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South Asian Experience of a New Model of a 'Care-taker  
Government' in a Parliamentary Framework**

by

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# **Democratic Institution Building Process in Bangladesh: South Asian Experience of a New Model of a 'Care- taker Government' in a Parliamentary Framework\***

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The environment in which it operates shapes a political system, as Gabriel A. Almond observes<sup>1</sup>. The type of political culture that a political system develops is the resultant of interactions of different environmental conditions that work in the system. Political system of Bangladesh since 1972 (the period the country became a separate one) till 1990 worked in an authoritarian environment and as such the country developed a political culture of non-democratic character.

## **BACKGROUND STUDY OF BANGLADESH POLITICAL SYSTEM**

As part of Pakistan, Bangladesh became free from British colonialism in 1947. Before that, the British administrator introduced parliamentary democracy in 1935 at provincial level in the subcontinent. Formation of 'autonomous' regions was also epitomised in the Lahore resolution of 1940 based on which Pakistan was created. Since the formation of Pakistan, the people of Bangladesh regarded the inherited parliamentary system as the only legitimate form of government even though they could not live under democratic system for any significant period of time. Since its inception, Pakistan developed, instead of a parliamentary one, a 'viceregal

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<sup>1</sup> Gabriel A. ALMOND and G. Bingham POWELL, Jr., *Comparative Politics*, Little Brown and Company (INC), 1978, pp. 3-15; see also Gabriel A. ALMOND and Sidney VERBA, *The Civic Culture*, Princeton University Press, 1993, pp. 1-44.

system'<sup>2</sup>. The people of erstwhile East Pakistan (Eastern province of Pakistan now Bangladesh) successfully tried parliamentary democracy in 1954. The provincial level attempt of parliamentary democracy could not be institutionalised due to the machinations of the central government of Pakistan. Even parliamentary form of government as introduced in the 1956 constitution of Pakistan on British model could not attain foothold and within a short span of time 'had sunk in the lowest depth of degradation by 1958'<sup>3</sup> making room for a martial law government. The Bengali people of Pakistan once again registered their deep attachment for parliamentary democracy that was enshrined in the six-point programme of Awami League through their resolute mandate in 1970 elections. Why the Bengali people were so inclined toward a parliamentary political system? The reasons were political, economic and social.

With the end of the British rule, authoritarian trends were visible in Pakistani political system. Democratic behaves and practices tended to erode from political arena at the behest of politico-bureaucratic elites. Provinces were denied their autonomies at the altar of strong central administration. Consequently people became aspirant as alternative for parliamentary democracy. Economic disparity between two wings of Pakistan bred anger and hatred to each other. Transfer of capital and establishment of industries in the west wing crippled economy of the east wing and made it an 'internal colony'<sup>4</sup> of the west wing (West Pakistan, now Pakistan). Bengali people wanted remedy of this situation through parliamentary democracy.

Economically powerful landlords and business groups of West Pakistan in co-operation with civil-military bureaucracy dominated and controlled political power in Pakistan. The rising middle class in East Pakistan composed of intellectuals, government officials, students and the people at large found their interests subordinated to that of West Pakistani ruling elite, and accordingly 'the power struggle in Pakistan took place between the business- landlord combination of West Pakistan and the professional middle class group in East Pakistan'<sup>5</sup>. The petty bourgeois middle class of East Pakistan found way to consolidate their position in the power structure of Pakistan through their unflinching support to six-point programme of Awami League<sup>6</sup> which provided, inter alia, a parliamentary form of

<sup>2</sup> Khalid bin SAYEED, *Pakistan: The Formative Phase 1857-1948*, Oxford University Press, 1968, pp. 279-300.

<sup>3</sup> RASHIDUZZAMAN, M., *Pakistan: a study of government and politics*, Dacca, Ideal Library, 1967, p. 139.

<sup>4</sup> For comprehensive understanding of the policies adopted by West Pakistan to make East Pakistan its 'internal colony' see Rounaq JAHAN, *Pakistan: failure in national integration*, Columbia University Press, 1972.

<sup>5</sup> Talukder MANIRUZZMAN, "Group Interests in Pakistan Politics, 1947 - 1958", *Pacific Affairs*, vol. xxxix, no. 1 and no. 2, spring and summer 1966, p. 84.

<sup>6</sup> The programme included the following:

- (1) reintroduction of a parliamentary form of government and universal adult franchise;
- (2) a federal form of government with only 2 departments, defence and foreign affairs, under central government control--- all residual powers were to reside in the 2 states;
- (3) separate currencies and government banks for the 2 states;

government with maximum autonomy for East Pakistan. The Bengali people's (majority population of Pakistan) mandate for a parliamentary democracy was epitomised in 1970 general elections to bring an end of authoritarian rule of Pakistani rulers to establish accountability and responsibility of government by bringing an end of authoritarian rule of Pakistani rulers.

#### DEMOCRATIC ASPIRATION TURNED INTO AUTHORITARIAN PRACTICE

Bangladesh, after independence in 1971, started its career with parliamentary democracy and continued its commitment to the Westminster system till 1975 before it switched over to one-party presidential system of monolithic character. The system, as designed, concentrated.

