

# Design of Democracy in Bangladesh

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## Introduction:

Those promethean hopes & aspirations agonised human heart for centuries over are epitomised in the quest for democracy. From time immemorial, democracy means different things to different people. The minimalist conception of democracy involves standard liberal democratic notion tying democracy to a set of rules & regulations. This set of rules & regulations i.e. architecture can be described as the 'design'. The architecture of democracy has to shape on the available terrain in terms of the social & economic design. The term 'design' includes the characteristics of the society in which democracy operates & the economic structures within which democracy is sought to be realized.

This paper deals with democracy with reference to design level. The assessment has been made with respect to four domains of public political activity namely : (a) State institutional domain, (b) Party political domain, (c) Non party political domain, (d) Economic, social & cultural domain.

### A. State - Institutional Domain :

Issues to be addressed in this section include :

- How adequate are the constitutional provisions in providing for equal citizenship & rights to all the people including various minorities ?
- To what extent is the independence & accountability of the organs of national government ensured by constitutional provisions ?
- How effective are the constitutional & legal provisions for self - governance at sub-national & local level ?
- How adequate are the legal-constitutional provisions to ensure the accountability of administration both to democratically elected governments & to the people ?

The constitution of the People's Republic of Bangladesh pledges that, "The Republic Shall be a democracy in which fundamental human rights & freedoms & respect for the dignity & worth of the human person shall be guaranteed" (GOB 1972:17). Part 1 Article 6 to the constitution deals with citizenship. In Articles 10, 11, 19, 27,29,32,38 & 39 the constitution declares that the state shall ensure people's equal access to political, social, administrative & economic institutions. Article 10 states that, "Steps shall be taken to ensure participation of women in all spheres of national life" (GOB 1972:17) & Article 14 emphasises that, "It shall be a fundamental responsibility of the state to emancipate the toiling masses - the peasants & workers - & backward sections of the people from all forms of exploitation" (GOB 1972:18).

In general, Bangladesh has not made much head way in fulfilling the above cited constitutional commitments. Moreover, there is no mention of various minorities - ethnic or religious- in the constitution. The constitution simply does not recognize the existence of minorities nor there is any provision for recognition of cultural differences.

Although Bangladesh as a country is highly homogenous compared to other South Asian neighbors, however, the traditional inhabitants of CHT, the hillmen, are not Bengalis (Anti-Slavery Society 1984 :7). There are presence of other ethnic people in the north & north eastern region of the country. In addition, there are presence of stranded Pakistanis, popularly known as "Biharis" or "Muhajirs" who migrated from India after partition in 1947 & the "Rohinga's" who migrated from the Arakan province of Burma. The stranded Pakistanis are living a miserable life mostly in "Camps" in Dhaka & Sayedpur & the "Rohinga's" are placed in refugee camps along the border with Burma.

Religious minorities include Hindus who constitute more than 10% of the population followed by the Buddhist & the Christians. Other minority sects such as Ahmadi's are there who has lately been targetted and persecuted by the mainstream Sunni majority fundamentalist zelots.

With reference to the constitutional provisions for providing right to freedom of expression, associations & assembly & the constitutional provisions for enforcement & protection against violation of above mentioned rights, the constitution vows that, "Freedom of thought & conscience is guaranteed" (GOB 1972:30). In Article 37, the constitution promises freedom of assembly. In Article 38, the constitution guarantees freedom of association. The Article 39.2 (a) of the constitution says that,

"The right of every citizen to freedom of speech & expression, and (b) freedom of the press, are guaranteed" (GOB 1972:31).

However, there is no statute in force in Bangladesh specifically recognizing peoples right to information. On the contrary, there are certain prohibitory laws namely, a) Section 5 (1) of the Official Secrets Act, 1923, b) Sections 123 & 124 of the Evidence Act, 1872, c) Rule 28 (1) of the Rules of Business 1996, d) Rule 19 of the Government servants (Conduct) Rules, 1979, e) Oaths (affirmation) of secrecy under the Constitution (Law Commission 2002:2).

With reference to the independence & accountability of the different organs of national government namely executive, legislative & judiciary, the constitution declares in article 55. (2) that "The executive power of the Republic shall, in accordance with this constitution, be exercised by or on the authority of the Prime Minister" (GOB 1972:44). Article 65 (1) says that, "There shall be a Parliament for Bangladesh in which subject to the provisions of this constitution, shall be vested the legislative powers of the Republic" (GOB 1972:57). With reference to judiciary, the constitution states that there shall be a Supreme Court of Bangladesh, a Supreme Judicial Council, a High Court, an Appellate Division, Subordinate Courts & Administrative Tribunals.

