

THE NEW CTG

Let's refrain from acts of vexing it

HARUN-UR-RASHID

QUESTIONS are already being raised as to when the election to the National Parliament will be held, what will be the tenure of the caretaker/interim government formed after declaration of the state of emergency, and how long the state of emergency shall continue.

My present article is for those who have raised these questions as well as for those who have not and also for the common readers.

Tenure of Caretaker Government: Article 58C (12) of the constitution provides that the Non-Party Caretaker Government shall stand dissolved on the date on which the new Prime Minister enters upon his office after the constitution of the new Parliament.

So the tenure of Caretaker Government will end, and end only after the moment the newly elected Prime Minister assumes his responsibility.

How long the state of emergency shall continue: In this regard Article 141A (2) (c) of the constitution provides that Proclamation of Emergency shall cease to operate at the expiration of one hundred and twenty days, unless, before the expiration of that period, an extension has been approved by a resolution of Parliament:

Provided that, if any such proclamation is issued at a time when Parliament stands dissolved, or the dissolution of Parliament takes place during the period of one hundred and twenty days referred to in sub clause (c), the proclamation shall cease to operate at the expiration of thirty days from the date on which the Parliament first meets after its reconstitution, unless before that expiration of the said period of thirty days a resolution approving the proclamation has been passed by the Parliament.

Since there is no sitting Parliament, the proclamation can continue for the period as allowed under the provisions mentioned above.

That means proclamation can continue at least till the date the new Parliament meets first after the election.

But it is not desirable either for the Caretaker Government to take too much time to establish and ensure a congenial and conducive atmosphere for holding a free, fair, peaceful and impartial parliamentary election participated by all political parties to make it acceptable and credible at home and abroad, or for the President to continue the state of emergency

for too long a period.

We hope that the Caretaker Government would make every sincere effort, and it has already started to do so, to bring forth the desired congenial and conducive atmosphere. The chief adviser has also very firmly affirmed that they would try their best to do it within the shortest possible time.

We are still, even today, hearing sounds from some corners that election should be held within 90 days. 90 days from where and from which point? About 90 days, Article 13(3) of the constitution provides that 'A general election of members of the Parliament shall be held within ninety days after Parliament is dissolved, whether by reason of the expiration of its

term.

! Any election without participation of all the parties will not be acceptable at home and abroad.

The Chief Adviser of the caretaker/interim government, in his maiden address to the nation on Jan 21, has very firmly and assertively stated that his government would leave no stone unturned to hold free, fair, peaceful and impartial election, credible and acceptable at home and abroad.

And to do that the caretaker/interim government needs to remove the obstacles identified by the President, the caretaker government and the people at large, and it already has initiated necessary steps towards that.

In the meantime, both the

do so.

Where is it stated in the constitution that the caretaker government cannot do the above jobs? Why did the past elected governments not clean the jungles? Instead, they made those thicker.

We are criticizing Dr. Yunus for his unsympathetic comment about politicians, and to which our politicians reacted sharply saying that they were aware of untold stories about Grameen Bank and Dr. Yunus. But are not Dr. Yunus's comments about our politicians even half-trues? Is their, (those criticising Dr. Yunus in response), conscience clean enough?

It is a human tragedy that we are blind to our own faults.

Functions of the Non-Party

It is an opportunity for this caretaker government, though it came through a series of unwanted events, to do good to the nation, something which we have been looking for. I will humbly request those who talk about constitutional limitations for this government to please go through the relevant provisions of the constitution; and let us refrain from vexing this government, rather let us help it to achieve the noble goals we have been aspiring for years.

term, or otherwise than by reason of such expiration.'

One party called this provision obligatory and the other termed it as a directive. This is not the time to dwell on this point. It is now past after the speech by the President declaring the state of emergency, wherein he told the nation that it was not possible to hold free, fair, credible and acceptable election within the said 90 days time under the prevailing situation.