Total power to the presidency held by Sheikh Mujibur Rahman-the main architect of Bangladesh liberation movement (later on called Father of the nation). Within three years of independence, Bangladesh became a one-party state in early 1975 (January 25, 1975) with complete authoritarian character which proved Rupert Emerson's<sup>7</sup> thesis that new states starting with parliamentary democracy soon lost their way and settled back into authoritarian or dictatorial regimes. The deep inclination of Bengali people for parliamentary democracy was sacrificed to the urgency of bringing unity of all nation-building forces under a single command to meet the formidable challenges of war-ravaged economy and problem-ridden new state. The political life that Bangladesh charted in the initial years started yawning authoritarian character.

The constitutional arrangement of totalitarian control was soon replaced (August 15, 1975) by an army coup spearheaded by a few disgruntled army officers. The army putsch assassinated Sheikh Mujib and his family members, overthrew the government and installed a military dominated civilian regime.<sup>8</sup> The kind of political life that Bangladesh started in the post coup years gave rise to a series of military coups in the process of militarization of Bangladesh political system. The second army coup (November 3, 1975) with the support of a cross-section of pro-Moscow political activists dislodged the military leaders of the first coup and forced them to flee from Bangladesh. The third coup (November 7, 1975) was engineered by the pro-Chinese activists who instigated sepoys (soldiers) to revolt against the leaders of second coup to free the country from the domination of Indo-Moscow axis. The soldiers at Dhaka cantonment most of whom were

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(4) all taxation to be controlled by the states, with the central government dependent on a fixed levy from the states;

(5) independence of the 2 states in international trade; and

(6) the development of a militia or paramilitary force in East Pakistan.

See Sheikh Mujibur RAHMAN, 6-Point Formula: Our Right to Live (Dacca: East Pakistan Awami League, 1966).

<sup>7</sup> Rupert EMERSON, *From Empire to Nation*, Cambridge: Harvard University Press, 1960, p. 273.

<sup>8</sup> Talukder MANIRUZZAMAN, "Bangladesh in 1975: The Fall of the Mujib Regime and its Aftermath," *Asian Survey*, vol. xvi, no. 2, February 1976, pp. 119-129.

radicalised during the liberation war of 1971 and later on, became affiliated to Biplobi Gono Bahini (Revolutionary People's Army)- the military front of pro-Chinese political party JSD (Jatya Samajtantrik Dal) revolted and killed Brigadier (later on Major General) Khaled Musaraff and his associates, and established domination of the 'nationalist' forces under the leadership of Major General Ziaur Rahman. The radicalised armed forces in Bangladesh became very much prone to state power and they attempted at least 19 counter coups during the regime of Ziaur Rahman at seizure of power since the killing of Sheikh Mujib. The ambitious adventure of politicised army officers prompted some rebel officers to stage an abortive coup to seize political power (May 30, 1981) that led to the assassination of military President Ziaur Rahman.<sup>9</sup> The coup was put down and the rebel officers were killed by a counter move. The episode, no doubt, facilitated transition, for a short time, to civilian succession while General Ershad took over in a bloodless military coup next year (March 24, 1982 ) and forced President Sattar to "hand over power at gunpoint".<sup>10</sup>

General Ershad's military administration continued till 1990 when he was forced by a militant, unified and popular countrywide mass upsurge, to resign and hand over power to a civilian Vice-President as chosen unanimously and agreeably by all political parties, to head an interim care-taker government. The occasion sounded the end of military rule in Bangladesh. Military rulers in Bangladesh continued to dominate the politics for three-fourth of the period since independence in 1971- six years under General Ziaur Rahman (1975-1981) and nine years under General Ershad (1982-1990). Even periods of civilian government under Sheikh Mujibur Rahman was in many respects more authoritarian than democratic.

#### MILITARY RULERS AND DEGENERATION OF ELECTORAL PROCESS (1975-1990)

The idea of caretaker government did not have its sudden emergence in the political arena of Bangladesh. The idea gained momentum, significance and acceptability with ups and downs of political movements in Bangladesh. Military rulers in Bangladesh resorted to deliberate and planned machinations of registering electoral verdict through rigging and manipulation of elections time and again to attain a facade of legitimacy and to perpetuate their control over state power. This became a regular feature of Bangladesh politics during the regime of military rulers since the fall of Sheikh Mujib in August 1975. The authoritarian character of Bangladesh political system was later modified, revised and extended to the

<sup>9</sup> FRANDA, Marcus, "The Death of Ziaur Rahman," Universities Field Staff International, no. 2, 1982; see also AHAMED, Emajuddin, Military Rule and the Myth of Democracy, Dhaka, Bangladesh: The University Press Limited, 1988.

