

CONSTITUTION ENACTMENT DAY

Fractured political legacy rules nation's destiny

SHAKHAWAT LITON

TODAY, November 4, is a red letter day in Bangladesh's history. The country's constitution was enacted on this day in 1972. It was the fruit of the nine-month long bloody War of Liberation. The Constituent Assembly adopted and enacted the constitution within a year of Bangladesh's emergence as an independent country. The constitution makes the people owners of all powers in the Republic. Being the supreme law of the land, the constitution of a country shapes that nation's destiny. How did Bangladesh's constitution shape its people's destiny?

How are people on November 4, 2013?

The opposition BNP-led 18 party combine enforces 60-hour countrywide *hartal* from this morning. Last week also they enforced 60-hour *hartal* countrywide. The story does not end here. They have planned to intensify their street agitation programmes in the coming weeks by enforcing series of *hartals*, blockades and sieges. More than a dozen people were killed during last week's *hartal*. Only God knows how many will be made subject to political violence during the ongoing 60-hour *hartal*.

People have already suffered immensely, and will have to suffer more in the coming days. Children will not be able to sit for exams, or allowed to go to school. Their education will be hampered. Many people living hand to mouth may face immense difficulty in managing food. Economic activities will come to a halt.

Yet the show must go on until the opposition's demand for installation of a non-party election time government is met by amending the constitution. BNP has been mounting pressure through violent agitation programmes like *hartal* to have the demand realised. The main opposition party wants to take state power, and election is the only means to achieve it. They know that a non-party election administration is a must for a free and fair election. So, they will keep running the show, what may come!

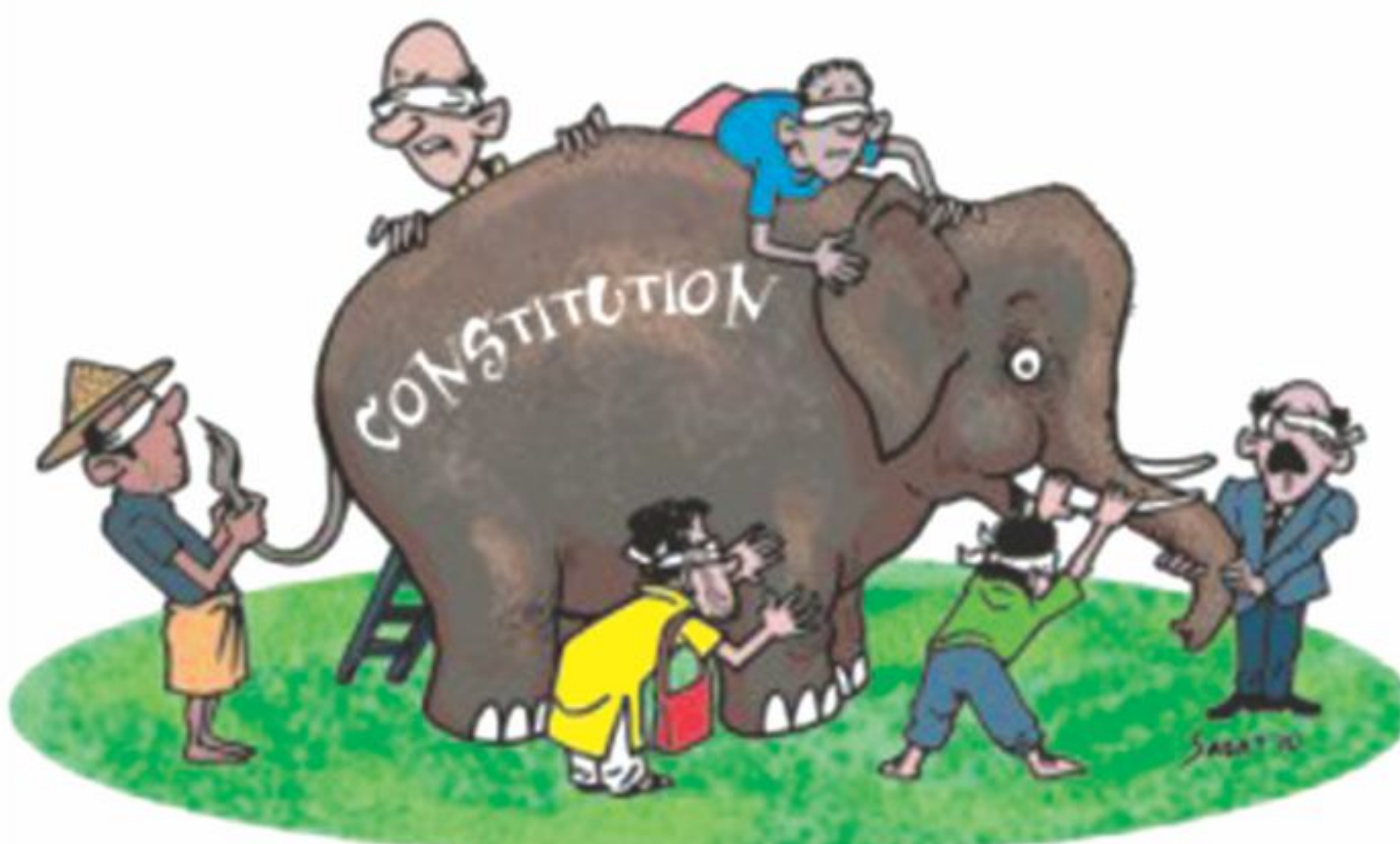
The other side of the coin is also tainted. By dint of its overwhelming majority in parliament, the Awami League-led government in a whimsical move abolished the non-party election time government in June 2011, triggering political instability. Chucking away the caretaker government system allows the government of Sheikh Hasina to remain in office during the upcoming general elections. This created all the political chaos. But Prime Minister Hasina has kept on saying that she would not budge an inch from the current constitutional provision.

