

**Practice of Parliamentary Democracy in Bangladesh:
Lessons from the Ninth Parliament**



Submitted By

G. M. MANZURUL MAZID

Registration No: 112

Session: 2013-14

**Under the Supervision of
Prof. Dr. A. K. M. Jamal Uddin
Department of Sociology
University of Dhaka**

May 2019

Declaration

I do hereby declare that the work presented in this M. Phil. Thesis entitled *Practice of Parliamentary Democracy in Bangladesh: Lessons from the Ninth Parliament* is an original work done by me under the supervision of Dr. A. K. M. Jamal Uddin, Professor, Department of Sociology, University of Dhaka.

No part of this thesis has been previously submitted to any other University for any academic certificate/degree/diploma or qualification. The work I have presented does not breach any existing copyright law and no portion of this thesis is copied from any work done by anyone without citation.

I further undertake to assure the Department and the authority of Dhaka University against any loss or damage arising from breach of the forgoing obligations, if any.

Md. Manzurul Mazid

Registration No: 112

Session: 2013-14

Department of Sociology

University of Dhaka

Supervisor's Certificate

This is to certify that an empirical M. Phil. Thesis entitled *Practice of Parliamentary Democracy in Bangladesh: Lessons from the Ninth Parliament* is done by Md. Manzurul Mazid, Registration No: 112, Session: 2013-14 in partial fulfillment of the requirements of M. Phil. Degree from the Department of Sociology, University of Dhaka.

The Thesis has been prepared under my supervision and guidance and secondary data analyzed by the author.

Dr. A. K. M. Jamal Uddin
Professor
Department of Sociology
University of Dhaka

Acknowledgement

Firstly, I add a special note of gratitude to the almighty Allah for making me able with a view to complete this thesis successfully. Words will never be enough to express my level best acknowledgement towards my honorable supervisor Dr. A. K. M Jamal Uddin, Professor, Department of Sociology, University of Dhaka, for his guidance and supervision in every step of this thesis. I will remain ever grateful to him for his help and cooperation in this research effort. I will also be grateful to Md. Masudur Rahman for assisting me to analyze and formulate the data.

I would like to thank National Parliament, Government of the People's Republic of Bangladesh for providing the materials related to the ninth parliament. I am grateful to Transparency International Bangladesh for also their cooperation to provide me the their findings of parliament watch.

I never fail to recall talented individuals including my friends, seniors, juniors and well-wisher. A note of my gratefulness must be extended to all the office stuffs of the Department of Sociology, University of Dhaka, for their cooperation in order to complete my M. Phil. session. Above all, I am likewise in the debt of my beloved family members for their inspiration towards me to continue my study still now. My sincere thanks and gratitude are due to my beloved father G. M Abdul Mazid and mother Maleka Bibi for their affectionate encouragements and doa for my success in this pursuit of academic endeavor.

Any demerits and deficiencies remaining in this thesis must be attributed solely for me.

This thesis is dedicated to my parents who have given me their unstinting supports in every steps of this academic effort.

List of Table

Page

List of Figure

Acronyms

ADP Annual Development Programme

AFS Annual Financial Statement

AL Awami League

BEC Bangladesh Election Commission

BIPS Bangladesh Institute of Parliamentary Studies

BJP Bangladesh Jatiya Party

BNP Bangladesh Nationalist Party

CA Constituent Assembly

CEC Chief Election Commissioner

CHT Chittangon Hill Tracts

CP Committee on Privileges

CPD Centre for Policy Dialogue

CSO Civil Society Organisation

DAP Detailed Area Plan

DFID Department for International Development

DISHA Development Initiatives for Social and Human Action

DPC Department-related Committee

FPTP First Past the Post

IBP International Budget Partnership

IGS Institute of Governance Studies

IPU Inter-Parliamentary Union

IRBD Independent Review of Bangladesh's Development

IT Information Technology

JP Jatiya Party

JS Jatiya Sangsad (Parliament of Bangladesh)

JSD Jatiya Samajtantrik Dal

LIC Legislative Information Centre
MCC Muktijoddha Command Council
MP Member of Parliament
MoF Ministry of Finance
NCG Non-party Caretaker Government
NDI National Democratic Institute of International Affairs
NGO Non-government Organisation
NP National Parliament
OBI Open Budget Index
OC Officer in Charge
OCAG Office of the Comptroller and Auditor General
PAC Public Accounts Committee
PIO Programme Implementation Officer
PMQT Prime Minister's Question Time
PPI Parliamentary Powers Index
PR Proportional Representation
PUC Public Undertakings Committee
RPO Representation of the People's Order
RoP Rules of Procedure
TIB Transparency International Bangladesh
UDCCC Upazila Development Co-ordination Committee Council
UK United Kingdom
UNDP United Nations Development Programme
UNO Upazila Nirbahi Officer
US United States

Abstract

The aim of this study is to find out the brief historical background of practicing parliamentary democracy and what is the success of ninth parliament in enacting laws for the society. In what extent the nature of parliamentary practices in resolving different nation issue? How different parliamentary committees succeed under ninth parliament and what is the level interaction of ruling and opposition lawmakers in functioning the parliament? This study seeks to investigate these questions through a systematic analysis of the performance of the parliament and parliamentarians in Bangladesh. Bangladesh is a democratic country and the people of Bangladesh have equal rights to vote to select a candidate through parliamentary election. There are multiple activities of our parliament by which the ministers of different ministries can fulfill the people's demand in their particular area. Ninth parliamentary election has tremendous significances to ensure the people's right to vote in free fare election. This study focused on the different area of ninth parliamentary democracy to explore the laws, practices of these laws and the interaction of the opposite party to ensure the democracy. It is very important to mention that this study is a secondary research by which the readers and the researchers can be informed about the agendas, activities, practices of democracy in the ninth parliament of Bangladesh. The significant of this study is to find out the democratic practices, enactment of laws for the society, nature of parliamentary practices, and interaction of ruling and opposition lawmakers in functioning the parliament. Researchers and the policy makers would be able to realize the activities and functions of the national parliament as well as the failures of the parliament members.

Bangladesh has a parliamentary system of government. The constitution bestows the parliament with almost unrestricted powers over the executive branch. The government is dependent on a

parliamentary majority. The President is the ceremonial head of the state and is elected by the parliament. The parliament of Bangladesh is named as the *Jatiya Sangsad* (JS), the House of the Nation¹. There is, however, a gap between the promise and the actual performance of parliaments in many countries including Bangladesh. The weakness of the parliament in Bangladesh is manifested not so much in the absence of its initiatives in formulating laws and budgets, but in the absence of real discussion, debate and scrutiny of the proposals put forward by the executive branch of the government. Several structural factors constrain the effective functioning of the parliament. However, it is the political practices, most notably the practice of boycotting the parliamentary meetings by the opposition which have created major impediments inhibiting the performance of the parliament. In a Westminster-style parliamentary system, the main responsibility for ensuring the government's accountability falls on the shoulders of the opposition in parliament, as the ruling party parliamentarians are expected to support the government. But in Bangladesh since the mid-1990s, the opposition has adopted the tactics of boycotting parliamentary meetings rather than to voice their concerns through discussion and debate in the parliament. Nearly half of the parliamentary working days have been boycotted by the opposition even when both major political parties have rotated in power and also in the opposition. The opposition's practice of boycott of the parliament is unique to Bangladesh.

This pattern of boycott by the opposition (no matter the political party) shows that parliamentary work is not prioritized. This has earned the parliament a negative image. However, successive elections of the parliament since 1991 have generated high popular participation and keen contest amongst the political parties, which means that notwithstanding the shortfalls in the performance of the parliament, both the electorate and the political parties find the parliamentary

¹ Jatiya Sangsad, also spelled Jatiyo Shangshad, depending on the use of transcription of the Bangla term জাতীয় সংসদ (House of the Nation).

elections, and thereby presumably the parliament, to be politically relevant. The practice of parliamentary democracy is very important for the People's Republic of Bangladesh. Without democracy and people's participation in the parliamentary systems, development is impossible. In the context of developing countries, Bangladesh is very significant for the rapid economic growth and development in multi-disciplinary sectors. The statement of this study is whether the practice of parliamentary democracy exists in Bangladesh or not on the basis of the people's freedom of expression and whether the interaction of the opposition party is visible or not in the national parliament. Sometimes the practice of parliamentary democracy is absence in Bangladesh and the parliament members are not success to enact the new laws and policies in resolving different national and international issues. This study focused to these issues especially in ninth parliamentary election so that the researchers and the policy makers get the scenario of the democratic practice of the national parliament in Bangladesh.

Table of Contents

Chapter One	1
Introduction.....	1
1.1 Introduction	1
1.2 Research Objectives	3
1.3 Statement of the problem	3
1.4 Rationale of the study.....	4
1.5 Chapter overview	4
Chapter Two.....	6
Theoretical Framework and Literature Review	6
2.1 Theoretical Framework	6
2.1.1 Participation	8
2.1.2 Accountability.....	8
2.1.3 Transparency.....	9
2.1.4 Rule of law	10
2.1.5 Decentralization	11
2.2 Literature Review	13
Chapter Three.....	18
Methodology of the Study	18
3.1 Research Methods	18
3.2 Technique of Data Collection	18
3.2.1 Secondary data	18
3.3 Data analysis	19
3.4 Limitations of the study	19
Chapter Four	21
System of Democracy and Parliamentary Form of Government.....	21
4.1 Democratic System	21
4.2 Composition of the Parliaments	24
4.3 Parliamentary system	28

Chapter Five.....	29
Parliamentary Democracy in Bangladesh.....	29
5.1. Parliamentary Democracy System.....	29
5.2.1 Direct Democracy.....	30
5.2.2 Representative or Indirect Democracy.....	31
5.3 Basic Principles or Requisites of Democracy.....	31
5.3.1 Liberty.....	31
5.3.2 Equality.....	32
5.3.3 Fraternity.....	33
5.3.4 The people as ultimate source of sovereignty.....	33
5.3.5 Fundamental rights to the people.....	33
5.3.6 Independence of Judiciary.....	33
5.3.7 The people are considered as an end and State as the means in a democracy.....	34
5.3.8 Welfare State.....	34
5.4 Conditions for the success of Democracy.....	34
5.4.1 Sound System of Education.....	34
5.4.2 Enlightened Citizenship.....	35
5.4.3 Political Awakening.....	35
5.4.4 Freedom.....	35
5.4.5 Equality.....	36
5.4.6 Law and Order.....	36
5.4.7 Spirit of Co-operation.....	36
5.5 Decentralization of Powers and Local self-government.....	37
5.5.1 High Moral Standard.....	37
5.5.2 Social and economic Security.....	38
5.5.3 Tolerance and Spirit of Unity.....	38
5.5.4 Sound Party System.....	39
5.5.5 Written Constitution and Independent Judiciary.....	40
5.6 Political security, good administration, economic prosperity and wise.....	40
5.6.1 Leadership.....	40

5.7 History of the Parliamentary Democracy in Bangladesh	41
5.7.1 Election engineering	47
6.7.2 State-sponsored party building	49
5.7.3 Political use of religion	50
5.8 Undemocratic patterns and practices under elected political governments	51
5.8.1 Weak rule of law	52
5.8.2 Lack of accountability.....	53
5.9 Present features of Bangladesh Democracy	55
5.9.1 Absence of democratic political culture	55
5.9.2 Absence the rule of law.....	55
5.9.3 Absence of strong civil society	56
5.9.4 Absence of strong political leadership.....	56
5.9.5 Confrontational politics	56
5.9.6 Ineffective political institutions	56
5.9.7 Corruption and terrorism.....	57
5.9.8 Negativity/Double standard	57
5.9.9 Lack of tolerance and reciprocity	57
5.10 Structure, Institutions and Function of Parliaments	57
5.10.1 Structure of the Parliament	58
5.10.2 Institutions of the Parliament.....	61
5.11 Roles and Functions of the Parliament.....	66
5.11.1 Representation and Accountability to the Electorate	66
5.11.2 Legislation and Budget	67
5.11.3 Scrutiny and Oversight	67
Chapter Six.....	69
Activities of the Ninth Parliament	69
6.1. Description of Ninth Parliament	69
6.2 Pledges by the Prime Minister against Corruption	70
6.3 Leader of the Opposition: Pledge to make the Parliament effective.....	71
6.4 Parliament session time.....	71

6.5 Prime Minister and Leader of the Opposition on President’s Speech.....	71
6.6 Government Accountability	73
6.6.1 Question-Answer Session of the Prime Minister:.....	73
6.6.2 Question-Answer Session of Ministers:.....	73
6.6.3 Non-supplementary Questions:.....	74
6.6.4 Notices on Issues of Public Importance:.....	74
6.6.5 Participation by Female MPs	74
6.6.6 Role of the Speaker	75
6.7 Parliamentary Resolutions and General Discussion	76
6.8 Walk-out and Boycott by the Main Opposition Party.....	77
6.9 Unscheduled Discussions.....	78
6.10 Delayed sessions for lack of quorum: money value of the wasted time	78
6.11 Formation of Committees	79
6.11.1 Constraints against effective functioning of Committees	80
6.11.2 Implementation of Recommendations	80
6.11.3 Openness of Committee Deliberations:	81
Chapter Seven	82
Evaluation of the Success and Failure of the Ninth Parliament.....	82
7.1 Activities of the MPs outside the Parliament	83
7.1.1 Positive activities of the MPs.....	83
7.1.2 Negative activities of the MPs	86
7.3. The degree of people’s satisfaction regarding the performance of the MPs.....	88
Chapter Eight	90
Conclusion and Recommendation	90
8.1 Conclusion.....	90
8.2 Recommendations	92
References	96

Chapter One

Introduction

1.1 Introduction

The word parliament has been derived from an old french word Parlement and Latin word Parliamentum. The French word Parler means, “to talk”. Again democracy (Greek demos, “the people”; kratein, “to rule”) is a political system in which the people of a country rule through any form of government they choose to establish. Parliament is the supreme legislative body in various countries in the world. It is the symbol of exercising democratic right of citizens through their representatives. But this right have not bestowed suddenly upon the mankind from the blue in any twinkling night. More precisely, the people sovereignty in state politics was ‘not built in a day’. It has come through a passage of struggle of tens of thousands of people over hundreds of years. Many people embraced martyrdom for realization of parliamentary democracy. The struggle for democracy has not been put off anywhere in the world. Whenever the authority in the state power attempts to deviate from the norm of democracy, its people voluntarily and vehemently come out to oppose¹.

Bangladesh has been parliamentary form of democracy since 1972 following the birth as the dependent nation in 1971. The process of capitalist democracy was transformed into the socialist democracy in 1975 by the than Prime Minister Bangabandhu Sheikh Mujibur Rahman by the introduction of BAKSAL a popular socialist path for nation building. After the brutal killing of

¹ Huda, K. M. Nurul. 2005. The state of parliamentary democracy: worldwide reflections. Asian Affairs, Vol. 27, No. 1: 5-23

Sheikh Mujibur Rahman, the process of parliamentary democracy was disrupted for almost more than a decade, although an insignificant initiative for reestablish the process was noticed under President Ziaur Rahman and the president justice Abdus Sattar from 1979 to march 1982. General Ershad had tried hard to give a democratic form of his military regime that saw a temporary success of holding parliamentary election of 1986, which lasted for two and half years. In 1988 there was general election in the country where none of opposition political party had participated. In December 1990 the martial law regime of garnished the main stream opposition parties of the country. According to the demand of the opposition democratic forces, a non-partisan caretaker government was formed to hold a free and fair election and formed the new government under parliamentary form of democracy. Since then, the practice of parliamentary democracy is continuing its journey, although a diminutive period of autocracy under the cover of caretaker government had disrupted the process in 2007 to 2008.

In 1973 after the first Bangladesh elections, Shekih Mujib continued his term in office with immense public popularity. A new constitution for a new born nation was formed with a very short span of time under his great leadership, which came into force in December 1972. This constitution had established parliamentary form of democracy that created a strong executive prime minister, a largely ceremonial presidency, an independent judiciary and a unicameral legislature on a modified Westminster model. The ninth election was originally scheduled for January 2007, but it was postponed by a military controlled caretaker government for an extended period of time. The election result in a landslide victory for Awami League-led grand alliance, which bagged 263 seats out of 300.

1.2 Research Objectives

This study has some specific aims to explore the practice of ninth parliamentary democracy in different way. These are given below:

1. To explore a brief historical background of practicing parliamentary democracy.
2. To investigate the success of ninth parliament in enacting laws for the society.
3. To examine the nature of parliamentary practices in resolving different nation issue.
4. To explore the success of different parliamentary committees former under ninth parliament.
5. To search the interaction of ruling and opposition lawmakers in functioning the parliament.

1.3 Statement of the problem

National Parliament is the supreme platform of Bangladesh where the policy and law makers make the policy and fundamental laws to control the country with development. The practice of parliamentary democracy is very important for the People's Republic of Bangladesh. Without democracy and people's participation in the parliamentary systems, development is impossible. In the context of developing countries, Bangladesh is very significant for the rapid economic growth and development in multi-disciplinary sectors. The statement of this study is whether the practice of parliamentary democracy exists in Bangladesh or not on the basis of the people's freedom of expression and whether the interaction of the opposition party is visible or not in the national parliament. Sometimes the practice of parliamentary democracy is absence in Bangladesh and the parliament members are not success to enact the new laws and policies in resolving different national and international issues. This study focused to these issues especially

in ninth parliamentary election so that the researchers and the policy makers get the scenario of the democratic practice of the national parliament in Bangladesh.

1.4 Rationale of the study

Bangladesh is a democratic country and the people of Bangladesh have equal rights to vote to select a candidate through parliamentary election. There are multiple activities of our parliament by which the ministers of different ministries can fulfill the people's demand in their particular area. Ninth parliamentary election has tremendous significances to ensure the people's right to vote in free fare election. This study focused on the different area of ninth parliamentary democracy to explore the laws, practices of these laws and the interaction of the opposite party to ensure the democracy. It is very important to mention that this study is a secondary research by which the readers and the researchers can be informed about the agendas, activities, practices of democracy in the ninth parliament of Bangladesh. The significant of this study is to find out the democratic practices, enactment of laws for the society, nature of parliamentary practices, and interaction of ruling and opposition lawmakers in functioning the parliament. Researchers and the policy makers would be able to realize the activities and functions of the national parliament as well as the failures of the parliament members.

1.5 Chapter overview

This thesis is made to establish a common sense of parliamentary practice in Bangladesh. For the readers it will help to understand by focusing the overview of the different chapters. In chapter one, is discussed the objectives, rationale and the significant of the study. For every reader, this chapter will make sense about the main role and impact of this study in future. In chapter two,

this study expressed and linked the literature review with some theories. These literature and theories linked this study relevant with the present context. The past literatures and studies focuses on some important articles and studies which also focused on the parliamentary issues and problems with prospects. Good governance theory is linked to this study because it is very significant with the practice of parliamentary democracy in every country especially in Bangladesh. In chapter three, this study included the research methodology by which it is conducted with secondary sources of data. This chapter is very important for this study. It is qualitative study based on the secondary sources. In chapter four, the systems of democracy and the parliamentary forms of democracy are described very shortly and analytically. This chapter focused on the national parliamentary democracy system according to the constitution of Bangladesh. Chapter five illustrated the forms and functions of parliamentary democracy in Bangladesh. There are two types of democracy like direct or pure and indirect or representative democracy in Bangladesh. It also focused on the structures and institutions of parliaments of Bangladesh. Chapter six is the important for illustrating the activities of ninth parliament in Bangladesh. Here, the activities of the parliament members, session of the parliaments, role of MPs and speakers are mentioned deeply for the evaluation. In chapter seven, it is described about the evaluation of the success and failures of the ninth parliament. There is no proper study on it but this study summarized the problems and prospects of the ninth parliament. It will help the researchers to realize the practice of the parliamentary democracy in Bangladesh. In the last, chapter eight tried to make a conclusion and some recommendations for further research and the policy makers.