No one objected to the President's speech made on January 12, qualifying that it was unanimously accepted by the nation. Moreover, the election due to be held on January 22 has been cancelled by the Election Commission.

In his speech the honourable President presented before the nation the whole scenario, describing the socio-economic-political situation of the country and highlighting the following:

! Election Commission failed to prepare a flawless voter list. The voter list that it had prepared was full of errors and deviations.

! It was not possible to hold an acceptable election within the stipulated 90 days, without correcting the voter list.

! An alliance demanded for transparent ballot boxes and issuance of voter ID cards. The general election being an expensive process, it won't be good for a nation to hold more than one general election for a specific

alliances have put themselves on board the same vessel and started demanding that the election be held very quickly. By this time one alliance seemed to have forgotten its own demand. It seems that the political parties' most favourite thing is to remain on the powerboat by any means, and not to clean the obstacles on the way of practicing true democracy.

The Chief Adviser has very categorically outlined the steps his government would take to clean the path of holding free, fair, peaceful, impartial, credible and acceptable election.

We have heard the members of some political parties' saying that it is not the task of the caretaker government to initiate the steps to:

! Separate judiciary from executive

! Eradicate corruption

! Make Anti Corruption Commission (ACC) active

! Reconstitute and reform Election Commission etc. etc.

! It sounds like one has been asked to swim across the river Padma, but is not allowed to move his hands and legs. We are asking someone to come to the south of Dhaka from the north within half an hour, without easing the traffic chaos.

We are expecting the caretaker government to establish the desired atmosphere for holding free, fair and impartial election, but are not ready to allow it enough time to clean the path to

Caretaker Government as provided by Article 58D (1) and (2) are as the following:

(1) The Non-Party Caretaker Government shall discharge its functions as an interim government and shall carry out the routine functions of such government with aid and assistance of persons in the service of the Republic; and, except in the case of necessity for the discharge of such functions, it shall not make any policy decision.

(2) The Non-Party Caretaker Government shall give to the Election Commission all possible aid and assistance that may be required for holding the general election of the members of the Parliament peacefully, fairly and impartially.

The above-cited provisions have given the Caretaker Government the authority to discharge its functions as an interim government, and even the authority to make policy decisions in the case of necessity.

The foremost function of the Caretaker Government is to provide the Election Commission necessary aid and assistance for holding free, fair, peaceful, impartial, credible and acceptable election of the members of the Parliament.

If it appears to the interim government that the existing Election Commission is not competent to hold a free, fair, peaceful, impartial, credible and acceptable

election, it can reconstitute and reform the Election Commission under authority provided by the constitution. Similarly this government cannot, and should not, allow rampant corruption to continue, nor can it allow the religious bigots to carry out heinous deeds.

Since the constitution has provided the caretaker/interim government all the powers to run the affairs of the state as the elected government, and since the members of the Caretaker/Interim government have no party affiliation, and since, under the present situation there is no limit for its tenure, it should continue for the time it needs to accomplish the tasks the Chief Adviser has outlined in his speech to the nation. The tasks appear as the following:

! Creating an atmosphere congenial and conducive for holding free, fair, peaceful, impartial, credible and acceptable election of the members of the Parliament.

! Constituting an impartial, strong, effective and truly independent Election Commission.

! Preparing and publishing a flawless and correct voter list.

! Providing voter ID card and transparent ballot box.

! Taking strong and effective steps to eradicate corruption and terrorism.

! Taking strong and effective steps to free the election process from the influence of musclemen and black money.

! Taking strong and effective steps to improve the law and order situation for providing peace, and protecting the lives and properties of all citizens.

! Taking steps to clean the dirt of the administration, and to help members of the administration understand that they are the servants of the Republic and not of any government or party, and help them to regain their lost status and prestige.

It is an opportunity for this caretaker government, though it came through a series of unwanted events, to do good to the nation, something which we have been looking for. I will humbly request those who talk about constitutional limitations for this government to please go through the relevant provisions of the constitution; and let us refrain from vexing this government, rather let us help it to achieve the noble goals we have been aspiring for years.