The reason is clear. The present constitutional provision suits her well, but does not suit BNP. So the BNP will never accept it. Khaleda Zia had liked such a provision very much around 18 years ago, when she was the prime minister. At that time, the constitutional provision allowed Khaleda to remain in office during the general election. But AL did not like it. So, AL, under leadership of Hasina, waged a violent street agitation in 1996 to force Khaleda's government to

install an election time non-party caretaker government by amending the constitution.

The present political situation exposes the pathetic political bankruptcy. It also reveals the fragile state of the country's democracy, one of the ideals which had inspired our heroic people to dedicate themselves to, and our brave martyrs to sacrifice their lives in, the national liberation struggle. Democracy, nationalism, socialism and secularism had been made the fundamental principles of state policy. The constitution also says that the state shall be a democracy in which fundamental human rights and freedom and respect for the dignity and worth of the human person shall be guaranteed. Today's political situation mocks at the provisions stipulated in the constitution on democracy and fundamental rights of people, who are held hostage during the opposition's *hartals*.

The country did not arrive here overnight. Bad politics has been ruling the nation's destiny for decades. The constitution, the supreme law of the country, was ignored. Frequent and whimsical attacks on it by the successive governments, run by both civil and military leaders, have damaged the true spirit of the constitution.



Of the 15 amendments brought to the constitution in the last four decades, the Supreme Court has declared three amendments -- 5th, 7th and 13th -- illegal and void as those either destroyed, or were against, the basic structure of the constitution.

The 5th and 7th Amendments passed in 1979 and 1986 respectively, ratified all orders and actions of the first and second martial law regimes, which were absolute disobedience of the constitution.

The 13th Amendment passed in 1996 introduced the election-time caretaker government system amid growing distrust and confrontational culture of politics over the polls.

The apex court also declared the 8th Amendment partly illegal and void as it destroyed one of the basic structures of the constitution by introducing a provision for setting up permanent benches of the High Court in six other places outside the capital.

The remaining part of the 8th Amendment, which gave Islam the status as state religion, also became infructuous as the 15th Amendment replaced it with a new provision in the constitution.

The 15th Amendment also completely deleted the 11th Amendment that ratified Justice Shahabuddin Ahmed's extra-constitutional appointment as the vice-president, and the powers exercised and laws and ordinances made during the tenure that began after the fall of Ershad's regime in 1990. The 11th Amendment, made in 1991, wrongly ratified Justice Shahabuddin's regime.

There are some other significant amendments that did not fortify the constitution, rather subverted it because of fractured politics.

Soon after the constitution became effective in December 1972, the 2nd Amendment was made in 1973, introducing a provision for declaration of a state of emergency by the president, which was not included in the original constitution. The amendment also empowered the president to suspend people's fundamental rights during emergencies.

Passage of the 4th Amendment in 1975 was an attack on the constitution. The 4th Amendment made a drastic inroad into the independence and jurisdiction of the judiciary. A one-party state was established. Presidential form of government was introduced, discarding the parliamentary form.

The 6th Amendment to the constitution was brought in 1981, allowing the then vice-present Justice Abdus Sattar to contest the presidential election without resigning from the post of vice-president.