Chapter Two

Theoretical Framework and Literature Review

2.1 Theoretical Framework

Good governance theory is applied to make an interconnection with national parliament focusing on the activities and functions in Bangladesh. Without good governance no state can run its parliament properly. So, good governance theory is very important in this study. The World Bank is more concerned with the reform of economic and social resource control. In 1992, it underlined three aspects of society which they feel affect the nature of country's governance as the 'type of political regime; process by which authority is exercised in the management of the economic and social resources, with a view to development; and capacity to governments to formulate policies and have them effectively implemented'².

UNDP's view about good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rules of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources. Governance has three legs: economic, political and administrative. Economic governance includes decision-making process that affect a country's economic activities and its relationships with other economies. It clearly has major implications for equity, poverty and quality of life. Political governance is the process of decision-making to

² The World Bank

formulate policy. Administrative defines the processes and structures that guide political and socio- economic relationships³.

There have been attempts at different times to broadly describe good governance. Some have referred to it as an ‘indeterminate term used in international development literature to describe how public resources in order to guarantee the realization of human rights’. Governance has been labeled as “the process of decision making and the process by which decision are implemented (or not implemented).” Zamir⁴ was found ‘good governance’ as a benchmark of behavior whereby it can be used as a model to compare ineffective economies or political bodies with viable economies and political bodies. He added that good governance can generally imply many things in different context. In international affairs, analysis of good governance can look at any of the following relationships: between governments and markets, between governments and citizens, between governments and the private or voluntary sector, between elected officials and appointed officials, between local institutions and urban and rural dwellers, between legislature and executive branches and between nation states and institutions⁵.

Zamir⁶ focused Nayef Al-Rodhan and his proposed eight minimum criteria for ensuring good national governance. These are: 1) participation, equity and inclusiveness, 2) rule of law, 3) separation of powers, 4) free, independent and responsible media, 5) government legitimacy, 6) accountability, 7) transparency, and 8) limiting the distorting effect of money in politics. These factors can be also described as expressions of the fundamental values of democracy and more liberal constitutionalism.

³ UNDP

⁴ Jamir, M. (2015). RTI for Effective and Accountable Governance. *South Asian Journal*.

⁵ Jamir, M. (2015). RTI for Effective and Accountable Governance. *South Asian Journal*.

⁶ Zamir, M. (2012). Good governance, Right to Information Act and Private Corporate Sector. *The Financial Express*.

In 1946, the UN General Assembly resolved: “Freedom of Information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated.” According to UN, good governance has eight characteristics. It has to be 1) consensus oriented, 2) participatory, 3) follow the Rule of Law, 4) be effective and efficient, 5) accountable, 6) transparent, 7) responsive, 8) equitable and inclusive. All the components are important to describe good governance.

2.1.1 Participation

Participation by both men and women is a key cornerstone of good governance (United Nations Economic and Social Commission for Asia and the Pacific). UNDP regard participation as a human right. Within the international aid community, participation is accepted as contributing to development in two main ways: increasing the effectiveness of state interventions and empowering people especially the poor. The World Bank believes that participation improves the effectiveness of development. The objective of participation is stronger state capacity. UNDP stresses how development requires because governments cannot on their own fulfill all tasks required for sustainable human development. This goal requires the active participation and partnership of citizens and their organizations⁷.

2.1.2 Accountability

Political and institutional accountability are very much important to ensure good people’s right to know in Bangladesh. Political accountability is linked to human development because it is a necessary condition for democracy. It is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be

⁷ Smith, B. C (2007). *Good Governance and Development*. Basingstoke and New York: Palgrave Macmillan.

accountable to the public and to their institutional stakeholders. Both social and economic development suffers if political accountability is weak. If accountability empowers the poor, pro-poor policies may be introduced, with their attendant social and economic benefits.

2.1.3 Transparency

Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media (United Nations Economic and Social Commission for Asia and the Pacific). Transparency refers to the availability of information to the general public and clarity about government rules, regulations and decisions. Thus, it both complements and reinforces predictability. The difficulty with ensuring transparency is that only the generator of information may know about it, and may limit access to it. Hence, it may be useful to strengthen the citizens' right to information with a degree of legal enforceability. Transparency in government decision making and public policy implementation reduces uncertainty and can help inhibit corruption among public officials. To this end, rules and procedures that are simple, straightforward, and easy to apply are preferable to those that provide discretionary powers to government officials or that are susceptible to different interpretations. However well-intentioned the latter type of rules might be in theory, its purpose can be vitiated in practice through error or otherwise⁸.

⁸ United Nations Economic and Social Commission for Asia and the Pacific

2.1.4 Rule of law

Good governance requires fair legal frame works that are enforced impartially. It also requires full protection of human rights, particularly those of minorities (United Nations Economic and Social Commission for Asia and the Pacific). According to Dicey⁹, the rule of law has three meanings:

1) Absence of arbitrary power or supremacy of law:

Rule of law means the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power or wide discretionary power.

2) Equality before law:

The rule of law needs the equality of law or equality subjection of all classes to the ordinary law of the land administered by the ordinary law courts. In this sense, no man is above the law.

3) Constitution is the result of the ordinary law of the land:

In many countries right to personal liberty, freedom from arrest, freedom to hold Public meeting are guaranteed by a written constitution. Those rights are the result of judicial decisions in concrete cases, which have actually arisen between the parties. The constitution is not the source but the consequence of the rights of the individuals. Thus, Dicey (1985) emphasized the role of the courts of law as grantors of liberty (Mollah).

The rule of law is necessary for political and economic development, including the alleviation of poverty. The rule of law is a foundation of democratic political development. An independent judiciary is the most important institution for resolving disputes between citizens and their governments. The rule of law is relevant to the alleviation of poverty. The poor are in particular need of the protection of life, personal security and human rights, which the rule of law can

⁹ Dicey, A. V. (1885). Introduction to the Study of the Law of the Constitution. *Liberty Classics*, Indianapolis: Liberty Fund.

provide. Without the rule of law the poor are also vulnerable to corruption, loss of property to government officials and insecurity. The rule of law is most obviously a foundation of democracy. It is relevant to social development that means alleviation of poverty.

2.1.5 Decentralization

The division of political and administrative powers territorially between different spatial entities in society is as important a constitutional matter as the allocation of powers between branches of government and the creation of rules within which they operate. According to USAID, “effective decentralization can be provided exciting opportunities for democratic change at the local level and can help improve national democracy as well”¹⁰. The World Bank argues that- “Successful decentralization improves the efficiency and responsiveness of the public sector while accommodating potentially explosive political forces”. Decentralization becomes a source of democratic vitality when it gives people experience of democracy. It can serve democratic consolidation by removing barriers to participation, strengthening the responsiveness and accountability of government. Legitimacy can also be served by democratic decentralization under conditions of ethnic pluralism. Political decentralization can help by giving ethnic groups a degree of autonomy¹¹. Aid donors are emphasized three major benefits, which is derived from decentralization to local government institutions:

- 1) Democratic decentralization should be more effective way of meeting local needs than centralized planning.
- 2) Another major aim of decentralization is to maintain political stability.

¹⁰ Smith, B. C (2007). *Good Governance and Development*. Basingstoke and New York: Palgrave Macmillan.

¹¹ Smith, B. C (2007). *Good Governance and Development*. Basingstoke and New York: Palgrave Macmillan.

- 3) Decentralization helps the poor by positioning power at the local level where they have a chance of capturing it.
- 4) Decentralization is an essential part of good governance and a key aspect of political and administrative reform. Local government institutions can be benefited in three ways by decentralization:
- 5) Public policies become more responsive
- 6) Democratic stability
- 7) Poverty alleviation.

For a sustainable development good governance is a must and for good governance all of the prerequisites are needed.

Gisselquist¹² focused the definition of United Nations Development Program (UNDP) as ‘Good governance refers to governing systems which are capable, responsive, inclusive, and transparent. All countries, developed and developing, need to work continuously towards better governance.’

Miyanda Chitumbo, & Kakana also concerned about the view of United Nation Economic and Social Commission for Asia and the Pacific (UNESCAP) as governance is the process of decision making and the process by which these decisions are implemented or not implemented in cases where they are not implemented¹³.

John Graham, Bruce Amos and Tim Plumptre¹⁴ tried to say that defining the principles of good governance is difficult and controversial. The United Nations Development Program (UNDP “Governance and Sustainable Human Development, 1997”) enunciates a set of principles that,

¹² Gisselquist, R. M. (2012). Good Governance as a Concept, and Why This Matters for Development Policy. *World Institute for Development Economics Research (WIDER). United Nations University.*

¹³ UNESCAP, 2010

¹⁴ Graham, J., Amos, B., & Plumptre, T. (2003). Principles for Good Governance in the 21st Century. *Institute on Governance. Policy Brief 15, Ottawa, Canada: Institute on Governance.*

with slight variations, appear in much of the literature. There is strong evidence that these UNDP, based principles have a claim to universal recognition. The five principles of good governance are 1) Legitimacy and Voice, 2) Directions, 3) Performance, 4) Accountability, and 5) Fairness.

With a linking description between RTI Act and Good Governance, Ansari tried to formulate some elements such as transparency, accountability and reduction of corruption which can ensure the rights of people in every aspect of life. RTI has major impact on indicators of development like poverty alleviation, delivery of services under subsidized schemes, basic economic infrastructure, empowerment of weaker sections and environmental protection. All are related to good governance.

2.2 Literature Review

Rahman¹⁵ (2014) has explored the issues related to the parliamentary democracy in Bangladesh. The main issue of the article is to review the period of parliamentary democracy in Bangladesh since its emergence in the year 1972. While parliamentary democracy in Bangladesh, as a political ideal, is still exposed to hazards arising from the attitudes of certain political parties and criticisms from others, the mechanism of the system functioning through Parliament is being progressively perfected. Due to the opposition boycott, the ruling party's negligence and the absenteeism of ordinary members, the standing committees of the parliaments were less effective, and parliamentary accountability of government was lacking. Bangladesh shares its history of political development with the British and Pakistan era. The political parties in Indian sub-continent struggled for the rights, freedom and justice in the society. Westminster style

¹⁵ Md. Motiar Rahman (2014), "Parliamentary Democracy in Bangladesh: Thought and Practice", Vol. 14, No. 1, June 2014)

parliamentary democracy was the driving force of the political parties. The party leaders were mostly known for their values, principles, and devotion for the causes of society. Establishment of parliamentary democracy in the state mechanism has been an uncompromising demand of people of the free world. At the end of the article the role of the opposition is emphasized on for the smooth functioning of the democratic system.

Jalal Firoj (2013)¹⁶ makes a stock-taking of performances of the parliaments constituted. For the convenience of analysis, this article has been divided into a number of sections. The first section presents a brief background of Bangladesh parliaments. The second section gives summary of the parliamentary elections held to date along with the internal composition of the parliaments. The third section identifies the major trends developed through the functioning of the parliaments during the period covered under the study. The fourth section discusses the achievements of the Bangladesh parliaments. The fifth section deals with the challenges that the parliament is confronting with until today and will be facing in the days to come. In the final section some concluding remarks have been made about prospects of parliamentary democracy in Bangladesh.

This study¹⁷ refrains from shedding light on the military regimes that can be treated as complete deviations from the democratic way of rule and according to the 22-point rulings of Bangladesh High Court on August 2005, were unconstitutional. As per the verdict of the court, usurpation of state power through martial law proclamation was not only unconstitutional but also a grave legal wrong (Halim 2005)¹⁸. From the same point of view, reintroduction of multi-party politics,

¹⁶ Jalal Firoj, Forty Years of Bangladesh Parliament: Trends, Achievements And Challenges, Journal of the Asiatic Society of Bangladesh, Vol. 58.1, 2013, pp. 83-128)

¹⁷ Shantanu Majumder (2005). Democracy in Bangladesh

¹⁸ Halim, Abdul. "Martial Law and Military Intervention: role of the judiciary." *Daily Star*. Dhaka, 1 October 2005.

party-building, holding local and national elections, experiments on local government and similar activities have all been treated as the efforts of the military dictators to make their regime legitimate, sustainable and to obtain acceptance of the rank and file and the international community as well (Jahan 2003)¹⁹. This article argues that military rule in Bangladesh was a negative outcome of democracy. Besides, it can be seen as a severe failure of the civil regime to protect democracy as Huntington (1968: 194) said, 'the most important causes of military intervention in politics are not military but political.' This paper has been divided into three main parts. An attempt has been made to identify the major achievements in the journey towards liberal democracy in the first section. The second section endeavors to deal with the reasons and evidences of the malfunctioning from two perspectives: party-political and socio-economic domains. The final section will attempt to identify several short-term initiatives to be undertaken in order to make liberal democracy effective in Bangladesh. In addition, as a part of the long term initiative, effort has also been given to understand if there is any relationship between the malfunctioning and the current version of democracy namely, liberal democracy.

Rounaq Jahan (2003:223-29)²⁰ evaluated 2002 Bangladesh politics'. The year did not bring any change in the way government and politics function in Bangladesh. The destructive confrontation between the government and the political opposition has continued. Most disturbing was the fact that political leaders were unwilling to recognize how their actions are threatening the very fabric of democracy. The failure of the two political parties [Awami League and BNP] to peacefully negotiate their differences threatens the future of democracy in Bangladesh.' No doubt, nothing has changed since these remarks were made. It seems that this statement considers malfunctioning of parliamentary democracy as a domestic issue and found

¹⁹ Jahan, Rounaq (2003), *Bangladesh in 2002: imperiled democracy*, Asian Survey, vol. 43, no.1

²⁰ Jahan, Rounaq. "Bangladesh in 2002: imperilled democracy." *Asian Survey*, vol. 43, no.1, 2003.

no role of the external factors (and actors) in the politics of a post-colonial state like Bangladesh. Similar to this statement, majority in Bangladesh believe that the political parties are solely responsible for the current crises of democracy. This type of conclusion shows a deep frustration regarding the abuse of the system by the parties and politicians in practicing parliamentary democracy. Though it is not a sign of a mature political culture to discredit the politicians or parties all the time, it shows the level of dissatisfaction regarding the performance of the politicians and the parties that encourages people and experts to offer immunity to the other exposed or unexposed stakeholders contributing in the malfunctioning of democracy.

The Bangladesh political system lacks such an enlightened political class with necessary knowledge in the art of ruling and accommodating opposing views. During the colonial and military rules democratic political parties and politicians in this region obtained excellence in the politics of opposition. Political oppositions have continued to use the same technique against the party-in-power even after independence. Again, the ruling party has failed to show due respect to the opposition, which makes the liberal democracy virtually ineffective. As a result of this failure from both sides, today the Bangladeshi version of democracy means merely a tussle for state power.

The Inter-Parliamentary Union (IPU)²¹, in its study, calls the parliament the central institution of democracy as it embodies the will of the people and carries all their expectations that “democracy will be truly responsive to their needs and help solve the most pressing problems that confront them in their daily lives” (Beetham 2006: 1). As the people’s elected body, the parliament is expected to play many roles. The IPU enumerates the parliament’s key roles as follows: “As the elected body that represents society in all its diversity parliaments have a unique responsibility for reconciling the conflicting interests and expectations of different groups and

²¹ IPU. Parliament and Democracy in the Twenty First Century

communities through the democratic means of dialogue and compromise. As the key legislative organ, parliaments have the task of adapting society's laws to its rapidly changing needs and circumstances; as the body entrusted with the oversight of government, they are responsible for ensuring that the government is fully accountable to the people" (ibid: 1-2).

Chapter Three

Methodology of the Study

3.1 Research Methods

This research is conducted by qualitative research method because of its nature and the subject matter. Qualitative research attempts to understand how research and entire social unit such as group, organization or community operates with its own terms. This research method concentrates on the study of social life and therefore multiple perspectives and practices in the analysis of qualitative data. There are varieties of techniques because there are different questions to be adduced and different versions of political practices that can be elaborated. All the positive and negative aspect of ninth parliament has been showed in this research.

3.2 Technique of Data Collection

Data have collected for this research from only secondary data collected from different sources like newspapers, articles, reports, journals and so on.

3.2.1 Secondary data

Secondary sources data is the data collected from different sources of books, reports, journals and so on. Basically it is second hand or re-used data that is collected from primary day.

Examples includes:-

- Data collection from books
- Newspaper
- Journals
- Articles

- National Reports
- International Reports
- NGOs publications

In this research secondary data have collected from the various papers, proceedings of parliamentary sessions, document and evidence published from JS (Jatiya Sangshad) under ninth parliament. This study did not cover any empirical data because the secondary data is perfect to explore the sectors that this study wanted to examine.

3.3 Data analysis

This study gathered different types of materials related to national parliament and its functions. After collecting the data from different sources, it is analyzed these according to the research objectives. Sometimes it was very difficult to find out the materials related to the study but it was completed through research manner with analytical way.

3.4 Limitations of the study

This is a large study about practice of national parliamentary democracy. The study has some strength that can influence on the national democracy in Bangladesh. But there are some limitations of this study. Firstly, the data sources were very insufficient to analyze the study properly. Secondly, it was a self-funded research study and had no research assistant to help. That's why it could not collect data from multi-disciplinary sources. Thirdly, it is only a secondary analysis research study. If it could cover the empirical a data from some key informants like teachers, researchers, member of national parliament, NGOs representatives and other scholars, it would be more fruitful to make the study more success. So all these

limitations were a little bit burdens but not a barrier to complete the study. It will help the researchers and scholars for further study.

Chapter Four

System of Democracy and Parliamentary Form of Government

4.1 Democratic System

The term democracy is derived from the Greek words, demos and Kratos, the former meaning the people and the latter power. Democracy thus means power of the people. It is now regarded as a form of government in which the people rule themselves either directly or indirectly through their representatives. Definition of democracy, as a form of government, are various, But like many other definitions in political science, they differ in their content and application²². Democracy, according to the Greeks is the Government in which people rule over themselves. Aristotle considered it as a perverted form of government. Herodotus says, the democracy denotes that form of government in which in the ruling power of the state is largely vested in the members of the community as a whole. In the words of President Abraham Lincoln, it is a government of the people, by the people and for the people²³. According to Bryce, “Democracy is that form of government in which the ruling power of a state is legally vested, not in any particular class or classes but in the members of the community as a whole”. Prof. Seeley says, “Democracy is a government in which everybody has a share.” According to Dicey, “Democracy is a form of government in which the governing body is a comparatively large function of the entire nation. On the other hand Gettell’s opinion, “Democracy is that form of government in which the mass of the population possesses the right to share in the exercise of sovereign power. Democracy is not a sharply defined form of government that would need to be implemented in just one and no other way. Both in theory and in practice there are as many systems of

²² Kapur, A.C. 1993. Principles of Political Science. New Delhi: S. Chand & Company Ltd.

