

# Terrorism and the Fifth Amendment

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THE agreements reached between Bangladesh and India during Prime Minister Sheikh Hasina's state visit to New Delhi to combat terrorism is a positive move. It should allay fears abroad that Bangladesh could turn into "next Afghanistan", a view expressed by then US Secretary of State Condoleezza Rice on a visit to New Delhi in 2005. Bangladesh is also not in the list of 14 countries whose nationals have been placed on special security checks recently by US security agencies following the failed attempt by a Nigerian national to blow a Delta airlines plane short of landing in Detroit on last Christmas day.

Bangladesh is, thus, currently poised better to deal effectively with threats of religious fundamentalism and regain its position as a Muslim majority state with liberal traditions that it was on the verge of losing during BNP's last term, having also ensured in the last election that religion based parties were soundly trounced. The Prime Minister's resolve against terrorism makes that prospect more likely. However, Sheikh Hasina's resolve notwithstanding, Bangladesh could also be engulfed by religious terrorism. Early this month, the Supreme Court lifted a stay order on a High Court verdict given in 2005 that declared the Fifth Amendment (FA) to the Bangladesh Constitution made in 1979 unconstitutional and illegal. It paved the way to revert to the 1972 constitution and reinstate Article 38 that bans the use of religion in politics. In narrow political terms, that reversion could ban Jamat which, unless handled with the utmost political wisdom, could be extremely dangerous for Bangladesh. The issue has also become deeply entangled in the ethos of Bangladesh's war of liberation, role of Jamat

in 1971, trial of the war criminals; and a host of other related factors. These factors have joined together to evoke a lot of emotions that have made reinstating the 1972 constitution a matter of settling historical scores.

Most people now vocal on the Fifth Amendment are making a very narrow interpretation of what the nullification actually means and/or are not fully aware of its implications. The 5<sup>th</sup> amendment gave the constitution legality to all the executive orders that were issued by the military government between the assassination of Bangabandhu Sheikh Mujibur Rahman and 1979. The amendment also included the insertion, into the constitution, of Islam as a state religion; other insertions favouring Islam and deletion of secularism and socialism as principles of state policy were also made. It also gave legal cover to agreements and treaties signed by Bangladesh and foreign governments. The Fifth Amendment further wrote into the constitution that Bangladesh would seek closer relationship with Muslim countries based on Islamic solidarity (Article 28 (2)). The High Court decision of 2005 will now make all of the above actions/decisions unconstitutional and illegal. Most important of all, it will make all provisions on Islam in the constitution, as a consequence of the Fifth Amendment, also unconstitutional and illegal, if of course the High Court ruling is implemented fully.

The Awami League is, however, selectively using the issue of the Fifth Amendment to restore secularism but retain other parts of that amendment related to Islam according to statements of the Law Minister in the media. Most significantly, it wants to keep Islam as a state religion but reinstate the original article 38 prohibiting use of religion, including Islam (!) in politics. The pick and



choose method of the ruling party has created confusion in the public mind about its real intention. It has also sidelined important facts about Fifth Amendment, like the fact that it restored democracy that the fourth amendment to the Constitution during the AL rule in 1972-75 had compromised. The way the Awami League is dealing with the Fifth Amendment is leaving little doubt that its main aim is to ban Jamat as a political party in the name of restoring secularism.

In going after Jamat, the AL is not taking into context changed circumstances. When the constitution was framed in 1972, it was fresh in people's mind that the protagonists of Islam like the Jamat had used the religion to justify the Pakistani genocide. Thus when article 38 banned political parties from using religion

in politics and placed secularism out of the picture, it was accepted by everybody as the natural thing to do. Nearly four decades into history, when religion based parties have been sidelined by the people through the democratic process where the Jamat won just two seats in the last election, the Fifth Amendment issue has placed Bangladesh's politics on spot to decide on Islam and its role in people's lives. Today, while people are focused on Jamat's anti-Bangladesh role in 1971, they may not be, at least those who do not subscribe to the AL politics, at all keen to ban Jamat and other political parties by reinstating the original article 38. They would rather like the amended article 38 to remain that allows political parties the freedom to associate without religious restrictions. Article 38 in its original form

may push Jamat out of constitutional politics into the underground and encourage it to adopt unconstitutional means for attaining their objectives for it would be wishful thinking to assume that a party like Jamat will just vanish once the doors for it to do constitutional politics is closed. Jamat will no doubt use the ban to appeal to domestic and international support on the sensitive plea that Islam is in danger. Such an appeal could attract many in the country who are not Jamat supporters. It is also not likely to be well received in the Muslim countries and could seriously jeopardize the fate of millions of our expatriates.

