

There is but one 'brand' of democracy

Differences lie in the form of practicing it

THE suggestion of the chief of army staff, of formulating a Bangladeshi brand of democracy for the country, in his book launching ceremony on Wednesday, has attracted our attention.

We do not feel that there is anything wrong with democracy per se in Bangladesh and would like to assert that there is but only one form of democracy, which has a universal character. If there is any variance it is in the political structure or institutions that give shape to it. Democracy is a concept, and in military parlance 'operationalisation' of that concept may vary from country to country. For example, there is the presidential and parliamentary form of government, bicameral or unicameral legislature, varying degree of power of the head of government, different measures of checks and balances, variation of power between the judicial, executive and the legislative branches of the state, and many such differences. These are not "different brands of democracy" but different political structures that have been chosen to practice democracy, which we repeat is one and universal.

We would like to believe that what the army chief was trying to convey are the flaws of democracy as we practised it, and not so much the concept itself. He makes mention of buying of votes and of the elected representatives visiting their constituencies but only once in five years and that too just before the election. But is it the fault of democracy or of the people who are supposed to make it purposeful? We have examples, by the same token, of MPs visiting their constituencies every week and some staying permanently in their constituencies. Why pick on the worst to prove a particular point of view?

He also spoke about the PM being all powerful. May we ask, is it the fault of democracy that we have had prime ministers behaving in the most imperious manner? Is it not more the fault of our institutions that have failed to exercise the necessary checks and balances that they are capable of doing but failed to do?

What perhaps the CAS was trying to convey is that there is need for political reform that would prevent aberration of the concept of democracy by the people's representatives and those who are supposed to ensure that democracy in all its aspects is practiced. Political reform and strengthening of the political institutions are something that this paper, along with the members of civil society, has been trying to bring about in the last several years. We do not need a "Bangladeshi brand of democracy"; we just need to implement it in the form that is universally practiced today.

We would like to put on record that the CAS has earned tremendous goodwill by his unequivocal assertion for democracy, election, and political reform that can make democracy work. He has also earned respect by his continuous dismissal of any suggestion of the army's involvement in politics. We would not like that to be spoiled by remarks that confuse matters.

We repeat, the fault is not with democracy, but the way we practiced it in the past. So correct the practice and not democracy.

Castro walks into the twilight

He played a pivotal role in our times

IDEALLY, Fidel Castro would have done himself a whole lot of good had he decided to leave office years ago when he was in a much better state of health than he is at present. That way, Cuba by now might have been home to a strongly rooted political system without the kind of uncertainty which follows in the wake of the departure of a strongman. Additionally, it does not much help that it is his brother, the 76-year-old Raoul, who now governs the country. The question still remains: what happens when both Castros are gone?

All said and done, though, the move by the Cuban leader to relinquish power is in many ways an act most to be admired. Fidel Castro leaves a legacy that most men in leadership positions around the world can look upon with envy. The revolution he brought about on New Year's Day in 1959 electrified people everywhere, for two reasons. In the first place, he had sent the detested regime of Fulgencio Batista packing. In the second, he was promising Cubans leadership that was young and idealistic. At that early stage, Castro had little way of foreseeing the long, hard struggle he would soon be put through. With considerable credit to himself and his band of revolutionaries, he swiftly crushed his US-backed enemies at the Bay of Pigs in 1961 and so left President Kennedy with egg in the face. The next year, he survived the fierce row between the United States and the Soviet Union over the missiles of October. No other political leader in memory has had to undergo so much of intrigue against him as has Castro. Almost every American president since 1959 has tried to bump him off. He ended up seeing nine of them come into and leave office in his period in power. He has escaped assassination authorised by powerful men in Washington; and he has successfully withstood American economic sanctions since 1961.

Resilience has been Castro's forte. That has underscored the global role, be it in the non-aligned movement or in assisting liberation movements in Africa, he has played in his time. At home, against the odds, he has provided excellent health and education systems to his people. In terms of history, therefore, Fidel Castro goes into the sunset as a man who made history. Other men will find it hard to replace him.



