

In the shadows of executive dominance

During the period of resurrected parliamentary democracy (1991 up to date) Bangladesh could not make the desired transition to the fully deregulated and participatory democratic state. The relationship between the State and Citizen did register some positive changes in favour of the citizens. The progress, however, appears to have been minimal. Though democratic in terms of origin, (installed through largely fair and free national elections) the governments formed in 1991, 1996 and 2001 in many ways continued to be dominated by a brand of personal leadership which often tended to become near authoritarian.



DR. MIZANUR RAHMAN SHELLEY

THE predominance of the executive is the mark of the politico-administrative system of Bangladesh. In many ways it is both the cause and the consequence of the crises of the State. The origins of the disproportionately strong executive are rooted in the history and pre-history of the newly emerged sovereign nation state and the region of which it is a part.

The South Asian heritage
Parliamentary democracy of the Westminster model became part and parcel of the South Asian polities as they emerged as sovereign states after the retreat of the British imperial-colonial rule in the sub-Continent in 1947. Both the new-born states India and Pakistan had experience of this system of government even under British colonial rule. It needs to be remembered, however, that practice of the system was limited by restrictions present in a colonial dispensation.

During the post-independence years India succeeded in maintaining the parliamentary-cabinet system both at the federal and state levels. The diversity of language and caste, the challenges posed by mass poverty and chronic communal clashes between the Hindus and the Muslims in India created great problems for the territory. Nevertheless, the political leaders and the dominant elite of India managed to sustain pluralistic, representative democracy of the parliamentary type.

The post-colonial state of Pakistan, on the other hand, could not succeed in continuing with parliamentary democracy. Repeated direct intrusion of the military in politics during 1958 and 1969 resulted in open or disguised military rule in the country until 1971. The war for the Liberation of Bangladesh during 1971 resulted in the dismemberment of Pakistan and emergence of its eastern part as independent and sovereign Bangladesh.

Modern democratic, linguistic, cultural and territorial nationalism were the core principles on which the historic armed struggle of the Bengalees for the liberation of Bangladesh was based. In consequence, the newborn country attempted to depart from the pre-1971 Pakistani tradition of military rule. It started its journey as a sovereign state with parliamentary democracy as provided by the constitution of 1972. The principles of nationalism, democracy, secularism and socialism formed the essence of that constitution. Subsequent events disrupted smooth politico-constitutional development. In January 1975 the then ruling party, Awami League used its overwhelming majority in the parliament to amend the constitution and turned the state into a one-party polity with a Presidential type of government in which the executive was all powerful. During August 1975 the tragic assassination of the founder President of Bangladesh Sheikh Mujibur Rahman along with most of the members of his family by a group of retired and active military personnel resulted later in the direct takeover of the state by the

executive.
The syndrome at home
The virtually still-born one-party state, followed by military rule, as it were, resurrected the Pakistani tradition of a familiar brand of personal authoritarianism. Consequently a tutorial state emerged in which the government seemed to have assumed the role of a stern headmaster. The people remained unable to fully realise the practice of representative and participatory democracy.

It should be noted however, that during the late 1970s under the leadership of President Ziaur Rahman a multiparty system was reintroduced though it remained a presidential one in which the executive dominated.

To help the process of recivilisation of the political system President Zia founded in 1979 a new party called the Bangladesh Nationalist Party (BNP). Its leadership and rank and file comprised of elements who did not support the Awami League or were opposed to its ideals and objectives. The BNP constituted the dominant majority of the parliament during the period 1979-82.

President Ziaur Rahman was assassinated by a group of army officers in Chittagong on the 31 May 1981. BNP rule continued somewhat uncertainly until March 1982 when the military again took over the government under the leadership of the then Chief of Army Staff, General H.M. Ershad. Overt military rule again came to an end in 1986 when Ershad civilised his rule and a parliament was elected in which the Jatiya Party founded by Ershad commanded a majority. Presidential rule continued with covert military support until December 1990 when strong civil agitations put an end to the rule of President Ershad.