All the three organs of the Republic manifests unitary features which are enshrined in the constitution. All the legislative powers are vested in a single chamber parliament. All the powers of government are conferred upon a single central government. All judicial powers of the Republic are vested centrally in the Supreme Court of the country, comprising two Divisions namely, the Appellate Division & the High Court Division (Kamal 1994: 16).

The legislature is empowered to central law making, oversee policy formulation, scrutinize taxation & public expenditure. However, when a bill in general & money bill in particular is passed by the parliament it shall be presented to the President of the Republic for assent. Further more, when parliament stands dissolved or is not in session, the President of the Republic may make & promulgate ordinances. An ordinance promulgated by the President must be laid before parliament at its first meeting.

With reference to independence of the judiciary, article 94.4 of the constitution says that, "the Chief Justice & the other judges shall be independent in the exercise of their judicial function"(GOB1972:87). The Supreme Court also has rule making power & advisory jurisdiction.

There is no specific safe guard in the constitution against army takeover. Chapter IV of part IV of the constitution deals with the defense services which states that the supreme command of the defense services of the country shall vest in the President & "the Republic shall not Participate in any war except with the assent of Parliament "(GOB1972:56). Article7 of the constitution establishes the supremacy of the people (GOB1972:15)i.e. civilian governance over armed forces. In general, there is no hindrances in the constitutional mechanism to continuation & functioning of democracy. The issue of amending the constitution is not an easy task. As pre article 142.a.ii of the constitution two third majority is required for amending any provision of the constitution.

As per Article 59 of the constitution sub-national or local level governance in every administrative unit of the Republic is entrusted to bodies, composed of persons elected in accordance with law, such as City Corporations, Municipalities & Union Parishads. Article 60, of the constitution refers to powers of local government bodies including imposition of taxes, preparation of budget & maintenance of funds. In fact, there is no clear provision for division of power & resources between the national & sub-national governments & there is no constitutional guarantee against encroachment of the power of lower tier by the higher. Sub-national bodies effectively work as the adjunct of the national government. Their financial base is weak & they lack power. There is dearth of flexibility on their part as well. In fact, both national & sub-national level governments are part of one unitary system operating in different locales.

With reference to accountability of administration both democratically elected governments & to the people, it can fairly be stated that the "public part" of the public administrative system is missing in Bangladesh to a large extent.

Besides, there are no institutions or forums where the public could even get close to, far less review & criticize, the administrator for his action (Anisuzzaman 1979:96). For long the country was ruled by the military with the help of the civil bureaucracy. Lately, the size & scope of the bureaucracy has expanded enormously. The size & complexity of the civil service system has resulted in problems of coordination, procedural delay & poor implementation. The post liberation short lived Mujib government attempted to establish political control over the powerful bureaucracy. With the advent of

Zia's rule, the dominance of Bangladeshi bureaucracy was restored & continued in the successive governments. The government of Shaikh Hasina for the first time in the history of civil service in the country amended the Rules of Business & made the politically appointed people's representative i.e. the Minister as the Chief Executive of the Ministry. However, politicization of the civil service has created a sharp divide the legacy of which continues till to date.

## **B. Party Political Domain :**

Issues to be addressed in this section include :

- What were the structures of organized political competition that the country inherited at the time of national independence ?
- How open & accountable is the system of party political competitions ?
- How adequate are the legal-constitutional provisions to provide for representation via free & fair elections ?

As elsewhere, Bangladesh began its political history under the control of a single dominant party, the Awami League (AL). Although some 95 symbols were allocated for different political parties by the Election Commission, (Interview with the Secretary, Election Commission on 27th September, 2004 Election Commission Secretariat, Dhaka) only 4 parties emerged with a significant number of seats namely, Bangladesh Nationalist Party (BNP), AL, Jammal Islami & Jatiyo Party (JP, Ershad) in the 2001 parliament elections. The four party alliance comprising BNP, Jammal, Bangladesh Jatiyo Party (BJP), Islamic Oikko Jote (IOJ) together bagged 216 places in the parliament followed by 62 places by AL and 14 by JP (Ershad). BNP alone secured 193 seats and Jammal secured 17 seats in the 8th parliament elections.

The Awami League is the oldest political party in the country which spearheaded the liberation struggle in 1971. After independence in the first parliamentary elections AL secured 293 places out of altogether 300 in the parliament. Jatiya Shamajtantrik Dal (JSD) bagged 1 and Bangladesh Jatiya League 1. Moreover, independent candidates got 5 places. Altogether the combined opposition strength in the 1st parliament was 7.

