

## Democracy and parliament

### Reality against expectations

GM QUADER

ABRAHAM Lincoln, the most famous president in the history of the US defined democratic government as "government of the people, by the people and for the people." People are the real source of power and government exercises that power on behalf of the people under certain constitutional guidelines, as accepted by the people. Democratic government is elected by the people in a free and fair choice as per a predetermined system of election. All the actions and programs of a democratic government are for the people, or in other words, reflect the hopes and aspirations of the people.

Free and fair election is a precondition for formation of a democratic government as without that the government would fail to be government by the people. There must be an effective system for ensuring accountability of the government for all its activities to the people or else it would fail to meet the criteria of government for the people.

When democracy is practiced with parliament as the most important institution it is termed as parliamentary democracy. In a parliamentary system of governance parliament assumes the role of focal point of all state activities. Government is formed in the parliament and the actions of the government are decided in the parliament. Under the system, parliament also functions as the institution responsible for ensuring accountability of the government to the people and thus puts the government on track to perform as per desire of the people.

The role and function of parliament in respect of formation and operation of government as envisaged by persons who drafted our constitution are as follows:

Article 56(3) of the constitution says: "The President shall appoint as Prime Minister the member of Parliament who appears to him to command the support of the majority of the members of Parliament."

Article 55(1) says: "There shall be a cabinet for Bangladesh having the Prime Minister at its head and comprising also such other Ministers as the Prime Minister may from time to time designate."

(2) The executive power of the Republic shall, in accordance with this Constitution, be exercised by or on the authority of the Prime Minister."

Chief executive of the country, the Prime Minister is a member of parliament. The constitution makes it mandatory for the PM to select at least 90 per cent of member of cabinet from amongst the MPs as per Article 56(2). PM along with the cabinet members forms the government.

Article 65(1) of the constitution stipulates: "There shall be a Parliament for Bangladesh (to be known as House of the Nation) in which subject to the provisions of this Constitution, shall be vested the legislative powers of the Republic."

One of the main functions of parliament is law making. What are the laws? They are in fact road maps to be followed by the government to achieve a desired society. Laws act as guidelines to be adhered to by the executives of the government in running its different functions. Change of law or

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amendment of law provides scope for modification of the existing guideline or road map.

Article 55. (3), Bangladesh Constitution stipulates: "The Cabinet shall be collectively responsible to Parliament."

As per the said article, parliament has been bestowed with another important function that is to ensure accountability of the government.

Besides the members of the cabinet, all other members of parliament including the members of treasury bench and of opposition camp collectively comprise parliament. It has already been mentioned that the responsibility of making the government accountable lies with parliament. Thus it is not that, the responsibility of asking for and ensuring accountability of the government lies with the MPs belonging to opposition parties only. MPs belonging to the government parties (who are not government ministers) are also equally responsible for demanding and ensuring accountability of the government for all its activities through the Parliament.

Article: 76. (1) states: "Parliament shall appointment from



among its members the following standing committees."

This provision provides scope for formation of parliamentary standing committees for carrying out oversight function of the parliament over different government functionaries. This article of the constitution has provided the parliament a very strong tool to supervise the day to day activities of the government and find out irregularities in order to redress the same.

The above shows the intention of architects of our constitution in relation to functioning of parliament. These were found to be pious hopes in real life practice.

There is a provision in the constitution article 70(1), which says: "A person elected as a member of Parliament at an election at which he was nominated as a candidate by a political party shall vacate his seat if he resigns from the party or votes in Parliament against that party."

This provision of the constitution discourages to the extent which may be termed as prohibits

the MPs to take a stand against their party line in parliament. In other words, this restriction on MPs enables the government to have the captive support of the majority number of government party MPs for all its activities.

As such, the major function of parliament, that is making law, has become a mere formality. Government drafts laws as per their own choice. Laws are passed in the parliament exactly as desired by the government with the help of the majority number of government party MPs who are not allowed to differ for the restriction as mentioned earlier. So, for the purpose of law making or for any other matter role of the parliament has been reduced to nothing but a rubber stamp of legality for all governmental activities. The parliament has no strength to deny approval or to modify any of the government proposals without government agreeing to it.

Parliament's role to make the cabinet responsible to it has also become dysfunctional for a similar reason. Due to the said provision, government party MPs cannot criticize the cabinet and are to support its actions irrespective of the merit or their personal view to

them and assigned to them as per constitution. They fail to effectively check the government in exercising authority in an autocratic way.

