against Chuagacha, which fell on 21st November after being vacated by our own troops. The enemy advance was, however, finally halted on the line of Arfa.

In this encounter a number of tanks from both sides were knocked out but it was observed that our M-124 tanks were no match for the Indian PT-76 which could out-gun as well as out-maneuvre our tanks. Our own 3 Independent Armour Squadron suffered heavily and after one or two more encounters ceased to be a fighting unit. In the air also we lost two F-86 planes against one plane lost by the IAF, on 22nd November, 1971.

The 9th division headquarters, a Maghura was also struck by the Indian airforce on 21st November, 1971.

Throughout the next day, i.e. 22nd November, 1971, the Indian guns continued to shell continuously on Jessore cantonment and airfield as a result of which air traffic had to be suspended. On 23rd November the Indians launched another attack on Benapole border post but this was repulsed. The Indians, however, captured Jibannagar on 26th November and infiltrated into Darsana with the Mukti Bahini on 4th December. Darsana fell on 2nd December. Meherpur, which was constantly under attack from 22nd November, fell on 8th December, 1971.

In Khulna Port a Greek ship, called Criso-vo-Lando, was sunk after hitting a seamine planted in the

Pussar river by Indian frogmen on 23rd November, 1971.

BOGRA-RANGPUR SECTOR

This sector comprised the civil division of Rajshahi situated on the west of the Jamuna river and north of Padma River. It was the area of responsibility of the 16th division commanded by Maj-Gen Nazir Hussain Shah with headquarters at Natore. This division had the following troops at its disposal at that time:-

- (a) 23 Brigade:-Dinajpur-Rangpur-Lalmunirhar-Thakurgaon.
- (b) 205 Brigade:-Hilli-Bogra-Gaibanda.
- (c) 34 Brigade:-Rajshahi-Pabna-Sirajganj.
- (d) 29 Cavalry (M-124 Chaff tanks):-Rangpur.
- (e) CAF-5 Wings (EPCAF).

The enemy strength against this division was as follows:-

- (a) Headquarters 33 corps:-Siliguri.
- (b) 20 Mountain division (3 brigades) in area Balurghat- Raiganj-Islampur.
- (c) 6 Mountain division (3 brigades):-Jalpaiguri-Binaguri.
- (d) 340 (independent) mountain brigade:-Balurghat.
- (e) 71 Brigade (ex-8 mountain brigade):-Cooch-Bihar.
- (f) 63 Cavalry (PT-76 tanks):-Jalpaiguri.
- (h) BSF-9 battalions.

In this sector the Indians launched a two-pronged attack on the 20th of November, 1971, supported by

artillery and advanced in the Bhurangamari Sallient (east of Tista River in Rangpur district). It captured the area up to Nageshwari where they were halted by our troops. The pressure against Nageshwari was, however, maintained by the enemy, as the objective appeared to be to capture Lalmunirhar where an airfield was situated. Another enemy battalion moved from Titulya side and attacked our position near Panchagarh. These two attacks were, however, of a subsidiary nature, as the major offensive by a brigade group supported by a squadron of tanks was launched on 24th November, 1971, against Naupara position in the hill area.

This attack was also preceded by intensive artillery shelling and the strafing of our positions by fighter aircraft. The enemy at first succeeded in capturing some area but its advance was finally halted by stiff resistance given by 205 brigade. The main offensive having thus been halted the enemy increased its pressure against Panchagarh from the north made repeated attacks supported by armour on this position on 27th and 28th November, 1971, and finally captured it on 29th November, 1971, after suffering very heavy losses. (7 Marhattas lost 300 dead on 27th November). Thereafter, the enemy thrust on with its advance towards Thakurgaon which was contacted on 4th December, 1971.

Next: MILITARY ASPECT-XIII

HAVE A NICE DAY

Dr. Rubaiul Murshed

All health information to keep you up to date

Facts about large intestine

Function of the large intestine

The large intestine or bowel is made up of the colon and rectum. It extends from the end of the small intestine to the anal canal. The large intestine receives the waste product that remains from food digested in the small intestine. Water is absorbed in the large intestine and the waste matter is stored until it is socially acceptable to evacuate.

What is large bowel cancer?

Colorectal cancer occurs when cells from the intestinal wall grow and spread uncontrollably. It kills by causing local damage such as blockage, bleeding and perforation or by sapping the body's energy by relentless spread of the cancerous cells to other parts of the body.

What is the cause?

The cancerous growth can result from an interplay of environmental and genetic factors. The cause is multifactorial: but it is advisable to eat less fat and take more fruits, vegetables and cereals.

When to consult a doctor?

You should consult a doctor when you experience any of the following complaints:

- 1) A change in bowel habits you may experience persistent diarrhoea or constipation; or you may experience a change in the frequency and the amount of stools.
- 2) You may pass out blood or mucus with the stools.
- 3) There may be an ill-defined abdominal discomfort or pain.
- 4) A palpable mass in the abdomen.

Examination and Investigation

The doctor will perform a general physical examination. If required, he will also perform a digital examination (finger examination) of the rectum. Analysis of the results of thousands of examinations performed on asymptomatic patients revealed that only 13 per cent of the cancers of the large intestine were detected with per rectum digital examination. A proctoscope, fibroptic sigmoidoscope or colonoscope examination may be performed if necessary. During a sigmoidoscopy examination, a biopsy (removing a piece of tissue for microscopic examination) or removal of a polyp can be done. A barium enema is also done to see the whole length of the large intestine. Occult blood test: The stools may be taken for examination. Blood in the stools may be one sign of cancer.

Treatment

Once the diagnosis of cancer of the large intestine is established, the mainstay of treatment is surgery. Before the operation, further investigations such as blood tests, x-rays of the chest or abdomen, urine test etc will need to be carried out. Pre-operative preparation involving diet and the other investigations are to ensure that the patient is fit for surgery. The surgeon removes the part of the intestine containing the cancer. He will also examine the surrounding tissue for cancer. Advances in surgery have resulted in less extensive operations for colorectal cancer.

Next: Aged first

