

**TRANSITION TO AUTHORITARIANISM: A STUDY  
OF THE FOURTH AMENDMENT TO THE  
CONSTITUTION OF BANGLADESH**

*Dissertation submitted to Jawaharlal Nehru University  
in partial fulfilment of the requirements  
for the Award of the Degree of  
MASTER OF PHILOSOPHY*

**DAVID LALMALSAWMA**

**CENTRE FOR SOUTH, CENTRAL, SOUTH EAST ASIAN  
AND SOUTH WEST PACIFIC STUDIES  
SCHOOL OF INTERNATIONAL STUDIES  
JAWAHARLAL NEHRU UNIVERSITY  
NEW DELHI-110067  
INDIA**



जवाहरलाल नेहरू विश्वविद्यालय  
JAWAHARLAL NEHRU UNIVERSITY  
NEW DELHI - 110067

CENTRE FOR SOUTH, CENTRAL, SOUTHEAST ASIAN  
AND SOUTHWEST PACIFIC STUDIES  
SCHOOL OF INTERNATIONAL STUDIES  
JAWAHARLAL NEHRU UNIVERSITY  
NEW DELHI - 110067

21, July, 1994

C E R T I F I C A T E

Certified that the dissertation entitled "TRANSITION TO  
AUTHORITARIANISM : A STUDY OF THE FOURTH AMENDMENT TO THE  
CONSTITUTION OF BANGLADESH" submitted by DAVID LALMALSAWMA in  
partial fulfilment for the award of the Degree of MASTER OF  
PHILOSOPHY has not been submitted for any other degree of this or  
any other University. To the best of our knowledge this is a  
bonafide work.

We recommend this dissertation be placed before the  
examiners for evaluation.

[ Prof. KALIM BAHADUR ]

( CHAIRPERSON )

**Chairperson**

**Centre for South, Central Southeast  
Asian and South West Pacific Studies  
School of International Studies  
Jawaharlal Nehru University  
New Delhi-110097**

[ Dr. S.R. CHAKRAVARTY ]

( SUPERVISOR )

**Centre for South, Central Southeast  
Asian and South West Pacific Studies  
School of International Studies  
Jawaharlal Nehru University  
New Delhi-110097**

A C K N O W L E D G E M E N T S

I am greatly indebted to my supervisor, Dr. S.R. Chakravarty, for his patient guidance, cooperative and helpful attitude throughout my work. He has been most kind to me and has constantly put up with my shortcomings.

I take this opportunity to thank my parents, Lt. Col & Mrs. H.S.Luaia, my brother, Joseph Lalrinawma and my sister, Margaret Lalrinkimi, whose blessings and support have been the greatest source of inspiration throughout my work. Also, my sincere thanks goes to my friends and relatives here in Delhi who have always provided me with solace in times of desperation.

Further I would like to express my thanks to the librarians and staff of Jawaharlal Nehru University, Nehru Memorial Museum and Library, Sapru House and Indian Council of World Affairs, for their assistance. Last but not the least, my thanks goes to Mohan Pathak of Graphic & Data Systems, 59 Ber Sarai, New Delhi - 16, for doing the needful.

Dated : 21/7/94

New Delhi - 67

  
( DAVID LALMA SAWMA )

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ACKNOWLEDGEMENTS

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## PREFACE

Bangladesh has had a chequered life since she gained independence in December 1971. Prior to this, she was a part of the state of Pakistan known as East Pakistan, but she was deprived of a voice in the governance of the national affairs even though the population was more in the East than the West Pakistan, her economy neglected by following the colonial exploitative system, and culturally she was sought to be subjugated by imposing Urdu over Bengali by the rulers from West Pakistan. In the initial stage she tried to assert herself by claiming for more autonomy as represented in the Six-Point Programme in 1966. However, such feelings for autonomy soon gave way to larger feelings of nationalism and to secede away from Pakistan. Consequently, after a bloody battle and with Indian intervention East Pakistan emerged as a sovereign nation-state known as Peoples' Republic of Bangladesh.

On gaining independence she embarked on the path of democracy following the westminster form of government. Ironically, within a short period of three years, the very nature of the political system was drastically changed to authoritarian form of government. To shift from one end of the political framework to another, from democracy to authoritarianism, after years of struggles and sacrifices, makes interesting reading on the subject.

This transition, however, must be seen in the larger context of the then socio-economic and political conditions. It must be remembered that when Bangladesh emerged as a sovereign nation she was economically devastated with no foreign exchange reserve, and no institution worth the name existed to lay down directions. Transport and communications were almost destroyed, commercial life was totally disrupted and there was absence of law and order in the countryside. Above all, there was the gigantic problem of rebuilding a war - torn nation right from scratch.

It is not uncommon in the third world developing countries to switch over to authoritarianism from democratic form of government so as to perpetuate the regime, as seen in the case of Tanzania, Nigeria, the Latin American countries etc. In such a scenario, can it be that the western model is not conducive to the newly emerging nations of the third world ? Can stability and effective governance be realised in such a poverty-ridden society ?

It was while doing a course on Government and Politics of South Asia that my interest on Bangladesh developed, especially those early eventful years. The Fourth Amendment which is widely held responsible for bringing about authoritarianism has stood out like a landmark in the political landscape of Bangladesh. It has become a constant reminder to students of international politics and

Bangladesh observers that this Act was a retrogressive step for Bangladesh, a step back to the dark days under Pakistan. It was this singular Act which led to a chain of events that Bangladesh was to witness in the latter 70s and 80s.

A modest attempt has been made in this dissertation to study this transition to authoritarianism by focussing exclusively on the Fourth Amendment to the Constitution, and the basic methodology employed is descriptive analysis. The hypothesis put forward is that the Fourth Amendment was an attempt to consolidate the achievements of the War of Liberation by temporary suspension of democratic rights. But the way the amendment was given effect to represented a slide towards authoritarianism, ultimately resulting in the collapse of the system under its own contradictions.

The first chapter introduces Bangladesh and traces, in brief, its emergence and the causes behind it. The second chapter deals with the framing of the Constitution of Bangladesh, its basic features and its functioning in general, is discussed. The third chapter deals with the socio-economic and political circumstances leading to the enactment of the Fourth Amendment. The fourth chapter discusses the content and form as well as the functioning of the Fourth Amendment. And the fifth chapter ends with conclusion of the dissertation.

## CHAPTER I

### EMERGENCE OF BANGLADESH & THE CAUSES BEHIND IT

Bangladesh, officially known as the People's Republic of Bangladesh (Bengali Gana Prajatantri Bangladesh) is a small coastal country of South Asia covering an area of 142, 776 square kilometers. The capital is Dhaka (formerly Dacca). The country lies between latitudes  $20^{\circ} 30'$  and  $26^{\circ} 15'$  N which is about 625 kilometers from its extreme north and south extensions, and between longitudes  $88^{\circ} 30'$  and  $92^{\circ} 15'$  E, again which is about 190 miles from east to west. Bangladesh to the south, has an irregular coastline fronting the Bay of Bengal and is bordered on the south-east by Myanmar (Burma). To the west, north and the east, Bangladesh has common border with the Indian states of West Bengal, Meghalaya, Assam, Tripura and Mizoram. With a population of 109.9 million according to the 1991 census<sup>1</sup>; this nation is the second most populous in South Asia and the eighth in the world; it also has the largest population density among the nations of the world. The people of Bangladesh are by and large homogeneous, ethnically and culturally, though there are some tribal groups like the Chakmas, the Marma, the Tonchangya, Lushai, Bawm, Pang, Mru, Khyang, Khumi etc.

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1. Bangladesh Basic Facts, Department of Films & Publications, Ministry of Information, Government of People's Republic of Bangladesh.



which inhabit the Chittagong Hill Tracts (CHT). 90 percent of the population are Muslims, the remainders being predominantly Hindus and a small number being Buddhists and Christians. Bengali is spoken universally; English being used widely in the urban areas.

Bangladesh's landscape is dominated by the confluence of the Ganges or the Padma, the Brahmaputra or the Jamuna and the Meghna river systems. It may be divided into three major regions : one of highlands in the east and north-east, and two of lowlands in the west. The Dhaka-Rajshahi lowland region in the northwestern part of the country comprises the area north of the Ganges (Padma) and includes, from west to east, the Bhar Basin (the depression between the Ganges and the Brahmaputra rivers), the Madhupur Tract (an elevated plateau north of the Padma river) and in the southernmost part Dhaka, the national capital. The Khulna lowland region in south-western part of Bangladesh lies generally southward from the Ganges (Padma) river, shares the coastal marshes and mangrove forests of the Sunderbans Tract with India to the west, contains the estuary formed by the confluence of the Meghna and the Padma rivers that empty into the Bay of Bengal in the southeast, and the densely populated lower Ganges agricultural area to the north. The highland region in the eastern and northeastern part of the country includes the Sylhet Hills in the north east that rise to elevations

of between 2000' to 3000' (600 and 900 m), providing the country's only striking relief, and the hilly Chittagong tract in the southeast. The country's highest peak, the Keokradong, rising to 4,034' lies in the extreme southeast.

The climate which is hot and humid, is affected by the annual monsoon season (June through October). The annual rates of precipitation vary from a low of 40 to 80" in the western lowlands to more than 150" in the Sylhet Hills in the the northeast. Temperature varies equally between 70°F (21°C) in winter and 95°F (34°C) in summer.