²³ Agarwal, R.C. 1991. Political Theory. New Delhi: S. Chand & Company Ltd.

democracy as democratic countries. Nevertheless there are some general features as well as some groups of democratic systems that may be distinguished from each other.

Bangladesh came into being as an independent country in 1971. The Parliamentarians of the newly independent Bangladesh met on 10 April 1972 for making its constitution (Halim, 1998). The constitution came into effect from 16 December 1972. The constitution provides that there shall be a Parliament for Bangladesh in which subject to the provisions of the constitution shall be vested the legislative powers of the Republic²⁴. Bangladesh is a unitary nation²⁵. The Parliament is unicameral. It has 350 seats for members of parliament. The first general election was held 07 March 1973 under this new constitution. The official name of Bangladesh parliament is Bangladesh Jatiya Sangsad. The first Session of Bangladesh Jatiya Sangsad was held on 07 April 1973. The parliamentary democracy at the threshold of the newborn Bangladesh deserved appreciation for the reasons that it was based on a modern constitution that incorporated the essence of the best constitutions of the world. Unfortunately the process of parliament could not go far. Within a year of the first general election, the state emergency of 1974 and thereafter the 4th amendment of the constitution severely affected the parliamentary sovereignty towards the values of democracy. The subsequent Martial Law Administrators that captured state power once in 1975 and then in 1981 had also ratified the constitution to justify their authority²⁶.

Democracy loving people of Bangladesh however did not like autocratic governments under military way of parliamentary rule that was brought into force only to protect their authority in state power. They staged demonstrations in the streets, suffered persecution, subjected to police

²⁴ Article 65 of the Constitution of the People's Republic of Bangladesh

²⁵ Article 1 of the Constitution of the People's Republic of Bangladesh.

²⁶ Huda, K. M. Nurul. 2005. The state of parliamentary democracy: worldwide reflections. Asian Affairs, Vol. 27, No. 1: 5-23

charges, received bullet injury, and gave up lives for downing of dictatorship and revival of democracy. The militant people of Bangladesh at last achieved their long cherished democracy through the fall of the Ershad²⁷ (1981-91) Government. The fall followed a popular election in 1992. Since then national election is being held under the provisions of constitution to elect the members of parliament. The party that commands majority seats in the House forms the government. The terms of a government is 5 years. The executive power rests with the prime minister and his cabinet colleagues. The prime minister is the head of the government. The cabinet including the prime minister is accountable, responsible and answerable to the parliament. The members of parliament elect the president to a term of 5 years. Like that in India the president of Bangladesh is the head of state. His function and responsibility is nominal and ceremonial.

From 1971, the year of independence of Bangladesh, to 2004, the life of Bangladesh has just crossed 34 years. Within this lifetime, the actual democracy of this country is counted nearly 12 years that has continued uninterrupted since the general election of 1992. The process of general election and practice of democracy in Bangladesh is however, largely critical on its neutrality, fairness and freeness. Very often the media and political critics blame that muscle and money widely influence the result of election in Bangladesh. The situation is such that good parliamentarians with weak command on muscle and money loose the race to bad parliamentarians with strong command on them. Intrusion of incompetent persons in the parliament, the highest forum of state affairs, could be responsible for indulging Bangladesh into corruption and backwardness. Taking all these negative features in the count, a patient observation on the pace of democracy in a new nation would look for more time for acquiring

²⁷ General Hossain Mohammad Ershad overthrew the democratically elected government by a coup in 1981 and declared Martial Law in Bangladesh. He ruled the country as President until the fall of his government through a mass movement in 1991.

stronghold on parliamentary supremacy. The public election of very old countries with matured democracy in the world is not free from criticism on corruption and coercion as well. The Florida event in the presidential election of 2000 in the United States, for example occupies media coverage till today and leave suspicious impression on the minds whether the whole game was fair or not. Culture of fund raising campaign and then expenditure in hundreds of millions of Dollars for the general elections also point the finger at the fairness of election in countries like the United States, Canada, Japan and many more. Political culture and democracy in Bangladesh perhaps could not grow and settle at per requirement of a modern country. Like other values in the state and society the fairness in democracy has to come through political system. It may take long time. Yet it is more likely to perpetuate²⁸.

4.2 Composition of the Parliaments

During the period from 1973 to 2008 nine parliaments—from the first to the ninth²⁹ were elected. The first parliamentary election of independent Bangladesh was held on 7 March 1973. The voter turnout was 54.9 per cent in this election. The ruling party AL secured overwhelming majority by winning 293 seats out of 300 seats. The remaining 7 seats were won by the Independent and other parties' candidates. The second, the third and the fourth parliamentary elections were held under rules of military dictators. The second parliament was elected under the rule of General Zia and it took place on 18 February 1979. In this election the government party BNP bagged 207 seats and the main opposition AL secured 39 seats. The third parliamentary elections were held on 7 May 1986 when the military dictatorship led by General Ershad was in the helm of power. In this election, out of 300 seats the ruling JP won 153 seats and the opposition AL

²⁸ Clinton, Bill. 2004. My Life. London: Hutchinson

²⁹ The elections of the sixth parliament were held on 15 February 1996. All opposition parties boycotted the elections. The result was announced and BNP was declared winner

secured 76 seats. The fourth parliamentary election was boycotted by all opposition parties. This election took place on 3 March 1988. As presumed, the ruling JP bagged most of the seats. Out of 300 seats JP won 250 seats and the COP (Combined Opposition Parties—a handpicked group of parties led by JSD leader A. S. M. Rab) was shown elected in 19 seats³⁰.

The fifth, the seventh, the eighth and the ninth parliaments were elected under different caretaker governments. The fifth parliamentary elections were held on 27 February 1991. 75 political parties contested in this election. The number of eligible voters for this election was 62,181,743. Nearly 55 per cent of the voters exercised their voting rights in 1991. Out of 300 seats BNP bagged 140 and AL 88 seats. Though BNP came out as a single majority party but the percentage of votes secured by the two parties was almost equal. BNP got 30.8 per cent while AL received 30.1 per cent votes. Among the other parties JP bagged 35 and JI 18 seats. With the support of JI the majority party BNP formed the government. Out of 30 reserved seats for women BNP won 27 and JI 3 seats³¹.

The seventh parliamentary election was held on 12 June 1996. 81 political parties participated in the elections in which AL emerged as the largest party securing 146 seats. BNP, the largest opposition party*, bagged 116 seats. In this election AL won 37.4 per cent and BNP secured 33.6 per cent of votes. Among the other parties JP won 32, JI 3, JSD (Rab) 1 and IOJ 1 seats. With the support of JP and JSD (Rab) AL formed the government. Out of 30 reserved seats AL secured 27 and the remaining 3 seats were won by JP³². The eighth parliamentary election was held on 1 October 2001. 54 political parties participated in the elections. In this election, BNP-led 4-party

³⁰ Jalal Firoj (2018). Forty years of bangladesh parliament : trends, Achievements and challenges. Journal of the Asiatic Society of Bangladesh (Hum.), Vol. 58(1), 2013, pp. 83-128

³¹ Election Commission, Bangladesh

³² Jalal Firoj, Women in Bangladesh Parliament, A H Development Publishing House, Dhaka 2007, pp. 7-8.

alliance won 220 seats. Among alliance partners BNP bagged 193, JI 17, JP (M) 4 and IOJ 3 seats. AL, the largest opposition party bagged 62 seats and JP (E) won 14 seats. In this election, BNP won 40.97 per cent and AL secured 40.13 per cent of votes. The 4-party alliance formed the government. The ninth parliamentary election was held on 29 December 2008. The *Mohajote* (a Grand Alliance), led by AL bagged 262 seats while the 4-party alliance led by BNP won 32 seats. The *Mohajote* formed the government on 6 January 2009.

Table 1: Parliamentary Elections in Bangladesh from 1973 to 2008.

Parliament	Date of Election	Voters (million)	Turnout	AL	BNP	JP	JI
First	7 March 1973	35.21	54.90	293	n/a	n/a	Banned
Second	18 Feb. 1979	38.36	51.30	39	207	n/a	6
Third	7 May 1986	47.31	61.10	76	dnp	153	10
Fourth	3 March 1988	49.86	52.50	dnp	dnp	250	Dnp
Fifth	27 Feb. 1991	62.18	55.40	88	140	35	18
Sixth	15 Feb. 1996	56.12	21.00	dnp	250	dnp	Dnp
Seventh	12 June 1996	56.72	75.60	146	116	32	3
Eighth	1 Oct. 2001	75.00	74.90	62	193	14	17
Ninth	29 Dec. 2008	81.13	80.00	230	30	27	2

Source: (Firoj, 2003) and Election Commission, Bangladesh

Total seats won in all six divisions of Bangladesh: Awami League Bangladesh, Nationalist Party (BNP), Jatiya Party, Jatiyo Samajtantrik Dal (JSD), Jamaat-e-Islami Bangladesh (Jamaat), Workers Party of Bangladesh (BWP), Bangladesh, Jatiya Party (BJP) and Liberal Democratic Party (LDP) and Independent.

Bangladesh have not perhaps ignored her limitations in the process of democracy what so ever. Key persons in the Bangladesh Parliament Secretariat were aware that the effective role of parliament could bring about good governance for the development in politics, social sectors and economy. Bangladesh Parliament Secretariat and United Nations Development Program (UNDP) then jointly undertook a study in 1996 and came up with recommendations that it needs development in the institutional and operational areas to help members of parliament contribute better policies and participate in fruitful debate both in the House and in the Committees³³.

Table 2: Division wise seats dsistribution

Division	Awami League	BNP	Jatiya Party	JSD	Jamaat	BWP	BJP	LDP	Independent	Total seats
Barisal	16	2	2	0	0	0	1	0	0	21
Chittagong	32	18	2	2	2	0	0	1	1	58
Dhaka	87	0	5	0	0	1	0	0	1	94
Rajshahi	48	8	14	0	0	1	0	0	1	72
Khulna	30	2	2	1	0	0	0	0	1	36
Sylhet	17	0	2	0	0	0	0	0	0	19
Total	230	30	27	3	2	2	1	1	4	300

Source: (Firoj, 2003) and Election Commission, Bangladesh

UNDP then has funded a project titled: “Strengthening Parliamentary Democracy” that aims to nurture the growth of democracy in Bangladesh by strengthening the parliament to discharge its three key functions of legislating, oversight and debate more effectively and in a more relevant and responsive manner. An Institute of Parliamentary Studies has been set up under this project

³³ Huda, K. M. Nurul. 1999. Bangladesh Jatiya Sangsad: Making it an effective parliament, The Independent (A National Daily in Bangladesh), Editorial, September 1.

for facilitating the members of parliament with training, tour and research to enhance ultimately the quality of the parliamentary democratic practices prevalent in the country. Again to make respective ministry more responsible and answerable to the parliament on its performance and activities, the Minister has been barred to chair the Parliamentary Committee under the amended Rules of Procedure³⁴. Instead he is an ex-officio member of such committee. A member of parliament as appointed by the Parliament chairs the Committee³⁵. With a view to keep the election process free from partisan influence, a new concept of Non-Party Care-Taker Government has been introduced through amendment of the constitution⁸. Responsibility of the Non-Party Care-Taker Government is to conduct the general election within 90 days' time from the day of its resumption of power.

4.3 Parliamentary system

A parliamentary system is a system of democratic governance of a state in which the executive branch derives its democratic legitimacy from, and is held accountable to, the legislature (parliament); the executive and legislative branches are thus interconnected. In a parliamentary system, the head of state is normally a different person from the head of Parliamentary government. This is in contrast to a presidential system in a democracy, where the head of state often is also the head of government, and most importantly: the executive branch does not derive its democratic legitimacy from the legislature³⁶.

³⁴ Miah, Khondoker Abdul Haque. 1999. Jatiya Sangsad: Parliament of Bangladesh: Published by Parliament Secretariat Bangladesh.

³⁵ Rule 247 of the Rules of Procedure of Parliament of the People's Republic of Bangladesh.

³⁶ Rahman. Md. Motiar (2014). Parliamentary Democracy in Bangladesh: Thought and Practice. Banglavisian, vol14.

Chapter Five

Parliamentary Democracy in Bangladesh

5.1. Parliamentary Democracy System

A parliamentary system is a system of democratic system of democratic governance of a state in which an executive branch derives its democratic legitimacy from and is held accountable to legislature, the executive and legislature branches are interconnected. In a parliamentary system the head of the state is normally a different person from the head of the government. Parliamentary democracy is the sort of government where the public vote government into power and parliamentarians are representatives of the people. The United Kingdom is a constitutional monarchy and a parliamentary democracy with Queen Elizabeth II having limited powers. Democratic form of government in which the party (or a coalition of parties) with the greatest representation in the parliament (legislature) forms the government, its leader becoming prime minister or chancellor. Executive functions are exercised by members of the parliament appointed by the prime minister to the cabinet. The parties in the minority serve in opposition to the majority and have the duty to challenge it regularly. The prime minister may be removed from power whenever he loses the confidence of a majority of the ruling party or of the parliament. Parliamentary democracy originated in Britain and was adopted in several of its former colonies.

Parliamentary democracy is the type of government where the public vote government into power and parliamentarians are representatives of the people. The United Kingdom is a constitutional monarchy and a parliamentary democracy with Queen Elizabeth II having limited powers. Democratic form of government in which the party (or a coalition of parties) with the

greatest representation in the parliament (legislature) forms the government, its leader becoming prime minister or chancellor³⁷. Executive functions are exercised by members of the parliament appointed by the prime minister to the cabinet. The parties in the minority serve in opposition to the majority and have the duty to challenge it regularly. The prime minister may be removed from power whenever he loses the confidence of a majority of the ruling party or of the parliament. Parliamentary democracy originated in Britain (see Parliament) and was adopted in several of its former colonies³⁸.

5.2 Forms of Democracy

There are two types of democracy:-

- (1) Pure or Direct and
- (2) Indirect or Representative

5.2.1 Direct Democracy

When the people themselves directly express their will on public affairs, the type of government is called pure or direct democracy. The people formulate laws in a mass meeting. Hearnshaw has said, “A democratic form of government, in the strict sense of the term, is one in which the community as a whole, directly or immediately, without agents or representatives, performs the functions of sovereignty.” Direct Democracy was established in ancient Greek city-states. In India, direct democracy was seen in Vajji Sangha during the Buddhist xriods. Today when large and complex societies have emerged and when area of the State is very extensive, direct

³⁷ [https://www.google.com.bd/search?biw=1360&bih=665&q=definition+of+parliamentary+democrac](https://www.google.com.bd/search?biw=1360&bih=665&q=definition+of+parliamentary+democrac+y+in+bangladesh&spell=1&sa=X&psj=1&ei=6_QuU8O1MlrJrAeOnIHQBw&ved=0CCAQBSgA)
[y+in+bangladesh&spell=1&sa=X&psj=1&ei=6_QuU8O1MlrJrAeOnIHQBw&ved=0CCAQBSgA](https://www.google.com.bd/search?biw=1360&bih=665&q=definition+of+parliamentary+democrac+y+in+bangladesh&spell=1&sa=X&psj=1&ei=6_QuU8O1MlrJrAeOnIHQBw&ved=0CCAQBSgA)

³⁸ Rahman, Md Motiar (2014). Parliamentary Democracy in Bangladesh: Thought and Practice. Banglavisio, vol 14.

democracy is impracticable. This system now prevails only four cantons of Switzerland. They are Appenzell, Unterwalden and Glarus³⁹.

5.2.2 Representative or Indirect Democracy

In a Representative or Indirect Democracy the will of the state is formulated and expressed not directly by the people themselves, but by their representatives to whom they delegate the power deliberation and decision-making. John Stuart Mill has said in this regard the “Indirect or representative democracy is one in which the whole people or some numerous portion of them exercise the governing power through deputies periodically elected by themselves.” Another writer Bluntschli has said, “In the representative democracy the rule is that the people govern through its official while it legislates, and controls the administration through its representatives. This type of government was established in England in the seventeenth century. In France, it was established in 1830 and in Italy in 1948. In Germany it was established after the First World War according to Weimer Constitution. Again this system was established in West Germany after the Second World War. In India direct democracy was introduced in the Minto-Morley Reforms of 1909. Today this system is seen in many countries like Japan, Sri Lanka, India, Canada, Australia, New Zealand, the United States of America, West Germany, Italy, France, Holland, Denmark, Sweden, Norway, Austria and Belgium⁴⁰.

5.3 Basic Principles or Requisites of Democracy

5.3.1 Liberty

The main basis of democracy is liberty and equality. In Great Britain, the government pays the leader of the opposition and the Prime Minister consults him in national emergency. For

³⁹ Halim, M.A. 1998. Constitution Constitutional Law and Politics: Bangladesh Perspective. Dhaka: Rico Printers.

⁴⁰ M.M. Awal Hossain (***). Democracy in Bangladesh: Problems & Prospects.

example, when south Rhodesia threatened to declare the freedom unilaterally and when later on it declared its freedom; the British Prime Minister consulted the leaders of the Conservative Party and Liberal Party. When Pakistan invaded India during August-September, 1965, Prime Minister Lal Bahadur Shastri consulted the leaders of Opposition parties. The late Prime Minister Lal Bahadur Shastri conferred with the leaders of the Opposition Prime parties before leaving for Tashkent for talks with President Ayub Khan of Pakistan of January 5, 1966. In Monarchies, Dictatorships, Aristocracies and Oligarchies the people and the Opposition parties have no say in matters of national importance⁴¹.

5.3.2 Equality

Special emphasis is laid on equality in democracy and there is no disparity among the people on the basis of caste, religion and position of status. Besides this, all are equal before law and there is no privileged class in UK & USA. It is essential to establish political and economic equality along with social equality. Thus, in order to establish political equality, all disparities on the basis of caste, religion, color and sex have been removed in India and Adult Franchise has been introduced in order to give opportunity to all the citizens to contest election to Provincial Assembly and Lok Sabha (Agarwal, 1991). Efforts have also been made to establish social and political equality in democracies like England, Japan, France, Belgium, Holland, Denmark, Sweden, Norway, West Germany, the United States of America and Italy. Political and social equality is useless without economic equality. The Indian National Congress passed a resolution in its Bhubaneswar Session in January 1964 to bring about socialism through democratic means. Sincere efforts are now being made to implement this resolution.

⁴¹ M.M. Awal Hossain (***). Democracy in Bangladesh: Problems & Prospects.

5.3.3 Fraternity

Democracy can become successful only in a peaceful atmosphere; Otherwise democracy has to face many difficulties. For this purpose Jawaharlal Nehru placed an idea of Panch Sheel before the world in 1954. Our government and many other democratic governments of the world are making efforts to promote world peace. India is the President of the Non-Aligned Movement and propagating this policy.

5.3.4 The people as ultimate source of sovereignty

In a democracy, people are the most important source of sovereignty and the government derives its power from them. For this purpose elections take place in democracies at certain intervals. In India and England, General Elections take place after every five years and in U.S.A. after every four years⁴².

5.3.5 Fundamental rights to the people

In a democracy people are given fundamental rights because in the absence of these rights the development of an individual is not possible. Fundamental rights have been granted to the people in their Constitutions in India, Japan, U.S.A., France and Italy. In England the rights and freedom of the people are protected through the Rule of Law, Charters, Acts of Parliament, and Judicial Decisions given from time to time.