<sup>10</sup> The deposed President Justice Sattar did not dare to disclose to the nation how the military General overthrew an elected President. President Sattar's decision to send army General Ershad to retirement for breach of discipline was leaked to him by a member of President's cabinet. General Ershad forced President to resign and to hand over power to General Ershad before President's decision came into force. See Justice SATTAR's statement in The Ittefaq (Bengali daily), November 15, 1983.

convenience of military rulers. Ziaur Rahman attempted to give his military regime a semblance of civilian rule, what the political analysts called ‘civilianization’<sup>11</sup> through the development of civilian institutions particularly a political party - Bangladesh Nationalist Party (BNP) in late 1978 - to articulate people’s support for his policies.

As noted earlier, the military rulers used to rig and manipulate elections to attain legitimacy to their regimes. Election as a method of expressing people's mandate lost its virginity to the machinations of military rulers. The results of referendum that was arranged in May 1977 to seek public support for Zia's regime reflected first a military ruler's underlying tendency of manipulating electoral verdict. The inflated percentage of voter turn out (88.5) and affirmative votes (98.88) in the referendum that was shown in the official announcement backfired as the figures were absurd. After two successive electoral exercises (referendum in 1977 and presidential election in 1978) Zia attempted, as further step to resolve the legitimacy crisis and civilianize his military rule, a parliamentary election in February 1979. The reason d’être of parliamentary election 1979 was, inter alia, seeking legislative approval for Zia's military actions so far undertaken for state governance. The 1979 parliamentary election was also intended to give a legal cover and constitutional confirmation to the dictatorship through parliamentary ornament. Zia's self-made political platform - Bangladesh Nationalist Party (BNP) - was instrumental to gather his strength in the legislative house. Apart from offering substantive concessions to other political parties to bring them into the legislative race, Zia committed to the nation<sup>12</sup> to ensure free, fair, impartial and peaceful elections. The chief Election Commissioner made similar pledges too.<sup>13</sup>

Zia's BNP won in the election more than two-thirds of the seats (207 out of the 300 seats) of Bangladesh's unicameral legislature. One wondered how a political party could sweep an election within less than six months of its formation. In fact the election, it is believed, was rigged in favour of BNP candidates: Corrupt and irregular practices had been perpetrated by BNP candidates, their supporters and polling agents and assigned government officials when things turned difficult for the ruling party candidates.<sup>14</sup> Electoral voice was turned by manipulation in favour of BNP candidates. Opposition leaders alleged that the rigging of the elections was a pre-planned affair and the ruling party had already decided much ahead of the polls as to the number of opposition members it wanted to have in the parliament<sup>15</sup>.

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<sup>11</sup> Craig BAXTER and Syedur RAHMAN, “Bangladesh Military: Political Institutionalisation and Economic Development,” *Journal of Asian and African Studies* (Holland), vol. xxvi, no. 1-2, 1991, pp. 50-51; see also Talukder MANIRUZZAMAN, “Ziaur Rahman and Bangladesh,” in his *Group Interests and Political Changes: Studies of Pakistan and Bangladesh*, South Asian Publishers, 1982, pp. 254-255.

<sup>12</sup> President Zia’s address to the nation through the radio and television network, November 30, 1978.

<sup>13</sup> The Chief Election Commissioner’s address to the nation, February 17, 1979.

<sup>14</sup> See Bichitra, 7-30, March 2, 1979.

<sup>15</sup> The Sangbad (Bengali Daily), February 21, 1979; see also Muhammad Muhabbat KHAN and Habib Mohammad ZAFRULLAH, “The 1979 Parliamentary Elections in Bangladesh,” in Emajuddin AHMED (ed.) *Bangladesh Politics*, Centre for Social Studies, 1980, p. 135.

The rigging charges came true when government party resorted to all-out efforts to get its candidates returned in the by-elections. Vivid eyewitness accounts revealed highhanded irregularities by BNP leaders including ministers and other government functionaries<sup>16</sup>. The 1979 parliamentary elections thus became an embodiment of ulterior motives of the ruler and the ruling party to manipulate electoral verdict to make secure their hegemony in state administration.

The process through which Zia endeavoured to obtain his personal as well as institutional legitimacy suffered a setback when second martial law was promulgated and General Ershad took over on March 24, 1982. There was a short civilian government of ten months, after the assassination of Ziaur Rahman on May 30, 1981, headed by President Sattar who was forced to "hand over power at gunpoint"

Having been had complete and absolute control over the reigns of administration; Ershad resorted to tune identical music, as his military predecessor Ziaur Rahman did, in his political orchestra to return to civilian rule. He started his orchestration of returning to electoral politics through seeking referendum which proved 'meaningless' as observers claimed. The voter turn out was not more than 15-20 percent<sup>17</sup> against 72 percent as claimed by the government controlled election commission. The regime's claim of 94 percent voters' support to Ershad's regime in the plebiscite testified how ridiculously Ershad started to manipulate electoral verdict to complete the ritual of political legitimisation. Ershad's repeated attempt of electoral practices-Upazilla elections in 1985 (local government district), Parliamentary and Presidential elections in 1986 and another Parliamentary elections in 1988 - proved instrumental in destroying the acceptability of election to obtain people's mandate. In every stage Ershad implemented the blueprint of farcical election. The Upazilla election was featured by considerable reported violence, stabbing, bombings, ballot box snatching and the like-resulting in several deaths and uncountable injuries thus frightening the people from exercising their right of franchise as well as diminishing people's faith in the process of election. The practice of rigging and tampering of votes, and hijacking of ballot boxes which featured in the Upazilla elections recurred in massive and wide scale in the parliamentary polls of May 7, 1986. The turnouts, contrary to official reports, have been estimated by the local press varying between 10 and 30 percent<sup>18</sup>, the lowest in the political history of the country. Ershad's partymen coerced the voters to vote for their candidates, captured polling booths or conveniently lost entire ballot boxes in hostile centres. People's verdict was marred by 'intimidation and electoral fraud'<sup>19</sup>. A British team of observers termed the