More than two thirds of Bangladesh land is considered arable and lies primarily in the lowland region, one fifth is irrigated. Forests cover about one sixth of the country. Plant and animal life is abundant and varied, and includes tigers, leopards and Asian elephants.

The People's Republic of Bangladesh emerged as an independent sovereign state in December 1971 through an armed struggle against the "internal colonialism"<sup>2</sup> of Pakistan. Prior to this development, Bangladesh was known as  
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2. The term "internal colonialism", is borrowed from the New Left writings. It refers to the process of domination and exploitation of an ethnic group by another within a country. In most of the new state which have plural societies, early modernizing ethnic groups dominate the power elite. Once in power, these ethnic groups follow a public policy which perpetuates their unequal power relations with other groups. Raunaq Jahan, Bangladesh Politics : Problems & Issues, University Press Ltd. Dhaka, 1980, pp. 75-76.

East Bengal, which was carved out of the eastern part of Bengal and the Bengali - inhabited Sylhet district of Assam when in 1956 it was renamed East Pakistan. Bangladesh's emergence as a new nation in South Asia can be traced back to the grievances that the East Pakistanis held against the West Pakistan. Infact, it can be traced even further to the neglect of Bengali Muslim interests in the pre partition days by the central leadership of the All-India Muslim League dominated by the Urdu- speaking north Indian Zamindar elite and the professional middle classes of Bombay. For example, in the tripartite discussions that took place on various occasions among the Muslim League, the Congress and the British regarding the ratio of Muslim representation in the Central Legislature and various provincial assemblies, Bengal's Muslim majority was always sacrificed in order to gain weightage for the Muslim majority promises - particularly U.P. and Bombay<sup>3</sup>. These grievances took three forms : political, administrative and economic. Politically, the Bangalis of East Pakistan felt that they were being denied a voice in the governance of Pakistan even though they constituted about 54% of the total population, and the movement for achieving Pakistan became successful mainly

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3. Md. Ayoob, Banqladesh : A Struggle For Nationhood, Vika Publications Delhi, 1971, p. 5.

because of the Muslim League's strong position in Bengal. Further, the vexed problem of the level of representation to be given to each wing in parliament failed to satisfy either wing. Administratively, the Bengalis were under-represented in the civil and military services. All high-level posts in Dacca were filled by West Pakistanis or refugees from India who had opted for West Pakistan. Even as late as 1968, the East Pakistan was only 36 percent. In the other services like taxation, audit and accounts, police, custom etc, the situation was no better<sup>4</sup>.

As far as representation in the armed forces is concerned, the situation was even worse. Sixty percent of the army consists of Punjabis, 35 percent are Pathans and the others constitute the rest<sup>5</sup>. And according to Khalid B. Sayeed, between 1947 and the closing years of the 1960s, the solitary Bengali to rise to the rank of Lt. Gen. was Khwaja Wasiuddin, son of Khwaja Nazimuddin, Pakistan's second Prime Minister, and nephew of Khwaja Shahabuddin, Ayub Khan's Minister for Information<sup>6</sup>. Economically, East Pakistan

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4. Information given by Khwaja Shahabuddin, Minister for Information and Broadcasting, Government of Pakistan, in the National Assembly of Pakistan. National Assembly of Pakistan Debates, 1968, Vol. 1, No. 32, 18 June 1968, p. 2395

5. Khalid B. Sayeed, "The Role of the Military in Pakistan", in Jacques Van Doorn (ed.), Armed Forces and Society, The Hague, 1968, p. 276.

6. Khalid B. Sayeed, *ibid*, p. 278

maintained that though primary commodities, especially jute, were exported to earn foreign exchange it was channellized for the industrial developmnt of West Pakistan. Substantial amounts of foreign assistance was used for developmental projects, whereas no equivalent project was developed for the East. The central government gave preferential treatment to West Pakistani industrialists in foreign exchange matters, import licenses, loans and grants, and permits for new industries. As a result of all this, Charles Burton Marshall had stated that while "East Pakistan is political; West Pakistan is governmental"<sup>7</sup>.

Disgruntlement at the inadequate allocation of resources - both political and economic - by the central authorities led logically to the demand for provincial autonomy. It would not be out of place, however, to mention that this movement for autonomy had its genesis in the language movement way back in March 1948 when students of Dacca protested at a meeting in Dacca Univeristy of Pakistan. The protest took place because Jinnah had declared that Urdu should be the sole official language of Pakistan. Pakistan's policy of deliberate imposition of Urdu appeared to have been formulated with the aim of gradual extinction of the Bengali language. It was not until after the intense

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7. Charles Burton Marshall, "Reflections on a Revolution", Foreign Affairs, (New York), Vol. 37, No. 2, January 1959, p.253.

agitation of February 1952 when many students were killed by police firing, that the Central Government conceded to the Bengali language, at least in theory, the same status accorded to Urdu. The language movement established the fact that the Bengalis were a nation which could be kept within the state structure of Pakistan only as an autonomous unit and as an equal partner. Arousing the national consciousness among the people this movement paved the way for the struggle against the economic exploitation and political suppression.

(In February 1966 Sheikh Mujibur Rahman, the leader of the Awami League, made public his Six Point Programme. These were :

(1) The constitution should provide for a Federation of Pakistan in the true sense on the basis of the Lahore Resolution and for a parliamentary form of Government based on the supremacy of a directly elected legislature on the basis of universal adult franchise. (2) The Federal Government shall deal with only two subjects - defense and foreign affairs - with all residuary subjects vested in the federating states. (3) There should be either two separate freely convertible currencies for the two wings or one currency with two separate reserve banks to prevent inter-wing flight of capital. (4) The power of taxation and revenue collection shall be vested in the federating units.

The Federal Government will receive a share to meet its financial obligations. (5) Economic disparities between the two - wings shall disappear through a series of economic, fiscal and legal reforms. (6) A militia or paramilitary force must be created in East Pakistan which at present has no defence of its own<sup>8</sup>. These demands were put forward in a Bengali booklet by Sheikh Mujibur Rahman entitled Amader Banchbar Dabi (Our Right to Live). Agitation in favour of the above programme followed in East Pakistan, and on 20 March 1966, Sheikh Mujibur Rahman was arrested. The Awami League gave a call for complete hartal in East Bengal on 7 June 1966, in order to demonstrate the popular support behind its Six-Point Programme. President Ayub's repression on the Bengalis further intensified the movement. The desperation of the regime to put down the movement at all costs can be seen from the fact that they came up with the so-called Agartala Conspiracy case on 1st January, 1968 and accused Sheikh Mujib as the main leader of this conspiracy. He was alleged to have conspired to separate Bangladesh from Pakistan with the help of India. But owing to nation-wide protests, charges against him were dropped and a round - table conference called. At this conference Sheikh Mujib

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8. For details regarding Six-Points, see '6-Point Formula - Our Right to Live' by Sheikh Mujibur Rahman, Bangladesh Documents, Ministry of External Affairs, New Delhi, 1971, pp. 23-33.

determined to get the Six and Seven-Points accepted<sup>9</sup>. However, due to the disruptive role of the Democratic Action Committee (DAC) no solution could be found. It may be maintained here that the DAC was a united front of the major opposition parties dominated by the conservative elements from Pakistan and pro-Pakistan elements from Bangladesh who did not support the demand for autonomy.

Following this round table conference the law and order situation in East Pakistan deteriorated further as the agitation continued and spread from the town to the country side with the leadership tending to slip to the more extremist elements. Finding no way out to save the situation Ayub Khan handed over the reigns of his government to Gen. Yahya Khan, Commander - in - Chief of Pakistan Army, on 25 March 1969.

On assumption of power, Gen Yahya Khan made certain decisions, like the intention to go ahead with the re-introduction of parliamentary democracy based on adult franchise, and the undoing of the one - unit system in West Pakistan. This was done so that he would be able to secure

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9. Eleven-Points Programme was formed under the auspices of Students Action Committee in 1968, and included the demands of all sections of the people, like the peasants, the workers, the middle class, and the students. The programme linked the issue of autonomy with the needs and demands of the toiling masses.



firmly his home base-West Pakistan, and at the same time to placate the regionalists of Sind, the NWFP and Baluchistan who were agitated over the imposition of one unit as it led to Punjabi dominance.

And with regard to the East Pakistan's demand for autonomy and radical changes in the inter-regional equation, he conceded the demands to be legitimate. He also conceded the principle of "one man, one vote" meaning thereby that the East Bengali majority would be given proportionate representation in the National Assembly<sup>10</sup>. The principle of interwing parity in the National Assembly was done away hence, for this had been one of the major grievances of the East Pakistanis as it reduced their majority to parity with West Pakistan in the legislative sphere.

Accordingly, Gen. Yahya Khan issued the Legal Framework Order (LFO) on 30 March 1970 which set the dates of elections to the National and Provincial Assemblies as 5 October and 22 October respectively. However, due to heavy floods in East Pakistan in July-August 1970 the dates were postponed to 7 and 17 December 1970.

