

# Caretaker government and Election Commission

## Some thoughts on legally technical issues

MUHAMMAD MOHI-US SUNNAH

LOGICAL incongruity seems to dominate the thoughts of our policy makers and as a consequence, problems precipitate with respect to governing the country every now and then. The crux of the problem lies on our ability to distrust and inability to formulate a credible system. The question of developing a system of caretaker government for conducting a nationwide general election arose because we do not trust our elected leaders. There seems to be a consensus on this issue.

Retired Chief Justices were considered as most dependable persons by our policy makers to head a transitional government during the time of election. To this effect, an amendment to the constitution was made introducing a system of caretaker government in 1996. Two elections were held under two caretaker governments and now the politicians have again started floundering to find an answer to the question raised by different politicians as to the neutrality of a former Chief Justice and future Chief Adviser. 'A person acceptable to everyone' has been proposed by a major political party as a solution, without any reference as to who will be included or excluded in 'everyone'. Perhaps, 'everyone' refers only to the major political parties.

To reach a consensus on an acceptable person may become a futile exercise unless a system is devised. Only a system acceptable to everyone may help us finding an acceptable person. However, now-a-days finding a person of trust seems to dominate the concern, rather than formulating a system acceptable to everyone. Whether the person is capable of conducting

a general election or not, does not seem to bother anybody. Does it mean that anybody can run an election if the person is trustworthy? We believe not. Some sort of competency is required to run an election.

General perception is that former chief justices are unquestionably competent to run an election. However, it tends to precipitate contradiction when a system of retirement was introduced with a general assessment that a person becomes constitutionally incapable of running the post of the Chief Justice or a Justice after certain age, while we seem to approve the fact that he/she remains or becomes capable of doing a more

while the judges of the Supreme Court remain constitutionally capable until the age of sixty-seven. There must be some rationale for determining the retirement age of judges. Based on such rationale, one may find it difficult to justify why a retired judge should be given the task of running the caretaker government and do a complicated task like conducting a general election. Moreover, according to article 58C(7)(d) of the Constitution, a person becomes ineligible to be an adviser or chief adviser of the caretaker government if he/she is over seventy-two years of age. This means that if no judge of the Appellate Division retires for five consecutive years after a general

election, then we may not find a retired chief justice or justice who falls within the age range of sixty-seven to seventy-two years to fill the post of the chief adviser. Why should we keep a flaw in our constitution?

We have to first ascertain what we want actually from the head of the caretaker government. We certainly want a free, fair, transparent and credible election. In order to fulfil our wish we need someone with some sort of professional exposure to lead our country during the time of election and that someone should have manifested during his/her professional career certain degree of neutrality, competency and capability to deal

ment, therefore, should become the role of an independent judiciary. In a nutshell, the sitting Chief Justice should become the President and the senior most Appellate Division Judge should become the Chief Adviser of the caretaker government. This may also help us more to conduct a fair, transparent and credible general election. The judiciary may help us guide to create an independent and competent Election Commission.

The question of bringing a caretaker President has arisen because of some of the controversial amendments of the constitution which were made giving some extra-ordinary power to the President during the time of a transitional caretaker government. The President is normally nominated and elected by the parliament members of a particular political party and therefore, giving him/her some extraordinary power at the time of caretaker government may jeopardise its neutrality. Hence, to ensure neutrality of the caretaker government, we may have to either appoint a neutral President or strip the partisan elected President of some of the specially vested executive power i.e. not obligated to act according to the advise of the Chief Adviser (article 58E of the constitution), to declare emergency without the prior counter-signature of the Chief Adviser (article 58E read with article 141A(1) of the constitution), to administer the regulatory law related to the command of the defense services (article 61 of the constitution), etc. Moreover, according to the article 120 of the constitution, the President is responsible for making staff available to the Election Commission during the time of election. Hence, if a partisan President continues in his post during the time of election, he/she may try to manipulate staffing in the Election Commission, thus affecting its efficacy.

An independent Election Commission is a must for ensuring a free, fair, transparent and credible election. The constitution of Bangladesh guarantees that 'the Election Commission shall be independent in exercising its functions', but it leaves loopholes to make it dependent on the Executive Branch. The constitution does not provide any retirement age for

election commissioners or their chief, but it states that they can be appointed for five years only. The post of the chief is non-renewable, while the other election commissioners can be appointed as the chief election commissioner on the wish of the government. These provisions should be amended, as one of these provisions leaves room for the party in power to maneuver the activities of election commissioners who wish to be the chief upon completion of their term. Once appointed, election commissioners and their chief should be able to work until a pre-determined retirement age. There should also be selection criteria for election commissioner. Consensus on

they appear for voting, the authenticity of their identities are challenged on the ground that the record shows different name, father's name or age.