ABDULLAH A. DEWAN

IN a landmark judgment on February 6, the High Court (HC) declared the government move in bringing the Tk 2.99 crore extortion case against former premier Sheikh Hasina under Emergency Power Rules (EPR) illegal, and quashed it.

The judgment held: "Since, in the rule, the sanction [for bringing the case under the EPR] has been challenged, and we [the judges] have found that the sanction was given without lawful authority as the offence was committed by the accused prior to promulgation of the emergency, the rule is absolute."

The defense lawyers applauded, saying that the judgment wasn't only their victory but also of the rule of law. If that rule is absolute, then how would the prosecution of war criminals be instituted under EPR? The government, however, challenged the legality of the judgment with the Supreme Court (SC).

The essence of the HC's arguments is:

- According to the provisions in Articles 31-35 of the

Emergency power and irreparable harm

NO NONSENSE

Past offences for which the politicians have been charged and which have been brought under the EPR would be unlikely to ever end up in court in the absence of EPR for the obvious reason that they would be claimed to have been concocted for political vendetta. Resolving these cases expeditiously yet fairly during the tenure of a neutral CTG under the cover of the EPR seems to be in the best interest of the internal security and economic well-being of the country.

Constitution, none of the rights of a citizen, including the right for bail, can be curtailed by promulgating any act during the state of emergency (SOE).

- Sections 497 and 498 of the Criminal Procedure Code entrust the court with the power to grant bail even in case of non-bailable offences.
- The Emergency Power Ordinance (EPO) also does not say that any rule could be formulated in contradiction with the constitution.
- The EPO gave the government the authority to formulate rules, but not to formulate any that goes beyond the ordinance itself.

The court said that the extortion case filed by Azam J. Chowdhury (AJC) was approved by the authorities concerned to be brought under the EPR. The court observed that the sanction was given on consideration of the status of the accused. This contradicts the existing provision in the law regarding the sanction, which states that public importance of the offence must be considered for

such sanction and there's no provision for considering the status of the accused.

The court argued that importance must be given to issues like protecting the state's security and economy, and maintaining law and order on the basis of the gravity of an offence.

The offences under the emergency rules include corruption, smuggling, hoarding, black-marketing, money laundering and tax evasion, and illegal possession of firearms, explosive substances, foreign currency and narcotics, and other crimes considered a threat to security of the state, the people, and the economy.

After a perfunctory look at the constitution, I found no provision of the laws stating clearly that EPRs are prohibited from enforcing cases or incidents that occurred before the SOE was promulgated (on 1/11). Certainly, the current EPRs weren't ordained in anticipation that the above-stated offences would be committed during the operation of the SOE.

Notwithstanding my deficiencies

in legal expertise, I find it commonsensical to suggest that in the absence of any statutes of limitations, all cases can be brought to trial at any time. This may be open to discretionary judicial interpretation.

Bringing cases under EPR mustn't make incarceration of the guilty any more stringent or lenient -- the expediencies of bringing them under the EPRs was guided by the exigency of resolving them on a fast track basis and purging the criminals from the political process to pave the way for a free and fair election.

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One may not simply try to seek

refuge in the words of the constitution (strict constructionist) and try not to find directions, even if the cases are remotely connectable to situations that brought the SOE.

If the criminal wrong-doers waiting for their day in the court, those already incarcerated, and the others waiting to be charged are left off the hook for legal technicalities, the country and the people would have to withstand "irreparable harm" -- one that would bring back these criminals and their old games of "looters' politics" and lawlessness.

Government attorneys mustn't ignore the fact that it is only the people in power, or the "mafia," who can resort to extortions and all forms of mischief for personal and political gains -- not ordinary citizens. Sheikh Hasina may well be innocent, but numerous such cases have surfaced after this case was lodged. The lawyers arguing the case in the SC may bring forth the totality of the situation in the context of the economic, social, and political damage inflicted on the country over time.