Inspite of certain shortcomings in the LFO, the Awami League, nevertheless, availed of this opportunity and decided to participate in the elections, and in the ensuing  
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10. Pakistan Times, (Lahore), 29 November 1969.

election received a massive mandate from the eastern wing. "It won all but two seats (160 out of 162) reserved for East Pakistan in the National Assembly and polled 72.6 percent of the votes cast in East Bengal in the elections to the National Assembly. The Awami League also secured an absolute majority in the National Assembly, for out of a total of 300 elected seats (exclusive of 13 seats for women to be filled by the Assembly) the Awami League captured 160 which gave it 53.3 per cent of seats in the National Assembly<sup>11</sup>". This resounding victory was, in part, owing to the boycott of elections by the East Pakistan political parties like the National Awami Parties led by Maulana Bhashani and Muzaffar Ahmad respectively, and other parties like the Muslim League, Pakistan Democratic Party and the Jamaat-i-Islami were seen more of as stooges of the West Pakistan. Besides, anger over the central government's alleged shortcomings with regard to relief measures to the victims of the cyclone tragedy led to the decisive victory of the Awami League.

The formation of a government was nowhere insight because a new political force had also emerged in West Pakistan in the just concluded election and that was the Pakistan People's Party (PPP) led by Zulfikar Ali Bhutto. The PPPs strong showing in Sind and Punjab - two crucial

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11. Md. Ayoob, op. cit, pp. 34-35

provinces - with 60 percent of the West Pakistani Seats (i.e. 82 of 138) made them an important factor in any future constitutional talks. On the one hand, while Sheikh Mujibur Rahman declared that a new constitution must be based on his Six-Point Programme; on the other, Bhutto announced that the PPP will boycott the Assembly if it doesn't have a say in the new constitution.

In order to solve the deadlock talks were held in the last week of January 1971 when Bhutto and Awami League leaders met in Dacca. Rigid stand taken by the two sides prevented from coming to an amicable solution Bhutto was not averse to accepting the first and sixth points of the Awami League programme, but refused to accept the other four. Again, while Bhutto opined that there were two majority parties rather than one and that no constitutional formula could be adopted without the approval of the other. Further, while the Awami League wanted the Assembly to be convened no later than 15 February 1971, the PPP was not interested in an early convening of the Assembly.

With no breakthrough insight, President Yahya Khan, on 1 March, 1971, summarily postponed for an indefinite period the proposed session which was stated for 3 March, 1971. The Awami League saw this development as a conspiracy between Bhutto and Yahya Khan, and as a result, a general strike was called and angry mobs took to the streets. Negotiations were

again sought to be held, but the parties could not come to a compromise. This civil disobedience and non - cooperation turned into an armed struggle from March 25-26, 1971 onwards, and finally on 16 December, 1971 the Pakistan Army surrendered to the joint forces of the Bangladesh Liberation Army and the Indian Army. Bangladesh thus emerged as an independent nation.

## CHAPTER 2

### FRAMING OF CONSTITUTION AND ITS BASIC FEATURES

Having attained freedom from the oppressive regime of the West Pakistani rulers the important task of framing the Constitution followed, and accordingly the "Bangladesh Constituent Assembly Order 1972" (President's Order No. 22 of 1972) was promulgated on March 23, 1972 to provide for a Constituent Assembly. The Assembly comprised of members who had been elected from Bangladesh to the then Pakistan National Assembly and the East Pakistan Provincial Assembly in the elections held in 1970 and 1971<sup>1</sup>. However, the formation of the Constituent Assembly created a political controversy in the country. A section of the people and some politicians argued that the elections in 1970-71 was held for the National Assembly of Pakistan which was to function under the Legal Framework Order and so was the Provincial Assembly. People had voted these members to frame a constitution within the framework of Pakistan on the basis of the Six-Point Programme. With the emergence of Bangladesh, they argued, the elections of 1970-71 under the Legal Framework Order became infructuous. Under the new

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1. General elections to the National Assembly of Pakistan and Provincial Assembly of East Pakistan were held respectively on December 7 and 17, 1970, but in some constituencies of former East Pakistan polls could not be held due to cyclone devastation. These were completed on January 17, 1971.

circumstances a new Constituent Assembly would be needed to frame the new Constitution, otherwise the authority of the so-formed Constituent Assembly would suffer from illegitimacy.

Some of them argued further that even the elected representatives who assembled in Calcutta and issued the Proclamation of Independence and declared Bangladesh as independent had no authority to do so as they were never voted to create an independent Bangladesh and they had no 'Mandate' from the people which they claimed to have in the Proclamation of Independence.

To challenge the Proclamation of Independence itself would have been unrealistic, but the argument of the opposition was not entirely unreasonable either. The opposition was of the view that in the light of the prevailing deteriorating economic conditions and the Awami League coming increasingly under fire from them, it would be better to have a national government and a new Constituent Assembly constituted under a fresh election. Only then would the country have a legitimate government and a constitution.

However, the opposition's demands went without consideration as the Awami League continued to enjoy massive popular support. The Constituent Assembly was duly constituted with the Awami Leaguers in a majority and only three opposition members included - one from the National

Awami Party (Muzaffar) and two independents. Now if Sheikh Mujib had been far sighted enough he would have done well to include other prominent politicians like Maulana Bhashani, lawyers, intellectuals etc so that the constitution would satisfy the aspirations of various sections of society. In contrast to this, the Constituent Assembly which was constituted to frame a constitution for India, no doubt dominated by the Indian National Congress, comprised of non - Congress members as well. Prominent persons like A.K. Ayyar, H.K. Kunzru, Ambedkar, K.M.Munshi etc. were included so that their experience and expertise can be made available to the Assembly. But such a wise move was not applied in the case of Bangladesh, and a constitution was duly enacted within 24 days of its introduction in the Constituent Assembly. This could be done so due to the dominant influence exercised by the Awami League. The Awami League argued that they had the mandate of the people and it is through their government that Bangladesh achieved her independence<sup>2</sup>. It was further argued that even if an election was held it would have gone in their (Awami league) favour anyway, and hence, to hold an election was a terrible waste of time and money, and only delayed the constitution making process.

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2. Moudud Ahmad, Bangladesh : Era of Sheikh Mujibur Rahman, University Press Ltd., Dhaka, 1983, p. 91.

Nevertheless, the 430 member<sup>3</sup> Constituent Assembly met for a two-day session on 10 April, 1972. The Speaker and Deputy Speaker were elected and rules of procedure adopted on the first day. On the second day, a 34-member Constitution Drafting Committee with Dr. Kamal Hossain, Minister of Law and Parliamentary Affairs, as its Chairman was set up. Members of this Committee belonged to the ruling Awami League, except for Suranjit Sengupta the lone opposition member from the National Awami Party (pro-Moscow). The Committee held 74 meetings and took nearly 300 hours to complete its work<sup>4</sup>. Proposals for consideration of the Committee were invited through the press, radio and television, but only 98 memoranda were received<sup>5</sup>. Such a poor response perhaps could be due to the fact that a

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3. According to the Provisional Constitution Order the number of seats in the Constituent Assembly was 469 (169 members elected to the National Assembly plus 300 elected to the Provincial Assembly). By this time 10 members had died (5 killed by the Pakistani Army), 23 members lost their seats by being expelled from their party (Awami League), 2 were disqualified for paying allegiances to Pakistan, and 4 others were imprisoned for collaboration with the Pakistan Army during the liberation struggle.

See A.F. Huq's "Constitution-making in Bangladesh" in Emajuddin Ahmed (ed), Bangladesh Politics, Centre for Social Studies, Dhaka University, Dhaka, September, 1980, p. 3.

4. *ibid.*

5. Report of the Constitution Drafting Committee, p. 1.



general consensus about the fundamentals of the Constitution was already in existence. Differences existed only with regard to details. Besides, the time of three weeks which was given for sending proposals was not adequate; opposition parties which were very vocal against the Government and had some ideological difference with the ruling party did not send a single proposal to the Committee<sup>6</sup>.

The final session of the Committee was held on October 11, 1972 when the text of the Constitution Bill was finally approved. And on October 12, the Law Minister introduced the Constitution Bill in the Constituent Assembly. At this session, Rules of Procedure for its own functioning was adopted by the Assembly. On October 19, the Constitution Bill was taken up in the Assembly for general discussion which continued till October 30. Initially, the lone opposition member from the National Awami Party (Pro-Moscow) suggested that the Bill be put to circulation so as to elicit public opinion and towards that end the House be adjourned till October 30, 1972. In this, he got the support of an independent member Manabendra Narayan Larma. They were of the opinion that one week was too short a time for the people in the farflung areas to give their opinions.

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6. Speech of the Prime Minister, Sheikh Mujibur Rahman in the Constituent Assembly, November 4, 1972. The Bangladesh Observer, November 5, 1972.

However, the Law Minister, while acknowledging the need to have a public opinion on the Bill, pointed out that the House could continue with discussion on the Bill and receive opinions from the public at the same time so as to avoid "wastage of valuable time"<sup>7</sup>. It was further argued that on the basis of four fundamental principles (democracy, socialism, nationalism and secularism) the Constitution had been drafted and mandate had already been given by the people. Syed Nazrul Islam, Deputy Leader of the House, remarked in the constituent Assembly "We are assembled here to give concrete shape to these fundamental principles".