It is also very difficult to know well in advance whether a mistake has been made in the voters list, as at the time of registration the agent of the election commission only completes the part of the registration form which is returned to the voter (this happened prior to 1996 election), keeping the other official part blank. They refuse to complete other part of the form in front of the voter. Thus, there is no scope to know, even for those who know how to read and write, how the voters' particulars are recorded prior to publication of the voters list. Again, if these targeted voters belong to a marginalised group, the political hoodlums intimidate them to refrain from coming to the vote centre.

This can only be resolved by forming an independent, adequately staffed and financially sound election commission, which can issue identity documents to each voter without the help of Executive Branch of the government.

(2) *Voters do not feel safe to go to the polling centre independently.* Because of uncertain security situation, voters become susceptible to physical attack from the hoodlums of different political parties if they do not accept logistical assistance from a party for coming to the polling centre. By taking help from a political party they somehow become obligated to vote for them. This happens, particularly, to the marginalised group living in rural area. Normally, the security is ensured around the polling centres where the national and international observers usually visit. The election commission or the government does not do anything about ensuring accessibility of voters to the polling centres or their safety on the way to the polling centres. To resolve this, the election commission should take initiative of providing public transport to the voters, especially in places where the polling centre is far or the voters need to cross a river. Such an initiative would also help reduce the election expenses for the candidates.

(3) *Counting of ballots and subsequent finalisation of results does not seem to be transparent.* Ballots are supposed to be counted in front of the polling agents and the presiding officers of the polling centres are supposed to authenticate the result sheet after taking counter signature of relevant polling agents of the political parties. But in reality this procedure is not followed strictly, rather the polling agents are kept in darkness when the final sheets are sent to the election commission. The election commission suddenly becomes very independent after receiving result sheets from different polling centres and the officers of the commission would not let anybody look at what they are looking at sitting on a podium and based on what they are finalising results. This raises question about procedural transparency of the process.

There are many more concerns that can be included in the list. However, I would stop elaborating on it with an expectation that many more voters like me would come up with their thoughts and concerns.

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All health information to keep you up to date

## The big 'B' goes for blood

THE need for blood is enormous -- it could be needed for road traffic accident or burn victims, heart or kidney surgeries and also for patients suffering from cancer, leukaemia, thalassaemia or other diseases. Many patients died due to wrong blood transfusion process until beginning of last century. In 1901 Karl Landsteiner, an Austrian scientist, discovered human blood groups and blood transfusions became safer after that. For this recognition he was rewarded the Nobel Prize in Medicine in 1930. Although, majority of our healthy population do not donate Blood -- we are more and more becoming conscious about blood donation in Bangladesh. If we desire we can donate blood even at our places of work. There are several centres in the city where blood donations can be made. And even though a growing number of blood banks have found blood donation to be safe and practical -- we need to change present screening and donation procedures in different places.

Any person above 17 years in good health with a standard weight is suitable to donate blood. Besides this, all donors should also pass the physical/medical history examinations prior to donation of blood. At present in our country, many people other than volunteer donors provide blood, which is very risky. The donor's body refills the fluid lost from donation within 24 hours. It usually takes about 60 days to replace the lost red blood cells (RBC) and whole blood can be donated almost once every eight weeks or 60 days. In developed countries 'Apheresis method' turns out to be a regular procedure. This is a method of removing a particular constituent of the blood, such as platelets. This process could be also carried out to collect Red Blood Cells (RBC) or plasma or White Blood Cells (WBC). Apheresis donation process takes longer than that for whole blood donation. While an apheresis procedure takes about one to two hours, a normal whole blood donation takes about 15-25 minutes.

An adult human has about 46 liters of blood circulating in the body. This is continuously pumping around our body. Every time the heart beats it is pumping more blood to lungs. Blood consists of several types of cells (RBC, WBC and Platelet) floating around in a fluid called plasma. RBC contains haemoglobin that transports oxygen to the body tissues and used to treat anaemia. This can be stored under refrigeration for approximately 6 weeks. The WBC fights infection by killing germs. The platelets help the blood to clot such as in case of a wound -- in general used in patients with dengue, leukaemia and cancer. This can be stored at room temperature unlike RBC and may be kept for a maximum of five days. Plasma holds salts and various kinds of proteins. Fresh frozen plasma, used to control bleeding can be kept in a frozen state for around one year.