Under the circumstance, government has become sole decision maker in the affairs of the state without any hindrance. PM's secretariat as the seat of government has assumed all authority and has become the most important institution in running the affairs of state. The PMO not only takes decision on running of government, they also decide on the outcome of parliament. In our existing system of governance, parliament is not the most important institution and is not considered as the focal point of all the affairs of state.

The PM's secretariat may be considered to be most important and be the centre of all governmental activities. As such, our system of governance may not be termed parliamentary system but a prime ministerial system where the institution of prime minister commands almost limitless power and decision making authority.

It is evident as explained above that the present system cannot persuade the government to act as per the hopes and aspirations of the people, neither can it ensure accountability of the government. Without any reflection of the desire of the people in its actions, and without accountability, can the government be run democratically?

An important criterion of having a democratic government as already mentioned earlier is conduct of the election in a free and fair

way under a neutral environment. But in reality, use of black money and muscle power is on the rise in the election in order to manipulate the result. The reason being lack of control of the administration and election commission in maintaining law and order due to its inefficiency, partisan bias and corruption and also lapses in the existing election rules.

Moreover, the party in power uses all possible means to influence the election results in their side using public money and governmental authority. This is reducing the possibility of a free and fair election. The chance of having a free and fair election in which the true wishes of the people would be reflected are becoming more and more remote with the passage of time.

In the absence of a free and fair election, can the government be formed on that be considered a democratic government?

GM Quader is an MP

## Can Bangladesh enjoy better governance?

A group of Bangladeshi experts are now trying to develop what they call an index of harassment to give better understanding of the suffering of ordinary people due to inefficiency and corruption. The aim of the survey is to provide a clear annual overview of the level of accountability of various state institutions. The initiative coincides with an increasing number of complaints that governance in Bangladesh is becoming increasingly controlled by a privileged class which is far removed from people's everyday concerns. The BBC's Kamal Ahmed investigates.



ONE of the biggest slums of Dhaka is built on the Mirpur embankment, and consists of *kutchas* (temporary) houses which have been constructed on what is officially classified as government land. Others are living in rented *chhapras* (shanties) built by influential landowners of the area. The inhabitants of the slum provide a telling insight into the indifference of the ruling class in Bangladesh to their living conditions.

I met one Afsar, a rickshaw-puller, who lives in a *kutchas* house at the slum. Every day he has to buy two pitchers of water for his family. Each pitcher costs him one taka. A landlord, who lives in the aristocrat area of Gulshan, sells the water to him. Another tenant, Moni Begum, who runs a tea-stall there, works as the manager of the landlord.

Slum dwellers and day labourers like Afsar are paying cash to buy this water which essentially is stolen from the government and sold to them by corrupt middlemen. ANH Akhter Hossain, an ex-managing director of the Water and Sewerage Authority (WASA) of Dhaka says that while it is difficult to find reliable figures, it is estimated that approximately Taka 300 million worth of water is stolen each year by corrupt officials and middlemen.

While this money is being siphoned off, the slum dwellers have to cope with no sewerage system. Instead, bamboo platforms placed above the river and covered by plastic sheets are used as latrines.

The picture in rural areas is no different from urban ones. The experience of a landless day-labourer, Mohammed Raihan Ali, of Pabna district, 250 kms away from Dhaka, is typical. Mr Ali wanted to acquire a hygienic latrine, but could not procure one. The reason, he says, is because the chairman of the union parishad would not provide latrines to anyone who was not an active supporter of his party. It is this kind of petty corruption which will make it hard for the government's stated objective of providing hygienic latrines to everyone before 2015 realised.

### Harassed by the administration?

It has been alleged that there are many examples of poverty alleviation initiatives which have been impeded due to inefficiency and corruption at various levels of government. For last few years, the government has been making its highest budget allocation towards the development of education, in the light of the recommendations

made by experts.

They suggested that lack of education is one of the main causes of poverty. But teachers and other educationalists queue up to complain of the inefficiencies of the Education Directorate.

In an August morning, at the head office of Education Department, some educationists almost mobbed the BBC people to vent their grievances against some officials. One of them was AKM Ruhul Amin, principal of Mir Mosharraf Hossain College of Rajbari, who openly stated that he could not get anything done for his college without paying a bribe to the Directorate officials.