The second reading of the Constitution Bill commenced on October 31, and continued till November 3. Debates were held to study the Bill clause by clause and the various amendments. Out of a total of 163 amendments which were proposed, 84 were accepted by the House. Most of the amendments were of a general nature, like the improvement of the language of the Draft. However, there were two which stood out for their significance. Article 56 originally provided that all ministers must be appointed from among the elected members of the Parliament. After amendment, this Article now allows a non-member to be appointed as minister, but he should be a member of parliament within six months. The second, Article 70 provided for vacating of

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7. A.F. Huq, op.cit, p. 14.

seats in Parliament either by resignation or expulsion from the political party which had nominated him in the last election. This article, as amended, now states that a person will lose his seat only if he resigns from or votes against his party in the House.

The final reading was given on November 4, 1972. The Constitution, which was originally drafted in English, but its Bengali translation which was to have precedence over the English, was finally adopted as the Constitution of the Peoples Republic of Bangladesh just after 24 days from the date of its introduction in the Constituent Assembly. One reason as to why the Constitution was passed in such a short period of time was owing to the fact that the Constituent Assembly was more or less a one-party house. The role of opposition was enacted by only three members of the Constituent Assembly. Only those amendments which were approved in the meetings of the parliamentary party could be initiated by members of the Awami League in the Constituent Assembly. The very fact that just three opposition members were there made the Awami League push through the Bill after giving them a chance to be heard. Suranjit Sengupta (NAP) admitted that he "as a lone opposition member in the house, received all privileges and cooperation in participating in

the framing of the constitution and in the business of the House"<sup>8</sup>.

And secondly, Bangladesh did not encounter problems as she was more or less a homogeneous state with unity of language, literature and culture. "There is no problem of state language or division of powers between central and provincial governments and as significant problem of minorities"<sup>9</sup>.

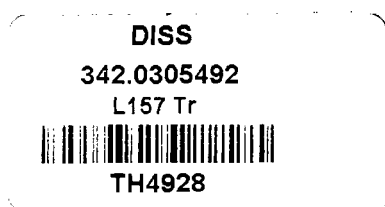
Moreover, the personality of the Prime Minister and Leader of the House, Sheikh Mujibur Rahman, as well as the erudition of Kamal Hossain, the Law Minister contributed as much to the speedy passage of the Constitution.

The Constitution which was adopted in 1972 contained a Preamble, 153 Articles divided into 11 Parts and 4 Schedules. Part I contained provisions regarding the character of the Republic. Part II contained the Fundamental Principles of State Policy. Fundamental Rights are found in Part III, while the Executive is dealt with in Part IV. Part V the Legislature, Part VI the Judiciary, Part VII the election, Part 8 the Comptroller and Auditor General, Part IX the Services of Bangladesh, Amendments to the

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8. See the Constituent Assembly proceedings, November 4, 1972, published in The Bangladesh Observer, November 5, 1972.

9. A.F. Huq op. cit, p. 18.



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Constitution in Part X, and the Miscellaneous Items in Part XI.

The Preamble affirmed that "the high ideals of nationalism, socialism, democracy and secularism, which inspired our heroic people to dedicate themselves to, and sacrifice their lives in, the national liberation struggle"<sup>10</sup>, would be the fundamental aim of the State to be realized through a democratic process - a socialist society free from exploitation.

Part I of the Constitution declared Bangladesh as a sovereign unitary People's Republic and defined the state territory, declared "Bengali" to be the state language, declared "Amar Sonar Bangla" a song written and composed by Rabindranath Tagore to be the national anthem, provided for the national flag, the national emblem, the national flower and the national identity.

Part II of the Constitution entitled "Fundamental Principles of State Policy" represent the ideals and objectives to be achieved by the people for a better future. These ideals should be kept in mind by the government while framing laws and interpreting Constitution, though they are not judicially enforceable. This Part contains the four broad principles as defined in the Preamble - nationalism,  
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10. See Preamble to the Bangladesh Constitution.

socialism, democracy and secularism. With regard to nationalism, the unity and solidarity of the Bangalee nation which derives its identity from its language and culture and attained a sovereign and independent Bangladesh through a united and determined struggle in the war of independence would constitute the basis<sup>11</sup>". On the question of socialism, it sought to establish a "socialist economic system with a view to ensuring the attainment of just and egalitarian society free from the exploitation of man by man"<sup>12</sup>. On democracy it said that the "Republic would be a democracy in which fundamental human rights and freedom and respect for the dignity and worth of the human person would be guaranteed and in which effective participation by the people through their elected representatives in administration at all levels would be ensured"<sup>13</sup>. Secularism sought to eliminate (a) communalism in all forms (b) political status in favour of any religion, (c) abuse of religion for political purposes, and (d) any discrimination on the basis of religion<sup>14</sup>.

Part II also contained several other principles which sought to uplift the social, cultural and economic character

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11. Article 9 of the Bangladesh Constitution.

12. Article 10 of the Bangladesh Constitution.

13. Article 11 of the Bangladesh Constitution.

14. Article 12 of the Bangladesh Constitution.

of the citizens. Some of these were the emancipation of peasants and workers from all forms of exploitation, the provision of basic necessities of life, including food, clothing, shelter, education and medical care; right to employment, right to reasonable rest, recreation and leisure and right to social security. The constitution recognised three kinds of ownership state ownership through a nationalised public sector, collective ownership through cooperatives, and private ownership, i.e., ownership by individuals "within such limits as prescribed by Law"<sup>15</sup>.

In this Part, it has also been maintained that the state would adopt effective measures to bring about a radical transformation in the rural areas so as to remove the disparity in the standard of living between the urban and rural areas. Special attention has been given to foster and improve the national language, literature and arts.

Part III of the Constitution contained fundamental rights of the citizens such as "equality before law, equality of opportunity in public employment or office, equal protection of law, right to life and personal liberty, safeguards against arrest or detention, prohibition of forced labour, protection in respect of trial and retrospective punishment, freedom of movement, freedom of assembly, freedom of association, freedom of thought and -----  
15. Article 13 of the Bangladesh Constitution.

conscience and speech, freedom of profession or occupation, freedom of religion, right to property, and protection of home and correspondence"<sup>16</sup>. Article 26 laid down that any law which is inconsistent with the fundamental rights would be declared void. Further, one could approach the Supreme Court for enforcement of these rights under Article 102.

However, there are certain conditions laid down with regard to enjoyment of these rights. Parliament could impose certain conditions in the interests of "the security of the state", or "public interests", or "public order", or "public health", or "decency", or "morality", or "friendly relations with foreign states", and the Supreme Court was to determine whether such restrictions were reasonable or not. But the right to property was so limited that compulsory acquisition, nationalization or requisition of any property, would not be considered void on grounds of its inconsistency with the fundamental rights, if Parliament in such law expressly declared that such provisions was made to give effect to any of the Fundamental Principles of State policy.

Part IV provided that the form of government would be the parliamentary form as found in the U.K. The President who would be a nominal head, will be elected by the Jatiyo Sangsad (Parliament) for a 5 year term, and can be only removed through impeachment by at least 2/3 majority of the -----  
16. Articles 27-43 of the Bangladesh Constitution.



total membership of Parliament. He alone could appoint as Prime Minister any member of Parliament who in his opinion commanded the confidence of the House. In exercise of his other functions, the President was required to "act in accordance with the advice of the Prime Minister"<sup>17</sup>. It was the Prime Minister who constituted the head of government and exercised the "executive power of the Republic"<sup>18</sup>, with enormous powers at his disposal with respect to the cabinet.

The supreme command of the defence services was "vested in the President"<sup>19</sup>. And the notable feature of the constitution was that it was Parliament and not the President, which could declare war and let the country participate in such war.

In order to decentralise the functioning of the government it was provided that the "local government in every administrative unit of the Republic shall be entrusted to bodies, composed of persons elected in accordance with law"<sup>20</sup>. And to this effect it was laid down that such local body would perform within the appropriate administrative unit such functions of administration, economic development

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17. Article 48 : 3 of the Bangladesh Constitution

18. Article 55 : 2 of the Bangladesh Constitution

19. Article 61 of the Bangladesh Constitution

20. Article 59 of the Bangladesh Constitution

and the maintenance of the public order.

Chapter V dealt with the Attorney - General who would be appointed by the President and who was to "perform such duties as may be assigned to him by the President"<sup>21</sup>. The Attorney - General would have the right of audience in all courts in Bangladesh, and shall hold office during the pleasure of the President.

Part V of the Constitution dealt with matters relating to the Legislature. The Parliament or the single - member Jatiyo Sangsad comprised 315 members, of whom 300 would be elected by citizen of 18 years and above, and 15 exclusively from among women to be elected by the elected members (this reservation of seats for women would be for a period of 10 years). It had supremacy over legislative and financial matters<sup>22</sup>. A Bill passed by the Parliament required the assent of the President, but he has no veto power. He could return a Bill (other than a Money Bill) to Parliament for reconsideration, and if it is again passed by Parliament it will become an act irrespective of whether assent was given or not.

Besides, when parliament is not in session or is dissolved, the President can issue ordinances which have the

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21. Article 61 of the Bangladesh Constitution.

22. Article 80 of the Bangladesh Constitution.

effect of law. However, such an ordinance unless repealed earlier, will have to be placed before Parliament within 30 days from the day it was so laid when parliament reassembles.