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<sup>16</sup> The New Nation, May 30, 1979; see also Hayat HOSSAIN, "Prestige Fight of the Privileged," The Holiday, May 6, 1979.

<sup>17</sup> Peter J. BERTOCCI, "Bangladesh in 1985: Resolute Against the Storms," Asian Survey, vol. 26, no. 2, February 1986 p. 229

<sup>18</sup> The voter turnout was reported by all dailies and weeklies, and was confirmed by foreign observers.

<sup>19</sup> A. Rashid MOTEN, "Practices of Personal Rule: H. M. Ershad in Bangladesh," Asian Thought and Society, vol. xv, no. 44, May 1990, p. 286.

parliamentary poll as a "tragedy for democracy", a "cynically frustrated exercise"<sup>20</sup>. The opposition, in the country, accused the government of 'vote piracy' through 'media coup'. Thus right of people to vote freely, fairly, fearlessly and judiciously was undermined by the coercion and terrorism perpetuated by the ruling party. The exemplary demonstration of people's apathy in the process of election was visible in Ershad's next attempt of seeking vote in the presidential poll on October 15, 1986. The mainstream oppositions boycotted the election en masse. They criticised the election as a farce and claimed that the voter turn out was less than 3 percent.<sup>21</sup> The oppositions termed the election results again as 'fraudulent'.

Election in Bangladesh failed to enlist people's participation in the political process but it was used to serve the purpose of military ruler. The overt practice of 'managing' votes in support of the regime as well as to elect facade legislature devoid of electoral support proved futile when Ershad had to dissolve the parliament on December 6, 1987 and to try for another electoral attempt to elect a new parliament. The major opposition parties and alliances did not participate in the elections on March 3, 1988 to elect a new legislative body, as they were convinced that fair elections were impossible under the regime. The ruling Jatiya Party (JP) won almost all the seats (251 of 300 seats and 68.44 percent of votes) with the claim of the Election Commission that the voter turn out was 52.48 percent while the oppositions were reluctant to believe that more than 1 percent of the voters exercised their rights<sup>22</sup>. People neither participated nor accepted the electoral process under the military regime. The electoral process lost confidence of the voters. The opposition parties accused the government of various electoral irregularities and misdeeds, and thus, the military regime relegated electoral practices to shamble to elect a 'tame parliament'<sup>23</sup> Through out his nine years of military rule Ershad proved his best ability to manipulate the democratic process through rigged elections by stuffing ballot boxes, intimidation of voters, casting of false votes and lastly to 'vote piracy' by 'media coup'.

## 1990 MASS MOVEMENT AND THE CARE-TAKER GOVERNMENT

Amid awful crises - political, economic and institutional - the country was facing; a spontaneous movement against Ershad regime fomented by students gathered momentum in early November 1990<sup>24</sup>. The movement reached its peak on

<sup>20</sup> The Christian Science Monitor, May 9, 1986.

<sup>21</sup> S. S. ISLAM, "Bangladesh in 1986: Entering a New Phase," Asian Survey, vol. 27, no. 2, February 27, 1987, p. 118.

<sup>22</sup> Muhammad A. HAKIM, "Legitimacy Crisis and United Opposition: The Fall of Ershad Regime in Bangladesh," South Asia Journal (New Delhi), vol. 5, no. 2, October-December 1991, p. 188.

<sup>23</sup> Craig BAXTER, Yogendra MALIK, Charles H. KENNEDY and Robert C OBERST, Government and Politics in South Asia, (2<sup>nd</sup> Ed.) Westview Press, 1991, P. 262.

<sup>24</sup> For detail discussion of 1990 mass movement, see Talukder MANIRUZZAMAN, "The Fall of the Military Dictator: 1991 Elections and the Prospect of Civilian Rule in Bangladesh", Pacific Affairs, Vol. 65, No. 2, Summer, 1992, pp. 206-208; see also Gowher



November 19, 1990 when the mainstream opposition alliances and parties issued a joint declaration that Ershad should resign and hand over power to a care-taker government for holding a free and fair parliamentary elections within three months. The joint declaration stated: The three alliances resolved not to participate in any election under the present government of President Ershad. They have decided not only to boycott the elections under the present regime but also to resist all elections under President Ershad. The three alliances reiterated that they would participate in the polls for electing a sovereign parliament under the caretaker government. The agreed formula of the care-taker government stipulated that President Ershad would dissolve his government, the present parliament and he shall have to appoint a neutral and non-partisan person as Vice-President acceptable to the three alliances and parties under article 51(A) clause 3, article 55(A) clause 1 and article 51 clause 3 of the constitution. After his resignation President Ershad shall have to hand over power to the Vice-President who will be head of the caretaker government as the acting President. The interim care-taker government shall hold a free and fair election for a sovereign parliament within three months' time of its installation". The declaration also stated "the head of the interim care-taker government must be a non-partisan and neutral person who will not be associated with any political party directly or indirectly, and he will not contest the elections of President, Vice- President or parliament. No minister of his care-taker government will participate in any election".

