

Advisers on a right track

Time to get the priorities right

WE welcome the caretaker government's (CG) express desire not to place curbs on all the fundamental rights during the state of emergency. That the council of advisers has thought it fit to direct the administration to keep the issue of fundamental rights of freedom of speech and thought in particular out of the ambit of the rules under the emergency power ordinance, is extremely heartening, and must receive our unflinching support. Emergency should not, as a rule, necessitate the abridgement of the basic rights, and this has been rightly demonstrated in the attitude of the CG and of its chief, Dr. Fakhruddin. We urge the chief adviser to ensure that the desire not to impinge on the fundamental rights including the right of press freedom is reflected in the formulation of rules that would be used to enforce the state of emergency.

We also feel the government's taking up the issue of voter list, voter ID card and transparent ballot box represents correct prioritisation of its immediate tasks. Now it is the implementation of the goals that will test them severely.

What the CG has to do now is to ensure that the focus is put entirely on the prioritised tasks and ensure that these are implemented as quickly as possible. But we understand too that some of these are time-consuming matters. We feel that the chief adviser would do well to seek the help of experts to solve some of the vital problems. For example, in the matter of electoral roll, the most contentious issue, he could solicit the advice of the ex-CECs, retired cabinet secretaries and other senior bureaucrats, or relevant NGOs to devise ways to update the list in the shortest possible time. In the same manner, the feasibility of issuing of voter ID card in the shortest possible time could also be studied if CG could get the experts to put their heads together. So far as transparent ballot box is concerned we understand that some of our development partners had already committed to supply them, which the EC in its "wisdom" had declined earlier on. Let a fresh approach be made to the relevant quarters abroad.

The period of emergency need not be prolonged unnecessarily. Time is of essence and we suggest that the greater part of the time of the council of advisors be devoted to addressing all the issues related to the holding of a free and fair election while they could do with apportioning less time to running the daily affairs of the administration.

Writing on the wall

Why CEC and his team should resign honourably

NOW that a decisive change has come over the political arena, it makes sense to suggest that a similar move be made at the Election Commission. One does not require much wisdom to understand that a very large chunk of the problems we as a nation have faced in recent months has been the making of the Election Commission. The obduracy and arrogance we have all been witness to at the EC has convinced the country that the time is here and now for a wholesale restructuring at the commission. And of course it is encouraging knowing that the newly constituted caretaker administration has been focusing on, among other matters, a reconstitution of the EC.

While such ideas are mulled over, we at this newspaper believe that it is now an opportune moment for acting CEC Mahfuzur Rahman and his colleagues to demonstrate grace through voluntarily making their exit from office. There are an ample number of reasons why such an act of abdication, if one may call it that, needs to be undertaken. In the first place, the inability of the Election Commission to come forth with a proper and nationally acceptable voters' list has left the country in no illusion about the terrible moral weaknesses the commission suffers from. In the second, the commission, beginning with Justice M.A. Aziz and continuing through to Justice Mahfuzur Rahman, has squandered huge sums of public money on activities that were clearly at variance with the expectations of the nation. In the third, there is the patent public perception of the EC, as it happens to be at present, being a body that has clearly not been responsive to popular concerns about a free and transparent election.

The bottomline is therefore obvious: with such men as Justice Rahman and his colleagues in charge, the Election Commission will not gain the trust of the electorate. Which brings us all to the very vital issue of asking these officials (and that includes Justice Aziz and S.M. Zakaria) to put in their letters of resignation in the bigger interest of the country. It remains our belief that they will have read the rather bold writing on the wall, that having seen their credibility sink to increasingly deeper levels, they will act honourably. We would like to think that we have made a fresh start with the arrival of the Fakhruddin Ahmed administration. Let the freshness be an all-inclusive affair.

Emergency, politics and the media

They are hardly in a position to manipulate the media, and their capacity to infringe on our right to know is also negligible. Notably, here, the media people were persistently termed -- during even the so-called democratic regimes -- as media terrorists, pen terrorists, and what not. The bloody eyes of the power-mongers were, thus, always fixed upon them only because they let the people know of their misdeeds.