Part VI dealt with the judicial power with the Supreme Court at the head of the judiciary. The court comprised the Appellate and the High Court, and was "independent in exercise of their judicial functions"<sup>23</sup>. The judge of the Supreme Court would be appointed by the President and hold office upto the age of 62 years. They could be removed only through impeachment "on grounds of proved misbehaviour or incapacity"<sup>24</sup> passed by a majority of two-thirds of the total number of members of Parliament. Judges of the district courts could be appointed by the President on the recommendation of the Supreme Court. The High Court Division of the Supreme Court was empowered to issue writs of habeas corpus, mandamus certiorari, and prohibition so as to enforce the fundamental rights<sup>25</sup>.

However, the Supreme Court could not act over the decision of the Administrative Tribunals that could be established by law with regard to matters relating to terms  
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23. Article 94 (4) of the Bangladesh Constitution

24. Article 96 (2) of the Bangladesh Constitution.

25. Article 102 of the Bangladesh Constitution.

and conditions of persons in the service of the Republic, and the acquisition, administration, management and disposal of any property vested in the government<sup>26</sup>.

Part VIII of the Constitution contained provisions relating to elections. It was provided that there shall be an election commission headed by a Chief Election Commission to conduct elections in a free and fair manner. Any citizen having reached the age of 18 was entitled to cast his vote. However, convicted collaborators were disenfranchised under article 122.

Part VIII dealt with the Comptroller and Auditor-General who would be appointed by the President and hold office until the age of 60 or be impeached in a like manner of a judge of the Supreme Court. His job would be to audit and report the public accounts of the Republic and of all courts of law and all authorities and affairs of the government<sup>27</sup> and the report shall be submitted to the President, who shall cause them to be laid before Parliament.

Part IX of the constitution dealt with the Public Service Commission composed of a chairman and other members appointed by the President whose job would be to conduct tests and examination for the selection of suitable persons

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26. Article 117 of the Bangladesh Constitution.

27. Article 128 (1) of the Bangladesh Constitution.

for appointment to the service of the Republic, to advise the President on any matter on which the commission is consulted, and such other functions as may be provided by law<sup>28</sup>. However, there was no safeguard for the civil servants against arbitrary dismissal by the President at whose pleasure they hold office, for such action was outside the purview of judicial scrutiny.

Part X of the Constitution was related to amendments. It has been laid down that any provision of the Constitution could be amended by 2/3 majority of the total number of members. Once such a Bill for amendment is presented to the President he shall within seven days give his assent, failing which it would be deemed to have been assented on the expiration of the said period<sup>29</sup>.

Part XI contained miscellaneous provisions, such as the list of the laws that were kept beyond judicial review, rules relating to the presidential election, proforma of oaths to be taken by persons elected to important offices of the land and the provisions for a transition to constitutional government.

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28. Article 140 (1) of the Bangladesh Constitution.

29. Article 124 of the Bangladesh Constitution.

### CHAPTER 3

#### CIRCUMSTANCES LEADING TO THE ENACTMENT OF THE 4TH AMENDMENT

The enactment of the Fourth Amendment to the Constitution of Bangladesh was not something that was thought of overnight and enacted the next day. On the contrary, it was owing to the then prevailing circumstances of the day which led Sheikh Mujibur Rahman to take this drastic step. It must be borne in mind that soon after independence the task of nation building that lay before him was enormous. No doubt, he had vast powers at his disposal to run the country, and aid from other countries and institutions like the UN and Red Cross, kept pouring in for the reconstruction of the war - devastated country. However, within a short period of three and a half years situation in the country became so worse that enactments to the Constitution were made so as to equip the government with more powers to deal with the situation which ultimately led to the death of Sheikh Mujib and his family members.

It will be seen in the following lines that the economic condition of the country was not at all stable. In the first two years after independence Bangladesh was somehow able to survive because of the massive relief operation carried on by the United Nations Relief in Bangladesh (UNROB) and other international agencies<sup>1</sup>. During

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1. The Bangladesh Observer, Dacca, March 26, 1974.

the first three years after independence Bangladesh received about 2.5 billions of US \$ of International Aid<sup>2</sup>. However, with the ceasing of UNROB operations on December 31, 1993, the Bangladesh economy began to show strains, for by then the global inflation in 1972 had also affected the Bangladesh economy. Secondly, the domestic economic policy pursued by the Awami League government had also worsened the situation no less. Because of compulsion during the liberation war<sup>3</sup>, the Awami League government, on coming to power, nationalized banks, insurance companies, jute, textile and sugar mills, a major portion of inland and coastal shipping, airways and foreign trade and put a ceiling of Taka 2-5 million on private investment<sup>4</sup>.

In these industries Sheikh Mujib appointed members of his party who knew nothing about economic management or the difference between a socialist and capitalist system. These new managers got rich in no time by smuggling machinery and raw materials to India. While about 85% of the industries

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2. The post-budget statement of Secretary, External Resources Division, The Azad, July 2, 1978.
3. T. Maniruzzamam, "Radical Politics and the Emergence of Bangladesh" in P.R. Brass and M.F. Franda (ed) Radical Politics in South Asia, (Cambridge, The MIT Press, 1973), pp. 223-224.
4. T. Maniruzzamam, "Bangladesh in 1974 : Economic Crisis and Polarisation", in T. Maniruzzamam, (ed), Group Interest and Political Changes, (New Delhi, South Asian Publishers, 1982), p. 127.

and 90% of foreign trade were nationalized, the distribution of imported goods was done through licensed dealers. These licensees were mostly Awami League workers who in turn sold their licenses for a higher price to traders. Such workers also took illegal possession of "abandoned houses" and other properties left behind by the Pakistanis. The large - scale smuggling also drained out 15% of Bangladesh's jute and rice<sup>5</sup> to India. The result of all there was the creation of a nouveau-riche class of compradores having strong influence in the government but who had nothing to do with the forces of production in the country<sup>6</sup>.

As a result, production in the industrial sector declined and exports fell sharply to the point of the economy collapsing. In 1972-73 the Gross Domestic Product (GDP) was 12-14 percent lower, in real term, than the GDP of 1969-70. Given the growth in population, the GDP per capita was as much as one fifth lower than three years earlier<sup>7</sup>. Total food grains production declined from 11.92 million

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5. The Financial Times (London), August 16, 1975.

6. See Badruddin Umar, "On Fake Industries and Dealerships", Holiday, April 29, 1973; "The Anti-state Awami League", Holiday, April 14, 1974; "The Plunders and Capitalists Roaders", Holiday, May 5, 1974; "Production, Distribution, Smuggling and Price Rises in Bangladesh", Holiday, May 12, 1974.

7. See Annual Plan, 1973-74, Planning Commission, Government of the People's Republic of Bangladesh, p. 1.



tons in 1969-70 to 11.48 million tons in 1974-75. The estimated loss of production in the nationalized sector in 1974-75, because of underutilisation of capacity in jute and cotton textiles, sugar, steel, paper and board, fertilizer and chemical industries was a colossal sum of Taka 550 crores. Hyper inflation had hit the consumers the most. Between 1969-70 and December 1974, the consumers price index at Dacca increased over four fold. In 1974-75, export earnings stood at Taka 296 crores as against an import requirement of Taka 971 crores<sup>8</sup>. The massive aid and grants which Bangladesh received were not used judiciously. There was heavy corruption and mishandling of funds and many donor countries insisted on their own arrangements for distribution of relief goods. Even the local Bangladesh Red Cross was subjected to considerable attack<sup>9</sup>. To top it all, the situation was further compounded by the ravages of the monsoon which led to flooding between July and August, 1979. It left a trail of death and destruction and estimates by the Planning Commission have put damage to more than 1 million tons of food grains and 10 to 15 million dollars worth of jute exports.

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8. I.N. Mukherji, "Constitutional Development in Bangladesh", Foreign Affairs Reports, Vol. 24, 1975, p. 163.

9. Bangladesh Times, 13 September, 1975.

The political situation in the country was equally bad. On April 14, 1974, six opposition parties viz, the National Awami Party (Bhashani), Bangla Jatio League, Bangladesh Gono Mukti Union, Bangladesh Communist Party (Leninbadi) Sramik - Krishak Samajbadi Dal, formed the United Front (UF) led by Maulana Bhashani to demand release of political prisoners, rationing of food grains through out the country, eradication of corruption, smuggling and profitering, and the cancellation of "unequal" pacts, especially those with India. A mass meeting was called for 30 June, but a day earlier the police arrested the UF's top leaders, and placed the members under house arrest. This action took the wind out of the sails of the UF. However, it was the radical parties which posed a serious threat to the government. Several political parties adopting radical postures - Jatio Samajtantric Dal (National Socialist Party), Purbo Bangla Sarbohara Party (East Bengal Communist Party), Purbo Banglar Sannobadi Dal - Marxbadi - Leninbadi (Communist Party of East Bengal Marxist-Leninist), Purbo Bangla Communist Party - Marxist, Leninist), East Pakistan Communist Party - Marxist - Leninist - have been trying to bring about a change in the government in Bangladesh through an armed struggle. These parties argued that the 1971 Bangladesh revolution was unfinished. According to them, it was the intervention by the Indian "landlord bourgeois" government

in collusion with "Soviet Social Imperialists" that prevented the Bangladesh revolution from establishing a true "people's democratic republic". Though these parties differed on the question of whether they should be overground or under ground, they were agreed on one point, which was to replace the "puppet government" of the Awami League by a communist party so that a pure socialist state could be established<sup>10</sup>.