5.3.6 Independence of Judiciary

In a democracy, it is responsibility of the judiciary to protect the fundamental rights of the people. In our country the Supreme Court and the High Court's protect the Constitution and the

⁴² Kapur, A.C. 1993. Principles of Political Science. New Delhi: S. Chand & Company Ltd.

fundamental rights of the people. Wherever judiciary is not free, the protection of fundamental rights is not possible.

5.3.7 The people are considered as an end and State as the means in a democracy

This is one of the main characteristics of democracy that individual is a mean and the state is an end. It means that the state makes use of the individual for its own interest. In a dictatorship no attention is paid to the freedom of the individual⁴³.

5.3.8 Welfare State

Democracy is a welfare state and in it special attention is paid to the welfare of the people as a whole and not to a particular class.

5.4 Conditions for the success of Democracy

To make the democracy a success in any country, the following conditions should be fulfilled:

5.4.1 Sound System of Education

Where there is illiteracy, it becomes difficult to make democracy successful because many qualities are needed to make democracy a success. The citizens can acquire these qualities only through literacy. The people should have the sense of understanding political problems. They should possess such qualities as sacrifice, sympathy, selfless service of the country, discipline, fraternity, etc. As far as possible, education should be free and the rich and the poor should be given equal opportunities for their development. The citizens should strive for mental and physical development through education. Otherwise employment shall prove harmful for

⁴³ M.M. Awal Hossain (****). Democracy in Bangladesh: Problems & Prospects.

democracy. In short, ideal citizens are prepared through education without which democracy cannot become successful⁴⁴.

5.4.2 Enlightened Citizenship

People should have the knowledge of their rights and duties to make democracy as success. So long as the citizens do not perform their duties is essential, it is equally essential for the citizens to become conscious of their rights, without which there is every possibility of the government becoming autocrat. Therefore, it is said that ‘Eternal vigilance is the price of liberty.’

5.4.3 Political Awakening

It is essential to inculcate political awakening among the citizens to make democracy a success. Where there is no political awakening, the People fail to understand the political problems. They are also unable to elect their representatives properly. Political disinterestedness does not help the citizens to understand the economic and political problems of the day and contribute their mite to the implementation of various national plans defense efforts of the country⁴⁵.

5.4.4 Freedom

Democracy guarantees the citizens the freedom of expression, freedom of profession, freedom of religion and freedom to form associations. A free and fearless press is the basic need of democracy in order to keep under checks the autocratic activities of the government. In the countries where press is not free, citizens cannot criticize the government with the result that they cannot fully enjoy much freedom. In Russia, china and other Communist countries, the

⁴⁴ Halim, M.A. 1998. Constitution Constitutional Law and Politics: Bangladesh Perspective. Dhaka: Rico Printers.

⁴⁵ M.M. Awal Hossain (****). Democracy in Bangladesh: Problems & Prospects.

press is not free to criticize the government. Press is also not free in the countries where there is military dictatorship.

5.4.5 Equality

Democracy does not recognize class distinctions. It is based on social, economic and political equality. In democracy all are equal before law and there is no discrimination on the basis of caste, color, religion, sex and economic status. Economic equality does not mean that everybody should be given equal emoluments; it means equality of opportunity and a fair and open field for all. This kind of equality ensures social justice, which is the very life-breath of a democracy. Equality thus means giving everybody right to vote and contest election irrespective of caste, religion, property, sex, color and creed.

5.4.6 Law and Order

The maintenance of law and order in society by the government is another essential condition for the success of democracy. Anarchy prevails where government fails to maintain law and order and the people's faith in government is shaken. They look towards dictatorship in order to get rid of anarchy.

5.4.7 Spirit of Co-operation

Every democracy has to face many economic, social, religious and political problems. In dictatorship, these problems are solved by the dictator according to this own whim. In absolute monarchy, the situation is similar to dictatorship, but it is different in a democracy. In democracy the Prime Minister or the President cannot act arbitrarily but they have to find the solution of problems according to the wishes of the Parliament or of the people. These problems can be solved by the co-operation of the people. Further, a democracy can flourish only if there is no big

gap between the thinking of the people and of the government and when there is a spirit of co-operation between them.

5.5 Decentralization of Powers and Local self-government

For the success of a democracy, decentralization of powers is essential. The concentration of power makes the government autocratic. With the division of power between the center and the provinces, the burden of the Center is reduced and the provinces get autonomy, which ultimately brings efficiency in the administration. With the introduction of local self-government, people take interest in the administrations and they give full support to the government. The French writer De Tocqueville has rightly said that, “Local institutions constitute the strength of free nations. A nation may establish a System of free governments but without municipal institutions cannot have the spirit of liberty”⁴⁶.

5.5.1 High Moral Standard

The success of democracy also depends upon the high moral standard of the people as well as of the government. Where there is dishonesty, black-marketing, hoarding and smuggling and where the ministers and public servants are corrupt, the question of the success of democracy does not arise. People should have the spirit of patriotism, discipline, self-control, and honesty in payment of tax as and willing obedience to the laws of the land. The government should follow the ideal of service to the community, because a welfare state and a democracy are two inseparable things⁴⁷.

⁴⁶ M.M. Awal Hossain (****). Democracy in Bangladesh: Problems & Prospects.

⁴⁷ M.M. Awal Hossain (****). Democracy in Bangladesh: Problems & Prospects.

5.5.2 Social and economic Security

Economic security is essential for the success of democracy. The people should be given the right to work and it is the duty of the government to provide them with suitable employment. In case the government is unable to provide it to the people, it should at least provide them with shelter, clothing and food. In Russia and in many other Communist countries, the government has given this right to the people in their constitution. Our government should also recognize this right of the people for the success of democracy in our Country. Besides, social security is also essential. Now days, the government fixes hours of work, salary, bonus, paid holidays and compensation for fatal accidents in order to save the laborers from exploitation by the capitalists. The government should provide social security to the people in case of their being disabled due to old age, illness, accident or any other cause. Without this provision, democracy shall be considered useless. People in Russia have full social security. In India, too, some concrete steps have been taken in this direction.

5.5.3 Tolerance and Spirit of Unity

It is the responsibility of the people to make democracy a success. For this, the spirit of tolerance and unity is needed in a country like India where we have a number of religions, languages and castes, and where we find a disparity between the rich and the poor, these qualities are very essential. In spite of mutual disagreements, the people should join together to face a national crisis. In case of foreign aggression, the people should forget their differences of caste, religion, language and province and try to preserve the freedom of their country with a spirit of devotion and sacrifice.

5.5.4 Sound Party System

In a democracy difference in views is not only tolerated but it is encouraged, because constructive criticism has an important place in a democracy. For this reason, many parties crop up in a democratic set-up. In the countries where there is only one party, and where other parties are banned democracy cannot develop, only dictatorship develops there. It happened in Germany during the time of Hitler and in Italy during the regime of Mussolini. Now-a-days, this type of dictatorship is found in Russia, China, East Germany, Czechoslovakia, Hungary, Rumania, Bulgaria and Poland. In order to make democracy a success, a healthy and influential opposition is a must; otherwise the ruling party will become an autocrat after winning the elections. The Opposition keeps a check on the autocratic activities of ministers. Without it, there is every likelihood of their being power-corrupt. Where there is a bi-party system, the task of making democracy a success becomes easier because one party rules and the other keeps an effective check over its activities. Where there are many parties, the legislature is divided into many small groups and no single party is in a position to form the government. The result is that coalition governments are installed which is not stable. Therefore, bi-party system is better than multi-party system. There is a bi-party system in England and in the U.S.A. There is a multi-party system in France, Italy and West Germany. That is why democracy is more successful in England and the U.S.A, than in other countries where there is multi-party system. In France during the Third and Fourth Republics the government was very instable. As compared to France, there are fewer problems in Italy and West Germany, because certain parties are very powerful in these countries. In India, after the Fourth General Elections, we witnessed political

instability because the Congress Party was unable to secure majority in some states. In certain states opposition parties established coalition governments, which could not survive long⁴⁸.

5.5.5 Written Constitution and Independent Judiciary

For the successful functioning of democracy, people are given fundamental rights and written constitutions are introduced with a view to checking autocratic activities of the government. Where there are no written constitutions, the government can extend and exercise its powers in an autocratic manner. Judiciary is the guardian of Constitution and fundamental rights, and the independence of judiciary from the control of executive has been guaranteed. Where judiciary is not independent, there is no guarantee of the fundamental rights of the people and the constitution becomes useless. This is the condition in Russia, China and many other Communist countries⁴⁹.

5.6 Political security, good administration, economic prosperity and wise

5.6.1 Leadership

Efficient administration is another condition for the success of a pure democracy. In fact, the success of democracy depends upon efficient administration. People's faith in democracy is shaken in a corrupt administration. Political security of some area is also essential because people start feeling the necessity of dictatorship, if a democratic government is unable to protect the sovereignty and integrity of the country at the time of foreign invasion. If a government fails to remove the scarcity of essential commodities, if the prices of these commodities are abnormally high and if people starve owing to abject poverty, the people's faith in democracy is

⁴⁸ Agarwal, R.C. 1991. Political Theory. New Delhi: S. Chand & Company Ltd.

⁴⁹ Miah, Khondoker Abdul Haque. 1999. Jatiya Sangsad: Parliament of Bangladesh: Published by Parliament Secretariat Bangladesh.

shaken and they start feeling the necessity of some other type of government. Thus to protect democracy from being usurped by dictatorship intelligent leadership is very essential.

Similarly, at the time of Indo-Pak War in 1971, Mrs. Gandhi provided very strong leadership. It protected our country and inspired our army to give a crushing blow to the Pakistani army. An able leader can bring about economic prosperity in his country and give a clear administration to the people. Thus, he can make democracy very stable. Democracy has taken deep roots in our country, while it has not become strong in Pakistan because Pakistan had no leader of the stature of Jawaharlal Nehru, Lal Bahadur Shastri and Indira Gandhi⁵⁰.

5.7 History of the Parliamentary Democracy in Bangladesh

Political History of Bangladesh after independence begins in 1971 with the independence of Bangladesh from Pakistan. In 1947 the subcontinent became independent. But it is a matter of great sorrow that on the thought of two nationalisms. In this position the peoples of Bangladesh had to make is political party. 23 June 1949 established Awami Mulsim League. Awami Muslim League Made is golden role in language movement is Awami Muslim League participated in fourth alliance party in the national pole in 1954 and succeeded.

In 1956 'Awami Muslim League changed its name and named after Awami League. Awami League made a great role in the movement of Bangladesh liberation war in 1971. In those years (1952-1952) Sheikh Mujibur Rahman the president of Awami league was in the live line of movement. In 26 December 1971 Bangladesh became in independent country. Sheikh Mujibur Rahman was the president and said Nazrul Islam was acting president of Bangladesh. Tajuddin Ahmed was the Prime Minister of New Government of independent Bangladesh. Sheikh Mujibur Rahman rules from 1971 to 1975. At the first stage Bangladesh faced some problem and had to

⁵⁰ M.M. Awal Hossain (***). Democracy in Bangladesh: Problems & Prospects

make constitution. In 1972 Bangladesh got the constitution and Bangladesh came to a republic country. The president became to the chief of government and state.

Bangabandhu Sheikh Mujibur Rahman wanted to make Bangladesh is “A Sonar Bangla”. But after ending liberal was social and economic condition were not suitable for this. However Sheikh Mujibur Rahman gave his best to make Bangladesh “A Sonar Bangla”. In 1972 Bangladesh faced is destroyed flood and natural calamities so the economic condition went to dog position. “In this position Sheikh Mujib wanted to make national government including all party Leaders this theory appears as Bangla. It is to be noted that time was very much critical that time was very much critical for Bangladesh. On 25 January the national assembly passed 4th amendment. In 1975 on 15th August Sheikh Mujibur Rahman and whole family were died by some army rebellion officer Khondoker Mostak and new government after death of Sheikh Mujibur Rahman Khandoker Mostak came throw the president of Bangladesh and arrested four national leaders of Bangladesh. On 7th November Mostak was obbosed by Major Ziaur Rahman. Ziaur Rahman appeared as the chief administrator and the president of Bangladesh. He took some importance plan to develop Bangladesh. He changed plan to develop Bangladesh. He changed the articles 25 (2) of the Muslim countries. He also changed the main principal of the constitution “He added Bismillahir Rahmaninr Rahim. He also declared Islamic Party allow in politics. It is to be noted Islamic Party was band in our constitution.

Although Ziaur Rahman came with power of army in ring but he made a political party in 1978 called B.N.P. In the pole of 1979 Ziaur Rahman elected as the president of Bangladesh general asmani was his opposite leader. It was president election. In 1979 Ziaur Rahman gave amendment of the constitution. In this amendment all his army ruling works became to authority. In 1981 Ziaur Rahman was died by some army officer in Chittagong section.

Vice president Satter took the change of president. Bangladesh 10 states its democracy for second time. All the right of politics cut short the freedom of press closed. It is very important to note that a general Earsad called back Sheikh Hassina form London. Hassina took the charge of chairman of Awami League. After Khaleda Zia took charge the chairman of B.N.P. General Earsad ruled the country as the liked. It was very much needed of movement. Shaeikh Hassina and Khaleda Zia along with others political party made a strong movement against Earsad that is why Earsad gave national pole in 1986. In this pole Awami League part and became to opposite party. The situation came out of control day after day in a critical situation. In 1991 Earsad hand over his power under the charge of Justice Shahabuddin Ahmed In the possession of free fair election. In the pole in 1991 BNP came in rule and rule (1991-1996) this time called the first democracy government rule after 1975. But it was mater of sorrow Bangladeshi political parties had no trust each to another. In the national pole in 1996 Awami League did not take part in election. So this election did not allowed by international diplomacy. After some day B.N.P gave 13th amendment and joined the part of C.T.G. by the C.T.G we got an election in 1996 and it came to accept by nation. Awami league came to rule.

In the regime of Ziaur Rahman (1975-1978) in 1979 the national pole came out during Ziaur Rahman some essential development grown out but men lasted their right of politics. During Earsad democracy failed in a block hall because he was a military person and did not care to politics. He also accepted his evil rule by 8th amendment. He used religion emotion of peoples. He added Islam as our national religion. The year 1991 is remarkable for the nation because this year Bangladesh came back to democracy rule. But it is our pot luck after taking authority B.N.P engaged with corruption. They wanted to fill all vacancy by their party people democracy came as personal development. That is why BNP lost their mandate and popularity. So they wanted to

empower them self by anyhow. They made plan to influence the pole. Awami League did not take part in the pole. So Bangladesh faced a new crisis. Awami League came to thrown. But our tradition does not change. We showed Awami League also dominated came as the main works.

A new era of Bangladesh BNP came to thrown. Awami League did not support the rule of Hasan Mahmud Khandoker and then Professor Eajuddin Ahmed. In 11th November Fokruddin Ahmed took the charge of government. As mentioned above, on 11th January, 2007 a new order emerged in the politics of Bangladesh and this is the CTG led by Dr. Fakhruddin Ahmed and backed by military. Law adviser of this CTG Barrister Moinul Hossain once declared that this government was a military backed CTG and there has to be an exit route for this government. However, the following day Military Chief Moin U Ahmed stated that the government was not a military backed CTG; it was a constitutional CTG and the military was giving necessary assistance to the civil administration under the normal constitutional arrangements. Reforms and activities of this Government so far have been detailed in brief below.

On 10th July, 2007 Army Chief Moin U Ahmed said that the constitution should be reviewed through a Constitution Commission for preparing new laws and mechanisms to ensure accountability and effective governance. He stated that an elected government may undertake the constitutional review after elections are held by the end of 2008 when a constitution commission might be formed. This is not only an important issue but it also goes to the heart of the present political malaise in the country. Many political leaders of major parties have also realized that intra- party political reforms are not enough for genuine democracy, and have also suggested some constitutional reforms with a view to running an accountable government and parliament. It is suggested that the Commission should consider the following list of issues:

- Should the tenure of the Prime Minister be limited to two terms, since the tenure of the President has been limited to two terms under Article 50(2)?
- Should the number of ministers, state ministers, deputy ministers and advisers, or persons having status of minister/ state minister/ deputy minister be limited to only 10% of the elected members of parliament?
- Should the speaker, after being elected, cease to have any affiliation to any political party, for neutrality?
- Should there be certain number of women candidates for MPs be clearly spelt out, including the do's and don'ts? Should they be limited only to law- making functions?
- Should the powers of the president and the Prime Minister operate as checks and balances on each other?
- Should all state institutions, including the Election Commission, Anti-corruption Commission, Ombudsman, Auditor General and Public Service Commission be separated, strengthened and made independent of the government?
- Should retired persons of higher judiciary be involved in any part of the administration? Should former Chief Justices continue to be the Chief Adviser in non- party care- taker governments?
- Should there be a National security council for coordinating security and other national issues?
- Should any political party not gaining 5% of popular vote in the parliamentary election be denied representation in the parliament, or not recognized as a registered lawful political party?

Around 286,000 people including former ministers, lawmakers, political leaders and business tycoons have been arrested across the country on charges of crime and corruption since the state of emergency was declared on January 11, 2006. Of them police arrested 260,000, Rapid Action Battalion about 9000 and the army-led joint forces over 17000 throughout the country. Among them were about 600 listed criminals. The high profile arrests were made after Chief Adviser Fakhruddin Ahmed's caretaker government declared war on corruption and criminal godfathers. This formula suggests that country's two main political parties AL and BNP should be reformed by retiring or removing their present chairpersons. This is because these two parties are responsible for current political conditions and they should accept the blame and step down. Opponents of this formula argue that the minus-two formula is undemocratic as the selection of leadership is a prerogative of the party council. The party councilors can choose anyone as the party leader, and keep him/her as leader as long as they wish. However, people must have choice to elect their leader but if the same leader holds on to the party chairmanship, there will be no choice left to the people. Thus the argument that the party councilors can choose anyone as their party chief and keep him or her leader as long as they want- is not consistent with the theory and principle of democracy. Therefore, the minus-two formula, although referring to two specific persons is, indeed, a general principle of the democratic political system. More specifically, this formula is key to a lasting cure for our ailing political parties.

The pole of 2008 is very importance for Bangladesh. Because this pole bearing out he democracy in Bangladesh. The ruling age of Fakruddin is a block chapter, our right of voice and politics was closed. Business men were very much abased by the government. Although a Care taker government has authority to role for 3 months but it was 2 years. After 2 years we got on election.

After getting the power of the government, Awami League also gave an amendment excluding C.T.G. It is now for discussed matter in national life. B.N.P declared not to join in election under internal government. Now our politics will go on to bad position day by day. We should change our tradition of getting power and thrown. Our national problem jointly and make sure our social welfare. Our political party should not take step against government but should take step for common people. Our political party should have admiration to each to another.

