

Redefining MPs' functions and provision for recall

Art. 70. Vacation of seat on resignation, etc

(1) 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 that party or votes in Parliament against the party. Explanation. - If a member of Parliament-

(a) being present in Parliament abstains from voting, or

(b) absents himself from any sitting of Parliament, ignoring the direction of the party which nominated him at the election as a candidate not to do so, he shall be deemed to have voted against that party.

(2) If, at any time, any question as to the leadership of the Parliamentary party of a political party arises, the Speaker shall, within seven days of being informed of it in writing by a person claiming the leadership of the majority of the members of that party in Parliament, convene a meeting of all members of Parliament of that party in accordance with the Rules of procedure of Parliament and determine its Parliamentary leadership by the votes of the majority through division and if, in the matter of voting in Parliament, any member does not comply with the direction of the leadership so determined, he shall be deemed to have voted against that party under clause (1) and shall vacate his seat in the Parliament.

(3) If a person, after being elected a member of Parliament as an independent candidate, joins any political party, he shall, for the purpose of this article, be deemed to have been elected as a nominee of that Party.]

---- THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH

(As modified up to 17 May, 2004)

G. M. QUADER

THESE had been wide spread criticism that MPs do not do their work. Instead they roam around secretariat building and also keep themselves busy with interfering in development works especially in local government affairs in their own constituencies.

It may be noted that functions of MPs are advisory they may put forward recommendations only. MPs possess no executive authority and cannot give order for implementation. It is the government which by its actions unofficially provide the necessary authority to ruling party MPs to effectively interfere in the executive authorities for personal gain. MPs belonging to opposition parties were not allowed the same authority and privilege. Instead, the rank and file of the ruling party enjoys the same authority vested irregularly by the government. The places where ruling party do not have any MP, interference in development works, administration and local government affairs are done by local level leaders of the ruling party.

Functions of Members of Parliament (MP) are well defined in our constitution. Any other functions carried out by MP beyond specified jurisdiction may be considered irregular.

Constitution of

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

"(2) Parliament shall consist of three hundred members to be elected in accordance with law from single territorial constituencies by direct election and, for so long as clause (3) is effective, the members provided for in that clause; the members shall be designated as Members of Parliament."

Clause 3 as mentioned is provided for provision to fill up 45 reserve seats for women Member of Parliament through single transferable vote of directly elected MPs.

Parliament or House of the Nation presently consists of 345 Member of Parliaments including 45 seats reserved for women MPs. To the 345 Member of Parliaments collectively lies the authority to make law for the republic.

Making law means making new laws, making amendments of the existing laws, even annulment of any existing law. Law signifies direction to a nation. It acts like a road map by defining what way the society should move and how.

Each MP has some role in making law as per the above provisions of constitution.

Moreover, representing a part of the population MP bear the responsibility to provide due importance to law making as that law would form a part of the road map to which the nation including the population he is representing would be heading to.

Laws are generally prepared and produced by the government. This is natural as prime responsibility to drive the nation vests on the government and they are to make laws to give direction towards the desired path. But, each individual MP may also prepare law for passage to Parliament if he/she feels that is necessary for the country.

There are provisions in our existing system for the same. Constitution and Rules of Procedure of Parliament allowed and laid down rules for effectively participating in law making not only for the government but also for other individual MPs.

But, certain provision of constitution made it impossible for any MP even being a member of the ruling party to play any decisive role in law making.

70 (1) of constitution bars any MP elected from a party to vote in Parliament against the party from which he/she is elected or even abstain from voting against party decision. In case that is done by any MP he/she loses his membership in Parliament.

That restriction makes the government party MPs who constitutes the majority number in Parliament captive support to all the government actions in Parliament. Most of the decisions in Parliament are passed by majority votes. So for any government article 70 (1) provides blanket coverage of assured support in Parliament for any proposal irrespective of whether there is merit in it or otherwise.

Naturally law making the most important function of Parliament is for the said reason under total control of government. Present practice is government prepares a law itself through its bureaucracy without involving any MP and passes the same through the council of ministers and then places it to Parliament. Once thus placed there is no reason it would not be passed in totality in Parliament with the support of majority captive votes of government party MP. Those MPs have to vote in favor and cannot vote against or propose amendment even if they possess reservation or disagreement for its passage.