"We are totally in their hands," he said. "It is frustrating because we have great ambitions for this college which are being thwarted by the greed of a small number of people in powerful positions."

Development experts suggest that regular monitoring of government administration might result in a better quality of service and less corruption. That is why the Power and Participation Research Centre (PPRC) came up with the idea to create a yearly "index on harassment" in government offices.

Complaints of bribery in the government sector are nothing new in Bangladesh and both the main political parties stand accused. Development workers claim that irrespective of which party is in power, the general public -- and especially the poor -- have been suffering for too long. However the government claims that it is sincerely working to improve things. Law Minister Moudud Ahmed agrees that what he calls "narrow minded partisan attitudes" do occur, and are condemnable. But, he says, "The government does not build roads and bridges only for the use of its party members".

### The challenges ahead

Like any democratic country the effectiveness of the rule of law in Bangladesh depends on the capacity of the parliament to function properly. It is essential for the accountability of the government and administration. Moreover, parliament should function to make, amend and update laws so that a transparent and accessible judicial system exists.

But complaints persist that the national parliament -- when it is not being boycotted by the opposition -- is failing to fulfil the expectations of the people. Some MPs despair at the hopelessness of the situation.

Abdul Mannan is an MP for three terms representing a Dhaka constituency and a member of the

Bangladesh Nationalist Party. He served as a minister and has experience of sitting on the opposition benches also. He says that ordinary MPs are frustrated that they do not have enough opportunities to express their opinions independently and have only a limited role in making new laws.

He identifies article 70 of the constitution as a key reason behind this. Because, it states that if any member votes against his party's decision, s/he will lose his/her membership of the party. He has submitted a bill in parliament to amend article 70.

But he says that he was unsuccessful in his attempt and in 20 other bills which he submitted in parliament. These included an amendment to the section within the Criminal Procedure Code which allows police to arrest anyone on the basis of mere suspicion.

Mr Mannan says that this law is a legacy from the by-gone colonial era, and has not been at all altered since it was introduced in 1898. Today, he says, it is misused by the police to harass political activists rather than criminals. Mr Mannan maintains that although his amendment was approved by the bills committee of the parliament, it was never placed before the house.

"A few months after I introduced it, the Speaker of the house gave a notice that if any MP from the government party wants to place a bill then s/he has to take permission from the prime minister," he said.

"I officially objected to this, but my efforts were in vain."

However, there are some ruling party MPs, who are happy that they have a significant voice or role in the development process in their respective districts.

One of them is Ali Newaz Mahmud Khaiyam. After serving as chairman of the Rajbari Municipality for three consecutive terms he has become a member of parliament for the first time. He says that while voters have little expectation that local government can deliver, more is expected from MPs in the country's parliament.

"We have a duty to deliver in spite of the difficulties," Mr Mannan said, "even though I concede that article 70 of the constitution is a big barrier to the free expression of MPs."

MPs of the main opposition Awami League agree that voters' expectations in regard to MPs have increased.

However, the chief whip of Awami League, Abdus Shahid, says that development initiatives are frequently stifled by what he calls the "brute majority of the governing party" in the parliament com-

bined with the difficulties created by article 70.

But Law Minister Moudud Ahmed says that article 70 must remain, because the government's first duty is to provide "stability and consistency" and the clause plays a key role in ensuring that the functioning of parliament is not destroyed by parliamentary rebellions which undermine democracy.

Mr Ahmed also claims that the article 70 is required on historical grounds too, because if politicians frequently change parties the government is effectively held to ransom.

However, it seems that most people in civil society disagree with the minister, arguing that it is impossible to make parliament effective without amendment to article 70.

They argue that parliamentary democracy in Bangladesh has reached a stage whereby the winner takes all and becomes an "elected dictatorship" with strong powers over all aspects of law making.

Some experts also point out that three criteria required for a successful democracy -- a free and sovereign parliament, a neutral and independent judiciary and a neutral administration -- are all being whittled away.

One of the ex-Chief Justices of Bangladesh, Mostafa Kamal, says that the arrogance of power of the ruling class has created such an environment whereby none of the key instruments of state is able to function properly.

Justice Kamal points out that whenever a court rules against any member of the ruling class, implementation of the judgement is so protracted that it eventually becomes meaningless.