These parties indulged in sabotaging communications, killing the leaders and workers of the Awami League and other "enemies of the revolution". They also looted the houses of the big farmers and distributed rice or paddy among the landless people. Between June and November 1973, there were armed attacks on 52 thanas and police stations<sup>11</sup>, with the districts of Dacca, Barisal, Kushtia and Rajshahi effected the most. The regime at first branded these attacks as the work of "ultra-leftists" and "Naxalites", but later called them the work of "miscreants"<sup>12</sup>.

The government's response was to initiate strong

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10. For detailed study of the various revolutionary parties in Bangladesh, see T. Maniruzzaman, "Bangladesh : An Unfinished Revolution"? Journal of Asian Studies, Vol. 34, No. 4, August 1975 pp. 891-911.

11. The Ittefaq, (Dacca), November 30, 1973.

12. Raunaq Jahan, "Bangladesh in 1973 : Management of Factional Politics", Asian Survey, Vol. 14, No. 2, February 1974, p. 133.

measures and arrest the leaders and workers of such revolutionary parties. Section 144 of Criminal Procedure Code was imposed which prohibited the gathering of more than four persons. In September 1973 the second amendment to the Constitution was passed by Parliament which provided for the inclusion of emergency provisions in the Constitution. By this amendment the President was empowered to declare a state of emergency if he is satisfied that "a grave emergency exists in which the security or economic life of Bangladesh ... is threatened by war or external aggression or internal disturbances"<sup>13</sup>. The Jatio Rakkhi Bahini (National Security Force) which was set up after the liberation war and comprised of former members of Mijib Bahini, Kader Bahini, Mukti Bahini and other organisations affiliated to the Awami League was given wide - ranging powers to arrest any person or search anybody's house without showing any cause with no powers of appeal against their actions. The government also enacted Special Powers Act in February 1974 providing for preventive detention and the banning of political parties if their activities are considered prejudicial to national interests. Persons engaged in hoarding, black marketing, sabotage, printing, possessing or distributing any "prejudicial report" shall be tried by -----

13. See Badruddin Umar, "The Political Significance of the Emergency Provisions", Holiday, September 23, 1973.

Special Tribunals with no provision for appeal.

In early August 1974 the government issued the News Print Control Order, under which the government would fix the quota of newsprint for each paper. Several attempts were made to close down the newspapers and weeklies belonging to the opposition - Ganakantha, Holiday, Wave and Desh Bangla.

As if these problems were not enough, Sheikh Mujib had also to contend with factional politics in the Awami League. "Factional tension in the Awami League, already visible in 1972, became acute in 1973. An acceptable successor to Sheikh Mujibur Rahman as the party chief could not be found and Awami League council session was postponed a number of times to avoid an open split in the party"<sup>14</sup>.

There was factionalism in the Awami League over the question of whether the country should follow pure socialism or a mixed economy. There was this group led by Finance Minister Tajuddin Ahmed, who was opposed to acceptance of any aid from the "imperialist nations" and wanted to follow strictly the socialist pattern. On the other hand, there was another group led by Industries Minister, Khandokhar Mushtaque Ahmed, who wanted to follow the mixed pattern. "This ambiguity among the party leadership was reflected in the constitution, as socialism was introduced as a general

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14. Raunaq Jahan, op. cit, p. 129.

principle only, without any clear guidelines as to how to implement it or to the ultimate role of the public sector"<sup>15</sup>.

There was factionalism among the younger cadres as well. Abdur Razzak, Organising Secretary of the Awami League, and Tofael Ahmed, Political Secretary of the Prime Minister, led one group while Sheikh Fazlul Haq Moni, Chairman of the Awami Youth League and nephew of the Prime Minister led another. The former group launched their tirade against the corrupt elements and threatened to expel such elements that tried to undermine the unity of the Awami League, while the latter group professed loyalty only to the Prime Minister, Sheikh Mujibur Rohman. Clashes between the two factions aggravated so much so that Sheikh Mujib in a statement admitted that over 3,000 leaders and workers including five M.Ps. of the Awami League fell victim to secret killings<sup>16</sup>. "The crisis within the Awami League camp became aggravated as Finance Minister Tajuddin Ahmad urged publicly the convening of an all - party conference to solve the food crisis, and admitted frankly that government

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15. Nurul Islam, Development Planning in Bangladesh. A Study in Political Economy, London, 1977, pp. 26-27, 220-222.

16. Raunaq Jahan, "Members of Parliament in Bangladesh", Legislative Studies Quaterly, Vol. 1, No. 3, August 1976, p. 364.

policies were responsible for the famine in Bangladesh"<sup>17</sup>. And it came as no surprise when on 26 October, 1974 Tajuddin Ahmad submitted his resignation papers at the behest of Sheikh Mujibur Rahman "for the sake of national interests"<sup>18</sup>. To overcome this factionalism which led to ineffectiveness, the Awami League formed an alliance with the less radical parties such as the National Awami Party (Muzaffar) and the pro-soviet Bangladesh Communist Party. This alliance came to be known as Gono Oikya Jote (Popular United Front), and a Central Committee was also formed. The aim of the alliance was to fight the radical parties at the political level and to prevent the "criminal activities of the anti-state elements and help improve the law and order situation in the country"<sup>19</sup>, but never succeeded at all.

Factionalism was felt in the administration, as well. There was intense rivalry between the "Mujibnagar" and "non-Mujibnagar" administrators. Those civil servants who escaped to India and worked in the government-in-exile were known as the "Mujibnagar" administrators. They claimed they were the true patriots and regarded those who worked in the occupied

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17. T. Maniruzzaman, op. cit, p. 135.

18. The Bangladesh Observer, October 27, 1974.

19. Emajuddin Ahmed, "Dominant Bureaucratic Elites in Bangladesh", The Indian Political Science Review, No. 13, (January 1979), pp. 41-43.

territory as no more than collaborators. Another faction arose when those working in Pakistan were repatriated. The constant struggle for positions among the three factions due to their rivalry adversely affected the efficiency of the civil services. Besides, the Presidential Order No. 9 by which any civil servant could be dismissed in the "interests of the People's Republic of Bangladesh" affected the morale of the services.

The army did not escape the politics of factionalism either. There was intense conflict between those forces repatriated from Pakistan and those that took part in the liberation war. Those senior officers who were repatriated from Pakistan were either retired without pension or were placed under insignificant position<sup>20</sup> or were placed under officers who were junior to them in the Pakistan army but who had received promotion because of their participation in the liberation war. There was also rivalry between the regular army unit and the Jatio Rakkhi Bahini (National Security Force), a para-military unit under the exclusive control of the Prime Minister which was being better armed and organised at the expense of the former.

With corruption, confusion and lawlessness prevailing allround and the regime of Sheikh Mujibur Rahman spending more time in "managing factional conflicts in the party and -----  
20. Raunaq Jahan, op. cit, see footnote, p.130.



the administration"<sup>21</sup>, the President, by an ordinance on December 28, 1974, proclaimed a State of Emergency "in view of the grave situation created by hostile elements acting in collusion with the collaborators of the Pakistan Army, extremists and enemy agents in the pay of foreign powers", and the enjoyment of fundamental rights was suspended for an indefinite period. Preventive detention could be carried out in case of prejudicial activities, social crimes such as smuggling, hoarding, black marketeering, illegal possession of arms, counterfeiting, sabotaging, adulteration, corruption etc. and lastly, the government could make rules restricting and regulating press reports and press freedom etc. "Opinion was now recirculated that the existing system was not the right kind to achieve the goals Mujib had promised to the people"<sup>22</sup>. These goals, viz, Nationalism, Secularism, Socialism and Democracy, known as Mujibism (or Mujibbad in Bengali) "was nothing more than a 'cult of persnality' and it could neither save the Bangabandhu from himself or his intimates, nor raise Bangladesh from the degradation of its lost revolution. The government and the Awami League spent huge sums of money promoting 'Mujibism' as a new philosophy and a foundation upon which to rest the

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21. Raunaq Jahan, op. cit, p. 125.

22. Moudud Ahmad, Bangladesh : Era of Sheikh Mujibur Rahman, University Press Ltd., Dhaka, 1983, p. 231.

future of the nation. 'Mujibism', however, proved to be shifting sand and the republic was ill-served by those invoking its nebulous power"<sup>23</sup>.

It was on the basis of Nationalism that a separate independent nation-state was sought to be created, as opposed to Pakistan which was founded on the basis of religion. Nationalism manifested in the form of the intense love the people had for Bengali culture and tradition.

However, "nationalism had been largely undermined during Mujib's own reign"<sup>24</sup>. A good number of Razakhars (Pakistani irregulars) were released so as to placate the left wing opponents of the regime. Important posts in the administration and the army were given to persons close to the Pakistani dictators. For instance, A.M. Choudhary, the former military adviser to Yahya Khan, was appointed as the Vice-Chancellor of Dacca University. It was also decided to repay one-third of the total foreign debt to Pakistan. The announcement of a new foreign investment policy even in private sector was another instance of the backtracking of the 'nationalist' policy.

