The prospect of the demise of CTG is a painful thought for me, personally, since I participated in the first CTG headed by Chief Justice Shahabuddin Ahmed. Our period of caretaker government was a period of renewed hope, after the downfall of the Ershad autocracy, for the prospect of restoring a democratic order. The first CTG enjoyed universal acclamation for the impartiality with which it discharged its mandate which culminated in the organization of an election which was deemed by many as the freest and fairest ever witnessed in Bangladesh.

The success of the Shahabuddin CTG did not originate in its constitutional mandate but in the commitment of its head to play a genuinely non-partisan role in the conduct of his governance. The council of advisors under President Shahabuddin functioned as a consultative body, where all issues relating to the election as well as governance of Bangladesh were fully discussed in the meetings of the council. This was particularly remarkable because President Shahabuddin, on his own accord, invited only a few highly respected senior persons to serve on the council. The majority of the council members sat on the advisory council as nominees of particular parties or alliances, so the council could have been an arena of discord. It was again the democratic way in which Shahabuddin conducted the CTG that ensured that no conflicts divided the council and that all decisions were based on democratic consultation and were consensual. Since President Iajuddin Ahmed and I were colleagues on that council, he is as aware as I am of how a truly democratic council functions.

The subsequent two CTGs functioned under the provisions of the constitutional amendment enacted in April 1996. The amendment mandated the chief advisor to be a non-partisan person and to govern during his/her tenure in consultation with the members of the advisory council. The CTG under both Chief Justice Habibur Rahman and Chief Justice Latifur Rahman functioned on a consultative basis in which particular advisors were delegated responsibility by the chief advisor to oversee critical areas of governance such as Home, Establishment, Foreign Affairs, and Law. The outcome of the elections under the three CTGs caused some discomfort to the defeated parties, particularly after the 2001 election. However, in the final analysis, no one questioned the legitimacy of the regime elected to power in 1991, 1996, and 2001, largely because the chief adviser, at the time he assumed office, was deemed by all parties to be a non-partisan person.



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The legality of this assumption of the office of chief adviser by the president was challenged in the Appellate Division where a clear judicial opinion would have tested the constitutionality of the action. Unfortunately, the voters were denied the opportunity of such a judicial opinion by the extraordinary intervention of the chief justice who issued a stay order on the proceedings in the High Court.

During the actual tenure of the three CTGs no party questioned the non-partisan character of the chief advisor or the CTG, though particular actions may have aroused misgivings among particular parties. This tradition of non-partisan CTG appears for the first time appears to have been disrupted during the tenure of President Iajuddin Ahmed. The president, assumed the office of the chief adviser through a constitutionally questionable coup de main. No adequate explanation has been given as to why he by-passed the available options either from the judiciary or by looking for a distinguished citizen. The most serious challenge to the Constitution, however, originates in his partisan origins. To self appoint a person such as President Iajuddin, with a long standing affiliation to a particular party, to hold the office of chief adviser, was deemed by many jurists as well as citizens, as repugnant to the spirit and possibly the letter of the Constitution which clearly states that a non-party caretaker government, with a chief adviser at its head, shall hold office after Parliament is dissolved.

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This deviation from the constitution could have been politically tolerated had the president, transcended the confines of his political loyalties and attempted to conduct himself as a genuinely non-partisan chief adviser. However there now appears to be a degree of evidence, which was testified by the quite unique resignation of four members of his advisory council, to suggest that the chief adviser was performing his duties in a less than non-partisan manner.