5.7.1 Election engineering

The two military dictators, Ziaur Rahman and HM Ershad, organized a series of elections to establish their legitimacy. However, all these elections lacked credibility as the state machinery was used to gain outcomes that were favorable to the regime. The intelligence agencies, civil administration, and the police were the three key instruments used for engineering election results. The first military dictator, Ziaur Rahman, organized three elections. In 1977, he held a referendum and claimed 87% voter turnout with 99% “yes” vote. He, then, organized a presidential election in 1978 claiming 76% of the vote. In 1979, parliamentary elections were held where it was alleged that the government pre-determined not only the seats that would go to the state-sponsored party, Bangladesh Nationalist Party (BNP), which Ziaur Rahman floated, but seats were also allocated to some state-sponsored opposition candidates to create an image of multi-party competitive elections. The second military dictator, HM Ershad, also organized three elections: a presidential election in 1986, and two parliamentary elections, one in 1986 and another in 1988. He was, however, less successful than Zia in “persuading” all opposition parties to contest the elections. Zia’s party, BNP, boycotted both the 1986 and 1988 parliamentary elections. The Awami League, which participated in the 1986 parliamentary elections, but subsequently resigned from the parliament within two years, also boycotted the 1988

parliamentary elections. In the 1988 elections an opposition made up of once unelectable candidates, was fabricated and “ensured” a few seats in the parliament. The repeated fraudulent elections, organized by the two military regimes, established certain patterns and practices which were unfortunately carried over even during the years of our electoral democracy.

Democratically elected governments also attempted to use state agencies to influence election results. The Election Commission (EC) was never empowered to act independently and hold the government accountable for violations of election guidelines. For example, several by-elections held under the BNP government in the early 1990s were grossly rigged. This led the AL-led political opposition to demand organization of parliamentary elections under a non-partisan “caretaker” government (NCG) which was an innovative idea not usually practised in parliamentary democracies. The BNP initially rejected the idea of NCG, and went through the motions of a voter-less election in February 1996, but was eventually compelled to frame and pass the 13th amendment of the constitution institutionalizing the NCG in 1996.

Two relatively free and fair elections were organized under the NCG in June, 1996 and October, 2001. However, the scheduled January, 2007 elections could not be held as the incumbent BNP-led four party government attempted to influence the EC as well as the NCG, and the political opposition led by the AL refused to participate in the scheduled 2007 elections. As discussed earlier, failure to organize a peaceful election participated by all major parties led to a military intervention in 2007, but the military backed government did organize a free and credible election in 2008 and handed over power to an elected political government. However, in 2014, we again witnessed a democratically elected government follow many strategies of election-engineering which have been practised by the military regimes. A majority in parliament was ensured through uncontested elections, and an opposition party was fabricated.

6.7.2 State-sponsored party building

The third feature of military rule was state-sponsored party-building. When the military dictators decided to civilize themselves and face elections, they floated their own political parties. Members from both left-wing and right-wing parties joined these sarkari (official) parties sponsored by the military dictators. State patronage, and not ideology, was the main attraction of these parties. Thus in 1977, Ziaur Rahman founded the Bangladesh Nationalist Party (BNP) by recruiting members from both the right leaning Muslim League (ML), which had collaborated with the Pakistan Army in 1971, and the left leaning National Awami Party (NAP). In 1986, HM Ershad founded the Jatiya Party (JP), by getting supporters from the ML, NAP as well as from a sizeable rump of the BNP.

As the BNP and the JP began their journey as sarkari parties, people who joined these parties could aspire to draw on state patronage to immediately become members of the cabinet, or the parliament, or local councils. These parties mobilised popular support mainly through their control of public goods and services. Again this legacy of using state patronage to build and maintain support for political parties did not end with military rule. Indeed, the practice was exacerbated during the subsequent years of electoral democracy when all institutions became increasingly influenced, and the winning political party or alliance held monopoly control on all state patronage. Indeed, during the electoral democratic era, the distribution of patronage became increasingly exclusionary as a “winner-takes-all” culture took root. Before the 10th parliamentary elections, we also saw the democratically elected Grand Alliance Government pursue the strategy of breaking existing parties/alliance through a carrot and stick policy, a strategy which was followed by the two military rulers when they built the BNP and the JP, by fragmenting existing parties.

5.7.3 Political use of religion

The final legacy of military rule, that I shall focus, on is the use of religion to recruit political support. The Bangladesh Constitution, adopted in 1972, enshrined secularism as one of the four fundamental principles of state policy, and religion-based parties and politics were banned. But soon after assuming power, Ziaur Rahman brought back Islam as a tool of political mobilization. In 1977, through a Martial Law Ordinance, he made significant changes to the constitution. Secularism was deleted as a fundamental principle; and in its place a phrase “Trust and faith in Almighty Allah” was inserted. The preamble of the constitution invoked another Islamist phrase: “Bismillah-ar-Rahman-ar-Rahim.” The second military dictator, HM Ershad went one step further. In 1988, he introduced the eighth amendment of the constitution which made Islam the state religion.

As the BNP and the JP, started portraying secularism as anti-Islamic, the AL was put on a defensive mode, and after the restoration of electoral democracy in 1991, the AL also started to use Islamist symbols. The 15th amendment of the constitution illustrates the contradictory position of the AL. The 15th amendment has kept Islam as the state religion, but at the same time, in the fundamental principles of the constitution, secularism was restored. The Islamist parties were first rehabilitated during military rule. Ziaur Rahman withdrew the ban on religion-based parties. The Muslim League and the Jaamt-e-Islami were revived. Many of the Islamist politicians and alleged collaborators with the Pakistani military junta in its genocide committed on the Bengalis in 1971 joined the BNP. Their political revival continued through the Ershad-era. The Jamaat-i-Islami followed a shrewd strategy of political alliance building. The Jamaat participated in the 1986 parliamentary elections. They also later joined the anti-Ershad movement. The Jamaat’s strategy of electoral participation as well as participation in mass

movement through shifting alliance building with the AL and the BNP yielded rich dividends for the party. Though Jamaat had a small share of the popular vote, it could exert a much bigger political influence as the deciding arbiter because parliamentary elections were closely contested between the AL and the BNP. Thus, in 1991, the BNP was able to form the government with the support of the Jamaat. In 1996, the AL was successful in winning the election when it managed to keep the Jamaat away from an electoral alliance with the BNP. Again in 2001, BNP won the elections when it formed an electoral alliance with Jamaat. This alliance was carried over in the 2008 elections, but proved less fruitful for the BNP. However, during the last few years, Jamaat has emerged as an invaluable partner of the BNP as only the Jamaat cadres have demonstrated street fighting power to continue agitation against the AL-led regime. Let's now discuss about the undemocratic practices introduced by our elected political governments which have hindered our transition from electoral to a more consolidated democracy.

5.8 Undemocratic patterns and practices under elected political governments

While the democratically elected governments perpetuated many of the undemocratic practices of military rule, we witnessed the emergence of several additional undemocratic patterns during the tenure of elected political governments. Despite the restoration of the parliamentary form of government in 1991, through the adoption of the 12th amendment of the constitution, the parliament hardly functioned.

The parliamentary opposition, claiming lack of voice, persistently boycotted the sittings of parliament, and instead chose to agitate on the streets demanding either resignation of the elected government, or threatening to overthrow the elected government. In the absence of a functioning opposition in the parliament, we could not develop a system of checks and balances within the government which is very critical for sustaining democratic governance.

The parliament is the constitutionally empowered body to scrutinise the activities of the executive, and hold it to account. In the absence of parliamentary scrutiny, the executive branch became increasingly more powerful under democratically elected political governments. Civil administration, police, and lower judiciary came under partisan political pressure which eroded the rule of law. The political competition between the two major parties, the AL and the BNP, instead of ensuring a peaceful transfer of power between the two parties, escalated into an enduring political confrontation. Bangladesh consistently scored low in various assessments of the quality of democracy conducted by different organisations such as the Freedom House and the World Bank. Weak rule of law, lack of accountability, and confrontational style of politics can safely be identified as three persistent undemocratic patterns that have marked Bangladesh's electoral democracy.

5.8.1 Weak rule of law

After the restoration of democracy in 1991, successive elected political governments attempted to politicize the civil and police administration and lower judiciary by using the government's power of appointment, transfer, and promotion. Supporters of the ruling party or parties were rewarded while those deemed loyal to the outgoing government or who were not conspicuously loyal to the incumbent government were ignored or punished. Law enforcement became partisan and arbitrary.

The country was also plagued by pervasive political as well as non-political violence. Inter-party and intra-party contestations were often settled through violent means.

To improve the law and order situation, the BNP-led alliance government from 2002 onwards, began a series of anti-crime drives using the military and the paramilitary forces, eventually setting up a specially equipped quasi-military body, known as the Rapid Action Battalion (RAB).

These drives were marked by incidents of extra-judicial killing and torture by law enforcement agencies, which drew widespread criticism from the human rights organizations inside and outside Bangladesh.

When the AL-led grand alliance government came to power in 2009, they pledged to eliminate, or at least reduce extra-judicial killings. But the media reports indicate many instances of extra-judicial killing over the last five years. Goom (enforced disappearance) has become another instrument of partisan use of law enforcement.

Overall, the country's performance in establishing rule of law was rated poorly by both the Freedom House and the World Bank in their successive global assessments.

Pervasive corruption was another indicator of weak rule of law. Allegations of corruption, particularly by politicians, were given wide publicity in the media, but these allegations were rarely investigated or prosecuted without prejudice. Indeed, successive elected governments increasingly used anti-corruption laws to pursue partisan interests.

High profile corruption cases were lodged against leaders of the political opposition, but the government rarely moved to file anti-corruption cases against high-ranking members of the ruling party. Again, Bangladesh scored poorly in all global surveys with regard to her efforts to control corruption.

The current government has recently sent signals that it will take action against members of the ruling party in corruption cases. We still have to wait and see the outcomes of this intention of the government.

5.8.2 Lack of accountability

Though during the era of electoral democracy, some of the institutions tried to ensure what we call in political science jargon “vertical accountability” such as the media, civil society, and the

electorate became stronger which resulted in Bangladesh consistently scoring high on “voice” indicator in the World Bank’s assessment of democratic governance, we still had problems with what is called “horizontal accountability” institutions such as the parliament, judiciary, election commission (EC), anti-corruption commission (ACC) etc which continued to remain weak.

As pointed out earlier, the parliament which is the most important horizontal accountability institution to hold the executive accountable, became dysfunctional as the main opposition party started to boycott parliamentary sittings and chose street agitations to register their protest and destabilize elected governments. Nearly half of the parliamentary sittings were boycotted by the opposition - 75% of the fifth parliament, the eighth parliament, and over 80% sittings of the ninth parliament.

In the absence of the opposition, the ruling party members also lost interest in attending parliament, which frequently faced a quorum crisis, and mostly tended to rubber-stamp the decisions and actions of the government. The parliament not only failed to discharge its scrutiny and oversight functions, members of parliament also refused to bring themselves under a parliamentary code of conduct to ensure their continuing accountability to their electorate. The media reported many cases of misconduct and corruption of MPs, but they never faced investigation or punishments. As a result, media reports had little impact in changing the conduct of the MPs. Other horizontal accountability institutions such as the judiciary, the Election Commission (EC) and the Anti-Corruption Commission (ACC) were not empowered to check the misbehavior of the government. The judiciary, particularly the lower judiciary, remained under the control of the executive branch of the government and was often used to further the partisan interests of the party/parties in power. The EC was not empowered to challenge the

government's electoral malpractices. The ACC also remained weak and could not move against anybody independently without the green signal from the government.

5.9 Present features of Bangladesh Democracy

For better understanding of our democracy we should know the present situation of our country. Among various features the most noticeable and important conditions may be identified as under

5.9.1 Absence of democratic political culture

Bangladesh is lacking a democratic political culture. Democratic orientations and practices are not seen in our polity and society. People's competence to cope with the democratic norms and values is not adequate. Even opportunities for democratic learning are not available in our educational as well as political institutions. Thus, democratic norms and values could not strike root in our society and polity.

5.9.2 Absence the rule of law

In our country, rule of law became merely a frace instead of making up the sun that shines on democracy. Today it has become the part of our political culture that police took action against oppositions and turned a blind eye to the real perpetrators. In case of bails to the political activists, the judge simply to the wishes of political masters.

5.9.3 Lack of political morality

Our politicians lack political morality which is marked by special provision for caretaker government instead of political government to arrange national election. It is a sign of popular distrust on our politicians. However, the provision for caretaker government is positive for democracy enough to each our politicians about the lack of their political morality and trust on themselves.

5.9.3 Absence of strong civil society

Bangladesh has failed to establish a strong civil society, which could ground the liberalism and put flesh on the skeleton of democracy. Even we are lacking a civil culture which structure the social space of civil society in public regarding ways, anchoring individual identify and conscience in shared norms of solidarity trust and reciprocity. Our intellectuals are merely the prop of ruling classes.

5.9.4 Absence of strong political leadership

Bangladesh is lacking of strong patriotic political leadership essential for leading the nation toward progress and stability. Our leaders do not hold image to unite the nation in a platform. Because they consider themselves as leader of there party not the nation as a whole.

5.9.5 Confrontational politics

Politics in our country is confrontational in nature where there is no cooperation, trust and solidarity among political parties and groups. There is no census among political parties on issues of national interest. They oppose each other only for the sake of opposition.

5.9.6 Ineffective political institutions

Our political institutions are not strong and developed enough to render required services on way of democratization and political development. Our parliament does not work effectively due to continuous boycott by opposition and its role as a ground for deliberation proved to be ineffective. Our political parties are safe shelter of vested interests. Thus their role to institutionalize democracy is not only inadequate but also unacceptable.

5.9.7 Corruption and terrorism

Corruption and terrorism are two terrible barriers to democratic development in our country. Although the then govt. refused the claim, Transparency International has ranked 4th times Bangladesh as most corrupt nation of the world. Terrorism is not unconcerned to none of our citizens.

5.9.8 Negativity/Double standard

Double standard attitude is a great barrier to democratic development as it discourages to accept others. Everything is just if it favors one's own interest, otherwise it is wrong. A election is fair if the result is favorable otherwise it is unfair. Such kind of attitude forces our politicians to stereotyped enmity and distrust.

5.9.9 Lack of tolerance and reciprocity

There is a lack of tolerance, mutual respect, trust and reciprocity among our politicians and political parties. Compromise and consensus is absent from our polity, which inflames enmity among politician and endangers the growth of democracy in the country.

5.10 Structure, Institutions and Function of Parliaments

The constitution, formulated in 1972, is the supreme law of the country (Article 7) and has undergone 15 amendments till 2011. The RoP was formulated by the first parliament and has gone through 10 changes till 2006.

5.10.1 Structure of the Parliament

5.10.1.1 Composition

The constitution of Bangladesh envisages a single chamber (unicameral) parliament comprising of 300 directly elected members from single territorial constituencies through the ‘first past the post’ system (Article 65). As discussed earlier in Section 2, the FPTP electoral system favours the emergence of two major parties or two electoral alliances. Small parties are disadvantaged in getting representation in parliament under the FPTP.

In addition to 300 general members there is a provision of women’s reserved seats in parliament. These women are to be ‘elected’ by the 300 general MPs. This system of indirect election for the women’s reserved seats drew opposition from various women’s groups who demanded direct elections for women’s reserved seats⁵¹. Initially there was a quota of 15 women’s reserved seats for a period of 10 years. The quota was later increased to 30 seats through the tenth amendment of the constitution in 1990, and 45 through the fourteenth amendment of the constitution in 2004. Changing the practice of the majority party electing all the women’s reserved seats from its own members, the fourteenth amendment provided for proportional distribution of women’s reserved seats among the parties represented in parliament. The recently passed fifteenth amendment of the constitution has increased the number of women’s reserved seats to 50, but kept the system of indirect election despite the persistent demands of the women’s organisations and the Awami League’s own electoral pledge for direct election⁵².

⁵¹ See the demands made by the *Bangladesh Mahila Parishad*: <http://www.mahilaparishad.org/Annual%20Report%202010.pdf> (accessed on 8 October 2011).

⁵² The *AL Election Manifesto* is available at: http://www.votebd.org/information/parliament/2008/al_manifesto_2008_en.pdf (accessed on 8 October 2011).

5.10.1.2 Qualifications and Disqualifications

There are some conditions which qualify and disqualify a person from taking part in the parliamentary elections. To qualify, candidates must be citizens of Bangladesh and at least 25 years of age (Article 66). A person is disqualified for being an MP if he/she (a) is declared by a competent court to be of unsound mind; (b) is an undischarged solvent; (c) acquires the citizenship of, or affirms or acknowledges allegiance to a foreign state; (d) has been, on conviction for a criminal offence involving moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release; (e) has been convicted of any offence under the Bangladesh Collaborators (Special Tribunals) Order, 1972; and, (f) holds any office of profit in the service of the Republic other than an office which is declared by law not to have disqualified its holder.

5.10.1.3 Conditions for Vacating Seats

The constitution elaborates situations when a seat may be vacated (Article 67). These include among others: (a) failure to take oath within 90 days; (b) being absent from parliamentary sittings for 90 consecutive days without getting prior approval; (c) upon dissolution of parliament; (d) resignation; and, (e) in the circumstances specified in Article 70. The latter stipulates that a member will vacate seat if he/she resigns or votes against the party that nominated him/her. Article 70 further explains that if a member abstains from voting or remains absent from parliament ignoring the direction of the party, he/she shall be deemed to have voted against that party. Article 70 has been a contested issue for many years (Jahan 1980; Hakim 2000). Some observers have advocated for removing this provision since they consider it as a restriction on MPs' freedom of expression, but others have cautioned that its complete removal may lead to government instability. The majority of key informants interviewed for this study by

the CPDCMI team were in favour of relaxing the stringent conditions of Article 70. They argued that an MP should be allowed to speak and vote against his/her party except in a no-confidence voting. However, the fifteenth amendment of the constitution did not relax the party control on MPs provided by Article 70.

5.10.1.4 Bar against Double Membership

The constitution bars members from representing more than one constituency (Article 71). It, nevertheless, allows candidates to run for elections in two or more constituencies but once elected, the candidate has to indicate within 30 days which constituency he/she wants to represent. All other winning seats then fall vacant, and the elected person can appoint a member to represent the constituencies where he/she may have been elected from.

5.10.1.5 Sessions and Quorum

Article 72 specifies that a period exceeding 60 days will not intervene between two sessions of parliament. After the declaration of the results of general elections, the parliament is to be summoned within 30 days and unless it is dissolved by the President, its tenure is set for five years from the date of its first meeting. In case the country is engaged in war, the period may be extended by an act of parliament for not more than one year. All decisions in the parliament are to be taken by a majority of the votes of the members present and voting, but the person presiding will not cast his/her vote except if there is an equality of votes. The constitution requires presence of at least 60 members to constitute a quorum for parliament.

5.10.1.6 Privileges and Immunities

The constitution grants certain privileges and immunities to the parliament and its members (Article 78). The proceedings of the parliament cannot be questioned in any court. MPs are not

liable to any court in respect to statement or vote in the parliament or in any committee. An officer of the parliament, who has been given authority for the regulation of procedure, the conduct of business or the maintenance of order in the Jatiya Sangsad, cannot be questioned by any court in relation to the exercise of such powers

5.10.1.7 Code of Conduct

The RoP contains rules which are to be observed by MPs in the parliament (Chapter XXVII [Rules 267-77]). These are general ethical codes of conduct which seek to promote cordial behaviour of the MPs in the parliament by disallowing them from making a personal charge or using offensive, vulgar expression against other members. Though Rule 270 (ix) talks about ‘unparliamentary expressions’ the term has not been elaborated in the RoP, and as a result, MPs themselves have been calling for formulating a code of ethical conduct for MPs in the Jatiya Sangsad.

