

Between Liberation and Freedom: Reflections on the Constituent Assembly Debate

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LIBERATION and freedom are not quite the same thing. The former primarily registers a sense of negation; the state of being emancipated from subjugation. Freedom, on the other hand, has more of an affirmative connotation, and yet its exact meaning, especially in regard to political freedom, rarely achieves a point of consensus. The minimal, if expansive, definition of freedom that one can begin with - and it is perhaps enough for the present occasion - is the autonomy over choosing agendas and deciding the course of actions. Liberation, once achieved, gives the impression of being accomplished, while freedom is always precarious, requiring as it does constant regeneration. Freedom cannot be conceived without the presence of liberty; nevertheless, liberty itself is not enough to guarantee the passage to freedom. Political communities that had gone through colonial rule historically encountered the question of freedom under the overarching reality of subjection. Liberation justifiably becomes the foremost objective in the colonised state, even as the practices and conceptions of freedom often take shape and consolidate through the anti-colonial struggle. The question of freedom appears with its full force and enigma during the time of writing a new constitution. Constitution is more of a political document than a legal one; it surely provides legitimacy to the laws, but the sources of legitimacy that it establishes are a matter of political decision. In this occasion commemorating the achievement of our national independence (the Constitution of the new-born Bangladesh was also adopted in the very same day of 1972), it is an opportune moment for us to revisit the Constituent Assembly debate over the Constitution draft and reflect on the promises and lacunas of the founding document.

Constitutions, especially the ones preceded by a revolution, are not merely the product of rational deliberation. Nor are they a sum total of public opinion. Being the legitimising background against which the new constitution itself is conceived, the preceding revolutions shape the questions regarding the source of sovereignty, the system of rule, guiding ideals and so on. That said, there always remains a gap between the declaration of independence and the constitution, for the latter is generally written and conceived in the aftermath of the attainment of sovereign autonomy. In the process, the open-ended plurality of the declaration tends to be consolidated in favour of the leading force of the



Prime Minister Sheikh Mujibur Rahman signs the Constitution of Bangladesh into law on 16 December 1972.

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revolutionary process. It is thus a matter of immense importance how the Constituent Assembly was formed and deliberated. The Constituent Assembly that approved the Constitution of Bangladesh was formed

with the representatives of the 1970 election. Although the formation of the Constituent Assembly with the representatives elected in the pre-independence time is itself not rare (Indian Constituent Assembly was also

formed with the representatives elected in the British period), the overwhelming majority of the Awami League in the election of 1970 meant that the assembly was dominated by the party that emerged as the leader of the independence war. Yet, if we revisit the debates that took place over the Constitution draft, it becomes rather apparent that the proceedings had been marked by intense contentions. Two non-Awami League members of the Assembly - Suranjit Sengupta (who later joined the AL) and Manabendra Narayan Larma - repeatedly raised crucial objections, forcing the Awami League leaders to clarify and defend the founding principles and other central aspects of the Constitution. One recurring aspect of the debate unfolded around the question of *janamat*, or public opinion. Sengupta urged for the participation of parties and groups outside of the Parliament in the debate over the Constitution bill. By referring to the long history of liberation struggle, the AL leaders, in reply, maintained that the people have already spoken through the revolutionary war. To seek vindication again for what has already been said by the people that fought the war would imply doubt over the very authenticity of the revolution. This is indeed a problem that all constitutions that were preceded by revolutionary war face, for the very sovereignty of the Constituent Assembly is assumed in the name of the already accomplished revolution.