KAZI SM KHASRUL ALAM QUDDUSI

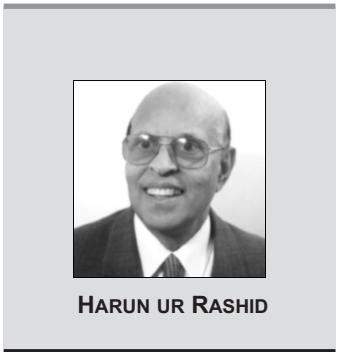
THE state of emergency, imposed for the first time since 1990, under a democratic setting is now a reality. Whatever might have been the rationale, the emergency was -- to many -- a last resort in the situation prevailing at the time when it was imposed. And, whatever might have been the background, the emergency, and president's relinquishing of the chief adviser's post provided much sought-after relief to millions. Meanwhile, the postponement of a one-sided election has freed the worried people, at least temporarily.

Admittedly, the reasons behind

so much drama were, no doubt, far too many, and much talked-about, especially during the last few months. Our major foreign friends, along with many other observers at home and abroad, put things in true perspective. They categorically stated that the failure of our major political parties to resolve contentious issues has resulted in a development which is quite unimaginable in a progressive society.

In our forward march towards a progressive society, we have seen positive development from primitive orientations towards developed ones incorporating a shift from diffusion to specificity, from particularism to universalism and, more importantly, from

Caretaker government, take two



HARUN UR RASHID

ELECTION under a non-party caretaker government is not a common practice in the parliamentary democracies of the world. Bangladesh is unique in this case. It is an innovative concept. Most democracies in the developing world watch and await the performance of such a government in Bangladesh.

Many political scientists object to the installation of the caretaker government on the ground that it negates the democratic tradition by putting non-elected persons to run the administration on behalf of the people.

The flip side of the argument is that in most developing countries the ruling party in power does not remain neutral during the process of the general election. Also being in an advantageous position, it often posts district officers of its own choice to influence the voters in favour of the party in power.

Empirical evidence suggests that the ruling government does not differentiate between official and party work of public servants.

BOTTOM LINE

Many constitutional experts hold the view that the current Fakhruddin government will have 90 days to hold the general election. Meanwhile, the first and foremost task for the Election Commission is to prepare and publish a correct voter list and thereafter declare the election schedule with a view to a free and fair election. The non-party caretaker government continues until such time as the new Parliament is constituted and a newly elected prime minister enters upon his/her office (Article 58B.1).

Such abuse of power destroys the spirit of democracy.

Against this background, in 1996, a non-party caretaker government had been entrusted to aid and assist the Election Commission to hold the general election of members of parliament "peacefully, fairly and impartially" (quoting the words of Article 58D (2) of the Constitution).

Until now three general elections have been held under the non-party caretaker government (1991, 1996, and 2001). Each election had been free, fair, and impartial, according to most internal and outside election observers, although losing political parties accepted the outcome with great reservations.

Scope and role of the CG

Let us examine the powers and scope of the non-party caretaker government in promoting and creating a conducive environment for holding a fair, free, and impartial general election.

Under Chapter IIA of the Constitution, the provisions of the

non-party caretaker government are enumerated in Articles, such as 58B, 58C, 58D, and 58E.

58B provides the nature and scope of the non-party caretaker government, 58C deals with the composition of the interim caretaker government and its advisers. 58D describes the functions of the government, and 58E enumerates the ineffectiveness of certain provisions of the Constitution.

One significant element I wish to mention is that it is a non-party caretaker government. I emphasize the word "non-party." It is certainly not an all-party government and strictly speaking, no political party should have any say in the composition of the government.

However, practice showed that different political parties suggested discreetly names of people to the chief adviser.

Relationship between president and CA

The president enjoys greater freedom during the care-taker

government. He looks after the Ministry of Defence. During this period of caretaker government, the president is not the figurehead as he is under the elected government.

The president appoints the chief adviser under the options enumerated in the Constitution (Article 58C). Under this article, the president is empowered to appoint the chief adviser from among the citizens.

The current chief adviser (the executive head of the government) has met the criteria of Article 58C (5) of the Constitution.

The president appoints advisers on the advice of the Chief adviser. Although the president appoints the advisers, the chief adviser has theoretically the responsibility of selecting advisers and he allocates the portfolio among the advisers.

Under the care-taker government, both the president and the chief adviser are required to closely work with each other.

During the Latifur Rahman government in 2001, he acknowl-

Fatal attraction

In conclusion, I must say that the state of emergency, although seen as a boon, has far-reaching consequences in cultivating liberal democracy. On the other hand, what other alternatives were there in the environment prevailing on the night of January 11. The blame certainly rests with the 4-party alliance leaders who have been tying hard over the last two-and-a-half months to guide a constitutional neutral government.