Secularism also became an important feature of the new

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23. Lawrence Ziring, Bangladesh-From Mujib to Ershad : An Interpretative Study, Oxford University Press, Karachi, 1992, p. 94.

24. G.K. Mathieu, "Palace Revolution Continued", EPW, April 24, 1976, p. 623.

Constitution of Bangladesh, whereby equal treatment was given to all religions in public affairs. Here, too, in course of time, a change came about, and owing to the need for a reassertion of identity, the people of Bangladesh began to identify themselves as Bengali Muslims to set them apart from Indian (Hindu) Bengalis.

Socialism in terms of the Awami League's programme was something of a recent happening. In the late sixties the Awami League spearheaded the nationalist movement on the basis of the Six-Point Programme which did not mention socialism as such, but talked of redistribution of resources between East and West Pakistan. It was in 1969 that socialism was included in the programme of the Awami League when it accepted the Student Action Committee's Eleven Point demands. This was a shrewd move on the part of the Sheikh Mujib so as to remain in control of the movement, and "as long as these did not prove inimical to his party interests"<sup>25</sup>.

Democracy constituted one of the anchors of the new ship of the state of Bangladesh whereby every citizen would have an equal say in the governance of the country. But as Raunaq Jahan has noted, "the nationalist elite became  
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25. Rehman Sobhan, "Sheikh Mujibur Rahaman and the Contradiction of Bourgeois Society in Bangladesh", in A.G. Chowdhary, ed. Sheikh Mujib. A Commemorative Anthology, London, 1977, p. 46.

committed to the model of parliamentary democracy because the promise of increased participation was a powerful slogan to mobilize mass support behind the nationalist movement. But, this commitment was eroded as increased participation not only resulted in greater demands on the system, it also meant that nationalist elite could be replaced by alternative leadership. Power, which was a means to an end with the nationalist elite before independence, became an end in itself after independence"<sup>26</sup>. Therefore, inspite of the difficulties in the realisation of Mujibism, "the leadership was forced to meet the expectations which had been generated owing to increased political awareness arising out of long period of political mobilization, and to honour the pledges made to the people during the election in 1970"<sup>27</sup>.

The Proclamation of Emergency was soon after followed by the enactment of Constitution (Fourth) Amendment Act on 25 January 1975. This Act provided for a presidential form of government replacing the parliamentary form, a one-party system, a re-organized administrative structure, compulsory multi-purpose village level co-operatives and controlled

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26. Raunaq Jahan, Bangladesh Politics : Problems and Issues, Dhaka, Dhaka University Press, 1980, p. 95.

27. Kirsten Westergaard, State and Rural Society in Bangladesh, London, Curzon Press Ltd. 1985, pp. 72-3.

civil liberties. In enacting this amendment, Sheikh Mujibur Rahman termed it his "second revolution" which would ensure democracy of the "sarboharas" (have-nots). Lewis Simons of The Guardian (London) dated 23 January 1975 reported that a major reason would be to enable Sheikh Mujib to bring in people who are not members of the Awami League into the cabinet. By infusing fresh blood into the government, Mujib hoped to appease major aid-giving countries which have begun to take serious exception to the level of corruption. Many informed Bengalis appear to consider this a good thing. "There has been a total lack of discipline in this country", the editor of a major Bengali-language daily paper said. "As long as its Mujib holding the reigns of power, and no one else, this could be the best thing that's happened to Bangladesh"

Sheikh Mujibur Rahman was certainly aware of the chaotic condition described above. Mascarenhas quoted Sheikh Mujibur Rahman on this point : "who takes bribes ? Who indulges in smuggling ? Who becomes a foreign agent? Who transfers money abroad ? Who resort to hoarding ? Its being done by us - the five percent of the people who are educated. We are the bribe takers, the corrupt elements ... It seems society is worm - infested"<sup>28</sup>. Having then known

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28. Anthony Mascarenhas, Bangladesh : A Legacy of Blood, London, Hodder and Stoughton, 1986, p. 28.

who was behind all the illegal activities, the only way out was corrective measures but he lacked the willingness and capacity to act.

Sheikh Mujib who has always prided himself on being a being a fighter against authoritarianism should have known that there are democratic as well as undemocratic methods of meeting a desperate political situation and that it is the democratic methods that prove superior in the end. He did not lack the necessary powers to be able to face a contingency. The emergency powers he recently acquired meant over-riding authority to deal with both subversive and anti-social elements. Under these powers he could circumvent normal procedures in dealing effectively with graft, smuggling and administrative bungling. The problems that the Dacca administration in faced with are undoubtedly formidable. But what was needed to solve them was not a wholesale repudiation of the democratic system, which was yet to be given a fair trial, but "the assertion of leadership and the mobilisation of the people on the basis of a programme that could capture their imagination"<sup>29</sup>. Political and bureaucratic mismanagement and its consequences are sought to be presented as the work of an "international clique", a plea least likely to convince

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29. The Dawn (Karachi), 28 January 1975.

anyone at home or abroad. The more sensible approach would have been to tackle the country's problems at their source - by ridding the administrative and the ruling party of all corrupt elements. But this was precisely Sheikh Mujib's shortcoming. His lack of administrative experience (having served for less than a year as Minister in the Awami League - led government in East Pakistan in 1956-57) was not balanced by deep intellectual conviction or knowledge about problems. Though articulate and capable of stirring his audience, he neither had the eloquence nor the nobility associated with statesmanship. He was popular but not charismatic. He was guided more by his political instincts than anything else. "Without wishing to denigrate his memory, it could be argued that he was the perfect demagogue"<sup>30</sup>.

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30. Lawrence Ziring, *op.cit*, p. 79.

## CHAPTER 4

### FUNCTIONING OF THE FOURTH AMENDMENT

On January 25, 1975, Sheikh Mujibur Rahman introduced an amendment Bill called the Constitution (Fourth Amendment) Bill which was passed within two hours of its introduction. Prior to this development, earlier on December 28, 1974, President Mohammadullah, on the advice of the Prime Minister, Sheikh Mujibur Rahman, issued a decree proclaiming a state of emergency "in view of the grave situation created by hostile elements acting in collusion with the collaborators of Pakistan Army, extremists and enemy agents in the pay of foreign powers"<sup>1</sup>.

Immediately after the proclamation of emergency, all fundamental rights conferred by the Constitution stood suspended for an indefinite period of time. The government sources claimed that the emergency was necessary to ensure public safety, security of the country and maintenance of essential supplies. The Awami League leaders pointed out to the near chaotic situation prevailing in the country with the frequent acts of murder, mayhem, sabotage and violence indulged into by the anti-social elements. The proclamation empowered the government to ban lockouts and hartals, impose censorship for the press, and also suspend the functioning

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1. As said by a Home Ministry Spokesman on the promulgation of emergency.



of the political parties, clubs and trade unions. Death penalty was prescribed for the hoarders, smugglers and blackmarketeers.

In introducing the constitutional change, Sheikh Mujib declared that the present form of Indian model of parliamentary democracy, with a single dominant party<sup>2</sup> was inadequate to meet the goals set out by the Constitution. He said, "The system we find today is the British colonial system... That is the system of the colonialists ... to exploit the country. I want to smash the moth-eaten legal system and create a new one ... This new system of mine is the revolution"<sup>3</sup>. He further said, "We have been compelled to change our Constitution so as to introduce basic changes in the country in order to realize the goals which had been laid down in the Constitution - to establish democracy for the working and exploited masses"<sup>4</sup>. To him, it was the "vestiges of the colonial past of Bangladesh" which prevented Bangladesh from realizing the aims of "Mujibism"<sup>5</sup>, and hence, this constitutional change which has been termed

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2. Raunaq Jahan, Bangladesh Politics : Problems and Issues, University Press Ltd., Dhaka, 1980, p. 97.

3. The Bangladesh Observer, (Dhaka), June 21, 1975.

4. Pravda, (Moscow), August 17, 1975.

5. The Four Principles of State Policy-Nationalism, Socialism, Democracy and Secularism.

as his "second revolution"<sup>6</sup>.

The unseemly haste in which the entire switchover from the parliamentary to the presidential system was conducted raised many eyebrows in the country and abroad, and Mujib's credentials as a democrat suffered a blow on account of the changeover. The Fourth Amendment led to drastic changes of the various institutions as a result of which many were undermined.

#### THE PRESIDENT

Having switched over from a parliamentary to a presidential form of government and "the entire Chapter I relating to the President and Chapter II relating to the Prime Minister and the cabinet under Part IV substituted by new provisions"<sup>7</sup>, the President became the Chief Executive of the state who was to be elected by the people in a direct election<sup>8</sup> for a term of 5 years though implicit in the provision was the understanding that he could hold office for an unlimited number of terms. Earlier, it was the Prime Minister who exercised executive power as long as he enjoyed the confidence of Parliament, and the President was merely a titular head elected by members of Parliament.

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6. Mujib claimed that the measure was in consonance with true democracy and asserted that it was necessary for the emancipation of the exploited masses.