To re-read the Constituent Assembly debate after the long span of 44 years is to encounter the striking clarity that it had regarding issues such as secularism. That the State must treat its citizens equally irrespective of religious identities - a principle that cannot be achieved unless the state itself is religiously neutral - was not a matter of contention for the Constituent Assembly. And this was not because the Assembly was mostly comprised of Awami League leaders; there was no confusion over the validity of these issues precisely for the reason that the Liberation War itself embodied the principle of secularism in the eyes of the Constituent Assembly members. The same clarity, unfortunately, could not be found in the claim regarding the equal representation of ethnic minorities, a problem that was not at the forefront of the Liberation War, and the Assembly members, despite the passionate plea of Manabendra Narayan Larma, could not summon the foresight of dissociating the rhetorical name of the political community ("Bangalee nation") from its constitutional identity. The debate over the founding ideal of nationalism is a case in point. While the

Assembly members did occasionally recognise the fact that the people of Bangladesh have sovereign claim because of the long-history of their common movement and not because of any prior linguistic homogeneity, they struggled to disentangle the political claim from the ethno-linguistic ground.

Coming out of the colonial past as Bangladesh did, the theme of liberation unsurprisingly swayed over the Constituent Assembly debate. The all-encompassing nature of colonial rule resulted in the subjugation of the colonised society in most frontiers of socio-political life, spanning from the economic to the cultural spheres. With the political success of the liberation war, the task that the post-colonial politicians found to be of paramount importance pertained to the accomplishment of liberation in the supposedly non-political social spheres (most importantly, the economy). The rightful focus on the social issues - an orientation that later metamorphosed into developmentalism - was unfortunately coupled with a paucity of attention to the measures needed to safeguard and generate public participation in politics. Poverty, for sure, is a legitimate object of politics, but unless this object is accompanied by a democratic politics where the poor citizens can participate in politics and decide over their fate, the logic of economic liberation becomes susceptible to be used as a justifying reason for curtailing political freedom. Indeed, both the BAKSAL project and the subsequent military regimes sought to explain the suspension of political freedom as a necessary cost for maintaining order so as to ensure economic development. That Bangladesh witnessed a long period of extra-constitutional rule is not merely because of the power hungry politicians and the military. The very lack of attention to the practices of safeguarding and nurturing political freedom for its intrinsic worth laid the groundwork for authoritarianism in the name of order and developmentalism.

To go back to the founding instance of writing the Constitution is to confront the question: how does the present state of the polity reflect the promises of the founding document? In a time when the ruling bodies are increasingly severing themselves from the democratic procedures and when the political freedom of citizens has almost become a distant memory, the history of writing the constitution - and the ways in which it has embodied, however imperfectly, the promises of the liberation war - calls for renewed interpretation and appreciation.

The writer is a PhD student in political theory at the University of Chicago.

It is important to remember 1971

JULIAN FRANCIS

I appreciated Sushmita Preetha's article, *Do You Really Remember?* (TDS, November 26, 2015). It is encouraging to read the writing of a member of the younger generation on the Liberation War.

Recently I attended a Planning Commission seminar about "Extreme Poverty" and in the address by one of the officials, I learnt that 76 percent of the current population is less than 40 years old and may not know the accurate history regarding the formation of this country. I am regularly asked to write about my memories of 1971 and when I express that I find it difficult to write the same things year after year, Bangladeshis my age, and older, tell me that I must keep on writing as it is important that the people of this country are reminded again and again about the true history of the period before, during and after the Liberation War.

For someone who witnessed the birth of Bangladesh, it is painful and difficult to understand that some Bangladeshis do not support the war crimes trials. Surely justice must be done! There are also those in Pakistan who deny that any genocide took place. Whenever someone tells me this or I read this, I become very angry and also incredulous. I remember families of Bangladeshis - Hindus and Muslims - coming in a traumatised state across the border to access some of the over 900 refugee camps.