Ershad government could not stand against the streams of forceful and continuous mass movement, knelt down, appointed Shahabuddin Ahmed, the Chief Justice of the Supreme Court as the Vice-President (a consensus candidate of all political parties), resigned and handed over power to him as the Acting President. Soon Chief Justice Shahabuddin Ahmed formed a care -taker government with a set of advisers to hold the election of Jatiya Sangsad (Parliament) on February 27, 1991. The election was generally hailed as 'the most free and fair' not only by local observers but foreign observers too were unanimous about it<sup>25</sup>. As the election under a caretaker government was first of its kind in Bangladesh it generated unexpected enthusiasm among the voters. The caretaker government was not a party to the election; as such by fairness and neutrality the government could create trust among the voters. The voters exercised their voting rights in the election, unlike the all past elections, in an unfettered way to sense a 'revival of democracy'. The election was contested and participated fully and freely by all political parties and alliances. Notwithstanding prediction of political observers that Awami league (AL) would sweep the elections, Bangladesh Nationalist Party (BNP) emerged victorious with single majority (140 seats of 300) in the parliament. AL was relegated to the second position with a tally of 88. BNP with the support of Jamat-e-Islami (18 seats)- best known for anti-liberation plank-formed the government

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RIZVI, "Bangladesh: Towards Civil Society", *The World Today* (London), August-September, 1991, pp. 155-160.

<sup>25</sup> Syed Aziz-Al AHSAN, "Bangladesh at the polls: Free and Fair Elections", *Asian Profile*, Vol. 20, No. 2, 1992, pp. 171-174; see also, *Bangladesh Parliamentary Elections Feb 27, 1991*, by National Democratic Institute for International affairs, n.d.

with Khaleda Zia as Prime Minister. The political parties in the Jatiya Sangsad (Parliament) in their post-election stratagem rose to the occasion unanimously<sup>26</sup> to honour their pledge made in the joint declaration which though did not "bear any constitutional validity" but had "sufficient political significance"<sup>27</sup> to establish 'sovereign parliament'. They passed the 12<sup>th</sup> amendment to the constitution of Bangladesh to switch over from presidential to parliamentary form of government<sup>28</sup> which was ratified by a nation-wide referendum on September 15, 1991.

As system of government- presidential or parliamentary - both are democratic. Everything depends on the way of making a system workable and how far a system is suited to the genius of the people of the land. Since British period, as has been shown in previous pages, people of Bangladesh were more linked with the experiences of parliamentary democracy. Moreover geographic compactness and homogeneous character of Bangladesh society is much more favourable for a parliamentary system. Since the period (1972-1991) of Bangladesh's independence Bangladeshi society has undergone through manifold qualitative and quantitative changes to arrest discomforts that made parliamentary system unworkable in the immediate post independence (1972-1974) period.

Presidential system in a society like Bangladesh is more fertile to breed institutional authoritarianism -the thesis proved itself more glaringly in Bangladesh since 1974. Under the extant constitution presidency was turned to a repository of all state power. The President became an all-powerful executive without no accountability and responsibility to the people<sup>29</sup>. In absence of checks and balances, President and his cabinet was in no way accountable to the parliament. Parliamentary supremacy became subordinated to presidential whims. Bangladesh constitution, under the nomenclature of Presidential system, was designed to ensure 'constitutional autocracy'<sup>30</sup> which inspired elected Presidents to become autocrat. A presidential system of constitutional autocracy is not qualified to be called democratic. Concentration of absolute state power in the hands of President in Bangladesh lured the rival politico-military forces to resort to change of government through extra-constitutional ways by killing or by military coups. Moreover, election expenses for both presidency and parliament are sheer extravagancy for a poor Bangladesh. Besides, there is assured proclivity for single party's domination in both presidency and parliament. Bangladesh, to establish an

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<sup>26</sup> BNP was pressurised by the oppositions in the parliament to agree to the amendment of the constitution. See the Daily star (English local daily), April 24, 1991.

<sup>27</sup> See President Shahabuddin AHMED's speech to the Parliament on April 5, 1991.

<sup>28</sup> Gyasuddin MOLLA, "Bangladeshey Sangsadiya Ganotantrer Poona Prabartan (Re-introduction of Parliamentary Democracy in Bangladesh)" Dhaka Bhissabiddalay Patrika, February 1991, pp. 105-118; also see, Muhammad A. Hakim, "Twelfth Constitutional Amendment: Bangladesh's Reversion to Parliamentary System," Asian Profile, Vol. 20, no. 3, 1992, pp. 251-261.