5.10.2 Institutions of the Parliament

5.10.2.1 Speaker/Deputy Speaker

Speaker is the most powerful institution of the parliament who is not only important for ensuring the orderly conduct of the JS, but also for maintaining its public image as a representative institution. The Speaker is usually chosen from one of the two largest parties in the parliament by the members. In Westminster-style parliaments, the Speaker generally maintains political neutrality. He/she generally does not exercise a deliberative vote and only votes by convention to ensure that the government does not fall. In UK, the Speaker resigns from the party. However, in some other countries such as Australia, the speakership is a partisan position.

The RoP's Chapter IV (Rules 14 to 19) details the power and functions of the Speaker. He/she is mandated to preserve order and decorum (14[2]) and to decide on all points of order (14[4]). The Speaker consults with the leader of the JS, who is typically the Prime Minister and leader of the ruling party, in allotting time for transaction of business (Rules 25 and 26). The Speaker has the power to punish members for misconduct (Rule 15), suspend members (Rule 16) and suspend sittings in case of disorder (Rule 17). He decides on the admissibility of notices which cannot be challenged in a court, and his permission is needed to make any arrest within the precinct of the JS (Rule 174). The administrative power of the parliament secretariat is also vested with the Speaker.

In Bangladesh, the Speaker is elected from the ruling party, and in some cases has demonstrated loyalty to the decisions of his party's central leadership. For example, one study noted that "in the eighth JS, the Speaker dared not place some private member's bills (PMBs) (which do not always serve the ruling party's interests) before the JS, before prior recommendation of the then law minister, fearing rebuke by the party's leadership" (Rahaman 2010: 492).

5.10.2.2 Leaders

In general, there are two leaders in a parliamentary system: the Leader of the House and the Leader of the Opposition. The RoP describes the Leader of the House as the Prime Minister or a minister, who is a member of the parliament, nominated by the Prime Minister to function as the leader of the house. It defines the Leader of the Opposition as the member who, in the opinion of the Speaker, is the leader of the party in opposition to the government having the greatest numerical strength in the JS. The leader of the opposition is entitled to the same salary, allowances and other privileges which are admissible to a cabinet minister. The speaker consults the Leader of the House in allotting time in a number of areas, such as PMBs (Rule 25),

government business (Rule 26), remaining business at the end of the day (Rule 30), President's address to the house (Rule 34), short duration discussion (Rule 69), vote of demand for grants (Rule 117), two or more resolutions for disapproval of ordinance (Rule 144), and motions (Rule 156). In addition, the leader of the JS can request the Speaker to fix a day or part of a day for sitting of the House in secret (Rule 181).

5.10.2.3 Whips

Whips are key agents appointed by both the government and the opposition to ensure party discipline in legislature. The role of the whip is basically to ensure the presence of the MPs when voting takes place. For major votes, both the government and the opposition attempt to maximize turnout and the whip's job is to ensure this takes place. Other duties of whips include keeping MPs informed about forthcoming parliamentary business, and passing on to the party leadership the opinions of backbenchers and vice versa. The Bangladesh (Whips) Order, 1972 calls for appointing a Chief Whip and six whips⁵³. The Bangladesh parliament started with one Chief Whip and two whips, which later increased to four and then to five in 1979 and 1986 respectively through presidential ordinances. In 2001 the number of whips was increased to six. According to the Warrant of Precedence, the Chief Whip is accorded the rank of a minister and six whips rank of state ministers with regard to their entitlements and privileges. The Chief Whip is responsible for supplying MPs with information about the business of parliament, securing their attendance in parliament, arranging the business of each sitting of parliament and performing any other functions which may be assigned or prescribed by the Leader of the House. Other six whips are expected to perform functions as may be assigned or prescribed by the Chief Whip. There is only one opposition whip in the parliament. In Bangladesh the existence of

⁵³ The Order can be accessed at: <http://www.parliament.gov.bd/Whips%20Order%20&%20Rules,%201972.pdf> (accessed on 17 September 2011).

Article 70 reduces one of the key roles of the whips, which is to produce votes for the party. Since Article 70 prohibits floor-crossing, MPs follow party-line in voting and the whips do not have to ensure party discipline in voting.

5.10.2.4 Parliamentary Committees

Article 76 of the constitution calls for establishing three standing committees: Public Accounts Committee (PAC), Committee of Privileges (CP), and other committees as may be required by the RoP. The constitution describes the power of the standing committees to: (a) examine draft bills and other legislative proposals; (b) review the enforcement of laws; (c) investigate or inquire into the activities or administration of a ministry; and, (d) perform any other function assigned to it by the parliament. Powers of the committees include enforcing the attendance of witnesses and examining them on oath, compelling the production of documents and restriction on public access to the committees' work.

5.10.2.5 Parliament Secretariat

Article 79 of the constitution mandates the establishment of a parliament secretariat which is to be independent of executive control. In 1982 rules and regulations were framed as a temporary measure by the President after consulting the Speaker, governing the recruitment of the officials and the conditions of their services. Appointment to senior posts of the parliament secretariat was made by the President and to create new posts in the secretariat, it was necessary to get clearance from the Ministry of Establishment and Ministry of Finance (MoF). However, with the enactment of the Parliament Secretariat Act, 1994 the secretariat was empowered to regulate the recruitment and conditions of service of persons appointed to the secretariat. The Act invested the Speaker with all administrative and financial powers of the secretariat. But the senior officers

are still today seconded from general civil administration and not direct appointees of the parliament secretariat.

5.10.2.6 Parliament Library

The Legislative Information Centre (LIC) offers a range of services to the MPs, parliament secretariat officers and staff, and authorised researchers. The LIC provides an archive service for the JS and facilitates public access to valuable records preserved in the library. The record include full parliamentary documentation of the People's Republic of Bangladesh, parliamentary documentation of other selected countries, official gazettes and judicial papers, bound editions of Bangladesh newspapers, and books and journals with special emphasis on constitutional and parliamentary matters. The LIC is, primarily, a service devoted to the MPs aimed at assisting them in the discharge of their duties. It is committed to providing the members with updated and reliable information. The LIC also provides access to modern information technology (IT), allowing MPs and their duly authorized personal staff to conduct research through internet services and to communicate through e-mail services available at the LIC Computer Users Centre and in the MP's reading room. Special permission from the Speaker is required for researchers to use the parliament library facilities. Rule 257 of the RoP calls for constituting a Library Committee consisting of the Deputy Speaker and nine other members from the parliament nominated by the Speaker. The RoP describes the functions of the committee and sets out the conditions for printing and publication of parliamentary papers. This authority has been vested with the Speaker.

5.11 Roles and Functions of the Parliament

The parliament plays a variety of roles and has multiple functions. As noted earlier, this study focuses on its two key roles. The first and foremost is the parliament's representation role and its accountability to the electorate. The other key role of the parliament is to ensure horizontal accountability which includes its core functions of legislation and budgeting, and scrutiny and oversight of the executive. The constitution and the RoP do not elaborate all aspects of the parliament's representation role. However, its horizontal accountability and related functions are more elaborately detailed in the constitution and the RoP.

5.11.1 Representation and Accountability to the Electorate

The parliament's role as a representative institution and its vertical accountability to the citizens go hand in hand. To be representative, a parliament needs to first represent popular will. This is generally done through elections. As noted earlier, Article 65-70 of the constitution detail the provisions related to the electoral system and qualification and disqualification to participate in parliamentary elections. In addition, the Representation of the People's Order (RPO) 1972 and its later amendments elaborate the various rules governing the parliamentary elections. Thus, the constitution as well as the RPO set the parameters of political representation. The 1972 constitution and its later amendments also provided for special measures to promote representation of social diversity such as the provision of women's reserved seats. However, one vital aspect of the representation role, i.e. representation of the interests of the constituency, is not detailed by the constitution. In reality, however, this is a critical function as the parliamentarian's political survival depends on how effectively they perform this function. Finally, to be representative the parliament needs to be accessible to the public, transparent in its workings and elected members need to be accountable to the electorate. Section 4 analyses how

the parliament and the parliamentarians in Bangladesh have been performing their representation and vertical accountability roles, particularly the parliamentarians' accountability to the voters and the citizens.

5.11.2 Legislation and Budget

The law making and budgetary powers of the parliament are detailed in both the constitution and the RoP. The legislative procedure and the scope of ordinance making power have been established in Articles 80 and 93 respectively of the constitution. The RoP (Chapter XIII) further defines the legislation process to be followed in introducing government and PMB (Rules 72-75), publication of bills (Rule 76), consideration of bills (Rules 77-89), passing of bills (Rules 90-96), and reconsidering bills returned by the President (Rules 97-98). Articles 82, 85 and 87 of the constitution elaborate measures for taxation, regulation of public money, and the presentation of the Annual Financial Statement (AFS). How effectively the various parliaments in Bangladesh have been carrying out their legislation and budget functions are discussed in Section 5.

5.11.3 Scrutiny and Oversight

The scrutiny and oversight of the actions of the executive are carried out through a number of institutions and processes of the parliament. The parliamentary committees play an important role in this. But it is the opposition in parliament who needs to play the key role as generally the Treasury Bench will tend to support the executive. In Bangladesh, the opposition's role is even more critical as the MPs belonging to the ruling party/alliance are discouraged from criticizing the government, under the strict conditions of Article 70. There are several methods available to MPs to perform their scrutiny and oversight functions. These include questions, discussions and

motions. The MPs can ask questions to the Prime Minister, other ministers and the parliament secretariat. The Prime Minister's Question Time (PMQT) was introduced in the seventh parliament. Rule 41 of the RoP stipulates that the first hour of every sitting shall be available for the asking and answering of questions, and on every Wednesday of the session, an extra 30 minutes will be made available for PMQT. Rule 59 provides opportunity for short notice questions on matters of public importance.

Discussions in the parliament can take place in different ways. They include half-an-hour discussion (Rule 60), discussion on matters of public importance for short duration (Rule 68), and calling attention of ministers to matters of urgent public importance (Rule 71). There are also discussion on principles of bills (Rule 78) and general discussion of the annual budget (Rule 115). The framework for moving motions for adjournment on a matter of public importance is provided under Rule 61 of RoP. Here, the Speaker remains the key player in deciding whether such motions can be admitted in the JS. Motion of no-confidence can be moved under Rule 159. Section 5 reviews how the parliaments in Bangladesh have been conducting their scrutiny and oversight functions.

Chapter Six

Activities of the Ninth Parliament

6.1. Description of Ninth Parliament

A total of 1,538 candidates directly contested the election held on 29 December 2008. The Grand Alliance led by the Awami League (AL) won 262 seats in this election, of which AL won 230, Jatiya Party (JP) 27, Workers' Party 2 and Jatiya Samajtantrik Dal (JSD) won 3 seats. The 4-Party Alliance led by the Bangladesh Nationalist Party (BNP) won in 33 seats, of which BNP won 30, Bangladesh Jamaat E Islami (JI) two and BJP won one seat. Besides, the Liberal Democratic Party (LDP) won in one constituency and independent candidates in four constituencies. Later three out of the four elected independent candidates joined the AL. Twenty female MPs were directly elected. However the number now stands at 19 following the death of one of the female MPs. In sum, the AL and its allies have 88% of the total seats, BNP and its allies 11% and other parties 1%⁵⁴.

Around 58% of the MPs have been elected for the first time, which represents a qualitative difference from the past. Most of the MPs are well-educated, though some elected MPs failed to provide accurate information regarding their educational qualification. For the majority of the MPs (59%) business is the principal profession. The ratio could be higher as many MPs did not provide the information on profession in their affidavits submitted to the EC. The first session of the 9th Parliament commenced on Sunday, 25 January 2009 afternoon (3.18 pm) under the chairmanship of the outgoing Speaker Barrister Jamiruddin Sircar. The first session concluded on 7 April 2009 under the chairmanship of the present Speaker Advocate Abdul Hamid. Md.

⁵⁴ Transparency International Bangladesh

Zillur Rahman was elected the President of the People's Republic of Bangladesh by the 9th Parliament. Prime Minister Sheikh Hasina was elected the Leader of the House. Former Prime Minister Begum Khaleda Zia was elected the Leader of the Opposition. Mr Shawkat Ali was elected the Deputy Speaker⁵⁵.

Parliament is the key institution for democracy and national integrity system, especially in the Westminster type of government that Bangladesh has been striving to institutionalize. In view of pivotal role of the parliament in promoting a culture of democratic accountability and for establishing good governance, Transparency International Bangladesh (TIB) has been conducting its research and policy advocacy initiative titled "Parliament Watch" since 2001, under which all 23 sessions of the 8th Parliament (2001-6) were watched and six reports were released. The result of this research showed a huge gap between expectations of the Parliament and its delivery.

6.2 Pledges by the Prime Minister against Corruption

After the oath-taking ceremony in the Parliament, Prime Minister Sheikh Hasina called upon everybody to take lessons from past mistakes and work together with honesty and integrity. She declared that due action will be taken against anyone found to be guilty of corruption, but no one should be treated unjustly. She stressed that no one shall be above the law, not even Ministers. She further reiterated that the election pledge for building a happy, prosperous and information technology-based Bangladesh must be met. She also promised to keep the administration free from politicization^{56,57}

⁵⁵ Election Commission, Bangladesh.

⁵⁶ National Parliament, Bangladesh

⁵⁷ Transparency International, Bangladesh (July 4, 2009). Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

6.3 Leader of the Opposition: Pledge to make the Parliament effective

After taking oath as an MP, Leader of the Opposition Begum Khaleda Zia gave assurance that cooperation would be extended to the government by playing a constructive role. She hoped that the government would create conducive environment for enabling the opposition to play the due role in the Parliament. She called upon the MPs to regularly attend the Parliament and play a positive role in public interest through constructive criticism of the ruling party.

6.4 Parliament session time

A total of 145 hours 22 minutes were spent in 39 working days during the first session. The average time devoted to the session per day was 3 hours 43 minutes. 23.8% of the session time was spent for questions-answers of ministers, 3.3% for the Prime Minister's question-answer, 20.5% for the President's speech and discussions thereon, 9.7% for legislative business, 14.6% for discussions on rejected notices and 7.2% for discussions on accepted notices⁵⁸. The business hours of the first session were less than those in other countries having parliamentary form of Government. For example, 8 hours of sessions take place on average in each work day in the House of Commons of the United Kingdom⁵⁹.

6.5 Prime Minister and Leader of the Opposition on President's Speech

The outgoing President delivered a 12-minute speech on the first working day. In the first meeting of the Business Advisory Committee, it was decided to allocate 20 hours for discussion on the President's speech. In reality, 29 hours 45 minutes were spent for the purpose, where a total of 184 MPs including the Prime Minister and the Leader of the Opposition took part. 163

⁵⁸ Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

⁵⁹ www.parliament.gov.bd

MPs from the ruling party participated spending 22 hours 2 minutes, while 21 MPs from the opposition consumed 4 hours 49 minutes for discussing on the President's speech. Many MPs spent much more than their allocated time for this purpose. However, 24 MPs were absent on scheduled dates and 3 declined to speak⁶⁰.

A review of the contents of discussions on the President's speech revealed the following⁶¹:

- Almost all the MPs who spoke strayed outside the topic. Some of them even spent almost the entire time on matters related to their respective constituencies, criticism of the opposition, and eulogy of their own party.
- The Prime Minister thanked the outgoing President, whereas the Leader of the Opposition did not do so (ironically the outgoing President was appointed by the opposition party which was then in power). Most of the MPs including the Prime Minister and the Leader of the Opposition sharply criticized the President's speech as well as his role during the tenure of the Caretaker Government. Some of them even made aspersions and sarcastic remarks, which the Speaker did not expunge.
- The BDR tragedy (in which dozens of army mid and high-ranking officers were brutally killed by paramilitary rankers) was politicized instead of efforts to confront it as a national issue. The parties used it for launching verbal abuse against each other.
- In their concluding speeches both the Prime Minister and the Leader of the Opposition resorted to personal attacks. Lack of mutual respect and tolerance was visible.

⁶⁰ Transparency International, Bangladesh (July 4, 2009). Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

⁶¹ www.parliament.gov.bd

6.6 Government Accountability

6.6.1 Question-Answer Session of the Prime Minister:

There were 8 work days in the first session of the 9th Parliament for the Prime Minister's question-answer time. The Prime Minister gave answers to direct questions from the floor on seven occasions, while questions were put to the table once. In total 4 hours 48 minutes were spent for this purpose. Out of this, the ruling party members took 1 hour 2 minutes and the opposition members around 13 minutes for asking questions, and the Prime Minister spent 3 hours 11 minutes in giving answers⁶².

6.6.2 Question-Answer Session of Ministers:

Ministers faced a total of 1,024 questions on different subjects relevant to the respective ministry. Of these, the ruling party members put 940 questions (91.8%) while the opposition members asked 84 (8.2%) questions. The number of principal questions was 237, of which 218 were raised by the ruling party and 19 by the opposition, while the number of supplementary questions was 787, of which 722 were raised by the ruling party and 65 by the opposition. A total of 34 hours and 33 minutes were spent for the question-answer, which was 23.8% of the total time. Of this, the share of ruling party and opposition members were 37.5% and 3.1% respectively. The concerned ministers took 41.6% of the time and the remaining 17.8% were spent for giving floors⁶³.

⁶² www.parliament.gov.bd

⁶³ Transparency International, Bangladesh (July 4, 2009). Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

6.6.3 Non-supplementary Questions:

MPs often raised questions which were not supplementary as provided for in the Rules of Procedure. The number of this kind of questions was 25, of which 22 were raised by the ruling party and 3 by the opposition members.

6.6.4 Notices on Issues of Public Importance:

The total number of notices during the first session was 1979, of which 1907 were rejected. Of the 72 accepted notices, 64 (88.9%) notices were from the ruling party, and 8 (11.1%) from the opposition. The notices were accepted and allocated almost proportionate to the party representation⁶⁴.

6.6.5 Participation by Female MPs

A notable aspect of the outcome of the 9th National Election is the election of the largest ever number of directly elected female MPs (20). However the number now stands at 19 following the death of one of the female MPs. Later, commendably enough, 45 female MPs were also elected to the reserved seats in the very first session. However, since the MPs elected for reserved seats were not allocated any constituencies a feeling of being neglected was noticed. The female MPs raised this issue in the Parliament a number of times, but was not given due importance⁶⁵.

Women MPs were included in 17 out of 48 Parliamentary Standing Committees. One female MP has been made the Chairperson of a standing committee, which was considered as a good beginning. In many instances, the Speaker was found to face problems in running the session as the female members, especially the new ones, appeared to be less familiar with the parliamentary Rules of Procedure. It was observed that the Speaker, after giving floor, had to guide them on

⁶⁴ Transparency International, Bangladesh (July 4, 2009). Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

⁶⁵ National parliament, Bangladesh

how to submit notices and refer to laws or how to put questions to ministers. The participation of women in framing laws was also low. During discussions on the President's speech, like their male counterparts, the female MPs seldom remained within the topic; rather they were busy praising their own parties, criticizing the opposition and highlighting the advantages or disadvantages of their own constituencies⁶⁶.