Only the 12th Amendment, made in 1991, did something positive by restoring the parliamentary form of government, which had been transformed into the presidential form by the 4th Amendment.

The 14th Amendment was made in 2004. It generated huge controversy as it increased the service age of Supreme Court judges by two years.

The then opposition parties alleged that the government increased the service age of judges to make it legal for then Chief

Justice K.M. Hasan to lead the upcoming caretaker government. They refused to accept Justice Hasan as the caretaker chief, which led to a political turmoil at the end of 2006, and a state of emergency was declared in January 2007.

Even the 15th Amendment is not free from the long legacy of fractured politics of making the constitution subject to the whimsical will of the government. This amendment inserted an absurd provision by imposing a ban on amending the constitution's preamble, including unspecified basic structure and a large number of specific provisions. This means that even if a future parliament wants to fortify the constitution and strengthen people's fundamental rights, it cannot do so due to the ban.

The above instances clearly portray how the constitution enacted in 1972 was gradually damaged and largely lost its authority due to narrow and dirty politics of the successive governments. Thus, fractured political legacy has been ruling the nation's destiny!

The writer is Senior Reporter, The Daily Star.

The comfort zone of friendship

SHIFTING IMAGES



MILIA ALI

IN a recent United Nations World Happiness Report, Denmark has won the top spot. Intended to "review the state of happiness in the world," the research was based on a "comprehensive measurement system" and challenged the conventional view that happiness is linked primarily to income.

One might well ask: "Why Denmark?" Located in Northern Europe, a Constitutional Monarchy of five and half million inhabitants, the country is seldom in the news for spectacular reasons. What is it, then, that makes Denmark special as compared to other wealthy, democratic nations that can boast of advanced innovative research, robust economic growth and a high standard of living? While commenting on the results of the report, renowned development economist Jeffery Sachs noted: "There is now a rising worldwide demand that policy be more closely aligned with what really matters to people as they themselves characterise their well-being."

Despite the subtle differences in connotation, I shall use the terms happiness and well-being interchangeably. In any case, well-being is difficult to define in tangible terms. It is known that factors like economic security, work-life balance, gender equality, freedom of expression and social benefits contribute to the happiness and well-being of a population. However, an important element identified as critical to Denmark's success is that it is a society where citizens participate and contribute toward making the social system work. More than 40 % of all Danes undertake voluntary work, which, apart from yielding tremendous economic benefits, builds a "social capital" that translates into a strong trust-based community.

The Report and its findings assumed a special significance for me at a personal level. Alone in a hospital in Rome, as I waited for my husband to recuperate from an accident he encountered on our holiday trip, I reflected hard on life's twists and turns and the factors that lead to happiness. It's interesting that, although my husband's recovery was a primary concern, I was restless to return to my own space where life may be tedious and imperfect but still predictable. I wondered why I had this deep yearning to come back "home" despite the fact that the medical facilities in Europe were quite satisfactory. The only rational explanation was that I missed the security and comfort of being with friends. Each Roman afternoon, as the sun rose in the Washington sky, we were flooded by phone calls from friends in the US asking: "What can we do? How is he? How are you coping?" Close friends, not so close friends, acquaintances -- everyone called and provided comfort and solace. Differences in political ideologies, ego battles and petty social tiffs seemed to have dissolved and the overriding message was: "Come home -- we are here for you."

Like many who have made a new country their home, I suffer from a malaise that can be best described as "dislocation." I am often lost in the quagmire of mixed identities. I have been struggling with this conflict for years and have often asked myself: "Where am I happiest? In Bangladesh, where I have my roots, or in the US, where I live and have nurtured deep friendships?"

As our return flight touched the tarmac on Washington's Dulles airport, I heard myself muttering: "Finally, I am home." The words were spontaneous and sincere. For the first time I consciously felt Washington is my home because this is my comfort zone. Starting from the overwhelming reception at the airport to returning to a house filled with flowers, food and laughter (thanks to friends) it was indeed the happiest homecoming of my life. It also helped me realise that the greatest contributor to happiness is not a perfect country, a perfect house or enormous wealth. It's loving friends who share their happiness and stand by you in times of need. Which is why I can connect to the "happiness" report: Denmark may not be the richest country in the world but its citizens have collectively created a sense of togetherness and well-being.