Then again, many plaintiffs had been denied justice for many years. They thought they would get justice under the EPRs. What about the fundamental right to fair justice for these law-abiding citizens? These people could not even get a hearing of their sides in the court for fear of retribution. Who will compensate for their mental agonies and material losses?

In the meantime, the alliance government came and went,

leaving behind the Augean Stable of corruption, extortion and looting, thereby placing the country as number one in corruption for five consecutive years.

"Irreparable harm or damage," as quoted above, is taken from one of the most controversial US Supreme Court verdicts -- a 5-4 decision which halted the counting of votes in the state of Florida in the 2001 presidential election that made George Bush the president.

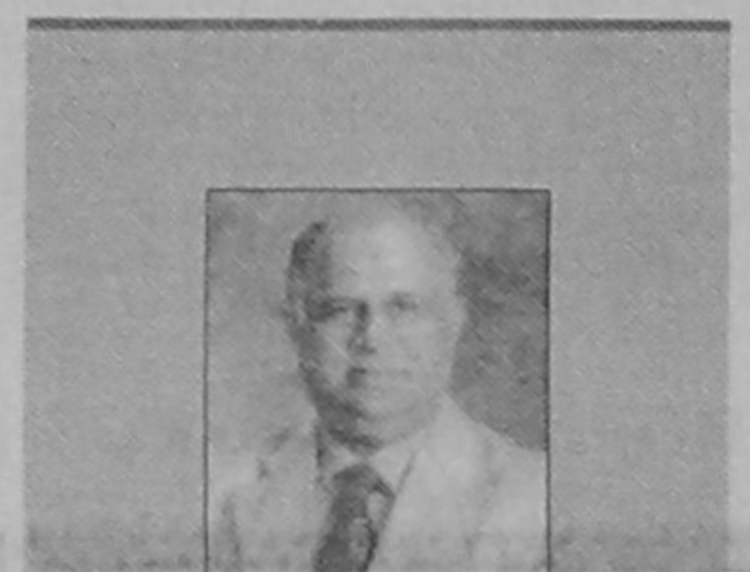
The five-member majority on the US Supreme Court took the position, in the words of Justice Antonin Scalia, that "there is no right of suffrage" in a presidential election. Manual counting of the votes "does in my view threaten irreparable harm to the petitioner (George W. Bush), and to the country by casting a cloud upon what he claims to be the legitimacy of his election."

If the framers of the constitution could foresee that the country's powerful people (packed in prison now) would commit such odious crimes, they would have clearly incorporated the provisions of all these EPRs to save the country from "irreparable harm."

My last word is that if this is a world in which a man-made Constitution protects the right of obvious criminals, for example, the forest conservator who caused irreparable harm to his country and violated the rights of 145 million people, then I should be counted out of that world.

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A pocketful of miracles



IKRAM SEHGAL
writes from Karachi

OLD weather and logistics problems, as well as apprehensions about possible terrorist attacks, caused a very low turnout during the morning of Election Day. With security forces concentrated around the more sensitive polling stations providing deterrence, and no major incidents throughout the country, voter turnout picked up around midday, building up substantially by mid-afternoon.

On January 3, I had written: "From all information available, the rigging mechanism has been programmed to win nearly 90-100 of the 148 NA seats available in the Punjab, about 50 more than PML (Q) would really get. The bloc of seats will see him (Pervez Elahi) safely in a coalition with both like-minded MQM and JUI (F) as well as unnamed others into the PM's seat. The uniformed army will not be a party in this fraud, but the involvement of some of its personnel in the intelligence agencies is more than possible. With nothing to do with the malpractices at the polling stations and in the country thereof the army will still get all

AS I SEE IT

As much as Pervez Musharraf may be vilified presently, his legacy will record that the most free and fair elections in Pakistan's history were held during his watch. Will he be tempted to make a graceful exit on a high? Or will the demands for his resignation bare his stubborn self and coerce him to hang onto power come hell or high water?

the blame. Will 'civilian' President Pervez Musharraf subject the army that he loves so much to be so outrageously defamed as 'electoral cheats' for the sins (and benefit) of others, particularly Mr Pervez Elahi? Loyalty is a two-way street, for having him elected as a 'civilian' President, Musharraf owes the army loyalty in return.