MOAZZEM HOSSAIN

EVERYONE I spoke to about the state of emergency in the country has expressed relief. It is not because the president has resigned from the post of CA, or because the general election has been suspended until the time a credible voter list has been prepared, but because imminent bloodshed has been avoided.

The time to celebrate has not yet come. The nation will have true celebration when the new CA and the CTG hold a free, fair, and fearless general election.

The extreme measure of a state of emergency cannot be a desired outcome after 15 years of some sort of rule based on democratic principles. But this time the state of emergency has almost been universally acclaimed.

Although the 4-party alliance has seemingly accepted this measure, the body language of the leaders of this alliance suggests that they are extremely unhappy. One wonders why they are now looking at each other's faces. Is not the state of emergency the making of the BNP-Jamaat alliance?

During the last five years many commentators, including this contributor, have been arguing that the BNP's courtship with Jamaat is no less than a fatal attraction. This has been found to be true now, after more than five years of the marriage.

It is not secret anymore that the founder of the BNP, General Ziaur Rahman, provided all sorts of support for the rehabilitation of enemies of our war of independence, however, he had been reluctant to take them as partners during the short period of his civilian political life.

But his widow, Khaleda Zia, went one step further, making Jamaat the leading partner of the 4-party alliance government since the 2001 general election.

It is also no secret anymore that the Jamaat leaders, Nizami and Mujahid, played a role in making Dhaka a killing field of the Bengali intellectuals on the night of December 13, 1971, immediately before the victory in the liberation war.

It is very unfortunate that the BNP never felt that the Jamaat must seek an apology from the nation for the crimes they had committed on this land, being fellow Muslims and Bengalis.

By doing this, the BNP has

not only shown disrespect to its freedom fighter members, but also to the martyred intellectuals, who lost their lives to the assailants of the al-Badr and al-Shams, allegedly headed by Nizami and Mujahid.

I am sure that these two men still remember what happened on that fateful night of December 13, 1971. It is now clear that the nation has not forgiven the BNP for forming a coalition with the Jamaat. The BNP, however, has not seen the end yet.

It is no secret anymore, and the AL has made it abundantly clear in the past, that the next election is nothing but a fight for the very existence of this party in an environment of ever-growing unhealthy and corrupt practices in the political landscape of this nation.

When a party like the AL is in such a dire state one realises that the nation, or for that matter our kind of democracy, is in huge trouble. I am sure the readers would know what I mean.

It means political bankruptcy, intimidation, and corruption engulfing the nation, instead of cultivation of an environment for liberal democracy. How have we come to this point?

Unfortunately, after the

calamity of 1975, in which the father of the nation with his family, and the four national leaders were brutally murdered, the enemies of our independence had issued the death warrant for this nation. The enemies crippled the nation even before it had started crawling.

Fortunately, or unfortunately, we do not have to go too far to ask the question: why was this the case? Those who had seen the gruesome atrocities on the nights of March 25 and December 13, 1971, and August 15 and November 3, 1975, are now holding the reins of power, or had held power during the last three decades.

What have we seen under these leaders? These leaders have presided over the adulteration of politics for a very long time, more than 30 years. Some of them even presided over the destruction and distortion of the history of the war of independence, and directly participated in bringing down the portrait of the architect of this nation from parliament.

After witnessing all this, one accepts that this nation is not easy to govern, and that the politicians are always under the threat of annihilation, particularly when they are in opposition.

Thirty-five years is a very long time, and in the meantime we have managed to rehabilitate the murderers, killers, thugs and enemies of independence and we, the general public, witnessed all this without making any meaningful protest, except

edged the support and cooperation he received from President Justice Shahabuddin (The Caretaker Days: 2002).

Functions of the council of advisers

The chief adviser cannot exercise the executive authority like the prime minister. Furthermore, the chief adviser cannot remove an adviser, whereas the prime minister can dismiss or remove any cabinet minister.

The scope of power of the chief adviser is limited. The chief adviser shall act in accordance with the advice of the non-party caretaker government. The word "shall" has been used in Article 58B (3).

The non-party caretaker government, as referred to in Article 58B, means in reality the council of advisers. The council of advisers is collectively responsible to the president.