6.6.6 Role of the Speaker

The Speaker discharges the responsibility as an executive head or chairperson of the Parliament. Thus he is also called the 'Guardian of Parliament'. The first session of the 9th Parliament lasted for 145 hours 22 minutes. Of this, the Speaker was in the chair for 96 hours 43 minutes (66.5%), while the remaining 45 hours 44 minutes (31.5%) was chaired by the Deputy Speaker, and 2 hours 55 minutes (2%) by the members of the chairman panel. While presiding over the session, the Speaker gave reminders 733 times to MPs during the question-answer sessions, and discussions on notices of public importance and the President's speech. Of these, the ruling party members were prompted 642 times and opposition members 91 times for wrapping up their discussions. The Speaker exercised his prerogative to switch off the microphone 46 times 32 times for the ruling party and 14 times for opposition members. It was observed that the Speaker played this role in the interest of better time management without any bias on the basis of party affiliation⁶⁷.

⁶⁶ Transparency International, Bangladesh (July 4, 2009). Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

⁶⁷ Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

6.7 Parliamentary Resolutions and General Discussion

Motions for resolution were disposed of during 8 out of 39 work days of the first session. A total of 39 resolutions were brought during this period, of which 29 were raised. Nine could not be raised as the MPs who proposed them were absent; and one was suspended as the concerned minister was absent. Of the resolutions raised, only 4 were adopted through voice vote and the remainder was withdrawn with the consent of proposing members. The adopted resolutions were on revision of freedom fighters' list, taking necessary actions for restoration of Bangladesh's membership in the Commonwealth Parliamentary Association, taking steps for restoration of Bangladesh's membership at the Inter-Parliamentary Union, and taking initiative for swift trial of identified war criminals.

The duration of general discussion during the first session was almost one hour. A resolution was passed during the discussion for taking required steps to make Bangla an official language of the United Nations.

During the period from the dissolution of the 8th Parliament to the commencement of the 9th Parliament, the President promulgated 122 Ordinances in accord with Article 93 of the Constitution. There was a compulsion for determining the fate of these Ordinances within 30 days of the formation of the new parliament. An expert panel was constituted to examine these Ordinances to make recommendations. Accordingly, 32 bills were passed in the first session, while 8 bills were under consideration of relevant committee and 2 were waiting for placement in the Parliament. 14 hours 6 minutes were spent on legislative businesses during the first session, which was 9.7% of the total time⁶⁸.

⁶⁸ National parliament (www.parliament.gov.bd)

Notable among the Acts passed during the session were the following: the Citizenship (Amendment) Act, 2009, Money-laundering Prevention Act 2009, Anti-terrorism Act 2009, Right to Information Act 2009, Consumer Protection Act 2009 and the Code of Criminal Procedure (Amendment) Act 2009. On the other hand, a number of ordinances which could have vital role in ensuring transparency, good governance and human rights were kept pending, which included the Anti-Corruption Commission (Second Amendment) Ordinance 2007, National Human Rights Commission Ordinance 2007, Micro-credit Regulatory Authority Ordinance, Public Procurement Act (Amendment) 2007, Government Attorney Service Ordinance 2008, Supreme Judicial Commission (Amendment) Ordinance 2008, and the Mobile Court Ordinance 2007. Like in the past, there was no scope of participation of the people in the process of adoption of the Acts. It may be noted that in many countries the common people are engaged at various stages of law making. The draft laws are for instance published in parliamentary website and newspapers; people are informed via e-mails; and people's opinions are sought by organizing seminars and workshops.

6.8 Walk-out and Boycott by the Main Opposition Party

BNP, the main opposition party raised questions about the neutrality of the Speaker and walked out from parliament in protest six times during the first session. The issues on which BNP staged these walk-outs include allocation of seats in parliament, failing to get the opportunity to speak, protesting against the Money Laundering Prevention Bill 2009 moved by the concerned minister under the sanction of the Speaker in accordance with rule 77; protesting Speaker's ruling for moving of bills including that on Bangladesh Shilpa Bank, protesting the State-own Television Channel's failure to live telecast of the speech by the Leader of the Opposition; disagreeing with the expunge the words of opposition MPs deemed as violation of the rules of procedure; and for

not including a member proposed by BNP in a parliamentary standing committee. The opposition boycotted the Parliament in protest against the seating arrangement within the Parliament on 28 January 2009 and returned to parliament after 17 consecutive work days following proposal and assurance given by the Speaker⁶⁹.

6.9 Unscheduled Discussions

A total of 5 hours 20 minutes (3.7% of total time) was spent on points of order during the first session. MPs belonging to different parties praised their respective leaders 251 times during the session. The maximum number of partisan praising (158 times) took place during discussion on the President's speech. Incidents of MPs' criticizing the opponents irrelevant to topics under consideration were recorded 342 times, of which 300 times by the ruling party and 42 times by opposition. Maximum incidents of criticism took place during discussions on the President's speech. The MPs raised irrelevant issues 503 times, mostly during discussions on the President's speech and the question-answer time for ministers.

6.10 Delayed sessions for lack of quorum: money value of the wasted time

The research team made an estimate of the amount spent per minute for running the Parliament, based on the revised budget for parliament for the 2004-05 fiscal years which was Tk 421.4 million. The main items of expenditure taken into consideration were salaries and allowances of employees of Parliament Secretariat, repair and maintenance costs, electricity bills, supplies and services, and remuneration and allowances of MPs. Expenses for parliamentary committees were deducted. The sessions of the 8th Parliament ran for 199 hours 43 minutes in that financial year. Accordingly, Tk 35 thousand was spent per minute on an average for running the Parliament.

⁶⁹ Transparency International, Bangladesh (July 4, 2009). Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

The actual expenditure could be higher as expenses of some other departments providing services to the Parliament were not included. So it would be if the budget for 2009-10 could be considered. On average 40 minutes were lost for delayed commencement every working day in two parts, e.g., initial commencement and after prayer break. The total loss of time was 1,548 minutes or 25 hours 48 minutes during the first session. Accordingly the money value of the lost time due to delayed commencement for lack of quorum was estimated to be Tk 54, 18 million⁷⁰.

6.11 Formation of Committees

In the very first session 48 committees were constituted, which is an unprecedented positive development in the history of parliamentary democracy in Bangladesh, especially when the 8th Parliament took nearly 18 months to complete formation of the Committees. A few other subcommittees were also formed during this period. A committee was constituted to investigate the alleged irregularities and corruption committed by the former Speaker following demands made by the MPs. In a meeting of this committee held on 13 April, three sub-committees were also formed. The committee summoned the former Speaker, the former Deputy Speaker and the former Chief Whip. Another positive distinction compared to the 8th Parliament was the appointment of Chair for two Committees from the opposition. MPs from the opposition were appointed in the Committees proportionate to their number of seats in the Parliament. Notwithstanding these positive moves, the credibility of the 9th Parliament could be much higher if the chair of the committees on such vital affairs as the Public Accounts Committee (PAC) could be appointed from the opposition. In many effective Parliaments around the world such practice exists. The representation of the opposition in the committees could also be higher than proportionate to ratio of seats in the Parliament.

⁷⁰ Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

After the formation many committees became very active, though some eight failed to meet the requirement of meeting at least once a month until 30 April 2009. By that time, 16 committees met once, 15 twice, four thrice, two met four times. Of the remaining three, one committee met for five times, one six and one for eight times. Although no definite conclusions can be reached at this moment, Committees are showing greater activism than during the 8th Parliament when most of the Committees failed to meet the mandatory requirement of meeting once a month.

6.11.1 Constraints against effective functioning of Committees

Conflict of Interest: Until 6 October 1997, the concerned minister used to be the ex-officio chairman of parliamentary standing committee. However, according to the amended Rule 247 of the Rules of Procedure, MPs were nominated as chairpersons of the standing committees in place of concerned ministers, which were a positive development, but the ministers continued as ex-officio members of those committees. The inclusion of concerned ministers in these committees can be a source of conflict of interest, and hence a predicament against transparency, accountability, neutrality and dynamism of the committee⁷¹.

6.11.2 Implementation of Recommendations:

Another problem towards the effectiveness of parliamentary standing committees is that these committees including standing committees on ministries and PAC can only put forward recommendations, but cannot compel the concerned ministries to implement. Experience shows that recommendations of committees are not often taken into account by the relevant ministries or institutions – they do not often even inform the committees about their position. Parliamentary

⁷¹ Parliament Watch 2009: Report on Observation of the First Session of the Ninth Parliament.

practice in various countries of the world shows that the relevant institutions have an obligation to implement the decisions taken by parliamentary committees.

6.11.3 Openness of Committee Deliberations:

The meetings of the parliamentary committees in Bangladesh take place in closed doors. Outsiders including the media are barred from the meetings. The decisions taken by the committees are distributed among the members in accordance with the directives of the chairpersons and these are not made open for the public until placed in the Parliament. The decisions or reports adopted by the committees are also not released in the website of the Parliament. In many countries of the world, the public as well as the media are allowed to be present in parliamentary committee meetings.

6.11.4 Summons by Parliamentary Committees:

According to the Rules of Procedure, the parliamentary committees can summon any individual. But there is no guidelines regarding the measures to be taken if the summoned person does not appear before the committee, nor is the conflict of interest principle clearly defined to ensure neutrality and integrity.

6.11.5 Continuity between Committees:

There is no tradition or provision for handing-over of responsibilities and sharing of experience by the outgoing and the newly formed standing committees. As a consequence, the new committees do not get the opportunity to learn from the experiences of previous committees.

Chapter Seven

Evaluation of the Success and Failure of the Ninth Parliament

Representation is a central role of parliament. As the freely elected body, the parliament is “the institution through which the will of the people is expressed and through which popular selfgovernment is realised” (Beetham 2006: 45). One study argues that “the representative function is the primary *raison d’etre* of any popular assembly. It is the constant unbroken thread which traces the evolution of the parliamentary system from its origin to the present day” (Laundy 1995: 42)⁷². In Bangladesh, the parliamentarians and the elected governments persistently underscore the legitimacy of their positions as the elected representatives of the people. They claim the primacy of the parliament amongst the three branches of the government (executive, legislature and the judiciary) on the ground that it houses the peoples’ elected representatives. Accountability is the other central role of the parliament. Accountability, which implies the responsibility and answerability of the government to the public, has two broad dimensions: vertical and horizontal⁷³. Vertical accountability is the means through which citizens, media and civil society attempt to hold the elected representatives accountable. The means are first and foremost elections but also include other pressures and actions. Accountability runs vertically downwards, from agents (elected representatives) to principals (citizens).

⁷² Quoted in (Ahmed 2002: 166).

⁷³ See a report titled Accountability in Governance, prepared by the World Bank which is available at: <http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf>. (accessed on 14 March 2012).

7.1 Activities of the MPs outside the Parliament

Among the 149 MPs whose activities are discussed in the study the number of male members was 141 (94.6%) and female was 8 (5.4%), and the number of the government party members was 136 (91.3%), while 13 (8.7%) were from the opposition parties. Twenty-seven MPs of the government party were either ministers or state-ministers (18.1%). Based on the information derived from the group discussions the activities of the MPs are divided into two-positive and negative.

7.1.1 Positive activities of the MPs

According to the information provided by the participants in the group discussions, 53.7% of the MPs covered in this study contributed in the respective constituency through some forms of positive activities or other. Of these, six are females, five are from the opposition party, and 19 are ministers and state-ministers. Positive activities in the health and education sectors included the construction of new structure, land allocation, fund allocation, medicine distribution without cost, providing health services in *char* areas, adoption of new courses in the education institutions, inclusion of education institutions in the government support /payment systems (MPO) etc. A total of 35% MPs were involved in these activities in respective constituencies. The majority of MPs who contributed in local construction functions (31.3%) were involved in the activities related to the construction of roads and bridges, approval process of construction projects, supervision, development of electricity system and rail-lines etc. 18.8% MPs were involved in responding to certain problems at the local level such as combating robbery and hijacking in the fishing boats and salinity problems in coastal belts, river erosions, activities of extremist groups and so on. Resumption of local jute industries and road development in *haors* (wetlands) are also included in the list of positive activities at the local level. Other activities

(17.5%) included contribution to cultural activities, environment protection, maintaining communal harmony, helping people find jobs and the development of religious institutions.

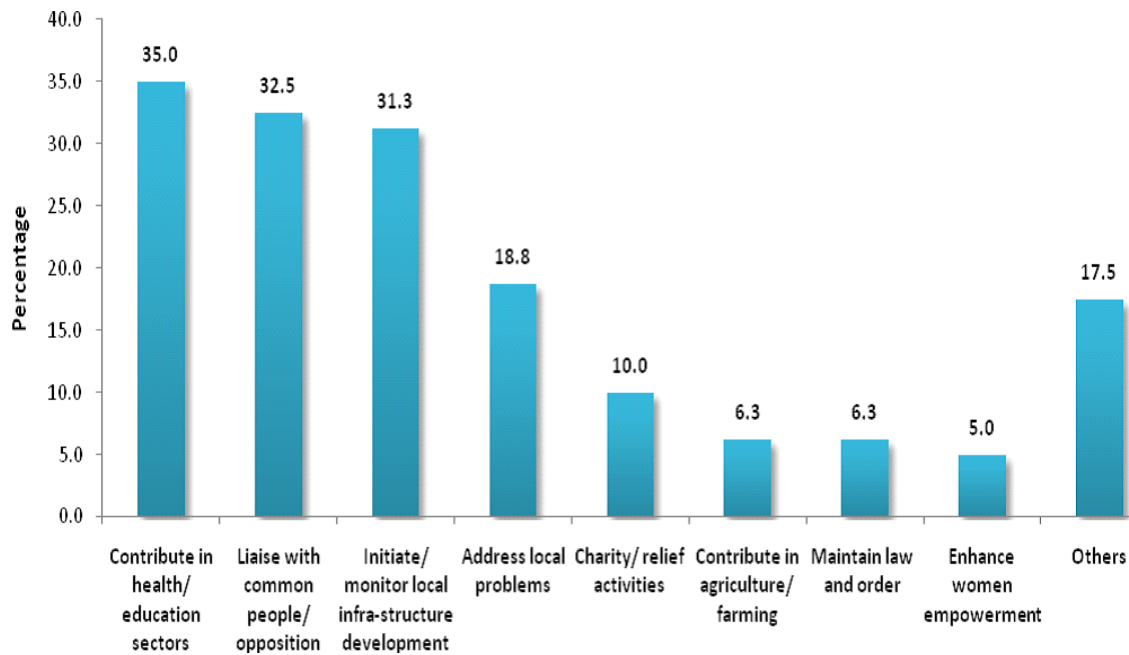


Figure-1: Positive activities of the MPs

Many positive aspects can be observed in the first session of the 9th Parliament. Notable among these were constitution of all stipulated standing committees, active role of some of these committees during the first session, selection of some committee chairpersons from the opposition, and neutral stance of the Speaker in giving floors to members. However, some negative features were also observed such as unwarranted eulogies, boycott of parliament by the opposition, and limited right to information on parliamentary proceedings. 11 No notable differences with regard to the duration of work hours could be observed. If the parliamentary sessions start in the morning instead of afternoon, then it will be possible to increase the duration of sittings, which may yield positive results in different ways. Although the ruling party had pledged to elect the Deputy Speaker from the opposition at the beginning of the 9th Parliament,

they did not execute it. Later, the ruling party gave assurance that a third post of Deputy Speaker would be created by amending the Constitution, and this would be filled up through induction from opposition MPs. However, this has also not been materialized. As deliberations was dominated quite often by partisan and often personal critique or eulogy spontaneous and substantive participation of MPs with objective and constructive critical approach did not reach the desired level. Article 70 of the Constitution is considered an obstacle in this regard. The main opposition party boycotted the parliament for 43 percent of working days on the ground of unsatisfactory seating arrangement. This was a violation of their election pledge that “no party or alliance should boycott parliamentary sessions or sittings with the lone exception of issue-based walk-outs”. Many of the discussions during the first session were not related to the topic. The Speaker cancelled the non-supplementary questions. 45 female members were elected for reserved seats in the 9th Parliament through nominations. The Prime Minister has declared that direct elections for women MPs will be arranged after raising the number of reserved seats to 100. It is expected that a law would be placed in the Parliament engaging the people. There is no Code of Conduct for the MPs, nor does a Parliamentary Ethics Committee exists that could oversee the conduct of MPs to ensure the desired level of parliamentary behavior and practice. There are codes of conduct and ethics committees in many countries. Like the 8th Parliament, private radio and television channels were not given permission to live broadcast the parliamentary sessions. Besides, parliamentary committee meetings continue to operate in an environment of secrecy without much scope public knowledge of proceedings. Even the website of parliament is not updated with information on parliamentary proceedings. Besides, it remains difficult to collect information from the Parliament Secretariat.

7.1.2 Negative activities of the MPs

According to the information provided in group discussions, 97% of the MPs are involved in some forms of negative activities. Among them the number of female MPs is seven, and opposition MPs 12. All ministers and state-ministers covered in the study were reported as having involvement in negative activities.

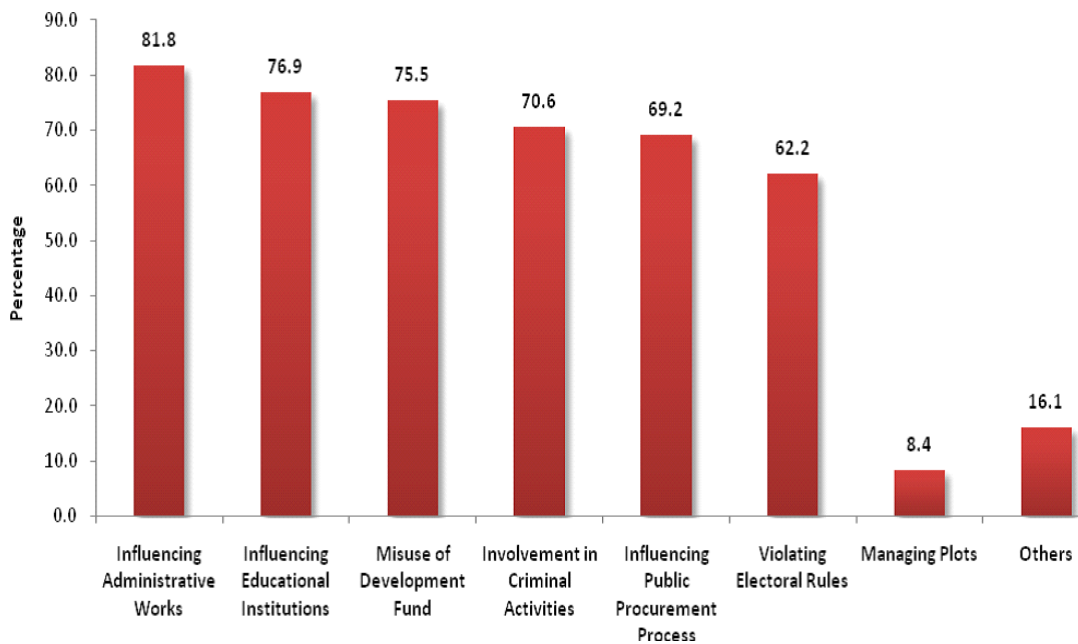


Figure-2: The patterns of complaints against the MPs covered in the study

According to TIB a study⁷⁴, among the MPs involved in negative activities, some 81.8% is engaged in activities related to influencing local administrative decisions, job-placement and transfer process in national and local institutions. There were not many instances where legal cases were filed against the MPs. There were also instances when counter cases were filed. It is observed that the MPs often influenced the local authority to transfer a particular officer from

⁷⁴ M Akram, Shahnaza (2014). “Positive and Negative Roles of the Members of the 9th Parliament: A Review: Transparency International Bngladesh.

their constituencies. Among the MPs involved in negative activities some 76.9% are engaged in abusing power as the chairman of local education institutions. They do so by controlling different school committees and member selection process, influencing the teacher appointment process, taking bribes for teacher appointments and registering schools in the government system, embezzling funds allocated for the schools, and by doing corruption in getting funds for the schools. As much as 75.5% of the MPs engaged in negative activities use development fund/projects at the local level for their own benefit. This involves abusing their supervisory authority in development projects for personal gain, providing their family members with undue advantage, providing contracts of supplies and constructions to the members of their own political parties, and taking bribe (often termed as 'commission') in distributing development funds. Influencing the approval process of development projects, fund allocations against fake projects and organizations, corruption in relief distribution and in other programs for the poor are also reported as the negative activities the MPs are involved in. It was found that 78.7% of the MPs who misappropriated development fund took commission for giving approval to projects or programmes. Such commission is usually fixed at the rate of 5% or sometimes more. Though party members usually got preference in getting contracts for supplies, however, it was not always the case. In some cases whoever paid the highest commission got the contract as the participants in group discussions observed. Among the MPs with involvement in negative activities some 70.6% were allegedly engaged in different kinds of criminal activities and corruption. Examples include alleged involvement in murder, land grabbing, taking illegal possession of government lands and water bodies, extortion, tender, and the manipulation of government procurement and tender process with violence. While 53.5% of these MPs had direct involvement in criminal activities, party leaders and activists at the local level had their

involvement in nearly all those cases. As per the information gathered from group discussions only 24.1% of the MPs, who were allegedly involved with criminal activities, were charged with a criminal case. It has been observed that people are hesitant to go with a formal criminal case, and local police stations tend to refuse to register any case against the MPs without prior consultation with them because of their (MP's) influence at the local level.