Men, women and children of all ages, struck dumb by the horror of seeing some of their loved ones murdered before they managed to escape. I remember being in a hospital in Krishnanagar, West Bengal, in June 1971 at the same time as an international reporter from, I believe, *Newsweek*. I remember this young girl in a colourful dress and this is how the reporter recorded our meeting with this girl who was about 10 years old:

The story of one shy little girl in a torn pink dress with red and green bows has a peculiar horror. She could not have been a danger to anyone. Yet I met her in a hospital in Krishnanagar, hanging nervously back among the other patients, her hand covering the livid scar on her neck where a Pakistani soldier had cut her throat with his bayonet. "I am Ismat, the daughter of the late Ishaque Ali," she said formally. "My father was a businessman in Kushtia. About two months ago he left our house and went to his shop and I never saw him again. That same night after I went to bed, I heard shouts and screaming, and when I went to see what was happening, the Punjabi soldiers were there. My four sisters were lying dead on the floor, and I saw that they had killed my mother. While I was there they shot my brother - he was a Bachelor of Science. Then a soldier saw me and stabbed me with his knife. I fell to the floor and played dead. When the soldiers left I ran and a man picked me up on his bicycle and I was brought here." Suddenly, as if she could no longer bear to think

about her ordeal, the girl left the room. The hospital doctor was explaining to me that she was brought to the hospital literally soaked in her own blood, when she pushed her way back through the patients and stood directly in front of me. "What am I to do?" she asked. "Once I had five sisters and a brother and a father and mother. Now I have no family. I am an orphan. Where can I go? What will happen to me?"

Perhaps it is necessary to remind people about what happened in 1971 and it is important to accurately inform members of the younger generations of the genocide unleashed by the Pakistani army and their collaborators. Because of 'Operation Searchlight', 10 million refugees came to India, most of them living in appalling conditions in the refugee camps. I cannot forget seeing 10 children fight for one chapatti. I cannot forget the child queuing for milk, vomiting, collapsing and dying of cholera. I cannot forget the woman lying in the mud, groaning and giving birth.

We had heard of the genocide from the night of March 25. Thousands upon thousands were rounded up and shot, machine-gunned or bayoneted. From March 25 to 31, it was estimated that about 200,000 Bangladeshis had been killed. An Italian priest living in Jessore at the time told me that in Jessore, around 10,000 people had been killed in 10 days after March 25.

It is most unfortunate that the details of

mass graves (and the number of bodies) all over the country have not been properly recorded. Only last year, in Kaliganj, Gazipur, I heard of hundreds of Bangladeshi male Christians being machine-gunned into a mass grave nearby a church in 1971.

However, what about the actual numbers? By the end of May 1971, I remember a Dhaka University professor, Samir Paul, who was, as a refugee, helping us to organise camp activities, telling me that till then it was estimated that one million Bangladeshis had been killed inside Bangladesh until that time (May 1971).

It is clear to me that many Bangladeshis died on their way to India and many more died after coming to the refugee camps, as a result of the injuries incurred on the way. I saw people with bullet wounds and bayonet wounds and some of them did not manage to survive.

During the cholera epidemic, I remember that in one refugee camp of 15,000 people, over 750 died in one month - about 5 percent. People should also remember that many of the refugee camps were severely flooded during the heavy monsoon of 1971. Sanitation could not be maintained and many died of gastroenteritis as well as cholera. By September 1971, hundreds of children were dying every day from malnutrition and doctors, who had also earlier worked in Biafra, were of the opinion that the malnutrition in the Indian refugee camps was worse

than that of Biafra. Many more children died as a result of the severe winter. In mid-November, an accepted figure of the number of children dying was 4,300 per day in the refugee camps alone. I remember attending a coordination meeting at that time where it was estimated that by the end of December 1971 up to 500,000 children would have died largely from malnutrition.

Aid officials of the time estimated that between 20 and 30 million Bangladeshis had been internally displaced inside Bangladesh, and there would have been significant deaths from those numbers.