What better way for him to express this loyalty than to ensure free and fair elections so that army's image and reputation is not sullied anymore. As it turned out, things were moving in that direction.

The short 60 days period of election campaigning was meant to ensure that the aura of power would not wear off, every day out of power loosened their grip on the bureaucracy and meant losing more and more seats. After Benazir's assassination on December 27 the "Pervez Elahi Rigging Machine" (PERM) started unraveling.

The first setback was the postponement of general elections from January 8 to February 18. Their second major setback was the recall to the army of all serving officers seconded to the civil administration, further accentuated by the third setback, the

COAS directing in writing that no army personnel, meaning mainly intelligence personnel, would have any contact with politicians.

This knocked the prop out of electoral rigging, as elucidated quite eloquently on prime-time TV by the master manipulator in 2002, (then ISI's) Maj Gen Ihtesham Zamir. The explicit instructions of the COAS Pakistan Army were symbolic and effective in creating a distance between the army on the one hand and politicians and civil administration on the other; the writing was on the wall. Bereft of uniformed cover for committing electoral fraud, the civil administration virtually ran for cover; safety first!

To quote the article further, "The mathematics of seats is quite clear, out of the 272 NA seats being contested, at the very least about 55 will be taken by MQM, JUI (F), ANP, Balochistan Nationalist parties, Independents, etc. That leaves 217 seats. Without any rigging whatsoever PML (Q) will get at the very least 45-50 seats. Let us take the minimum of 45 seats, leaving a balance of 172 seats. At the maximum PPP will have 85 seats plus minus 5 seats ie a maximum of 90 seats and PML (N) 80

seats plus minus 5 seats ie a maximum of 85 seats, the gain and/or loss at the cost of each other."

Having been derided and vilified from pillar to post in the media (and elsewhere) for making such "outlandish" predictions (including the high voter turnout), one feels justified in claiming due credit. Flour, sugar and oil shortages meant long queues and growing disenchantment, the misery being force-multiplied by electricity and gas shortages. Programmed to roll over and play dead in the face of the government's ineptitude, inefficiency and just plain corruption, a large turnout of voters shocked themselves, friends and foes alike by voting out of office the incumbents.

As things stand today, PPP, with its nearly 90 seats, has the first right to try and form a government in the Centre. If the rhetoric is to be believed, PPP is looking to make a "national unity" government including the PML (N) to equally shoulder the responsibility of a worsening economic situation. Zardari's present cosy relationship with Mian Nawaz Sharif notwithstanding, PPP and PML (N) will ideologically remain the main

contenders for power in Pakistan. If not today, tomorrow there will be political confrontation.

Furthermore, can Nawaz Sharif abandon the "restoration of the judiciary" promise in the presence of Zardari-specific National Reconciliation Ordinance (NRO), a black law which Asif Zardari needs very badly, and which the restored judges will certainly throw out. Or will a deal be done so that the restored judges compromise their conscience and allow the black law to stay because of "the doctrine of necessity?"

PPP is in a position to cobble a national alliance in the Centre with (a very willing) MQM, ANP, Balochistan nationalist parties and some independents. PML (Q) supporting PPP in Punjab can make a coalition government, keeping the PML (N), the largest party in the province, out in the cold.

While PPP can form a government on its own in Sindh, it will do so with MQM. With a coalition also in Balochistan, PPP can be part of ANP, forming the government in NWFP. Including PML (Q) will give PPP the government in Punjab (and also additional comfort for staying in power in the Centre).

This is a better situation than it was in 1972, when PPP was not in the governments of NWFP and Balochistan. Also, PPP's inclusion of elected PML (Q) elements will keep them from defecting to PML (N) knowing that economic conditions are deteriorating and can get worse. The ousted PML (Q) leaders game plan will attempt to keep their colleagues elected on their

own steam from joining the PPP or PML (N), with street protests in the coming hot summer forcing another elections several months down the road.

