

# Speaker's questionable neutrality

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A number of conflicting decisions, including the rejection of the resignation letter of Sohel Taj by the Speaker, have highlighted the need to revisit our Constitution and see whether it ensures the Westminster styled neutrality.

Neither convention nor the Constitution of Bangladesh gives the Speaker any extraordinary authority to act without fear or favour. The conventions dating back to 1376 during "Good Parliament" in England are largely alien to our nascent parliamentary practice.

Unlike in Britain and India the Speaker of Bangladesh was purposely kept tied with the political party. Though giving the Speaker the right to cast a vote, the constitution also states that one will cease to be a member if one "votes against his/her party." The Indian constitution has no such provisions. Dr. Sanjiva Reddy severed his 34 years long ties with the Congress on becoming the Speaker.

"Since independence, I am the only Speaker to have maintained neutrality. Even many developed democratic countries do not have the example that I set by showing patience," Speaker Hamid commented recently. Undoubtedly, his standing is much better than some of his predecessors'. We may judge his illusion of neutrality in the light of some of the newsworthy decisions that reflect his mind-set.

If the Speaker does "accept" Sohel Taj's resignation letter, the so-called acceptance theory advanced earlier by the prime minister ends along with his ministership. So we see the Speaker wore the PM's hat, contrary to our constitution. There was a lacuna in Taj's resignation letter, which was typed not handwritten. The English text of Article 67 (2) of the Constitution says "writing under hand." But the Bengali text demands only signature, which signifies the genuineness and is admitted by the Speaker. The Speaker did not cite Article 153 that said that in the event of conflict between the Bengali and the English text, the Bengali text shall prevail. It is ironic that the Speaker relied on Section 177 of the Rules of Procedure that corroborates the English

text instead of Bengali. The dispute is now open to challenge in court.

The issue of disqualification of an MP may arise before or after the election. An MP will vacate his seat if he incurs the ineligibility during his term. If any dispute arises after election, then it shall be referred to the EC to hear and determine it and its decision would be final. The Anti-Corruption Commission did a laudable job. They found that the ruling party MP Enamul Haque (Rajshahi-4) has been engaged in contracts with the government in constructing rental power station, which is barred by the 1972 RPO.

The Speaker took a side in such a way that the public might get a wrong signal. He said that the allegations have to be made by an MP not by the ACC. It seems to be unethical, tantamount to violat-

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ing an apex court ruling.

A 1999 Appellate Division verdict underlined that raising allegation regarding disqualifications only by the member is not mandatory. Even the Speaker can act suo moto to make a reference to the EC. Though the constitution is silent about who is to refer the dispute to the EC, Section 178 of the Rules says that it is the Speaker who will refer the dispute to the EC. So the EC rightly opined that initiation of proceedings against Enamul lay upon the Speaker, not on the EC. The Speaker should refer Enamul's case to the EC, giving a statement under the 1980 MPs Determination of Dispute Act.

The Speaker's refusal to give oath to Mahmudul Hasan of JP is another illustration which further cast a shade on his neutrality. The ruling MP Abul Kashem (Tangail-5) has lost his membership by

virtue of a judgment that was declared by the Supreme Court. As expected, Kashem, who lost the legal battle to Hasan, rushed to file a review petition. Considering the facts, the EC has published a gazette declaring Hasan as the new MP. But the Speaker found the EC gazette premature, and argued that he should wait for the oath "two or four days," but not "too long," to see, in the words of the Speaker, if "new directions from the apex court follow." Overruling one's own verdict in a review petition is very rare. If the apex court does not stay its order by issuing interim order, the operation of the verdict is binding under Article 112 that also includes office of the Speaker.

Dr. Mohiuddin Khan Alamgir, a close aid to the PM, has survived more than a year by merely filing a review petition after his seat was declared vacant by the EC. The Speaker is perhaps waiting "too long."

I am often confused as to which stage of democratic transition we are passing through. The Speaker was unable to expel a querulous opposition MP for her loathsome language directed to the leader of the House. The Speaker did not take action against the unparliamentarily words often used by the treasury bench against the opposition, degrading the reputation of the House of the nation.

The Speaker echoed pre-1839 Commons Speakers who took part in the parliamentary debate. Abdul Hamid did not advise the PM to wait for the full caretaker ruling but battered the opposition leader unduly, commenting: "Which one does she accept, 15th Amendment or the caretaker government? You should specify your demands in parliament."

Understandably, the prevailing way of thinking of the ruling party and the opposition is not favourable for the Speaker to maintain neutrality, but he has to share the responsibility for this state of things. The responsibility is also on the Speaker for shifting some core obligations of the parliament to the court, reflecting the risky policy of his party.