<sup>29</sup> See Article 48/2 and Article 72 of the constitution of People's Republic of Bangladesh.

<sup>30</sup> The phrase was coined by Pakistan's Chaudhury Mohammad Ali to describe Ayub's constitutional system introduced under 1962 constitution. The Fifth Amendment of Bangladesh constitution borrowed heavily from Ayub's 1962 constitution.

accountable and responsive government as well as to ensure peaceful succession, turned to a parliamentary system in the last quarter of 1991.

#### CARE-TAKER GOVERNMENT AND CONSTITUTIONAL ARRANGEMENT

The hard task of building democratic institutions in Bangladesh started with the Bangladesh Nationalist Party (BNP) as the ruling party while the Awami League, Jatiya Party, Jamat-e-Islam and other minor parties remained in the opposition. The fragile democracy in Bangladesh struggled from the very onset and was under pressure because of the uncompromising behaviour of the major political parties in and outside the parliament: Neither the ruling party nor the opposition could inculcate parliamentary values in their political manoeuvring to make the parliament an effective institution. Within one year of the elections, the Awami League and six other opposition parties moved a no-confidence motion in parliament against the ruling BNP. On the other hand, the leader of the house would frequently remain absent from attending parliamentary sessions. This encouraged the leader of the opposition too to ignore parliament. As a result, parliament failed to be an appropriate forum for discussion of national issues as well as a training platform of democratic norms. The ruling party made the parliament more a place for pushing through ordinances rather than making it a legislative house for the nation. Thus within span of two years intent of establishing an accountable and responsible parliament lost to the whims of 'Prime Ministerial System'.<sup>31</sup> Amid mounting suspicions on ruling party's sagacity to strengthen democratic institutions through parliamentary practice, accusation of malpractice and rigging of votes by the ruling party in Mirpur by-elections held on February 3, 1993 kindled and compounded the anger of the opposition parties. BNP resorted to 'media coup' in Mirpur by-elections to declare its candidate elected before the election result was announced by the Election Commission. BNP thus lost confidence in establishing transparency of election. Surprisingly BNP along with other political parties in 1990 resorted to mass movement and unseated the military dictator to establish electoral transparency. The wrath of the opposition heightened when BNP resorted to massive terrorism, widescale rigging and manipulation of votes in Magura by-elections held on March 20, 1994. BNP adopted same method of polluting electoral process of the country as the military dictators did in the recent past. The government under BNP failed to maintain neutrality and to attain trustworthiness for restoring vote rigging in the by-elections in Mirpur and Magura. The accusations were perhaps true and it is accurate to say that the Election Commission could not maintain its independence during these by-elections. After the result of the last by-election was published, the major opposition party -the Awami League - backed by other opposition parties, resorted to demonstrations

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<sup>31</sup> In the parliamentary system of Bangladesh (1991-95) Khaleda Zia as Prime Minister became the single centre of all power and as such the system, Syed Anwar Hussain, dubbed as 'Prime Ministerial System'. See *Ajker KAGOJ* (Today's Paper, a Bengali daily), June 10, 1996.

and sieges of the Secretariat (the official seat of administration) to protest electoral piracy of the ruling party. They apprehended that since the ruling party had rigged the results of by-elections, future elections under BNP could never be impartial. They demanded the resignation of the ruling party and the formation of a neutral care-taker interim government to hold the next parliamentary elections. The demand was backed by the widespread belief that it was not possible to hold free and fair election under a partisan government. The political parties, therefore, insisted on the formation of an interim care-taker government to conduct election without any interference or intimidation from any quarters. The process, they argue, would not only strengthen foundation of democratic institutions but would also enable them to take root in Bangladesh.

The opposition parties pressured the government by calling nation-wide strikes and organising mass rallies and street agitations. The ruling party dismissed the opposition's demand of a care-taker government as undemocratic and unconstitutional. The uncompromising stands of both the ruling party and the opposition resulted in the boycott of parliament by the oppositions. Since the first quarter of 1994, the oppositions kept themselves out of parliament, throwing the country into a deep political crisis. As such the parliament became dysfunctional because of the absence of opposition participation.

The opposition parties- Awami league, Jatiya Party and Jamat-e-Islam- submitted in the meantime three separate bills to incorporate the provisions of care-taker government in the constitution through amendment and demanded discussions on these bills. The government did not respond. The opposition parties, therefore, called upon the government to introduce a constitution amendment bill providing for a care-taker government by June 26, 1994. The call went unheeded. Ultimately all opposition parties in and outside the parliament announced an identical framework for holding general elections to the parliament under a non-partisan, neutral and care-taker government. The framework delineated: as soon as the President dissolves Parliament with a view to holding general elections to Parliament under a non-partisan, neutral and care-taker government:

- i. The Prime Minister shall resign,
- ii. The President, in consultation with the political parties engaged in movement and having representation in parliament, shall appoint a non-partisan person enjoying acceptability as Prime Minister and this Prime Minister shall discharge his/her functions as the chief executive of the government in accordance with Article 55 of the constitution.
- iii. The Prime Minister of the interim government shall not be candidate in the parliamentary election and he/she shall form a cabinet consisting of persons who are not members of any political party and will not be candidates in the election.
- iv. The main task of the interim government shall be to ensure a free, fair and impartial election, and to discharge only the usual duties and responsibilities as provided for in the constitution as well as any urgent state business.