The PML (N) could also be in a position to form the government in the Centre with the elected PML (Q) representatives joining an all-PML coalition. With the PML (Q) hierarchy ousted, Mian Nawaz Sharif is already attempting to enlarge the PML. Can the PML (N) reconcile with the stated ANP demands?

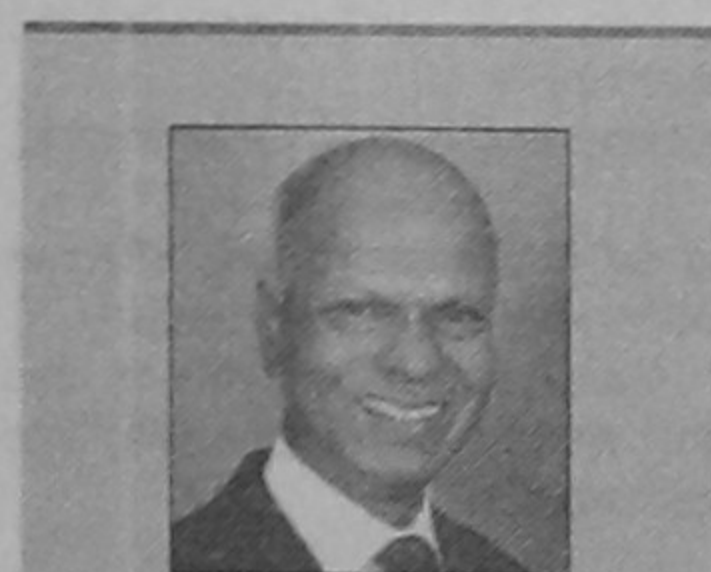
I also do not see the MQM supporting PML (N) in making the Federal Government. It could well be 1988 all over, with PML (N) electing to remain confined, more or less as a regional party, to the Punjab.

While Ashfaq Kayani must be given credit for the courageous initiatives, which led to an historic February 18, and went a long way in restoring the army's image in public perception, this could not have been done without (at least) the tacit permission of his supreme commander, the president.

As much as Pervez Musharraf may be vilified presently, his legacy will record that the most free and fair elections in Pakistan's history were held during his watch. Will he be tempted to make a graceful exit on a high? Or will the demands for his resignation bare his stubborn self and coerce him to hang onto power come hell or high water?

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Misuse of a myth and the birth of a nation



CHAKLADER MAHBOOB-UL ALAM
writes from Madrid

A new nation has been born in Europe. After nearly nine years of tutelage under the United Nations, Kosovo has just declared its independence from Serbia. This is good news and is, indeed, cause for celebration.

Like the Bangladeshis, the people of Kosovo had to make enormous sacrifices to win their independence. So we are in a position to appreciate their feelings and share their joy. We, the Bangladeshis, welcome Kosovo as the newest member of the family of nations.

LETTER FROM EUROPE

After nearly five hundred years, as the military power of the Ottomans started to decline, the Serbs fought for independence and, finally, with the help of the Russians, Serbia became a fully independent country in 1878.

Although Hashim Thaci, the prime minister of Kosovo, in his unilateral declaration of independence, proclaimed Kosovo as "an independent and sovereign state," the reality is quite different. Kosovo, a small, land-locked country of the size of Qatar, will only be nominally independent. Its national sovereignty will remain circumscribed, with the EU exercising a strong supervisory role as far as civil administration is concerned, with the Nato guaranteeing its national security.

Approximately two thousand functionaries, police officers, judges, prosecutors, customs officers etc. from EU countries will look after the civil administration, while approximately 16 thousand Nato troops will guard its frontiers

and continue to maintain peace between the 95% Albanian majority and 5% Serbian minority.

Most members (20 out of 27) of the European Union and the United States have expressed their willingness to recognise Kosovo's independence. Serbia, which considers Kosovo as its hearthland since medieval times, reacted in a violent manner. Its leaders have proclaimed Serbia's sacred rights to Kosovo for being their "ancestral homeland," and refused to recognise "this fictitious state."