Ultimately, any improvement in the governance of Bangladesh depends on the two main parties. It is up to them to ensure that power and influence do not forever remain centralised around a few people and their families.

Those of an optimistic nature argue that the fact that such discussions are taking place at all is a good sign, and bodes well for reforms of the parliamentary system and judiciary.

But the crucial question is how long it will take political leaders to take the first step in the right direction.

*Bangladesh Sanglap 8: "What is the status of governance in Bangladesh?" will be broadcast today (Thursday) at 8 pm after the BBC's Bengali programme "Probaho" in shortwave metre band of 31 and 41 (at 9305 and 7520 KHz) and in Dhaka at FM 100 MHz. The programme will be televised in Channel 1 television on Sunday at 8pm.*

The Daily Star is the BBC's print media partner for the programme.

## Addressing the noise pollution problem

AKM SHAMSUDDIN

NOISE is an undesirable by-product of our modern way of life. It is annoying, can interfere with sleep, work, or recreation, and in extremes may cause physical and psychological damage. Hearing problems shot up by 26 percent from 1971 to 1990 among those between 18 to 44 years old and today, 15 percent of those between 6-19 show signs of hearing loss.

Some estimates of the direct costs due to ill-health from noise pollution put this figure at as much as 2 percent of Gross Domestic Product (GDP) of a country (ie. negating the supposed benefit of the much touted proposed Tata investment). The psychological and social cost is difficult to assess.

What price-tag can be placed on an environment where conversation is easy and where children are able to read quietly and are free to concentrate on their school work? An important investigation by V. Kiernan of Cornell University shows that children brought up in noisy areas have poorer reading skills and find it more difficult to recognize and understand human speech than those brought up in quieter areas. Nervousness and depression are common psychological reactions to noise. The eye has a very effective means of adjusting to light, but people never get "used" to noise. Instead, they usually adjust their mental attitude rather than hearing compensation. Subconscious frustrations can result when noise is endured, but the body system cannot adjust to it.

Sound level is one of the most important parameters when predicting performance effects. The level of noise necessary to produce adverse effects is greatly dependent upon the type of task. Simple tasks remain unaffected at noise levels as high as 115 decibel, dB (very loud) or above, while more complex tasks are disrupted at much lower levels. Until fairly recently, the level at which the effects are first seen was thought to be quite high for most conditions, but a summary of recent research points to effects at much lower levels, even as low as 80 dB (a loud television) for intermittent noise.

The ears provide two warning signs for overexposure to noise: temporary threshold shift and ringing in the ears (tinnitus). After leaving a noisy area or piece of equipment, many people commonly experience both of these symptoms. The temporary hearing loss is difficult to detect unless a hearing test is performed. Hearing usually returns almost completely in 12 to 14 hours if there is no more noise exposure. Any amount of hearing that does not return becomes a permanent threshold shift or permanent noise induced hearing loss (NIHL). With repeated exposure, the effects are cumulative.

The permanent damage that occurs from overexposure to noise results in a hearing loss that is annoying and deceptive. The listener is aware that someone is speaking but cannot understand the message. The ability to identify the source of sound is greatly reduced and the listener seems inattentive. Noise-induced hear-

ing loss is a major problem because people are unaware of its warning signs and effects until it is too late.

### Noise pollution in Bangladesh

Bangladesh urban habitats are regarded as "noisy" by international standards. A number of travel guidebooks describe the country in this way. In fact the level of noise in Bangladesh both by day and by night has become truly appalling and it is affecting the

health and welfare of the nation.

Two kinds of noise pollution are generally recognized. Firstly there is "occupational noise" which affects workers in the course of their jobs and is due to the work environment and/or to the machinery which they must operate. Secondly there is "environmental noise," such as traffic noise or noise from a loud radio, and which is not work related.

Occupational noise is already recognized as a problem and further education on noise induced hearing loss (NIHL) would however be worthwhile to encourage the use of whatever protective head-gear (usually ear muffs) is provided by the employer.

The second kind of noise is

more difficult to deal with and is a major problem. The actual sources of the noise pollution are: police and ambulance sirens, car horns, heavy traffic, stationary sound systems, mobile sound systems ("boom-box" cars), radios, places of prayer, public meetings, motorbikes, mobile loudspeakers, vehicle repair workshops, construction work, factories, loud voices, airplanes, motorized boats, and others. A full environmental audit would, of course, be required to

place these in their proper order of importance.