- v. Elections shall be held within 90 days of the dissolution of Parliament by the President. After elections to parliament when the President appoints a new Prime Minister under Clause (iii.) of Article 56 of the constitution, the interim government shall immediately stand dissolved<sup>32</sup>.

The opposition parties successfully articulated public support toward the indispensability and appropriateness of the concept of care-taker government for holding general elections in Bangladesh. The concept gained acceptability as the only way to ensure free and fair voting to institutionalize democracy in Bangladesh<sup>33</sup>. Besides opposition parties' framework, different cross-section of people came up with suggestions to work out a constitutional arrangement to hold free and fair elections in future. Representatives of diplomatic missions in Bangladesh too took initiatives to find out a compromise formula between the ruling party and the opposition parties to bring an end to the political impasse of the country. The Commonwealth Secretary General Emeka Anyaoku sent a former Governor-General of Australia, Sir Ninian Stephen, as his emissary to help mediate a compromise between the contending sides. Sir Ninian tried in vain for one and a half month to reconcile the two sides, whose leaders had a fierce animosity toward each other. Ultimately 'the Ninian mission' failed and the opposition resigned en masse from parliament on December 28, 1994 in the latest move in their campaign to force the government to quit.

The ceremonial vacancy of the 147 seats held by the opposition parties out of the total 330 seats of the parliament (including 30 reserved seats for women) took place in mid-1995 following a verdict passed by the Supreme Court. In effect, Parliament, became a one-party house since February 1994. The political crisis that gripped Bangladesh because of the intransigence of the ruling party and the opposition threw the country into a constitutional crisis. The process of democratic institution building that started in Bangladesh with the fall of dictatorial regime of Ershad in 1990 thus stagnated.

The government, after opposition parties "no" to participate in the proposed by-elections dissolved parliament on November 2, 1995 to seek a way to come out of the political crisis. Khaleda Zia's Prime Ministership of five years thus ended with 'progressive erosion of a fragile democratic process and gradual deinstitutionalisation of the same'. Alternatively February 15, 1996 was fixed to elect a new parliament. The opposition parties, in pursuit of their earlier decision not to participate in any election under a partisan government, categorically rejected the proposal and resorted to mass movement, demonstration, sit down strike and continuous 'hartal' (complete closure of normal activities) in the first quarter of 1996 to make the government agreeable to the demand of care-taker government.

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<sup>32</sup> Hoilday, July 1, 1994.

<sup>33</sup> "The Concept of Caretaker Government," in Sheikh HASINA, *People and Democracy*, Agamee Prakashani (Dhaka), 1997. pp. 34-43.

The ruling BNP played, without the participation of major opposition parties, the harakiri of parliamentary election in mid-February 1996. Responding to the call of the opposition parties, the voters registered mass protest by their absence in BNP's stage-managed one-party election. The voter turn out, nowhere in the country, was more than 5 to 10 percent. Observers-local and international- all turned it a 'voterless' election. The government, to everybody's utter surprise, claimed 70 to 90 percent voter turn out. BNP's stalwarts resorted to massive vote-rigging, stuffing of ballot boxes with fake votes to get their almost all candidates elected, and thus number of votes cast surpassed the number of registered voters in many polling centers. The Election Commission itself was surprised, and expressed its suspicion over the election results. The international community bewildered with the misdeeds the BNP government wrought in February election. Any semblance of doubt about the ruling party BNP's credentials to hold proper elections were convincingly shattered in 1996 February election where BNP was the only major actor<sup>34</sup> along with other 40 insignificant political groups. BNP failed to dispel accusation that elections under partisan government are sure to be fraudulent and as such the demand of opposition parties for a care-taker government to ensure free and fair election attained mass support. The February election reinforced opposition's demand of care-taker government. With mounting pressure from all quarters of society, the government in the first session of the new parliament<sup>35</sup> passed the 13<sup>th</sup> amendment bill to the constitution on March 26, 1996 incorporating the provisions of care-taker government, resigned on March 30, 1996 and the President formed a care-taker government with former Chief Justice Muhammed Habibur Rahman as Chief Adviser on the same day to hold the next general election.

#### 1996 ELECTIONS: DEMOCRATIC INSTITUTIONS REJUVENATED

The caretaker government of 1991 was the outcome of political consensus. On the other hand, the caretaker government in 1996 became a constitutional reality, which hold parliamentary elections on June 12, 1996 to accomplish a constitutional as well as a historic necessity. The Election Commission was reconstituted and reinforced with adequate powers to make the election a 'free, fair and clear' one. The election was observed by near about 300 foreign observers. About 35 thousand local observers were also vigilant to observe June 12, 1996 election. The caretaker government adopted rigorous measures to make the election a fair one.