The Fifth Parliament (1991-1996) was the product of a massive consensus of major political forces for outright rejection of autocratic rule and restoration of democracy of the parliamentary-cabinet type. By the end of 1991 a popularly elected government stepped in. The constitutional arrangements were changed. An all powerful Presidency was replaced, at least formally, by a Parliamentary-Cabinet type of government in which the Prime Minister, the leader of the ruling party in the Parliament, became Chief Executive and the President a titular head.

The resurrected parliamentary democracy in Bangladesh, however, continued to face great difficulties on account of lack consensus on core national issues and bipartisanship in matters of foreign policy. There seems to be a virtual granite divide between the major political forces, the Bangladesh Nationalist Party (BNP) and the Awami League with regard to basic issues such as the concept of nationalism, the place of departed national leaders in the nation's history and some aspects of foreign policy including relationship with neighbouring India. The Awami League adheres to and advocates "Bengali Nationalism" and pursues an avowedly secular path in politics. By contrast the BNP advocates "Bangladeshi Nationalism" and stresses the Muslim identity of the majority of Bangladeshis without covertly preaching the Islamic brand of politics. In recent times the dispute regarding the role and status in history of the nationalist vanguard leader Sheikh Mujibur Rahman and liberation war hero Ziaur Rahman has further contributed to polarisation of the major political forces.

The difference and antipathy between the two major parties led to repeated disruption in the smooth operation of parliament.

democracy in Bangladesh. Successive governments have faced prolonged boycott of the parliament by the opposition which alleged that its voice was deliberately stifled in the legislature. Politics, therefore, moved from parliament to the streets. General strikes and agitations led to clashes between security forces and the opposition on one hand and between the followers of ruling and opposition parties on the other throughout the period from 1991 to date. The stormy happenings that frequently feature the political scene in Bangladesh underscore the great difficulties that issue from lack of national consensus in politics. This problem creates grave uncertainties and instability in politics and



government.
The consequent uncertainty further reinforces the tendency of the executive to remain and become predominant. This, in turn, seriously obstructs the process of building a fully participatory democratic state in which citizens' right are fully realized and their voices heard.

Political conflicts and consequent uncertainties weaken the foundations of a sound democratic system in a country suffering from widespread poverty, illiteracy and malnutrition.

In Bangladesh political and economic uncertainties seem to create a context of disproportionate executive dominance where state-citizen relationship is evidently under severe strain.

State citizen relationship:
During the period of resurrected parliamentary democracy (1991 up to date) Bangladesh could not make the desired transition to the fully deregulated and participatory democratic state. The relationship between the State and Citizen did register some positive changes in favour of the citizens. The progress, however, appears to have been minimal. Though democratic in terms of origin, (installed through largely fair and free national elections) the governments formed in 1991, 1996 and 2001 in many ways continued to be dominated by a brand of personal leadership which often tended to become near authoritarian.

Despite the revival of the parliamentary cabinet system, the executive continued to dominate political, economic and administrative life. The uncertainties generated by continuous conflictual relationship between the ruling and the opposition parties and constitutionally unshakable parliamentary majority of the ruling party tended to contribute to virtual perpetuation of dominant rule by the Chief Executive of the Government, the Prime

Minister.
During 1991-2001, Bangladesh continued to be governed under a virtual 'Prime Ministerial Rule' which was in effect, the continuation of strong presidential system. Various factors such as absence of democratic practice within major political parties, the unshakable majority in Parliament of the ruling party (issuing from the constitutional provision that debarred MPs from crossing the floor on pain of losing their seats in the parliament) and the Rules of Business of the government contributed to the keeping of the executive branch strong and dominant even under parliamentary rule. The Rules of Business inherited from the presidential system of government designated the permanent secretaries and not the ministers as the

executive heads and Principal Accounting Officers of the ministries. Under this arrangement, though the ministers were designated as the supervisors of the secretaries, the latter retained the substance of power and could work virtually under the direct control of the Chief Executive of the Government. The first post 1990 government of BNP led by Begum Khaleda Zia (1991-96) vowed to change the Rules of Business but could not do this during its tenure.