7.3. The degree of people's satisfaction regarding the performance of the MPs

Based on four indicators, the participants in group discussions in a study⁷⁵ were asked to discuss the degree of their satisfaction regarding the performance of the MPs covered in the study. A scale of 1 to 10 was used to determine the degree of satisfaction with 1 being the least and 10 being the most satisfactory. The overall score on the performance averaged at 4.18 with the opposition MPs getting lower score than the government party MPs on certain areas such as fulfillment of electoral promise, representation of the constituencies or involvement in local activities. The opposition MPs, however, scored higher on account of engagement with local people. As much as 68.45% MPs scored less than 5 and only 3.36% attained 7.6 or more. According to this analysis it can be said that the degree of people's satisfaction about MPs performance was low.

⁷⁵ M Akram, Shahnaza (2014). "Positive and Negative Roles of the Members of the 9th Parliament: A Review: Transparency International Bangladesh.

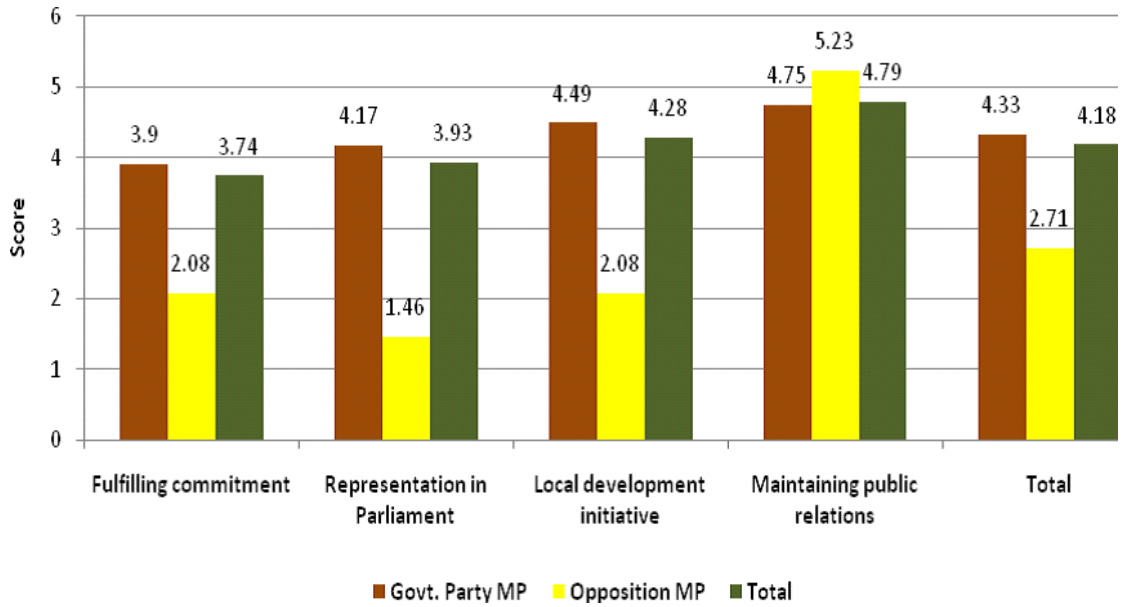


Figure-3: The degree of people’s satisfaction about MPs performance (on a 1 to 10 scale with 1 being the least and 10 being the most satisfactory)

So all the activities of the national parliaments are very important to know the success and failures of the parliamentary practice of democracy.

Chapter Eight

Conclusion and Recommendation

8.1 Conclusion

In the forty years since independence, Bangladesh has rotated between electoral democracy and military rule. Fundamental changes were brought about in the country's constitution partly through amendments approved by the parliament, and partly through orders and proclamations of the military rulers. There have been several shifts between parliamentary and presidential system of government with consequent changes in power and role of parliament. The guiding principles of state policy have also changed. The frequent changes made in the fundamentals of the constitution have hindered the consolidation of a stable democratic system in the country. These changes also adversely affected the development of parliament in Bangladesh.

Bangladesh has been passing a critical period in practice of parliamentary democracy. Time has come to resolve the issue whether Bangladesh is able to practice the pure type of Westminster type of parliamentary democracy or parliamentary democracy will be practiced here with the mixture of local variant like caretaker government. At this critical juncture of the political instability in the country, this research project will be able to generate a significant new knowledge in the field of political sociology as well as will be able to diffuse a ray of light to the practice of parliamentary democracy in Bangladesh and around the world.

The opposition's presence in the ninth parliament sank even further (34 out of 300). The ruling alliance's three-fourths majority in parliament meant that the government could approve any constitutional amendment without discussion with the opposition. The ninth parliament demonstrated some dynamism, particularly in setting up all 48 parliamentary committees in its first session; allocating chairmanship of committees not to ministers, but to some senior

parliamentarians of the ruling alliance; and, making opposition lawmakers chairmen of two parliamentary committees. But the opposition continued with the same pattern of boycotting parliamentary sessions. In the first two years the opposition boycotted 74 per cent of the working days of parliament. However, compared to before, calling of hartals diminished with only eight days of hartal during 2009 and 2010⁷⁶.

In the first two years, the ninth parliament passed 130 bills. On 30 June 2011, the parliament approved the fifteenth amendment of the constitution which introduced several major changes. Two of these changes are highly contested. First, the fifteenth amendment abolished the provision of NCG to organize parliamentary elections. The BNP-led opposition has rejected this change though it did not participate in the meetings of the parliamentary committee which discussed the constitutional amendment. Nor did the opposition attend the parliamentary session when the amendment was tabled. Second, the fifteenth amendment restored secularism as a guiding principle of state but it has also maintained Islam as a state religion. This was contested by both the secularists and the Islamists⁷⁷. The former argued that the provision of a state religion is contradictory to the principle of secularism. The latter of course did not want secularism restored. The abolition of the NCG and the refusal of the opposition to participate in elections under the incumbent political government have again created a sense of crisis in Bangladesh. It appears that the government and the opposition are once again on a confrontational path on the streets, and there is still no agreement between the two about the basic rules of the game of electoral democracy.

⁷⁶ IPU-CMI Working Paper 2.

⁷⁷ Cited in: http://www.chtcommission.org/wpcontent/uploads/2011/07/CHTCommission_LetterToPM_Constitution.pdf (accessed on 4 October 2011).

8.2 Recommendations

After conducting this study, it can be recommended some issues that can ensure the democratic parliamentary practice in Bangladesh.

- The provision for cancellation of parliamentary seat of MPs due to absence from sessions should be reduced to 30 consecutive days instead of existing 90 days.
- To implement the electoral pledge the opposition should join parliament by shunning the culture of boycott.
- The total working duration of the Parliament sessions should be increased. The working hour should start in the morning instead of afternoon and the number of work days can be increased up to 135 in a year. A parliamentary calendar should be introduced.
- The duration of question-answer time of the Prime Minister should be increased to one hour from the present 30 minutes. The opposition members should be given priority with regard to asking questions.
- Participation of the people should be ensured in various phases of framing and reforming laws.
- MPs should avoid un-parliamentary languages and their deliberations should reflect mutual respect.
- Measures should be taken for maintenance, storage and analysis of the records of parliamentary proceedings, including those on attendance, through an automated system; the people should be informed about these through website and the media.
- Regular attendance of Prime Minister and Leader of the Opposition in parliament should be ensured. Due recognition should be given for highest attendance in a year. Provisions

should be made for deducting the allowances of those members who absent from the session without prior permission of the Speaker.

- A Deputy Speaker should be elected from the opposition, who should be given the opportunity to chair in at least 40% of the work days, including proceedings related to budget approval and law framing.
- MPs should inform the people about the successes and failures of their work on an annual basis, and there should be a mechanism for the recall system based on public opinion.
- Except for formation of the Government, vote of confidence and budget approval the Article 70 of the Constitution on floor crossing should be amended to ensuring free and objective deliberation without inhibitions.
- The powers of parliamentary committees, especially those related to government funds, should be enhanced and proceedings should be free from partisan influence as well as personal bias.
- The media including the public and private radio-television channels and newspapers should be provided access to parliamentary sessions. An exclusive television channel can be considered, which will live telecast the parliamentary sessions on a full-time basis and cover in detail the work of parliamentary committees as well as conduct many information and awareness programs about the importance of the Parliament and role of the MPs.
- A Code of Conduct for MPs should be adopted and enforced by a Parliamentary Ethics Committee. 15. A parliamentary Ombudsman should be appointed. 16. Training should be organized for improving the skills and efficiency of the MPs.

- All stipulated committees have been formed during the first session of the 9th Parliament, which is undoubtedly a commendable development. This should be institutionalized by amending Rules of Procedure to form the Committees during the first session as was provided for in the 1972 Constitution which was subsequently amended.
- Representation of the opposition MPs in the Committees should be significantly increased not necessarily bounded by the ratio of their seats in the Parliament.
- Chairperson of such important committees as the Public Accounts Committee should be appointed from the opposition.
- In accordance with Rule 188(2) of the Rules of Procedure, it should be ensured that no member is appointed as a Committee member whose inclusion leads to conflict of interest. Therefore, the practice of appointing concerned minister as a member of the Ministerial committee should be stopped.
- The concerned ministries should submit their comments/response in writing within one month of submission of a report by a committee and they should inform within three months what actions have been taken in the light of recommendations made by the committee.
- The media including public and private radio and television channels as well as newspapers should be informed about the proceedings of the parliamentary committees including recommendations made. 23. A separate committee should be formed after certain intervals of time for evaluating the performance of parliamentary committees.
- A Standing Committees on religious minorities, ethnic communities, indigenous and disabled people should be constituted for giving due attention to their specific needs and interests.

- The representation of women MPs in standing committees related to ministries should be increased. 26. A special caucus should be formed with women MPs for mainstreaming gender sensitive deliberation in the parliament parallel with efforts to promote laws and resolutions for women empowerment. This committee can play a special role in advocating for women-friendly budget.
- Political parties should increase the ratio of women candidates for election to the parliament.
- The constituencies of women MPs against reserved seats should be specified.
- The number of reserved seats for women should be increased to one-third and arrangements should be made for direct elections to these seats.

References:

Dicey, A. V. (1885). Introduction to the Study of the Law of the Constitution. *Liberty Classics*, Indianapolis: Liberty Fund.

Huda, K. M. Nurul. 1999. Bangladesh Jatiya Sangsad: Making it an effective parliament, *The Independent* (A National Daily in Bangladesh), Editorial, September 1.

Huda, K. M. Nurul. 2005. The state of parliamentary democracy: worldwide reflections. *Asian Affairs*, Vol. 27, No. 1: 5-23

Miah, Khondoker Abdul Haque. 1999. *Jatiya Sangsad: Parliament of Bangladesh*: Published by Parliament Secretariat Bangladesh.

Jamir, M. (2015). Good Governance and Right to Information Act. *Tottho Prokash. Shongkha 3, September 2015*.

Jamir, M. (2015). RTI for Effective and Accountable Governance. *South Asian Journal*.

Smith, B. C (2007). *Good Governance and Development*. Basingstoke and New York: Palgrave Macmillan.

Zamir, M. (2012, 27 December). Good governance, Right to Information Act and Private Corporate Sector. *The Financial Express*.

Bibliography

Moudud Ahmed (1999), *Democracy and the Challenge of Development - A Study of Politics and Military Interventions in Bangladesh*, Dhaka

Zillur R. Khan (2011,) *Democracy in Bangladesh: Political Dimensions of National Development: Selected Papers from the 2008 and 2009 Conferences on Bangladesh at Harvard University*

Moazzem Hossain (2009), *Democracy's Roller Coaster Ride in Bangladesh*

Zillur R. Khan, (2011), *Democracy in Bangladesh: Political Dimensions of National Development: Selected Papers from the 2008 and 2009 Conferences on Bangladesh at Harvard University*

Mashiur Rahman (2008), *Democracy in Crisis*

Shamsul, Khan (2008), *Political Culture, Political Parties and the Democratic Transition in Bangladesh*

Andaleb, Sayed Sad (2007) *Political Culture in Bangladesh: Perspectives and Analyses Selections from the Journal of Bangladesh Studies*

Khan Md, Lutfar Rahman (2009), *Nation Building Problems in Bangladesh: A Socio-Economic-Political Perspective*

Nurul Islam (2003), *Making of a Nation Bangladesh: An Economist's Tale*

B. K. Jahangir (2002), *Nationalism, Fundamentalism and Democracy in Bangladesh*

Rafiqur Rahman (2008) *Bangladesh Election 2008 and Beyond: Reforming Institutions and Political Culture for a Sustainable Democracy*

Ahmed Imtiaz (2003), *Democracy in Crisis: the case of Bangladesh.*'' In *Sustainable Development and Southern Realities*, Islamabad: Sustainable Development Policy Institute

Amin, Samir (1996), *Democracy in the Third World.*'' In *The Multiverse of Democracy*, edited by D L Sheth and Ashis Nandy, New Delhi & London: Sage Publications

Tocqueville, de Alex (2000), *Democracy in America*, Indianapolis IN: Hackett Publishing Company

Jahan, Rounaq (2003), *Bangladesh in 2002: imperiled democracy*, Asian Survey, vol. 43, no.1

Jalal Ayesha (1995), *Democracy and Authoritarianism in south Asia. Cambridge*, Cambridge University Press

Kamal Mostafa (1995), *Ganotantra, Sangbidhanikata ebong Samjhota* (Democracy, Constitutionalism and Consensus)

Parenti Michael (2002), *Democracy For The Few*, USA

Sobhan Rehman, (2002), *Bangladesh on the Threshold of the Twenty-First Century: an agenda for change*

Zakaria, Farid (1997), *The Rise of Illiberal Democracy*

Agarwal, R.C. (1991) *Political Theory*, New Delhi: S. Chand & Company Ltd

Halim, M.A. (1998), *Constitution Constitutional Law and Politics: Bangladesh Perspective*, Dhaka: Rico Printers.

Kapur, A.C. (1993), *Principles of Political Science*, New Delhi: S. Chand & Company Ltd

Ahmed, F. (1998), *The Caretakers: A Firsthand Account of the Interim Government of Bangladesh (1990-1991)*, Dhaka: The University Press Limited (UPL)

Ahmed, N. (2000), *Parliament and Public Spending in Bangladesh: Limits of Control*, Dhaka: Bangladesh Institute of Parliamentary Studies (BIPS)

Alamgir, F, Tanvir M. and Iftekharuzzaman. (2006) “Corruption and Parliamentary Oversight: Primacy of the Political Will.” Paper presented at the seminar to mark the International Anti-Corruption Day, organized by Transparency International Bangladesh (TIB), 9 December, Dhaka.

ANFREL (2009), *Bangladesh Ninth National Parliament Election*, Bangkok: Asian Network for Free Elections (ANFREL)

Beetham, D. (2006), *Parliament and Democracy in the Twenty First*

Century: A Guide to Good Practice, Geneva: Inter-Parliamentary Union (IPU)

Hakim, A. (2000), *The Changing Forms of Government in Bangladesh: The Transition to Parliamentary System in 1991 in Perspective*, Dhaka: Bangladesh Institute of Parliamentary Studies (BIPS)

Hasanuzzaman, A.M. and Alam, M.S. (eds.). (2010), *Political Management in Bangladesh*, Dhaka: AH Development Publishing House (AHDPH)

Hashem, A. (2001) *The Parliament Secretariat: Public Administration at the Service of the House*, Dhaka: Bangladesh Institute of Parliamentary Studies (BIPS)

Iftekharuzzaman (2008), “Ombudsman for Good Governance in Bangladesh: Why Now, and How?” Paper presented at the seminar organised by Manusher Jonno Foundation and Transparency International Bangladesh (TIB), 15 May, Dhaka

Iva, I.A. (2011), “Parliament Watch: Bangladesh January – July 2011” Report prepared by the South Asians for Human Rights (SAHR)

Jahan, R. (1980), *Bangladesh Politics: Problems and Issues*, Dhaka: The University Press Limited (UPL)

Laundy, P.(1995), *The Operation of a Modern Parliament*.

Mahiuddin, K.M. (2009), *The Parliamentary Committee System in Bangladesh: An Analysis of its Functioning*

Majumder, B.A. (2011), “Contours of democratic consolidation” from “The Daily Star” on 17 March

Moniruzzaman, M. (2009) “Parliamentary Democracy in Bangladesh: An Evaluation of the Parliament 1991-2006.” *Commonwealth and Comparative Politics*, 47 (1): 100-126

Ohiduzzaman, M. (2010), “ Parliamentary Control and Oversight: A Study on the Performance of Parliamentary Standing Committee on Ministry of Environment & Forests on Environment Related Issues

Rahman, M.N. (2000), *The Independence of the Speaker: The Westminster Model and the Australian Experience*, Dhaka: Bangladesh Institute of Parliamentary Studies (BIPS)

Renzio, P.D. and Krafchik, W. (2011), *Lessons from the Field. The Impact of Civil Society Budget Analysis and Advocacy in Six Countries*, Washington, D.C.: International Budget Partnership (IBP)

Md. Motiar Rahman (2014), “Parliamentary Democracy in Bangladesh: Thought and Practice”, Vol. 14, No. 1, June 2014)

Agarwal, R.C. 1991. *Political Theory*. New Delhi: S. Chand & Company Ltd.

Ahmed, Moudud, 1995. *Democracy and the challenge of Development*. Dhaka: UPL.

Halim, M.A. 1998. *Constitution Constitutional Law and Politics: Bangladesh Perspective*. Dhaka: Rico Printers.

Kapur, A.C. 1993. Principles of Political Science. New Delhi: S. Chand & Company Ltd.