The election was contested -including all major political parties - by 81 political parties and alliances. The voters participated enthusiastically, peacefully and fearlessly in the elections. The voter turn out registered a new record of 73.61 percent including 40 percent female votes. The caretaker government successfully

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<sup>34</sup> The Press media ---- local and international ---- was virulently critical of BNP's electoral malpractice in 1996 mid-February election in Bangladesh.

<sup>35</sup> The parliament was a short-lived one. It had a tenure of only about one and a half-month. It had only 3 days' legislative tenure.

conducted a free and fair election with unanimous appreciation from international observers. Bangladesh Awami League popularly known as AL reaped the fruits in the election bagging 146 seats while Bangladesh Nationalist Party-BNP-appeared as strong opposition with 116 seats. Awami League, in understanding with Jatiya Party, gained more 27 of reserved women seats while 3 went for Jatiya Party. The 1996 parliamentary election left an indication that Bangladesh was drifting toward bipartisan politics.<sup>36</sup>

The new government with Sheikh Hasina as the Prime Minister took over on June 23, 1996 in an orderly manner from the caretaker government. The new government in the first instance showed its eagerness to share power with other parties accommodating their representatives in the cabinet. The Awami League was driven with the idea of having consensus on national issues to run state administration. Jatiya Party (JP) and Jatiya Samajtantric Dal (JSD), other than BNP and Jamat-e-Islami (JI), in response to the call of the leader of the house Sheikh Hasina, joined in the cabinet with one representative from each party to establish a sort of consensus on national issues. The ruling party also set the tone of neutrality and eagerness to uphold parliamentary tradition of electing head of the state i.e. President on consensus to symbolise national unity. All the parties in Parliament agreed to elect former Chief Justice Shahabuddin Ahmed (who also headed the caretaker government in 1991) as the President of the country.

Since the assumption of power by Awami League, Election Commission conducted by-elections of legislative seats in different times without any interference from the incumbent government. So was the case with local level elections too. Thus a sort of fair trend has so far been set up in the electoral process. Parliamentary Standing Committees are being chaired, instead of concerned minister, by members of parliament. Along with this, question-hours of the Prime Minister to answer the queries of the members of the parliament on fixed days during parliament session have tended to ensure transparency and accountability of the government to the parliament.

## CONCLUSION

In the process of building democratic institutions in South Asian countries, the institution of non-partisan care-taker government has earned acceptability as well as reputation in general. In Pakistan the non-partisan care-taker government under Moyeen Quereshi in 1993 successfully conducted a free and fair election to the parliament. The arrangement of non-partisan care-taker government is the outcome of a long political movement in Bangladesh. Both in 1991 and 1996 the care-taker government made credible strides in the effort of building democratic institutions. Dr. M.S. Gill, the chief Election Commissioner of India, being convinced of the efficiency of the caretaker government in holding free and fair elections in

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<sup>36</sup> A trend of bipartisan politics was also visible in 1993 municipal election in Bangladesh. See, Gyasuddin MOLLA, "1993 Municipal (paurasavha) Election in Bangladesh: A Shift in Election Choice?" *World Outlook* (Taiwan), Vol. 4, no. 1, 1995, pp. 36-40.

Bangladesh, forcefully advocated for a similar type of arrangement in India. Critics in Bangladesh opined, of course, the institution of caretaker government is deemed to a slur on the efficiency and capability of the politicians to be the trustee of the nation; it signals their inability to be worthy to hold a free and fair election; it diminishes people's confidence on them as well as purports 'the politicians become unscrupulous during election time'.

Notwithstanding all possible odds, it is fair to count plus points of non-partisan caretaker government in the following ways:

1. Right of people to vote freely and fairly is established; the voters are not intimidated; elections are not rigged; therefore electoral process attains transparency;
2. Election Commission functions with full freedom to conduct elections;
3. During election time equal facilities are ensured to all political parties;
4. Elections under non-partisan care-taker government keep the government of the day under pressure to be responsive to the nation; and
5. The institution of caretaker government will, above all, act as catalytic agent to help the people of the country to "learn by practice" democratic culture.

What did necessitate the constitutional arrangement of an interim government to hold parliamentary election in Bangladesh? Customarily the incumbent government holds the election and the power is transferred accordingly. In Bangladesh the government since 1973 'managed' all elections in favour of their own parties. Even the Khaleda Zia government which germinated from the free and fair election that 1991 caretaker government conducted---the offspring of 1990 mass movement (Khaleda Zia, in unison of other opposition political parties led the mass movement) to restore transparency in the electoral process of the country---molested the parliamentary election of February 15, 1996 in favour of its own party BNP. The subsequent Sheikh Hasina government that came to power through the 1996 elections conducted by constitutional caretaker interim government has so far set up a fair trend in the electoral process of the country by helping the Election Commission to conduct freely and fairly by-elections of legislative seats in different times as well as elections at local levels.' Notwithstanding the tiny shortcomings, the adhoc institution of caretaker government has taken shape and has attained constitutional sanction as a new concept as well as a new model.