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# Looking back to look ahead

*If any lessons are to be learnt from the experience of the past fourteen years, it is that an awakened citizenry holds the key to bring out real change by a conscious exercise of their right to vote.*



DR. KAMAL HOSSAIN

It is some 14 years since parliamentary democracy was restored. The restoration was the result of a long and sustained popular movement.

The effective functioning of a parliamentary democracy has, however, proved to be a challenging task for all those involved -- the government, the opposition and the people. The proper functioning of democratic institutions calls for the sharing of a democratic culture and democratic values -- tolerance, respect for each other's rights and for public opinion, striving for consensus on certain basic policy issues, and reconciling differences through persuasion and mutual accommodation.

The confrontational mode of politics which the major parties have got locked into has impeded

the growth of a democratic culture. Instead it has enabled colonial and authoritarian legacies to persist.

By its very nature authoritarian rule relies on coercion and distribution of patronage, rather than on winning hearts and minds, for securing its ends. The authoritarian legacy of granting of favours and political patronage continues. In the process we have seen the discipline of banks and financial institutions undermined. Support for projects is not based on economic feasibility or on market signals. Intervention, positive and negative, is procured by resort to corrupt practices.

Other negative legacies of the authoritarian period which have impeded democratic governance are a demoralized administration and law-enforcing agencies, as these have been used as instruments to carry out illegal and arbitrary orders. The Constitution expects those in public service to exercise power in the public interest, strictly in conformity with the Constitution and the law. Yet they have been compelled to carry out arbitrary directives, and in some cases illegal directives. Law-enforcing agencies seem to have lost their capacity to discharge their constitutional duty to enforce the law effectively and impartially. They have been compelled to grant immunity to favoured criminals and 'godfathers', who are thus placed above the reach by the law.

Ironically, to deal with the resulting deterioration of the law and order situation, 'special forces' have been launched which are resorting to 'cross-fire' and other modes of 'law enforcement', the legitimacy of which raises serious questions.

An equally negative legacy has been the disregard of democratic values and norms on the part of the 'elected' government. The government has been prone to identify itself with the State and treat the opposition as the 'enemy', which is not to be consulted, or taken into confidence on major national issues. Nor are conditions created for the due participation of the opposition in Parliament. This pushes the opposition into an all-out confrontational role and renders Parliament dysfunctional.

Instead of nurturing democratic values or a democratic culture -- in which people are encouraged and enabled actively to participate in the making of critical choices, we have witnessed denial of information and lack of transparency in the taking of major decisions, such as award of major projects, and a callous disregard of public opinion on a whole range of such important matters as: removing armed groups from the parties' youth and student wings and from the campuses, refraining from political interference with police and their duty to carry out law enforcement impartially, and in the persistent failure to comply with the judg-

ment of the Appellate Division to separate the judiciary from the executive.

Radio and television remained substantially under state control. The expectation that an independent regulatory agency would promote and enable independent radio and television channels to enjoy a degree of freedom which would enable them to play a vigorous role in mobilizing public opinion against those who resort to violence and corruption, remains substantially unfulfilled. The regulatory agency seems unable to exercise its function as an independent regulator and appears to be curbed by partisan influence and visible and invisible controls.

It has been our experience that national elections in every democracy raises great hopes. Our own democratic movements have always had, as a basic objective, a responsible and effective Parliament composed of honest and competent members elected through a free and fair election. Such a Parliament could bring about meaningful change -- a change for the better for all. But it has been our unhappy experience that such hopes have not been fulfilled. Serious questions have been raised as to why disappointment has followed each election, despite efforts to improve the electoral process.

The apprehension that an

incumbent government would misuse its power and resources to influence the election in its favour is the reason why there was a strong national consensus in favour of setting up of a caretaker government in 1990, and of making this a permanent feature of our Constitution by an amendment in 1996. The caretaker government and the Election Commission together are expected to create conditions, which would allow people the opportunity to elect their representatives freely, and without the electoral process being marred by arms, black money and misuse of the administration and police.

Violence, black money and various forms of manipulative 'mechanisms' have continued to mar elections. The terror created by armed cadres through violent attacks on political opponents and threats to voters, both prior to and during the election, are still reported from different parts of the country. Black money, reflected in 'crore-takas' elections, has been identified as a major factor undermining the electoral process. This was recognized by an amendment being made to the election law, which introduced a provision disqualifying bank defaulters from being candidates. Assets and wealth declarations were also required to be submitted by candidates, but these were not required to be published for public scrutiny.