The writer is a former government official

Much to be achieved in short time

It is extremely difficult to assess correctly as to the minimum time needed to hold election. However, a wild guess of about six months may not be too inaccurate. As it would be desirable to complete the job relating to reconstitution of EC, issue of ID cards, recovery of illegal arms, and process of depoliticisation of police force or general administration within the period of emergency, the emergency may be allowed to continue until its normal expiry.

ABMS ZAHUR

It would not be correct to put all the blames for failure of the last caretaker government on the President. All the parties concerned i.e. the President, the 4-party alliance and the 14-party alliance should share the blames for the loss of about 80 days in beating about the bush. The President should not have shown any interest in taking additional responsibility of the position of Chief of caretaker government. Being a BNP elected President it was virtually impossible for him to take any measure not acceptable to the 4-party alliance. The Election Commission worked almost totally under the control of the PMO, though it was supposed to be an independent and neutral organisation. Police administration was politicised, judiciary, particularly, the lower judiciary was under influence of the BNP-led alliance. Corruption among ministers and bureaucrats was not only widespread it was also internationally decied. Despite such a state of affairs the past government was totally insensitive to any criticism or recommendations from any quarter. Thus the general public started losing faith in 'our democracy' and politicians quickly.

The 14-party alliance committed a political blunder by reluctantly accepting the President's decision to take the position of the chief of the CTG. With no mutual trust or respect for each other Prof Iajuddin remained constantly under pressure from both 14-party alliance and 4-party alliance. With the passage of time it became transparent to the 14-party alliance and associates that 'no credible election can be held under Prof Iajuddin.' Sudden activation of an old case of corruption (purchase of Japanese boats) to bar Ershad from participation in election compelled the 14-party alliance to withdraw their nominations for the election. Such a withdrawal was welcomed by the 4-party alliance because 'it suited their plan' (?) However, the 14-party alliance announced for resisting the 22 January election. Immediately the 4-party reacted by stating their intention to challenge any attempt by the 14-party alliance to frustrate the election. Thus a situation was created for a violent unacceptable election (both domestically and internationally) on 22 January 2007.

Fortunately enough some of our major donor countries such as USA, UK, EU countries, Australia, Canada showed their concern and expressed their opinion that such a one-sided election would not be acceptable to their government. In addition, strong opposition came from the UN. Thus pressures from home and abroad forced Prof Iajuddin to resign from the post of chief adviser and proclaim emergency and go for a new CTG. Whatever may be the faults and failures of Prof Iajuddin between 29 October, 2006 and 11 January 2007 he deserves thanks for his declaration of emergency on 11 January 2007.

Some analysts refuse to accept this new government as CTG they prefer to treat it as an interim government whose tenure is not restricted to 90 days and which has some jobs which are just not routine and only related to holding of election. As far as we know it desires to (a) ensure completion of a flawless voter list, (b) issue of ID cards for voters, (c) reconstitution of Election Commission, (d) depoliticisation of administration, particularly the law enforcing agencies, (e) recovery of illegal arms and (f) separation of judiciary from the executive. It is learnt that the CTG has already decided to start dialogue with the political parties to bring them closer so that they (the parties) cooperate in holding a fair, free, neutral and credible election peacefully as early as possible. The CTG, of course will have to convince the parties about the importance of completing the jobs it desires to complete before announcing the schedule of election.

At the start we hear that the election commissioners are not sure about resigning from their positions to enable the CTG to reconstitute the EC. No doubt the CTG may find out as to what is to be done about it so that preparation of correct voter list can be completed within two to three weeks. Except depoliticising the police force at lower level, depoliticising the general administration can be finished within two weeks. Complete separation of judiciary may need longer time (more than six months) however the critical part of the job can be done, perhaps, within six months. In regard to elimination of corruption the CTG may immediately start depoliticising the Commission (ACC) and assist it to start some work worth mentioning. It is sad to state that this dysfunctional body has wasted lot of time

Voter ID card may not serve as the magic tool without ICT in place

AHMED IMRAN

ALTHOUGH we all welcomed the caretaker government's noble intention and initiative to prepare voter ID cards for ensuring a transparent and fair election process, I would like to take a cautious and sceptical view about the desired outcome, if the associated governance process and mechanisms are not developed side by side or given a thorough consideration.