Subsequently, after the Awami League led by Sheikh Hasina came to power, the Rules were partially modified in 1997 to make the Ministers the Executive Heads of the Ministries but the permanent Secretaries continued to remain Principal Accounting Officers. This seemed to have created a dyarchy. Ministers did become a little more powerful in formal terms but the hold of the Chief Executive, the Prime Minister remained strong over the executive branch. Thus, on account of control over the party, inside and outside the Parliament and the virtual continuation of administrative arrangements of the Presidential system, the Prime Minister continued to exercise single-handed power over the government.

Despite the major political parties' commitment to the separation of judiciary from the executive neither the first parliamentary BNP government (1991-1996) nor the Awami League government (1996-2001) effected this separation. The present BNP led four party alliance government (in power since October 2001) has also remained yet unable to do this despite repeated directives from the highest court of the land. Though the higher judiciary, High Court and Supreme Court continued to preserve their independence from even the days of the authoritarian military rulers, the lower rungs of the judiciary, particularly

the magistracy, remained under strong executive control even during parliamentary rule. Rigorous control, direct and indirect, of the lower judiciary by the strong executive and alleged increasing corruption make it difficult for the common citizen to have effective legal recourse against arbitrary executive actions.

Rule of Law, signifying that all citizens are equal before law and that no one will be deprived of the rights to life, liberty and property without the due process of law, is constitutionally guaranteed in Bangladesh. However, the reality reflects a situation far from desirable for the individual citizen. The dominance of the Executive with built-in arrangements fostering arbitrary action, the weakness of the

political parties to limit arbitrary powers of personal leadership;

(viii) Reducing and controlling corruption in politics and administration; the present government has set up an independent Anti Corruption Commission (November, 2004) to achieve this objective. If the commission can operate with effective independence things may improve in this area;

(ix) Promoting awareness and education of citizens, about their civic rights;

(x) Increasing the strength and legitimate freedom of civil society, associations and the media.

Supremacy of the executive and citizens rights:

Right to information

The continuation of the colonial and authoritarian traditions of a

strong, dominant and often arbitrary executive stands on the way of free flow of information and meaningful establishment of citizens' rights to information. The setting up of a single-party state in early 1975, though short-lived, led to grave curtailment of freedom of press and media in Bangladesh. During the subsequent periods of military and civilianized constitutional rule under strong presidency, the media continued to remain under virtual control of the government. The press, print media were apparently free in the case of privately owned newspapers and journals. The Government, however, had great power over them through the control of allocation and distribution of revenues generated from government and semi-government advertisements. In a situation where private enterprise is still in infancy, the major source of advertisement revenue happen to be government organisations. The government can therefore, exercise indirect control and power over the private sector print media. This has been found true also during the period of parliamentary democracy ruled by party governments. The electronic media, television and radio have remained, in terms of the core, virtually under government control. The oldest and the most widely reached TV channel the BTV and Radio, the Bangladesh Betar are under direct policy and administrative control of the government of the day. The introduction of private and satellite TV channels during the latter half of 1990s has improved matters to a certain degree in favour of citizens' right to be informed without pro government bias. Overseas TV and Radio channels also helped citizens of Bangladesh to get information relatively freely. However, there is still a long way to go. An immediate need is to implement the programme for autonomy of state controlled TV and Radio channels, the programme to which all the major political parties are openly committed. It is impor-

tant to note that despite reiterating their commitment neither the BNP nor the Awami League implemented it during their tenures in government.

Apart from the media, the public information system of the government also leaves much scope for improvement. The government suffering from the overhang of colonial and authoritarian traditions, does not usually easily yield even unclassified information relating to government decisions and actions. The inadequate and inefficient system of record keeping further adds to the difficulty. The Executive often denies even the standing Parliamentary Subject Committees the information they need and seek. Thus, it is essential that steps be taken to make government information, as far as permissible, available to the citizens. One important step was suggested by the Public Administration Sector Study (July 1993): "Develop networking of the data base so that political executives and permanent executives can access the required information." With needed limitations such a data base could be made available for the citizens to access.

Transparency in the use of public money

Public information is also a basic ingredient of citizens' right to know about and have a say in the use of public money. Despite elaborate, overt provisions and arrangements for opportunities of popular participation in the use of public money both in terms of public purchase and expenditure, there is in reality severe lack of transparency in these matters. Denial or restriction on information to the citizens regarding these matters handicap people's participation and lead to arbitrary and corrupt practices. This trend needs to be arrested by adopting immediate and effective steps. Some such measures were recommended in the report by four secretaries: "Towards Better Government in Bangladesh" in September 1993. These included:

(i) Development of sector based criteria for cost efficiency.