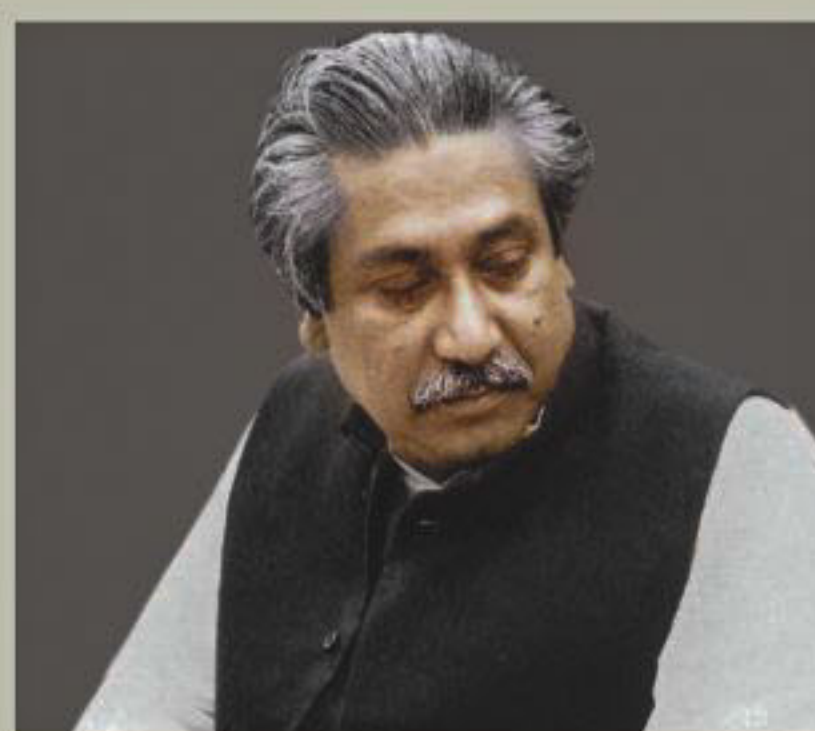
The US government archives may suggest that a total of only 300,000 died and the Pakistan archives say that only 2 million refugees came to India. Everyone should know that both these figures are complete nonsense!

Personally, I consider all the deaths of the people who left their homes as a result of the actions of the Pakistan authorities and their collaborators as genocidal deaths. Perhaps we will never know the accurate figure; it could easily be over three million.

I hope Sushmita Preetha and others continue to remind us of the true history of the formation of Bangladesh.

The writer was the Coordinator of OXFAM's relief programme for the refugees from Bangladesh and has lived and worked in Bangladesh for many years. In March 2012, he received the Friends of Liberation War Honour from the Government of Bangladesh.

QUOTABLE Quote



SHEIKH MUJIBUR RAHMAN

As we have already learned how to sacrifice our own lives, now no one can stop us!

CROSSWORD BY THOMAS JOSEPH

ACROSS	DOWN
1 Longing	1 Tops a cake
5 Hushes	2 Car with a meter
11 Give a hoot	3 Nuts
12 Expose	4 Skirt edge
13 Final, for one	5 Ring tossed at pegs
14 Fish-eating hawk	6 Invisible
15 Attack command	7 Little rascals
16 Bakery buys	8 Lobed organ
17 Coach Rockne	9 Part of Mao's name
19 Cornfield cry	10 Sun setting
22 Osaka setting	16 Groan inducer
24 "- Rae"	18 "Candy is dandy" poet
26 Sky sightings	19 Slow cookers
27 Lacking funds	20 In a frenzy
28 Wood strips	21 Cautious
30 Tom Sawyer's love	22 Summer month
31 Cal. spans	23 Miles off
32 Tree part	25 Start the bidding
34 Rugged rock	29 Tried hard
35 Corks sound	30 Pester
38 Fanatic	33 Appraised
41 Apple center	34 Artery problem
42 Statue setting	36 Vaccine type
43 RBI or ERA	37 Tennis star Sampras
44 Like some prunes	38 Use a ray-gun on
45 Cruise stop	39 Bulldog backer
	40 Drama division
	41 Long-running CBS series

YESTERDAY'S ANSWER

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BEETLE BAILEY by Mort Walker

BABY BLUES by Kirkman & Scott