Bangladesh will always be a part of me since that is where I spent my formative years just as I have been a part of its formative process. Like the country's music, language and culture, my Bangladeshi friends continue to evoke intense feelings of love and nostalgia. They are an integral part of my DNA -- for they are built into my system. However, I have no hesitation in admitting that my return to the United States after the trying time in Italy has convinced me that the strong feeling of community here gives me a sense of security like nowhere else. Is this a transient feeling? Or is it that I have finally learnt to live with multiple identities?

The writer is a renowned Rabindra Sangeet exponent and a former employee of the World Bank.

Going beyond phone conversation

ZIAUDDIN CHOUDHURY

THESE days some of the most highly watched TV programmes in the US are called reality shows. People from ordinary walks of life are preselected to take part in adventures, challenging events, or just living daily lives and doing normal chores. Unfortunately, most people do not know that many of these "ordinary folks" are actors and the chores that they go through are scripted and contrived to achieve a certain entertainment value.

The famous phone conversation between our two political leaders last week cannot be compared with a scripted reality show, but the amount of interest, controversy and debate that it generated in the media and general public is nothing less than in a TV reality show. In fact, in many respects, this is more than a reality show because TV shows reflect a make believe world, the phone conversation is about real issues, real lives, real people, but above all future of the country. It was supposed to break the ice that had been preventing a dialogue between the two leaders on issues surrounding the next general election, and pave the way for removing the thorny differences between their two parties, if not between them.

The phone conversation was much awaited since government party leaders had been forecasting it days before it actually took place. Alas, it happened on the brink of a three-day strike announced by the opposition. What we heard was a litany of recriminations, accusations and counter-accusations about perpetration of wrongs by one against the other, and obstinate sticking to respective positions.

Much of the conversation that lasted two thirds of an hour was occupied by complaints from the two sides that ranged from government's negligence to repair the opposition leader's government phone to allegations of government's disingenuousness in offering invitation to a dialogue, to exchanges of who did what to whom in the past. The exchanges may not have been balanced in tone from both sides, with one being more aggressive than the other; but the content did show that relation between the two leaders is anything but harmonious.

The conversation, touted as the first between them in two decades, is a micro representation of the public utterances against one another.

Has the phone conversation been able to show a new path despite the negative image that it portrays about two protagonists of our country? Does it show a change in the mindset of the two leaders that could lead eventually to a rational discussion to end the looming crisis over next elections? Or do we take it as a scripted event of a reality TV show?

Politics and disingenuousness may sometimes go hand in hand; but statesmanship and untruthfulness do not mix. Nations have many politicians, but few statesmen. The crisis that our country faces now requires skills of a statesman to lift it out of the morass it is now, not the narrowness of partisan politics. Despite the partisan bickering and crowing by respective political parties over who was right and who was wrong in last week's phone conversation, there is great promise in that event. There is hope that if the two leaders want they can have a conversation, they can sit down, and perhaps find common grounds to prevent a crisis. There is a smidgen of a chance that they can even agree, but only if they continue their dialogue.

Despite public display of great hostility between the two major parties in the country, despite vaunted claims of ideological differences between parties, the real difference between them boils down to willingness of the parties to accept the rule of one over the other. That is why the election results favouring one party against the other are not accepted, that is why the party in opposition fears that elections under the ruling party will be manipulated. That is why the demand for a neutral government, although I am not sure if the results under a neutral government will be accepted calmly by the losing party.

We need to go beyond our obsession with what went wrong or what went right with the phone conversation of the two leaders. Our leaders need to seize the opportunity of a thaw in the relationship and take immediate steps to further the dialogue to end the looming crisis. Threats of closure of the country by seizing the cities and stopping all economic activities for days together are not substitutes for political dialogue.

It is ironic that in their conversation both leaders asserted that they were upholding people's rights by sticking to their side of the argument, yet they support actions that deprive people of their rights to carry on with daily activities. Political leaders rise and fall through their actions, not by speeches. If our leaders truly believe in what they say, such as standing for people's rights, they need to act on their promises. The only way this can happen is by resolving the differences through dialogue and not violence.

Negotiations are not a one-way street; you give some to win some. Dialogues are also negotiations, and these can happen only when two sides agree. The nation deserves at least a further continuation of this dialogue to end the crisis. We do not see the phone conversation as scripted, but real. The leaders need to go beyond that. There is not much time left.

The writer is a US based political analyst and commentator.



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 - (c) Photocopies of the following
 - (i) SSC/O'Level marksheet (mandatory)
 - (ii) SSC/O'Level certificate (mandatory)
 - (iii) HSC/A'Level marksheet (mandatory)
 - (iv) HSC/A'Level certificate (if available)

Test Date Instructions:

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