A senior civil servant said on a talk show that as long as Islam was not in the Constitution, people had no problem with it. The Fifth Amendment issue has placed Islam squarely

at the heart of the Constitution. Taking it out now, partly or fully, would be difficult if not impossible without putting Bangladesh at risk with its future. It would be wonderful for Bangladesh to be a model secular country. But then when religion is coming back into politics even in western democracies, it is very difficult to understand why Bangladesh is trying to be holier than the Pope. Historically, the separation of state and religion has been a problem of the western Christian nations where the Church's negative, corrupt and reactionary role made it necessary to keep religion out of politics. Islam has not been a problem with statecraft like Christianity.

In next door India, it had a fundamentalist Hindu party as the BJP in power but no one questioned its secular or liberal character. In Bangladesh, Jamat does not stand any chance of getting political power in our lifetime or in the lifetime of our children and grandchildren. Even the BNP that has given Jamat political lifeline in the past thought of it as a political liability in the last elections. The people have proven time and again that they do not like parties using religion to seek their votes by marginalizing religion in every election that such parties have taken part. The liberal/secular nature of the people of Bangladesh has ensured this. It is thus a mystery why the ruling party is so interested to ban Jamat and other Islamic parties for such an action will bring them back into reckoning in our politics with dangerous prospects.

The Prime Minister should use her wisdom and experience to take charge in the matter because, if her party forces Jamat and religion based parties from constitutional politics, Bangladesh could become "the next Afghanistan" or go the Algerian way.

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## The missing fulltime defence minister

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THE political administration of Bangladesh suffers from two major weaknesses. One is the concentration of all powers in one hand, rendering pluralism a farce; the other is the non-existence of a full-time defence minister that makes civilian control of the armed forces dysfunctional.

Every government - democratic or otherwise - has a defence minister. We have seen a minister for livestock or forestry, but, strange as it is, we have not yet seen a minister for defence. Four ministries play important roles in a cabinet and shape the future of a

ministries. Democracy is never noiseless, nor is it without dissent. The senior ministers hold the core circle to discuss the important national issues before reaching the cabinet. The experienced ministers of home, defence, finance and foreign affairs, duly led the prime minister, constitute the inner circle of a cabinet. The absence of a defence minister in strategic discourses makes the case of the country's defence weak and barely comprehensible.

We have not seen a fulltime defence minister in the four decades of Bangladesh. The defence ministry has been run on a makeshift basis by the chief executive of the state. As a

to question her views on defence. The prime minister cannot penetrate the complexities of specialized defence needs. Obviously, due to constraints of time the prime minister relies mostly on the opinion of her staff. Therein lies the problem of the ministry of defence. A defence minister could have benefited from the technical experts, civil bureaucracy, views of the cabinet colleagues and any other source deemed appropriate.

Trained to be the crisis handlers, the armed forces can only be controlled via the culture of respect towards the law and constitution. If the country sizzles in crisis due to political failure, it creates an

on, overseeing party establishments, exercising control on mushroom organizations like student, labour and women front, is an overbearing job. On top of everything, if the prime minister has to take sensitive decisions on national defence in terms of training, organisation, manpower, equipment and many other decisions like promotion and appointment of the senior officers, I am afraid she will need ten-heads like the mythical demon king 'Ravana' or ten hands of 'Durga Devi', preferably both.

My experience, spread over two armies and many years of research during retirement, led me to think that the armed forces has lesser understanding of the civilian control because the political elements have persistently avoided building a bridge between the forces and the government. The armed forces are a serious matter, many problems crop up due to lack of institutional and mature approach towards the defence forces. The nation had never known why so many tragedies had taken place in the forces, the last one being at Peelkhana, and what corrective measures have been taken to avoid the recurrence of tragedies. There is strong advocacy for the civilian control of the armed forces. Without the institution of the minister of defence the civil control of armed forces mostly remain amateurish and occasionally draws arrogance of power from both sides. A whole time defence minister will understand and exercise effective control over the forces with responsibility.

There are two parallel offices now over the armed forces headquarters, one renamed now as the Armed Forces Division under the prime minister's secretariat, the other is the Defence Ministry. What is the purpose and modality of these two parallel offices is not clear, nor can we find semblance of such arrangement anywhere in other democracies. The long serving military ruler is accused of everything bad in Bangladesh but surprisingly his designed tentacle for the forces seems convenient for the democratic rulers.

We must learn from history, nevertheless, not to digress all the time and miss the present and future. Two years ago, I wrote for a defence minister not knowing what was awaiting our fate. We are lucky to be able to revive democracy that came as a gift from an unconstitutional source with little effort from our leaders. The appointment of a fulltime defence minister will strengthen the sibling of democracy.

