

DHAKA MONDAY FEBRUARY 23, 2009

Towards a functional Jatiya Sangsad

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THOUGH the concept of nineteenth century sovereign parliament, which was to govern the polity, has undergone a profound transformation giving rise to the dominance of the executive in the context of the complexities of modern state, its role and significance in making the government behave has not diminished in any way. In a parliamentary system, its importance assumes a different dimension, in which the executive is drawn from the Jatiya Sangsad, and thus, making it the only forum for discussion, negotiation, compromise as well as conflict resolution. But even after thirty-eight years of independence, a functional parliament that was to ensure effective governance in the country has remained an elusive goal.

Hopes were, however, kindled when Bangladesh, after years of experimentation with presidential system, reverted

A number of reforms have been carried out by Fakhruddin-led caretaker government in the electoral system and the people expect a qualitative change in the style of country's politics with the AL having been voted into power on a mandate for change. And that qualitative change can only take place if the major political parties decide that this time round they would make the parliament functional. We now need a parliament, which is open and dedicated to its traditional legislative, representative and oversight functions -- a parliament where opposition is recognised and national issues debated in a constructive fashion, a parliament where citizens can also take part in the legislative process.

Once elected the MPs must demonstrate their sense of duty and responsibility by attending the parliamentary sessions on regular basis. Despite the stuttering start to the first session of the parliament owing to opposition BNP's

which needs to be discussed and resolved, is that of MPs' dependence on the party in the context of Article 70 of our Constitution. At present the MPs cannot vote, on any issue, against the party which nominated him/her. Although it was incorporated in the constitution of 1972 to prevent 'horse trading' and instability, but the fact of the matter is that nobody can deny that its consequences have been far-fetched. Since the provision circumscribes the independence of MPs, they do not feel encouraged to participate in the parliamentary proceedings. This may be one of the reasons for Quorum crisis in the parliament. In order to have the MPs fulfil their designated role their independence should be restored by amending Article 70. It could be amended whereby the MPs would not be allowed to vote against the party on certain issues like 'vote of no-confidence' but would be free to vote against the party on other issues. We can

been numerous. One big factor is the cultural trait in its political environment of what the political anthropologists have termed as "authoritarianism from within," which inhibits the tendency to treat the opposition on equal terms and discuss issues on their own merit. Building of responsible opposition was thwarted repeatedly due to this intolerant attitude of the ruling party and their "arbitrary decisions on important issues bypassing the legislature and development of an intolerant attitude in accepting divergent opinions of the major opposition forces and government back-benchers." Opposition, on the other hand, demonstrated their inability to come up with well prepared alternative national policy programme and eschew dependence on the personality cult of the leaders.

People of Bangladesh do not want to see pre-1/11 scenario in the parliament. Both ruling and opposition must reach a consensus about how they would build a responsible opposition. In order to reach that goal barriers like not allowing opposition an opportunity to speak and take part in parliamentary proceedings should be done away with. More time should be given to the opposition, like time to introduce Private Members' Bills and opposition's day in the parliament. It is to be noted that usually Private Members' Bills have little or no chance of being enacted but the opposition MPs, in this event, get a chance to express their opinions in "either criticising the government's programmes or publicising new proposals." They are used for tactical purposes to influence the details of government bills or to press the Cabinet for action. All these undoubtedly undermine the legislature's oversight capacities to a great extent.

The role of the Speaker is highly important. He/she must play a non-partisan role. The difficulty is that the Speaker being a partyman has been unable to play a non-partisan role. How to make Speaker's role non-partisan? We may follow the example from Great Britain where the Speaker, upon his election resigns from the party on the understanding that, in future elections he would return uncontested. Neither ruling party nor the opposition would contest his/her seat. In our culture, such a proposition is not likely to be feasible and in such case, deputy speaker may be elected from the opposition. It should, however, be kept in mind that though the main task of building a responsible opposition lies more with the ruling party but it lies with the opposition as well. The opposition must also demonstrate their willingness to cooperate with the ruling party on important national issues, establish a working relationship between the ruling party leader and the opposition leader. They must also demonstrate their ability for an alternative government by announcing national policies and a shadow Cabinet. They must also stick to constitutional politics in order to resolve any conflicting issues, and under no circumstances, indulge in the culture of parliament boycotting, forced hartals and violence.