While noise emanates from many different sources, transportation noise is perhaps the most pervasive and difficult source to avoid in society today. Road traffic noise is a major contributor to overall transportation noise. A broad-based effort is needed to control transportation noise. This effort must achieve the goals of personal privacy and environmental quality while continuing the flow of needed transportation services for a quality society.

Effective control of the undesirable effects of transportation noise requires that land use near major roads be controlled, that vehicles themselves be quieted, and that

mitigation of noise be undertaken on individual road projects. People are largely unaware of the dangers of noise pollution and often unmindful of the annoyance that loud noises can cause.

### Land use control

Essentially the central government has the primary authority to regulate land use planning or the land development process. The local government institutions seldom can use their power to regulate

land development in such a way that noise-sensitive land uses are either prohibited from being located adjacent to a highway, or that the developments are planned, designed, and constructed in such a way that noise impacts are minimized. Notwithstanding the laws, the entire issue of land use is extremely complicated with a vast array of competing considerations entering into any actual land use control decisions. For this reason, it is nearly impossible to measure the progress of using land use to control the effects of noise.

### Source control

It is time that we have a government agency with authority to

establish noise regulations to control major sources of noise, including transportation vehicles and construction equipment. Such an agency is required to issue noise emission standards for motor vehicles playing on the road, etc. and to enforce these noise emission standards.

In the United States, for example, EPA established regulations which have set emission level standards for vehicles playing on their highways, at 80 decibel steady

average (dBA) for new vehicles and 87 dBA for existing vehicles.

Traffic management measures can reduce noise problems too. For example, if acceptable alternative truck routes are available, trucks can be prohibited from certain streets and roads, or they can be permitted to use certain streets and roads only during daylight hours. Traffic lights can be changed to smooth out the flow of traffic and to eliminate the need for frequent stops and starts. Speed limits can be reduced, but a 32 km-per-hour reduction in speed is necessary for a readily noticeable (5 dBA) decrease in noise levels.

### Law enforcers must first obey the law

With a view to improving the law and order situation in the country, the police department imported a number of vehicles with siren systems. While plying on the roads these vehicles blow their sirens, most often unnecessarily, at such a high pitch that it will create irreversible hearing impairment to the occupants of the vehicles as well as to the people at large. The police while escorting VIPs keep on blowing the sirens loudly even when there are traffic jams and knowing fully well that no way they could pass. Many minibuses are fitted with siren like horns and they blow them at 100 or more dB to the annoyance of many.

Recently I was passing by the Tejgaon-Gulshan link road. Traffic was very heavy. Behind me was a costly SUV continuously and loudly blowing a police-like siren fully aware that it was impossible to make way for him. At one stage traffic was at a complete stand still, yet the siren was on. I got down, tapped at the dark window of the wealthy occupant at the back to very politely tell him to kindly ask the driver to stop the noise, and also hinted it was illegal for a private citizen to install a police siren in his vehicle. My friends told me later that it was foolhardy to do that and that there are a number of such vehicles in Dhaka.

### Civil society response

Hearing loss is 100 percent preventable, but once acquired, hearing loss is permanent and irreversible. Hence, I would advocate that a civil society forum be mobilized to create awareness about sound pollution and its prevention. The

newspaper has championed and addressed many social issues, given the present state of sound pollution in the country, it can start awareness campaigns utilizing young people like the boy scouts, students, etc. Time has come to address this issue which is no less a social menace than HIV/AIDS, malaria or tuberculosis.

1. Ban blowing of car horns in all urban areas as well as populated rural areas like bazaars and schools.
2. Permanent removal of hydraulic horns from all kinds of transport vehicles.
3. Fixing a maximum noise level of 80 to 90 decibel (dB) for vehicle horns, sirens, etc.
4. Ban trucks and heavy cargo vans from passing through residential areas.
5. Induction of awareness training and promotion of using protective devices in industries.
6. Inclusion of noise related information in secondary school level text books.
7. Introduction of hearing tests in schools.
8. Ban use of loudspeakers at night.
9. Ban use of any sound making device that is audible at a distance beyond 100m from its source.
10. Encourage law enforcers to be the best practitioners of the law.

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The writer is a past president of FICCI and occasionally writes on social issues.