This means that all advisers, including the chief adviser, would ordinarily take decision collectively. It is a collegial function and no adviser can claim that he is not responsible for a decision made by the council of advisers.

Advisers are, of course, responsible individually when they decide within their portfolio.

The Constitutional provisions make the primary responsibility of the non-party caretaker government to ensure an impartial administration in which the Election Commission can discharge its duty to hold an impartial, free, fair and credible general election.

Many writers have suggested that to create a congenial environment, the non-party caretaker government may address, among others, the following:

- Reorganizing administration.
- Law and order situation.
- Collection of arms and weapons.
- Updating election laws, including RPO 1972
- Educating the voters.
- Free media and easy access of all political parties to the state-controlled media (radio and TV).

Duration

Many constitutional experts hold the view that the current Fakhruddin government will have 90 days to hold the general election. Meanwhile, the first and foremost task for the Election Commission is to prepare and publish a correct voter list and thereafter declare the election schedule with a view to a free and fair election.

The Election Commission should also educate voters and provide information to which office voters may call and check the voter list. Everything related to election must be fully transparent.

The non-party caretaker government continues until such time as the new Parliament is constituted and a newly elected prime minister enters upon his/her office (Article 58B.1).

Barrister Harun ur Rashid is a former Bangladesh Ambassador to the UN, Geneva.

(জ) জন-নিরাপত্তা, জন-শৃঙ্খলা ও সমাজ জীবনে অত্যাৱশ্যক সামগ্রীর সরবরাহ ও সেৱাকাৰ্য ফুলুকাৰী খৱৰ বা বিষয়সম্বলিত সংবাদপত্ৰ, বই-পুস্তক, দলিল বা কাগজপত্ৰ মুদ্ৰণ বা প্ৰকাশনা এৱং ইলেক্ট্ৰনিক মিডিয়াৰ মাধ্যমে অনুৰূপ খৱৰ বা তথ্য সম্প্ৰচাৰ নিষিদ্ধকৰণ;

(ঝ) দফা (জ) তে বৰ্ণিত কোন খৱৰ বা বিষয়সম্বলিত কোন সংবাদপত্ৰ, বই-পুস্তক, দলিল বা কাগজপত্ৰ বাজেয়াপ্তকৰণ এৱং উহা মুদ্ৰণ বা প্ৰকাশনাৰ জন্য ব্যবহৃত ছাপাখানা হইতে জামানত তলব এৱং বাজেয়াপ্তকৰণ;

(ঞ) দফা (ঝ) তে উল্লেখিত জামানত বাজেয়াপ্তকৰণ বা ক্ষেত্ৰমত, সম্প্ৰচাৰ নিষিদ্ধকৰণ সত্ত্বেও দফা (জ) তে উল্লিখিত খৱৰ বা বিষয়সম্বলিত সংবাদপত্ৰ, বই-পুস্তক, দলিল বা কাগজপত্ৰ মুদ্ৰণ বা প্ৰকাশনাৰ উদ্দেশ্যে ব্যবহৃত ছাপাখানা বন্ধকৰণ বা, ক্ষেত্ৰমত, ইলেক্ট্ৰনিক মিডিয়াৰ যন্ত্ৰপাতি জব্দকৰণ;

ject to that which it controls, because the state's actions are reported and effectively shown to the masses through them. Thus, the media have the definitive decision on what goes in and, therefore, what the masses are taught.

Meanwhile -- as I have observed -- many of our intellectuals, who are capable of guiding the nation as well as the state machinery, cringe in front of the political leadership of their leanings so as not to miss out on lick-

ing up whatever trickles down from the latter, and just cannot rise above partisanship and shy away from calling a spade lest the leaders get cross with them, a lot of -- not, of course, all -- dedicated media people have continued to be outstandingly true to their job despite many an odd.

However, the number of media men turning a blind eye to their political bosses' misdemeanours is not few either. Blissfully enough, though, they are hardly in a position to manipulate the media, and

their capacity to infringe on our right to know is also negligible. Notably, here, the media people were persistently termed -- during even the so-called democratic regimes -- as media terrorists, pen terrorists, and what not. The bloody eyes of the power-mongers were, thus, always fixed upon them only because they let the people know of their misdeeds.

Kazi SM Khasrul Alam Quddusi is Assistant Professor, Dept. of Public Administration, University of Chittagong.