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# Politicisation of bureaucracy and its consequences

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BUREAUCRACY has become a universal phenomenon. It is a pre-requisite for modernisation of every society. Most developing countries are engaged in nation building and bringing about socio-economic development, i.e., providing social services such as health, education, infrastructure like roads, electricity, productive activities in agriculture, industry etc. Thus, public administration becomes the key agency for development. Bureaucracy can immensely contribute to development by serving as adviser, inventor, and decision-maker.

Politicisation of bureaucracy is not a new phenomenon in democracy. However, the intensity of application and reasons for politicisation vary from country to country. There are some levels of political involvement in personnel matters in all countries. For instance, the United States has over 4,000 political appointments at federal level. Even Britain, which was considered to have a strong tradition of neutral civil servants, has shown evidence of greater politicisation.

Politicisation of bureaucracy in a descriptive sense refers to the right of governments to appoint their own people to senior public service positions, and pejorative politicisation on the other hand refers to the substitution of political criteria for merit based criteria. Even in the latter category, officials are appointed or promoted not on the basis of their party membership but because of their ideological commitment and their association with particular policy commitments.

Although developed countries politicise bureaucracy from the descriptive perspective, governments of developing countries like Bangladesh do not follow the principle of pejorative politicisation in letter and spirit. Instead, they consider party "loyalty" as one and only guiding principle

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for appointment and promotion in the civil services. Thus, the bureaucracy in Bangladesh, which was once considered as the "steel frame" of the British Empire, is now hanging between professional neutrality and political loyalty. Since 1991, almost all the democratic governments politicised the civil services for serving their narrow political interests.

Due to widespread politicisation, it is now generally perceived that bureaucracy has been divided into pro-AL and pro-BNP groups. As a result, every government tries to recruit its supporters in the civil services. Thus, supporters of the ruling party are getting promotion while supporters of the opposition are being made Officer on Special Duty (OSD). In fact, politicisation of civil service has become institutionalised in such a way that the government thinks seriously about the composition of the Public Service Commission (PSC). This is done with the expectation that the PSC would recruit supporters of the ruling party.

Now a pertinent question is: what is the consequence of politicisation on bureaucracy? An obvious consequence is that bureaucracy is becoming inefficient and ineffective in the absence of professionalisation, fairness and impartiality. If unqualified candidates get recruited in the civil services and promoted to various important positions they will not be able to provide quality services to the state.

Another important point is that bureaucrats remain busy in tadbir management instead of trying to improve their capabilities since party "loyalty" and strength of tadbir are the only requirements for getting promotion. The most threatening thing is that thousands of brilliant civil servants have been penalised from time to time in the name of "loyalty." Such a situation will certainly discourage qualified and talented graduates from competing for the civil services.

In a democracy it is essential that the politicians play the role of masters assisted by the civil servants. However, the extent of interference of the bureaucracy in the affairs of the state is crossing every limit. This is mostly because of the bow-down policy and inefficiency of our political leadership. The political leaders should be able to spell out their requirement to the bureaucracy and distinguish the jurisdiction of the bureaucracy in the affairs of the state. Only then will the bureaucracy remain confined within their jurisdiction and consider themselves as the servants of the people.

Finally, the bureaucracy in Bangladesh is not ready to face the challenges of globalisation. Time has come for the government to think about revitalising our bureaucracy. First, the government will have to take necessary initiative to recruit competent graduates at the entry level. For doing so, the PSC should be constituted with qualified persons who would be allowed to work without any interference. Second, the government will have to refrain from the policy of politicisation, meaning that recruitment and promotion would be made on the basis of merit. Third, the government will have to take initiative to train our bureaucrats for increasing their efficiency. For doing all of the above, commitment of the political parties is an utmost necessity since they form the government every five years.

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# A way out of the quagmire

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My previous article, (*The Daily Star*, Sept. 15, 2011) provides a soul search as to the blunders in the beginning period of Bangladesh. In this article I would like to share my thoughts on how we can get out of the quagmire.

Democracy is not only about elections and parliamentary systems. These are only means to achieve higher ends, as government derives its legitimacy from the people it governs.

The core idea in self-rule is that the people hold the ultimate power and legitimacy in the sociopolitical context, thus making civil society active, vigilant, and participatory in order to compel governments to serve people effectively, efficiently, and ethically in delivering maximum welfare for all.

Impartial rule of law must be based on equality before law, irrespective of wealth, poverty, influence, gender, religion, race or ethnicity. This is the foundation on which an equitable and stable society can establish preconditions for progress and prosperity. The impartial due process of democracy exerts profound influence in integrating even a diverse nation. Autocracy, military rule, theocracy, etc. all thrive on partiality and favouritism and thus have the tendency to cause division, polarisation, and even disintegration.