(ii) Making public annual shopping list of large government departments and parastatals.

(iii) Making maximum use of market and price mechanism inside the public sector.

(iv) Updating delegation of authority.

(v) Making public national and local level development projects.

(vi) Instituting a Task Force for the Comptroller and Auditor General.

Uncertainties

Citizens' rights in relation to state tend to suffer in times of uncertainty. The political history of Bangladesh since 1971 appears to underscore this truth. Bangladesh is virtually a front-line state in human kind's continuing war against its ancient enemies: poverty, hunger, malnutrition, ignorance, illiteracy and superstition. The situation of constant emergency in the face of poverty, underdevelopment, political instability and lack of mature leadership tend to intensify uncertainty in political and economic life. This proves to be a spawning ground for the growth of authoritarian executive power militating against the inviolable human and citizens rights of the people.

The problems in Bangladesh may become compounded and more acute in the context of the uncertainties and instability of the post 11th September (2001) World caught in the jaws of a veritable global conflict centering round international terrorism. In recent times, even in such a haven of democracy as the USA, individual freedom and access to information are facing considerable unfolding limitations. New and effective measures will have to be adopted to meet the demands of our crisis-ridden times.

The author is a former civil servant and the founder Chairman, Centre for Development Research, Bangladesh (CDRB).

Democracy Bangladeshi style

FROM PAGE 4
to the National Martyrs Mausoleum in Savar. If true, then a dangerous admission of the lack of rule of law which makes all the decorations in the streets to impress those leaders look hilarious.

Scrutinising the political background or belief of the public servants started soon after the liberation war with the practice of branding somebody a collaborator, a righteous and convenient way of removing competition. Even a whisper was enough to damnify

someone's career. The politicising of the administration continued with all the three shades of political government promoting it and today we have politics in every sphere of our life and administration. Sadly, none of the political parties, even when in opposition, vow to root out the politicisation of the administration when they come to power.

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. The concept of politics in every aspect or sphere of administration has corrupted our minds so much that we find in the theory of the caretaker government an admission by all political parties and politicians that none of them is capable of supervising a national election fairly and in a neutral manner -- a candid but rare confession on the part of the politicians. But we have to devise a way to combat politicising every aspect of

administration if we want to establish true democracy.

Democracy, Bangladeshi style is unique and may be a subject matter of a Ph.D. thesis so far as its novelty is concerned, but have we achieved its true essence, namely, the dignity of the common people which calls for a fair election, rule of law, economic justice and an administration that runs on ability rather than political beliefs?

The author is Barrister-at-Law and Senior Advocate.

Pitfalls of our democracy

FROM PAGE 11
things done, and not to privilege emotion over reason and wisdom at every conceivable opportunity. An act of boycotting the Parliament for long periods of time makes a mockery of democracy, constitutes an abuse of the parliamentary system, and denigrates the value of parliamentary politics. We must therefore make a concerted effort to avoid lengthy boycotts of the Parliament.

A final issue I want to touch upon is that of law and order. During the fifteen years of democ-

racy since 1991, law and order have deteriorated rapidly and the public perception is that the political parties are responsible for producing and sustaining a culture of "mastaans." It is widely understood that we are being held hostage in our own country by mastaans nurtured, not by foreign elements but, by our political leaders, who claim to speak for us and to serve us. It seems to me that the best solution is for the major parties to purge their parties of

mastaans and to depend not on "mastaan power" or money to secure political power but on public judgement of their abilities and performances on the ground.

In conclusion, let me say that while I have identified five or six problematic features of our democracy, the core issues concern the behaviour of the political parties and electoral reforms.

Our political parties must behave in a democratic manner, in a manner befitting elements of

civil society. They should hold dialogues with each other and this they clearly did not do over the past few years. They must make a genuine, concerted effort to shun money, muscle and politicisation of the various national services. The opposition should not use frequent hartals and lengthy Parliament boycotts to make their points.

The author is a Former Secretary to the Government of Bangladesh.