The differences in human blood are due to the presence or absence of antigens and antibodies. The antigens are placed on the surface of the red blood cells and the antibodies are to be found in the blood plasma. There are about 20 genetically identified blood groups, but the ABO and Rh systems are the important ones used for blood transfusions. That's why common people are usually aware of four groups in blood. They are O (positive/negative), A (positive/negative), B (positive/negative), and AB(positive/negative). In an emergency, anyone can receive type O (universal donors) and type AB individuals can receive red blood cells of any ABO type (universal recipients). After blood has been drawn, it is usually tested in our centres for ABO group (blood type) and Rh type (positive or negative). In advanced centres it can be also tested for any unexpected red blood cell antibodies that may cause problems in a recipient.

Screening tests can be also performed for evidence of hepatitis B and C viruses, Human Immunodeficiency Viruses (HIV) and Syphilis. Some reputed centres around the world are currently working on artificial blood, with different techniques. Bangladeshi scientists are also involved in these researches -- so we can feel proud that 'Bangladeshis' are doing their bit for the world as well.

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# Towards inner meaning of religious issues

MUSLEHUDDIN AHMAD

THE book 'Letters to Christendom' by Shamael is unique as the author has presented the facts in the book in a unique manner through quotations and then with her own views. She herself says, "... the bulk of my work is quotations... That's the whole point."

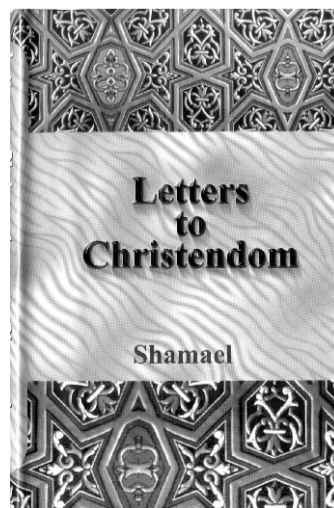
Generally, the authors write their own stories and views and often have them supported, if necessary, by the quotations of important writers, philosophers, politicians and others. But in this case the author starts with quotations which she then supports or refutes by quotations of others, of course, thereafter she gives her own comments and views to complete certain points and views. It's a novel way of writing a book and that's why the book is so interesting.

As the title of the book is 'Letters to Christendom', she put series of questions to the Christian priests, reverends and other religious leaders who have been involved in propagating Christianity with some definite purpose. But the most revealing thing that she pointed out is that many of these people were ignorant about the inner or basic meaning of the religious issues in the Bible, or they deliberately distorted the meaning with a view to showing to the world that Christianity is the best religion and everybody should embrace it. Here lies the religious propaganda part of it. But

## BOOK REVIEW

### Letter to Christendom by Shamael

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by quoting from other religious books and particularly from the Qur'an, the author tried to show that their views/ interpretations of the passages from the Bible are not correct. She specifically mentioned how the westerners "perceived" Islam.

Indeed, the westerners are 'guilty of double standard'. There is

nothing good in Islam they say. But she refuted their allegations very strongly and said very clearly that 'Islam means surrender and submission to one God and only God.' And here she puts forward the sayings and pronouncements of great philosophers and poets to support that Islam is the great religion.

She also pointed out that the fundamental of Islam and indeed all Faith based religions is same -- all must worship one God and God alone and none else. She also dealt with the fundamental matter like the Qur'an is a 'Miracle', it remained unchanged since it was revealed to Mohammad (S).

She also said if 'Europe had known as much of Islam as Muslims knew of Christendom', then 'Crusade could not have taken place'. Finally she talked about hypocrisy, diplomacy and justice. She brought in the issue of Bin Laden, Iraq invasion. She also quoted Mahathir Mohammad, "... today the Jews rule this world by proxy. They get others to fight and die for them." In her final thought she said, "When civilization turns to invasion and destruction for a solution how does it differ from terrorism? A suicide bomber is the poor man's F-16. She ended the book again with a quotation from the holy Qur'an, "Return unto thy Lord, content in His good pleasure! Enter thou among My bondmen!"