The ad-hoc arrangement of voter ID card, and more particularly the national ID card, will fail to deliver its proper value if it is planned without keeping pace with the national ICT infrastructure and national strategy in adopting ICT in the mainstream of the government.

Before this major decision is taken, a detailed evaluation and study must be carried out on its deliverable results in terms of cost, time, public acceptance and, most importantly, the range of risks involved in the context of Bangladesh and its current environment.

In addition to initial cost and investment problems, these risks can be categorised in many ways.

For example; the problem of data gathering and data organising, as there is no national database in place; the relevance of the card for a large number of people who are illiterate and living under the poverty line; the ineffectiveness of the copyright law will put the security of ID cards at stake.

False ID cards will be produced in abundance, for sure, with the help of cheap technology. A proper and costly mechanism is needed to ensure the validity of the card with digital key/barcode, which may not be feasible for all the places/polling stations in Bangladesh.

Loss prevention and replacement of cards will be a huge problem, and the risk in allocation and distribution among the citizens, and

pilferage, will add more problems.

After a billion-dollar loss in the previous project, there is surely a big risk of another loss if the factors and reasons for the failure are not addressed properly.

We should never think that the voter ID card is a magical tool, which will make the election process smooth and transparent.

Moreover, there are some pre-conditions for any innovation to succeed. A hastily implemented

instead of focusing on voter ID card.

The introduction of voter ID card is a debatable issue even in the developed countries, including USA. For example, if someone wants to vote by absentee ballot (which both the Republican Party and the Democratic Party encourage voters to do) it is pointless to have a voter ID.

A national ID card, on the other hand, may be a good idea if it is a

Also, without building the national IT infrastructure, enacting the relevant laws and adopting ICT in national strategy and planning, making only a voter ID card will be something like making a car without its engine.

It is an integrated process. To derive the maximum value, and to manage the entire voting process efficiently, a national database with national backing is required to complete the automated process.

Earlier, the international debate about the relevance of ICT to least developing countries had been resolved with an overwhelmingly "yes" answer. But its direction and implementation are yet to see any ray of light.

Regrettably, research and innovation in Bangladesh receive low priority in most of the pre- and post-evaluations of projects. Whereas, for a poor country like Bangladesh, the need for such research and investigation is far more important than it is in the West because every penny is valuable for us.

We simply can't afford to waste money in the name of project and experiment, without proper evaluation, feasibility study and calculation of ROI (Return of Investment).

So going into a big venture like voter ID card, with a population of 135 million, will be viable and acceptable only when all other associated issues are taken well care of, and the advantages and disadvantages are carefully examined.

Otherwise, the repetition of failures will be too much to bear for a poor country like Bangladesh. We believe that simply performing a political stunt is not the intention of the present caretaker government.

A more holistic, meticulous and viable approach is expected from them before they embark on this venture.

Ahmed Imran is a PhD candidate in Information System at the Australian National University.

Musharraf's predicament

HUSAIN HAQQANI

GENERAL Pervez Musharraf's well-wishers had expected him to legitimize his rule, and put Pakistan firmly on the road to constitutional democracy, by holding free and fair elections in 2007.

Instead, Musharraf has decided not to risk his position and power at a free poll. He will be "elected" president by the parliament and provincial legislatures that were elected in the tainted 2002 elections, just as their term enters its last days.

Some observers see Musharraf's decision as reflecting his total hold on power in Pakistan. In actual fact, it indicates the weakness of a military ruler embattled at home and abroad.