Although Belgrade has, for the time being, ruled out using military force to keep Kosovo, some of the Orthodox Church leaders have urged Serbia to retake Kosovo militarily. As usual, Russia has given its unconditional support to

the Serbs, who, after so many deaths and so much suffering, still seem to believe in this "ancestral homeland" theory. So, the question is: Is this a myth or has it got any historical foundation?

In about the tenth century BC (long before the Slavs made their appearance on the Balkan scene), the Illyrians (of Indo-European origin), ancestors of modern Albanians, occupied a sizeable expanse of territory in Europe, which included not only the whole of modern-day Albania but also Kosovo.

In 168 BC, it became part of the Roman Empire. The conquered Illyrians rendered distinguished services in the Roman legions. It is also interesting to note that some of the most important Roman

emperors, like Diocletian and Constantine the Great, were of Illyrian origin.

Although Hun and Visigoth incursions, in the period between the third and the fifth centuries, devastated the Roman Empire, they did not make lasting alteration to the ethnic composition of the Illyrian-speaking territories of the empire. But the Slav invasions, which started in the sixth century, completely transformed the ethnic structure of the area in approximately one hundred years.

Croatia, Serbia, Dalmatia, Montenegro and parts of Macedonia became Slav-dominated territories. Only the Albanians (including the Kosovars) survived as the direct descendants of the Illyrians.

Towards the end of the 12th century, Kosovo was conquered by the Serbians and annexed to Serbia. Despite efforts by the Serbian religious and political authorities to build many Orthodox churches and monasteries and to settle Serbs in

Kosovo, its population remained predominantly Albanian. In this context, it is worth stressing that the Albanians and their ancestors had been living in Kosovo for more than two thousand years before any Serb ever set foot on its soil.

In 1389, a decisive battle was fought between the invading Turks and the Serbs, in which the Serbs were defeated, thus paving the way to the conquest not only of Kosovo but also the whole of Serbia by the Ottomans. The memory of this battle (the battle of Kosovo) is probably what gave birth to the Serbian myth of Kosovo being their "ancestral homeland."

After nearly five hundred years, as the military power of the Ottomans started to decline, the Serbs fought for independence and, finally, with the help of the Russians, Serbia became a fully independent country in 1878.

At the end of the second Balkan War in 1913, Serbia militarily occupied Kosovo, and at the end of the first World War in 1918, the peace-

makers confirmed the annexation of Kosovo by Serbia because of Serb participation in the war on the Allied side and also to satisfy the Serb claim to their "ancestral homeland," thus sowing the seeds of ethnic dissension for the future. (This was the original sin committed by the West, which was in a way redeemed by President Clinton's decision to bomb Yugoslavia to save the people of Kosovo from genocide in 1999).

A new term, "Turk," was invented. It did not refer to ethnic Turks alone. Its wider connotation also included the Slav Muslims, who spoke Serbo-Croatian, and, of course, the Albanian-speaking Kosovars. Due to popular uprising by ethnic Albanians, Kosovo achieved autonomous status within Serbia in 1946.

During the days of Tito (1945-1980), who was a pragmatist, the people of Kosovo were allowed to manage their affairs and use their language as the medium of instruction. Tito's death in 1980 changed all that.

It was Milosevic, the Serbian dictator, who revived the "ancestral homeland" and "sacred rights to Kosovo" myths, and exploited the already existing anti-Albanian feelings among the Serbs to capture power. In April 1987, he visited Kosovo and declared that Kosovo was the hearthland of the Serbian people and the ethnic Albanians were mere usurpers.

In 1989, he abolished Kosovo's autonomous status, put the entire province under Serb paramilitary rule (later replaced by the Yugoslav federal army), sacked tens of thousands of Albanians from their jobs, introduced an apartheid system, prohibited the use of Albanian as the medium of education and started a vigorous campaign of ethnic cleansing against the civilian population with the intention of emptying Kosovo of ethnic Albanians. The subsequent events that led to the birth of Europe's newest nation are well known to every one.

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