There was resort to various evasive devices, such as unwarranted 're-scheduling' and non-disclosure of black money, which allowed unscrupulous candidates to indulge in extravagant expenditures, polluting the electoral process as 'crore-takas' elections have become commonplace. Improper re-scheduling or failure to disclose assets could not be checked or challenged, as information giving details of how re-scheduling was done and wealth statements were not available for public scrutiny. Violent assaults on political opponents were reported despite the assurances extended to recover arms and to neutralize the 'godfathers' and their armed cadres.

If any lessons are to be learnt from the experience of the past fourteen years, it is that an awakened citizenry holds the key to bring out real change by a conscious exercise of their right to vote -- in a conscious and responsible way to elect an effective Parliament comprising of honest and competent elected representatives. But this would only be possible if a truly free and fair election could be ensured. For this to be secured, coherent electoral reforms are to be implemented immediately on the basis of national consensus so that the next election allows the people to use their votes for bring about

meaningful change. These reforms must include:

--a caretaker government, headed by a person who is non-partisan and impartial, and enjoys the confidence of all;

--a truly effective and independent Election Commission the Chief Election Commissioner and commissioners whose tenure are due to end should be replaced by persons who enjoy the confidence of all sections, which appointments should be on the basis of effective public consultation, in particular with the opposition parties;

--declaration of assets of all candidates and their family members and disclosure of election funds by candidates and their parties, with effective legal and administrative measures to neutralize the use of black money in elections.

--effective measures to decommission all 'godfathers' and their armed groups, and to ensure surrender of their arms.

Only through such an election can power be restored to people and an effective Parliament of honest and competent elected representatives be established. Only then would we have a democracy which could assure us of a government 'of the people, by the people, and for the people'.

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## DEMOCRACY

# Evolution Bangladeshi-style

DR. M. ZAHIR

THE concept of democracy has undergone a radical change from its birth in ancient Athens to the present day world where our life is enmeshed in complicated intricacies of administrative and legal requirements and encompass the concept of not only the right to elect the ruler but also the right to be ruled fairly and justly according to a rule of law.

Essentially, the spirit of democracy revolves around the notion of all human beings being equal. From this root idea is born the opposition to the divine right of monarchy. That kings and emperors have a right to rule their serfs because they are so chosen by God is negated by this RULE that ordinary people will choose their rulers. The method of choosing rulers or leaders varied from time to time and nation to nation. Thus in times of a vacuum in monarchy the nobles or the oligarchy chose the king. The doctrine that all men are equal and they have a right in choosing their governors found its place in the western philosophy in the Magna Carta which forced the English monarchs to cede certain rights to the people. The idea of peoples' rights, ignited a thousand years back, had their sparks shining in the philosophy of Hobbs, Locke and Rousseau. The Americans developed the same concept when they had the Boston Tea Party in 1776 with the slogan of 'no taxation without representation.' The victory of the native Americans emphasised the principle that the will of the people will prevail over an organised army. The French revolution followed and the ordinary masses rose against monarchy. However, in the enthusiasm of imposing peoples' rule, excess was committed and the enthusiasm and support for the French proletariat soon waned across the channel and in the neighbouring countries. Even the great Napoleon Bonaparte, who essentially thrived on the support of the common masses, had to taste defeat when he forgot that the will of the people must come first. In Britain, however, the Sovereign wisely listened to the Privy Council and later surrendered his discretionary power to the advice of the elected leader of the Parli-

ment.

Whereas in Britain the Monarch continued to rule with the aid and advice of the elected Prime Minister and the Cabinet, in a separate parallel development there, the judiciary exercised its power to curb any illegal excess by the executive, establishing the rule of law in a way which only the British are capable of understanding and implementing. The judiciary issued various writs of habeas corpus, mandamus, prohibition, certiorari and quo warranto to pull back the overenthusiastic executive whenever they overstepped their legal authority or encroached on the basic rights of the people which the British vaguely termed common law rights. Only recently these rights have been codified. However, the British Parliament retains the ultimate sovereignty and may overturn or sidestep a judicial decision by enacting new laws. The British judiciary has always been alert and prompt to establish the rule of law. Not only in Britain but in all western countries and in the recognised democracies, rule by the people or their representatives is read along with the rule of law.

A separate theme of economic equality has always been preached, and more so, albeit in a different way, when the Soviet Communists, influenced by Karl Marx, seized power. This sprang from the belief that all citizens must be given equal economic opportunity if their basic human dignity is to be honoured. This concept of economic equality also found its expression in the New Deal Legislations introduced by President Roosevelt in the Thirties and later on propagated by the likes of Harold J Laski who championed a different brand of social, political and economic egalitarianism in the early Fifties at the London School of Economics and Social Science. The underlying principle of all these very different preachers was simple economic equality.