The Pakistani constitution envisions a parliamentary system of government, with directly elected legislatures at the federal and provincial levels. The President, under the constitution, is head of state and the symbol of the unity of the federation.

He is, therefore, elected by an electoral college comprising of the National Assembly, the Senate and the four provincial assemblies. Under the constitutional scheme, the president derives his mandate from the mandate given by the people to their elected representatives.

The four presidents elected under the constitution since its inception in 1973 (Chaudhry Fazal Elahi, Ghulam Ishaq Khan, Farooq Leghari and Rafiq Tarar) were elected by newly elected assemblies at the beginning of their five year terms.

Musharraf, on the other hand, is seeking election from assemblies whose own flawed mandate is about to come to an end. Legal experts known for facilitating military rule in Pakistan have said that the maneuver is legal.

But such technical legality is not a substitute for legitimacy.

As of now Musharraf is "president" because he decreed himself so as a result of the rigged referendum held before the legislative

elections of 2002, which were deemed by international observers and Musharraf's friends in the US State department as "flawed."

Then, too, Musharraf did not seek election under the terms of the constitution and gave himself a waiver from the constitutional bar on employees of the state (a concept that includes serving military officers) holding elective office.

Musharraf's term of office, if it can be called that given that he secured the position by fiat and not by election, ends on November 16, 2007.

Musharraf's maneuver is an attempt to ensure that he remains president without having to seek election from legislatures elected by the people. Official spokesmen claim that Musharraf's "term as President" would end a week before the completion of the five-year term of the present assemblies on November 16.

Therefore, if the next presidential election is held between September and October 2007 then the outgoing assemblies can rubber-stamp Musharraf as president without risking a proper election.

Such quasi-legal maneuvers have been used by Pakistan's military rulers since the country's first coup in 1958. But legitimacy is a political and not a technical matter.

Even after the rubber stamping by an emasculated parliament and weakened provincial legislatures, it is doubtful whether General Musharraf can overcome his regime's crisis of legitimacy.

In fact, if history is any guide, Pakistan's coup makers have always become politically weaker after manipulating themselves into a second term.

The pattern of Pakistan's coup makers has been that the general seizing power rules for a few years with the help of a Supreme Court judgment approving his military takeover followed by a first presidential term based on a rigged referendum.

This is followed by a presidential election of some sort, with minimal pretense of genuine democracy and political contestation, and it is at this stage that the absence of legitimacy of the ruler comes to the fore.

(more than two years) and money mainly because of indifference of the past government. The on-going army-police operation is proceeding well, with good cooperation from the general public it is hoped that the objective of the operation will be achieved shortly.

To save the election from the evil influence of black money and muscle power, a well concerted action by the Bangladesh Bank, commercial banks and the Election Commission may be recommended to stop nomination of candidates by political parties on the strength of their wealth and not on the strength of their character. Without such an effort it may not be possible to stop the criminals from dominating the political scenario. Needless to say that without any constant and sincere effort by the civil society, the government and the political parties we cannot control the evil influence of money in society.

Without completing meaningful dialogues with political parties and completing the job of reconstitution of EC it is extremely difficult to assess correctly as to the minimum time needed to hold election. However, a wild guess of about six months may not be too inaccurate. As it would be desirable to complete the job relating to reconstitution of EC, issue of ID cards, recovery of illegal arms, and process of depoliticisation of police force or general administration within the period of emergency, the emergency may be allowed to continue until its normal expiry. The CTG will have to withstand the pressure from political parties to life emergency (if there be any). After completing the tasks relating to holding of a peaceful, free, fair, neutral and credible election the EC may announce the date of election.

We know that the new advisers are well experienced, hard working, sincere and committed to finish the job. Thus there is enough reason to be hopeful about successful completion of a peaceful, free, fair, neutral and credible election under a reconstituted EC.

ABMS Zahur is a former Joint Secretary.

Husain Haqqani is Director, Center for International Relations, Boston University. E-mail: haqqani@bu.edu