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## Unfolding corridor consequences

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OUR closest neighbour India has been trying to have multiple corridors crisscrossing Bangladesh for a long time. A group of people views this as a threat to our national security. Well, perception varies from individual to individual. As for India, it can always ask this favour from its neighbour as long as the level of confidence permits such a venture and there is a potential win-win situation for both parties. Strategists of both countries need to sit with unveiled intent and committed candour. It is unfortunate that issues like Bhutan, water sharing and border demarcation between the two countries depict an obscure scenario in bi-lateral relations. Regular killing of Bangladeshis by BSF only adds to the bruised confidence. We need to consider the 60 years of sub-continental history before venturing into such a major undertaking.

From the outset, we need to make an honest approach and be clear about our pre-existing productive and counter-productive potentials. We must weigh the economic advantages against strategic or geo-political consequences. Since liberation, we could not drive a successful wedge inside our corrupt psyche, which has created products like the extortion-based terrorism (EBT). With the declaration of global war on terror, some of our peace loving citizens are also surreptitiously turning into faith-based terrorists (FBT), suicide bombers, etc.

The question is if we agree to provide corridor facility to India, who will provide security of their transports? Can we indeed do that on the ground physically? If the reply is "yes", then we need to explain. If "No" then what is the consequential impact of that? Our leadership is very much aware that we do score very badly in solving our chronic national problems. History shows that our preference for personal interest in most cases is

greater than national interest. The fundamental cause of stalemate in solving any national problem is prioritising wrong issues: the difference between a developed and a permanently developing country lies herein.

Irrespective of intergovernmental allegiance, seven sisters (freedom fighter/terrorist?) will find sufficient sympathizers inside Bangladesh, as they provided food and shelter to us during 1971. Arrest of some leaders and handing them over to the Indian authority has really outraged them to motivate them to take revenge against Bangladesh. The corridor through Bangladesh may be taken as Delhi's easy access to eastern India for better control of those states. Such a scenario may draw additional burden on our law enforcing agencies to

tackle. Trans-border movement with the help of local sympathizers will be difficult to seal. Besides, we cannot kill human beings on regular basis like BSF whenever someone is detected close to the zero line. Not only the JMB or LET, but all the fighting elements of seven sisters may join the easy game of roadside bombing and that playground could be unfortunately deep inside our own territory.

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World Bank or ADB, as usual may be all out to provide us easy loan for multi-dimensional corridors but what we need the most is building up of infrastructure by improving the law and order situation of our country. It will technically be almost suicidal to allow corridor to any foreign nation when we are under serious terrorism threat. If we fail to prioritize our national interest now, the situation may not be different than that of most terrorism plagued Islamic countries of the world. Combination of FBT and corridor may give birth to a fatal pressure on our hard-earned sovereignty, the way the combination of FBT and nuclear power is creating on the sovereignty of Pakistan.

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country. The security and integrity of the state is of utmost importance. Every penny spent on defence needs justification and priorities.

The defence minister contributes his or her wisdom and experience to add value to the money. Law and order is there to protect the life and property of citizens. Obviously, the home minister in charge has a strong say in the government. Money is the source of energy of any government. Allocation of financial resources after threadbare discussion is of vital importance. The Foreign missions are the outposts of a country. Their contribution in interstate relationship and the mind-reading of neighbours and distant countries on war or peace and business contribute towards strategic and policy goals.

result, there is less understanding of defence forces and their needs in the civil society. How an already overburdened prime minister can give full attention to such a sensitive and intricately specialised professional ministry is the question. Unlike Darwin's saga of the missing link, the persistent important missing organ is the defence minister in Bangladesh. Consistently undermined in the faulty political culture, some advocate that we need neither a defence minister nor the defence forces. The armed forces remain, in most cases, the least understood institution of the state.

Threadbare discussion on defence needs and priorities cannot be based on knowledge only. Even with that imperfection if the PM speaks forcefully and gets into argument with other ministers for the appropriate share of the services, she may lose her weight as PM. Other ministers will naturally feel hesitant

opportunity for the generals. A soldier is oath-bound to give his life under the orders of his superior. He has discretion but no capacity under intense circumstances to establish the right order from wrong. The injection of pride in profession and blind faith in his superiors prepares him for the supreme sacrifice. When the political instruments fail or take the nation to the brink of civil war the greedy generals get an opportunity to move the simple-minded soldiers to take charge, sending both politics and the profession of arms on a downhill slide. A vital condition for exercising effective control over the armed forces understands them and their psychology.

The prime minister is the chief executive of the state, leads the house in the parliament and, on top of everything, and heads the majority party. It is not only a fulltime job but needs lot of hard work at all times. Heading a party, exercising control over the hangers-