During Mujib Period Bangladesh had been officially a secular state, with religious- based parties banned from political activities. In this period only National Awami Party (NAP, Bhasani) & JSD were the overt political competitors to AL. Other pro liberation parties such as NAP (Mujaffar) or the Communist Party were regarded as staunch ally of AL. Along with Pro-Moscow NAP (Mujaffar) & Communist Party Mujib attempted to impose one party rule which was lifted by Zia who restored multiparty politics in the country.

In the period following Sheikh Mujibur Rahman's assassination in 1975, secularism was gradually phased out & religious based political parties allowed to play an active part in the nation's politics. At this stage, more emphasis was being given to the importance of Bangladeshi nationalism over Bangali nationalism whereas before, Pakistan had been the main opposition to the nation's independence, now the government was starting to identify India as the enemy, following disputes over Ganges water sharing, maritime boundaries & the Tin Bigha corridor. In connection with this anti-Indian feeling, Islam was being stressed as the important distinguishing feature which differentiated Bangladeshis from the neighboring Bangla speaking Indians of West Bengal.

In 1977, during President Zia's rule, constitutional changes were made, dropping all references to secularism as state policy in favour of "absolute trust & faith in the Almighty Allah", culminating in the introduction of a new clause which stipulated that Bangladesh would : "endeavour to consolidate, preserve & strengthen fraternal relations among Muslim countries, based on Islamic solidarity" (Bertocci 1981: 78).

This opened the way for a much greater role for Islam in many spheres of the nation's every day life. From this period, Jammal once again became active in national politics. The government of General H. M. Ershad did not radically alter the policies of Zia's government. The Eighth Amendment Bill, initiated by Ershad, passed in parliament on 7th June 1988 made Islam the 'State Religion' of the country.

Since the fall of Ershad in 1990, the AL & the BNP have come to dominate the political scene. Differences over history & symbols combined with personality clashes divided the two political forces

into hostile camps & has sharpened the polarization in Bangladesh politics. Both the dynastic leaders Khaleda & Hasina see themselves as the rightful rulers of the country & always refuse to acknowledge the possibility of electoral defeat. When in opposition, they tried their level best not to allow the other to rule without taking to the streets. This tendency has made it difficult on the part of any government to carry out a coherent & consistent development package.

With reference to elections, part VII of the constitution from article 118 to 126 narrates the functions, personnel, electoral roll, registration of voters, schedule for holding elections, etc. Although Election Commission is a constitutional body, however, it does not have the power to annul an election result. It is only in charge of the conduction of the process & the announcement of the result.

### **C. Non-Party Political Domain :**

Issues to be addressed in this section include :

- What are the structure of groups, organizations and movements other than political parties that were involved in political mobilization & opinion making at the time of national independence ?
- What are the Constitutional - legal provisions to ensure free & independent working of these groups ?
- What are the enabling & disabling conditions for the mass media imposed by legal-formal provisions & socio-economic structure ?

People from different walks of life took part in political mobilization & opinion making at the time of national independence. Journalists, critics, writers & other segments of the civil society were the champions of Bengali cause. Article 38 of Bangladesh constitution provided the basis for working of these groups. State owned electronic media does not enjoy autonomy here. For example, on 24th, September, 2004 Bangladesh Television (BTV) took footage of seven political party top bass in a forum organized by Bangladesh Independent Garments Union Federation (BIGUF). However, only ruling party leaders were shown in the television news. Name of prominent political personalities such as Ex President Ershad, Ex State Minister Dr. M. K. Alamgir, present MP Mr. Mahi B. Chowdhury of Bikalpa Dhara Bangladesh were not even mentioned.

### **D. Social, Economic & Cultural Domain :**

Issues to be addressed in this section include :

- What were the enabling & disabling conditions for the growth of democracy inherited from the socio- economic structure at the time of national independence ?
- How conducive or otherwise were the inherited cultural formations for the growth of democracy ?
- What, if any, were the constitutional -legal or institutional provisions to intervene in the inherited socio - economic & cultural legacy ?

The war ravaged country in the 70's was ripe ground for radical politics.

### **Conclusion :**

After perusing through all the four domains under the level 'design' of democracy, it can fairly be said that democracy in Bangladesh state is still 'illiberal' & 'fragile'. It is not yet deeply entrenched in the social fabric. Although the citizens are familiar with phenomenon such as elections & practicing it since British Colonial period, however, elections are not often above controversies. Muscle power & money dominates the scenerio. Broadly, the Bangladeshi polity exhibits weak rule of law & a weak political infrastructure.

Dissensus between the two major political parties namely BNP & AL is a burden on the design of democracy at the moment. Political competition is limited to BNP & AL. Marginal groups tend to lack political voice & national politics is dominated by a small segment of the urban elite.

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