Democracy is today a complex combination of the principles of equality of all people choosing the chief executive of the State by popular vote, a strict regime of the rule of law, and an underlying theme of economic equality which is of course more often than not ignored in fact. It is not enough that every five years there may be an election. It must also be

ensured that the election is fair, unmanipulated and uninterfered. To do this, those who are concerned with the process must have an impartial mental attitude. In western countries including Japan and Germany which did not have democracy until the second world war, nobody will dream of election rigging, in the sense we see in third world countries including India and Bangladesh. The severity and the extent of rigging of elections is comparatively less in India than in Bangladesh, mainly because India has a much longer experience of democracy and there is a large stream of educated middle class who have been exposed to western idealism and democratic ideas since shortly after the British established their authority in the principal towns of Calcutta, Bombay and Madras. We in Bangladesh and our forefathers were less exposed to western idealism and democracy and English education, because the area comprising today's Bangladesh was a hinterland to the enlightened rising middle class in Calcutta. After the Indian independence war of 1857, the Muslims shunned English education and were in turn themselves shunned by the ruling British causing them to be submerged in poverty and ignorance. They started waking up only in the 1920s buoyed up by a rising demand for a greater share of power. The emancipation of the Bengali Muslims were due to rise to power by leaders like the Sher-e-Bangla, Hossein Shahid Suhrawardi and Khwaja Nazimuddin, but before the concept of democracy could take root among the masses, Bengal and India were partitioned, and this part of India was left as a 'moth-eaten' and 'truncated' appendage of West Pakistan.

Economic inequality between the two wings of Pakistan could not however prevent the Bengalis to clamour for equality with the West Pakistanis which would at that time mean a rule by the representatives of Bengali majority in an all-Pakistan parliament.

The denial of democracy and rule by the chosen representatives of the people in the election of December 1970 caused Pakistan to break. Bengalis fought to establish the rule of the majority and Bangladesh was created on that



principle.

Unfortunately, we lacked the same sense of self-restraint and respect for the rule of law and could not establish either the rule of law or the rule of the majority. In a similar situation Germany and Japan after the second world war could establish democracy but we failed to.

The influence of the Soviet principles on infant Bangladesh was overwhelming, and the extent of nationalisation of vital financial and industrial sectors as well as personal properties in the garb of abandoned and vested properties surprised even the Russians staying in Dhaka at that time. The economic monopoly of the State was followed by a political monopoly when the fourth amendment of the constitution was passed leading to a one-party rule. The inevitable happened, and democracy was

blown apart in a bloody coup that saw the nation lose its most beloved name during the liberation war, Bangabandhu Sheikh Mujibur Rahman, and his family and in the process also civilian democracy. Coup after coup followed until General Ziaur Rahman, the other chief protagonist of the liberation war restored some sort of discipline in the armed forces leading to a brief calm until he himself sacrificed his life to a cruel murder. Thus we lost the two most significant personalities of the liberation war within a decade. Election, however, took place in 1981 but the civilian government succumbed to another bout of dictatorship lasting until the end of 1990, when the people rose in the streets and caused the armed forces to rethink and agree to a civilian rule to be elected under a caretaker government.

The concept of caretaker government is not to be found anywhere in the world, and there are murmurs about manipulations as to who will head the caretaker government. In spite of this unusual procedure being followed, it must be said that this practice of holding election under a caretaker government has so far been highly successful.

Democracy, in so far as it means upholding the dignity of the people in the form of letting people have a chance to be ruled by their own representatives, is to be found in Bangladesh. But what about the other aspects which today form an integral part of any democratic state? Do we have an impartial administration, separation of judiciary from the executive, enforcement of law and order, and economic advancement matching the population growth? When the appointment

and promotion to every sphere of the executive is questioned on the ground of sacrificing ability to political affiliation, when the lowest rank of the magistracy is yet to be freed from the executive, when in spite of the unconstitutional but highly popular and effective activities of the RAB the law enforcement agencies cannot nab or bring to trial the perpetrators of organised bombings starting from the Udichi function and the Pabela Baishakh Batomul incident to the 21 August grenade attack, can we say that there is a rule of law and democracy in the real sense of the term? Both the major political governments failed to find out the brain behind and the executives of these planned attacks. Now we hear that the government may not be bold enough to take the SAARC leaders

*Democracy in today's parlance does not mean mere holding of nationwide elections under the tutelage of a retired Chief Justice, but also includes a reasonable enforcement of the rule of law and administration by neutral persons.*

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