Opposition party member of parliaments have the liberty to put forward objections and suggest amendments which in reality are never even heard properly not to expect acceptance of the proposals. Opposition being minority in number is

not in a position to impose any decision in Parliament as they are sure to lose in voting since they are not to expect any support from MPs belonging to ruling party.

MP or law maker as they are widely known both home and abroad due to their perceived role do not have any scope to intervene in the process of law making in our system. MPs are not in a position to make any amendment or stopping passage of law even with very genuine ground as per their judgment and to make any law even if they feel that necessary.

Of course, government at times use an MP (generally from ruling party) to make correction in law by proposing amendments or set a MP to make a new law as per government desire to create a deceptive notion that MPs are not kept outside the law making.

MPs prime role is law making. They are to be made real law maker by allowing them their due role in law making process. They need to say no in passage of any law if they feel so, suggest amendments as per their judgment and should be allowed to do so.

Article 55 (3) of Constitution is, "The cabinet shall be collectively responsible to Parliament." Cabinet refers to cabinet of ministers or government. Parliament as referred constitutes all the MPs belonging to both the ruling and the opposition

parties excepting those who are members of cabinets. This provision provides for another major function of MP either in ruling party or in opposition that is to ensure accountability of the government for its activities.

To be effective in imposing accountability, Article 57 (2) provides scope to the MPs to the extend that they can sack government or even dissolve Parliament by moving a motion of no confidence and pass it with majority vote in Parliament.

In reality ruling party is majority in Parliament. Ruling Party MPs are constitutionally bound to vote in favor of government. So there exists no scope to pass a motion of no confidence in Parliament.

Article 76 (1), (2) & (3) stipulates provision for formation of Parliamentary Standing Committees (PSC) with well defined responsibility and sufficient authority on different government ministries and other functionaries to scrutinize day to day activities of those government bodies and recommend suggestions and actions.

Ruling Party MPs are majority in Standing Committees. Chairman of the standing committees being elected as per majority vote in Parliament are decided by ruling party. Those positions are filled up in almost all cases from gov-

ernment party MPs. In practice they try to protect government and the misdeeds committed by them as per dictates from party high ups, which they are obliged to abide by.

It is obvious that MPs cannot do their designated job of law making or taking accountability of governmental activities under our system. Is it irrational under the circumstance that MPs do not feel necessary to attend the Parliament or meetings of the PSCs, instead they flock in secretariat or try to interfere in local government affairs in their constituencies as much possible? This they do sometimes for personal gain and at times simply to be seen doing some job. Of course, there should not be any doubt that it is irregular and cannot be supported under any context.

To be effective in carrying out the above mentioned functions of law making and scrutinizing government activities, MPs are to act independent of party dictates and use their own conscious judgment.

That cannot be made possible without abolishing article 70 (1) of constitution as mentioned above. Most powerful logic for introduction or for maintaining this provision of constitution is possible horse trading or frequent change of side by the MPs accepting personal benefit. Outcome might be that passage of law or governance as a whole could be difficult. There is also the apprehension that stability of government may be disturbed hindering peace, progress and prosperity.

Bangladesh has opted for Parliamentary Form of Government. Parliament consisting of MPs should naturally become the focal point of activities. Part of the Parliament would form the government and lead the governance. The rest of the Parliament would provide guidance and keep government in track by ensuring its accountability. MPs are driving force for this system.

Misconception is that MPs with required quality would not be found. No trial was ever made to justify above assumption. Considering that being real it was better to avoid parliamentary system instead of adopting a mutilated form which has made it ineffective. It is better to make the system pure by removing the provisions of article 70 (1) and take a chance by practicing it.

As an additional measure to sort out ineffective, corrupt and opportunist MPs, recall system by the voters of the constituencies may be introduced. This system would allow voters to cancel seat of their MP in Parliament and call for a fresh election in that position by submitting a public petition signed by majority number of voters of that constituency.

Hopefully, that would ensure MPs interested for horse trading to be away from Parliament.

Former Member of Parliament.