Another important criterion for a functional parliament is to have a strong committee system. It is common knowledge that the more effective the committee system the more efficient is the parliament. Again, the history of committee systems in the Fifth, Seventh and Eighth parliaments have been very disappointing. The weaknesses of the committee systems lay with its composition, irregular meetings and tendency of the House to ignore the committee recommendations. Its oversight activities had been marginal and it needed a thorough overhauling. It was, however, commendable that important bills were sent to Select Committees but its Standing Committees, especially Public Accounts Committee and the departmental committees were not efficient

enough to keep a check on the executive. The PAC was chaired by a Treasury Bench MP and the concerned ministers including the non-MP ministers headed the departmental committees. The fact that the non-MP ministers had been denied voting rights was not sufficient to make these committees fulfil their designated task. Most departmental committees were busy with micro-level management. All throughout the existence of the Fifth, Seventh, and Eighth parliaments no significant improvements of the committee took place. On the contrary, the dominance of the executive undermining the oversight capability of the legislature continued unabated.

The following factors are responsible for non-effectiveness of the committee system in Bangladesh legislature: (i) dominance of the executive; (ii) total lack of professional support; (iii) faulty composition of the committees; (iv) irregular meetings and poor attendance; (v) partisan sentiments of the committee members; (vi) tendencies among the ministers and agencies to ignore the committee recommendations; (vii) lack of cooperation by concerned departments and bureaucracy.

It is evident that the non-effective committees during our fifteen years of democracy, to a large extent, reduced parliament's oversight role. As such, in order to make the Ninth Parliament functional an effective committee system must be established. It is encouraging though, both parties have a consensus with regard to having an effective committee system in order to make the parliament functional. The following steps should be taken: (i) opposition chairs the committee; in this context the chairmanship of PAC is vital. It must be headed by an opposition member. To establish full parliamentary control over public expenditures its PAC also needs to be recognised with an executive arm similar to the General Accounting Office attached to the US Congress. The CAG's office, keeping in line with British system, should be made independent of the executive branch, and responsible to the legislature; (ii) composition on the basis of proportional representations; (iii) Quorum on the basis on one-third presence; (iv) women duly represented in the committees; (v) frequency of committee meetings; (vi) Committee involvement in the budgetary process; (vii) due attention by the executive on committee reports; (viii) committees providing timely reports; (ix) public and media access to committee meetings and minutes; (x) Ministers appearing before the committees; (xi) professional and technical support for the committee members. In order to conduct thorough departmental investigations, the committee members must be provided background information, reports etc. The legislature must have the power to demand information from the executive because, without such knowledge, committees are powerless in moulding law, and establishing effective control over bureaucracy; and finally (xii) training of MPs on committee functions.

All said and done, the ruling party has a gargantuan task ahead if they really want to make the parliament functional. The party in opposition would have to share that burden as well. Besides translating the above strategies into actions, the factor which would make parliament effective is the democratisation within the political parties. Unless leaders are deferential to public opinion, the legislature's main task, i.e. to check the arbitrary actions of the executive, would remain as elusive as ever.

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back to parliamentary form of government in 1991. The parliament or the Jatiya Sangsad was constituted through a free and fair election, and the body, for the first time demonstrated its ability in conflict management. The issue of presidential system vis-à-vis parliamentary was resolved through usual legislative process.

That raised the hope that in the context of nascent two-party system, with the emergence of a strong parliamentary opposition, the parliament would effectively begin supervising the executive and curtailing its potential excess of power. Yet, during the last fifteen years of democratic order such expectations remained unfulfilled due to a host of factors beginning from lack of quorum during parliamentary sessions to total boycotting of parliament by the opposition.

After two years of rule by the army-backed caretaker government the country has seen a smooth transition to democracy through a parliamentary election held on 29th of December 2008.

walkouts on the question of seating arrangements and their disappointment over deputy speakership issue, there are hopes though that the opposition will have taken their place in parliament and started playing their part in it by the time this article sees print.

As a precaution, two things should be done: (i) reduce the number of days from 90 to 30 days after which a member would lose his seat; and (ii) prevent the MPs from taking part in development work at various tiers of our local government, especially at the Upazila level. They must realise that their main task are law-making and scrutinising the executive to make it responsible to the people. Some have argued that the MPs need to look after their constituents which call for their involvement at local level development work. But this is a misnomer. Surely they need to look after their constituents' interests but that task should be performed by highlighting their interests in the relevant national laws.

The second very important issue,

draw the example from Pakistan's constitution which forbids the MPs to vote against the party on certain issues but can use their freedom on other occasions. Even in Great Britain where the MPs are most free and vote according to their conscience and the interests of their constituents, they have some limitations on their freedom. Once the party whip is on, they need to vote according to party line. Amendments of Article 70 can be made following the examples of these two countries.

Third very important task that lies ahead for a functional parliament is to have a strong and effective opposition. Numerical democracy theorists have pointed out the importance of this vital institution. Unfortunately, the political parties' role has been very dismal in this regard. According to Robert Dahl, the less the barrier in a political environment they better the chances of a growth of a constitutional opposition. However, it has been noted with discomfort that in Bangladesh parliament the barriers for the opposition have