If a society is integrated it is most productive and if it is polarised it becomes most unproductive. Good governance and impartial rule of law are the natural outcomes of democracy that help integrate a nation.

Bangladesh, like any other developing country with huge population, needs socioeconomic growth to take care of its 16 crore people. To alleviate the alarming concentration of wealth as well as the enormous disparities and conflicts between rich and poor groups, Bangladesh needs a more accountable government with proper checks and balances. This is the only way to avoid roadblocks with catastrophic consequences.

Without these universal values that are in tune with human nature, a system of governance becomes deficient and unstable in handling human affairs, succumbing to a counterproductive chain of volatility and corruption.

The primary responsibility of civil society is to help ingrain these ideas and values in the hearts and minds of people of all echelons of a society, including the political leaders, and help build a national consensus that becomes the vanguard of democracy. Only then a forceful dialogue can be raised to convince or compel leaders not to deviate from the democratic path.

In order to be effective there must be unity in raising a forceful voice towards making a change. This unity does not require resolution of all conflicts

or dissolution of all differences. It requires a focus on the priorities and the common purpose of establishing good governance and a progressive society. The following could be some of the important changes civil society should focus on.

All political parties must conduct their affairs in a democratic fashion. If the leading parties are not democratic, the nation cannot become democratic.

Term limits must exist for all top positions of the government, including the prime minister, parliament members, party officials, and others. Let us limit officeholders to two terms, a standard used by many other developed countries.

Free press, Internet, and media must serve as vehicles of exposure and awareness rather than microphones for the status quo. A democratic system thrives on a free and responsible press that informs the public and helps raise a forceful

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sociopolitical discourse.

Let there be caretaker governments for the next four or five elections until the people enact change through a referendum. If a caretaker government helps to bring about trust and confidence among the people by establishing their collective will, it can revitalise government as a tool for change.

Bangladesh must tap the force for change by reaching out to the international community for advocacy and support. We must bring about forceful and global people-to-people movements in order to minimise the formidable transnational alliances of elites and vested interests. If we only understand our struggles in an insular or localised fashion, we will fail to take advantage of the immense power of the growing and transnational movement towards self-rule and social justice.

We should ask top political party leaders such as Sheikh Hasina, Begum Khaleda Zia, Mr. Ershad, etc., all of whom have become permanent political fixtures, to salvage themselves and their legacy, and for the sake of the welfare of the nation, by quitting their parties and becoming national advisors or consultants. Their unification, regardless of their past differences, would demonstrate their sincerity and dedication for the country, and would help to secure their position in history.

History is a testament to the fact that leaders not in power could actually be more powerful in a society, as the popular will would move with them. Gandhi never held office, yet the powerful Congress Party could not dare to challenge him due to the fact that he had the hearts of the people. George Washington, Nelson Mandela, Sonia Gandhi, and

others became the moral voice of their respective societies, and more powerful once they refused to stay in power.

As senior stateswomen and statesmen, these leaders should help to set a positive and vibrant political environment in which multiple parties would all compete for better ideas, programmes, and services to the people, and to advocate for proper checks and balances that all would have to comply with. This would attract more potential as well as more capable leadership in our country.

We must amend the constitution to bring about some of the changes mentioned above, and we must remove existing weaknesses and flaws that exist in Articles 33 and 70, which will help to stamp out abuse of power and to ensure that loyalty to the people supersedes loyalty to a party.

There must be provisions for international presence in the monitoring of national elections, in order to ensure via objective outside observers that rigging has not occurred.

There must exist safety and security provisions for domestic watchdogs and whistleblowers on a continuous basis. Investigative reporting by the press must be encouraged and protected.

With regards to environmental and sustainability protections, Bangladesh is facing the terrible crisis of climate change, not to mention issues of sustainable development in crowded urban areas that will remain intractable without significant policy-level government involvement and urban planning interventions. We must pressureise political leaders to institute a more effective policy roadmap for handling issues of climate mitigation, such as disaster relief, agricultural conservation, and population management and zoning in crowded urban centres.

Due to the broad-ranging systemic changes required in our society, the constitution should be put to a referendum in order to usher in a new beginning. Before that, there should be a three to six-month period in which intensive debate and discussion must occur at both the grassroots levels and the upper political echelons. This exposure would educate the public and help to bring about a national consensus that helps sustain a self-rule.

"What Bengal thinks today, India thinks tomorrow." Even a hundred years ago, the intellectual superiority of Bengalis was noted by the famous Indian scholar-philosopher Gokhale, who was a mentor of both Gandhi and Jinnah. However, if intellectual ability fails to combine courage and determination in order to lead a society towards peace, justice and progress, it fails in its purpose -- therefore becoming useless and meaningless.

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