7. Moudud Ahamed, Bangladesh : Era of Sheikh Mujibur Rahman, University Press Ltd., Dhaka, 1983, p. 235.

8. Article 48 of the Bangladesh Constitution.

The impeachment procedure for the President was the same except that (i) members required to sign the notice of impeachment motion was raised to two-thirds from one-third and (ii) the resolution after consideration of charges was to be passed by not less than three-fourths instead of two-thirds as was required earlier. Likewise, the number of votes required to initiate a motion and to pass the resolution in order for the President's removal on grounds of physical incapacity was raised to two-thirds and three-fourths respectively as opposed to the earlier need for a majority and two-thirds.

#### **THE VICE-PRESIDENT**

The Act created the new post of a Vice-President to be appointed by the President<sup>9</sup> whose qualifications would be the same as that of the President<sup>10</sup>. He would be appointed for a term of 5 years<sup>11</sup>, but could be removed by the President earlier or at any time. Alongwith the President, the Vice-President enjoyed immunity from criminal proceedings<sup>12</sup>, and was to discharge his duties as assigned by the President. Also, he was to function as President if

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9. Article 49 of the Bangladesh Constitution.

10. Article 50 of the Bangladesh Constitution.

11. Article 51 of the Bangladesh Constitution.

12. Article 52 of the Bangladesh Constitution.

any vacancy occurred or if the present incumbent could not discharge his duties due to illness or absence.

#### THE COUNCIL OF MINISTERS

The amendment created the Council of Ministers to "aid and advise the President in the exercise of his functions", which meant that the ministers, including the Prime minister, were to be appointed by the President and hold office during his pleasure. They could even be appointed from outside the parliament; and were responsible to the President and not to parliament. Meetings of the council of ministers were to be presided over by the President but he could direct the Vice-President or the Prime Minister to preside over such meetings<sup>13</sup>.

#### LOCAL ADMINISTRATION

Chapter III of Part IV of the Constitution dealt with decentralisation of power with units of local government empowered to deal with public order and implementation of plans for economic development. However, this entire chapter was deleted<sup>14</sup> in keeping with the centralising tendency of -----  
13. Article 58 of the Bangladesh Constitution.

14. See para 2 alongwith Article 11 of the Constitution. The amendment envisaged turning a democratic into a one-party monolithic one, omitting or incorporating provisions to suit the new arrangement. in Part II where fundamental principles of state policy were laid down Article 11 contemplated that people would effectively participate through their elected representatives in the administration at all levels in order to ensure a truly democratic system. Article 11 was amended by para 2 of the new Act to omit the democratic aspect of the article.

the new government.

### PARLIAMENT

The original Constitution made Parliament the supreme law - making body of the land, and controller of the financial purse. The executive was responsible to it; and no part of the Constitution could be changed or amended without the consent of two-thirds of the members.

The amendment, however, made Parliament lose much of its powers and reduced it to a mere rubber-stamp body. Control over the executive was lost as the latter was now responsible to the President. President would summon and prorogue Parliament and dissolve it at will. President would have absolute power of vetoing any Bill other than a constitutional amendment Bill passed by Parliament<sup>15</sup>.

Parliamentary sessions were reduced to only two in a year thereby reducing its role, whereas in the original constitution it was envisaged that the intervening period between two sessions of Parliament would not exceed 60 days.

Article 70 of the original Constitution laid down that a member of Parliament stands to lose his seat if he resigned from the party which nominated him as a candidate or if he voted against that party. By the amendment, it was further laid down that abstention or ignoring the directives

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15. See para 2 of the Fourth Amendment and Article 80 of the Constitution.

of the party would also lead to forfeiting one's seat<sup>16</sup>. The power to appoint standing committees, an important function of Parliament, was also omitted, thereby further reducing the effectiveness of Parliament.

#### JUDICIARY

Even the institution of the judiciary did not escape the attention of Sheikh Mujibur Rahman and his followers. The President, by this amendment, now possessed full authority to appoint judges including the Chief Justice in his discretion and remove them on grounds of proved misbehaviour or incapacity. Appointments to the subordinate courts, likewise, was now exercised by the President according to rules made by him. "Thus the authority of the Supreme Court for making appointments to district and subordinate courts was taken away and the mandatory qualifications was not taken into consideration for appointment of district judges and other persons to exercise judicial function"<sup>17</sup>. Moreover, the power to control and discipline persons employed in the judicial service now vested in the President. The amendment by a new Article 116 A provided that persons in the subordinate courts "shall be independent in the exercise of their judicial functions".

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16. By making this amendment the provision was made more rigid to debar members from raising any voice against the party

17. Moudud Ahmad, op. cit, p. 239.

"But in the light of all the changes made in respect of the judiciary as a whole it was seriously doubted how much the judicial officers could be independent in the exercise of their functions"<sup>18</sup>.

The original Constitution under Article 44 guaranteed the right to move the Supreme Court for the enforcement of fundamental rights. But this article was amended to provide for "a Constitutional Court, tribunal or commission" which was to be established by Parliament for the enforcement of fundamental rights. The Supreme Court, however, retained its power to issue writs. Moreover, the power of the court to grant interim orders was with-drawn, in addition to the withdrawal of the High Court Division's power of Superintendence and control over all 'tribunals' subordinate to it except the subordinate courts.

#### **THE NATIONAL PARTY**

The amendment led to the adding of a new Part VI A which read alongwith Article 117 A made for the creation of a new National Party named Bangladesh Krishak Sramik Awami League (BAKSAL) or the Peasants and Workers Party of the Awami League of Bangladesh. In reality, however, it was the President who in his discretion would create this new party and determine all matters with regard to the nomenclature, programme, membership, organization, discipline, finance and

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18. Ibid. p. 239.

its functions, with the supposed aim of giving effect to any of the fundamental principles of state policy as set out in Part II of the Constitution.

The ideas enshrined for the Party were that it would strive for the implementation of the four main objectives of the Constitution, that is, Nationalism, Socialism, Secularism and Democracy. It called for the establishment of a society free from exploitation, improvement of the standards of living of people and generation of more employment. In the foreign policy arena, it stood for non-alignment and supported movements against racialism and colonialism .

With the creation of this Party, all other parties would stand dissolved, and members of Parliament would have to compulsorily join this Party or else loose the seat. It became the sole prerogative of this Party to nominate candidates for election as President or a member of Parliament. Besides, no one would have any right to form a political party or be a member or take part in the activities of such a political party other than the National Party. Further, provision was made by which officials of the Republic, civil or military, were eligible for membership in the National Party which in other words meant that officials could now take part in politics.

The National Party which came into being on 24 February



1975, proclaimed "democratic procedure" as its basic organisational principle, "but in effect the emphasis was on centralization rather than democracy within the Party"<sup>19</sup>. It comprised three organs, viz, the Executive Committee(EC), the Central Committee (CC), and the Party Council. The chairman of the Party who was the President of the country was also the Chairman of these three Party organs. The highest executive power was vested in the EC which comprised of 15 members nominated by the Chairman and was responsible to him. Infact, the CC and the Party Council were also partly nominated by the Chairman, and were designed to be merely deliberative bodies. Also, the parliamentary party, the constituent organizations of BAKSAL such as the peasant, labour, student, youth and women fronts and the District Committees were all responsible to the EC. The Discipline Sub-Committee and the Parliamentary Board were also appointed by and responsible to the Chairman<sup>20</sup>.

The CC comprised of 115 members and most of its members were erstwhile members of the Awami League and from various sections of the society including the armed forces and the -----

19. A. F. Huq, "Constitutional Development (1972-1982)", in S.R. Chakravarty and Virendra Narain (ed). Bangladesh : Domestic Politics Vol. 2, South Asian Publishers, New Delhi, 1986, p. 59.

20. See text of the Constitution of the National Party in The Bangladesh Gazettee Extraordinary, June 7, 1975.

intelligentsia<sup>21</sup>. Even members from the National Awami Party (Muzaffar), the Communist Party of Bangladesh and the leader of opposition in Parliament, Aaur Rahman Khan, also found a place in the CC. However, "there was not a single worker or peasant among the members of the Central Committee of the Party"<sup>22</sup>.

The highest party organ was the Party Council which was meet once in every two years. In between such periods it was the CC which met in a plenum not less frequently than twice a year. It was the CC which was responsible for providing political leadership and observing the principles and constitution of the Party. It was also responsible for exercising control on the activities of the government and social organizations. However, it was Sheikh Mujibur Rahman who had the final say in all matters concerning the party and the government. "The far-reaching rights given to him by the Constitution as President of the Party, along with the practically unlimited authority as President of the country considerably strengthened the regime of personal power enjoyed by Mujibur Rahman"<sup>23</sup>.

Mujib made repeated appeals to all the political parties to join the BAKSAL. However, the radical parties

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21. The Bangladesh Observer, (Dhaka), June 7, 1975.

22. V.P. Puchkov, Political Development of Bangladesh 1971-1985, Patriot Publishers, New Delhi, 1989, p. 88.

23. *Ibid*, p. 88-89.

like the Purbo Bangla Sarbohara Party (East Bengal Communist Party), the Purbo Bangla Sammobadi Dal - Marxbadi, Leninbadi, the East Pakistan Communist Party - Marxist-Leninist, the Bangladesh Communist Party (Leninist) etc. refused to join the BAKSAL. The Moscow supporters hailed the formation of the BAKSAL but even amongst them not many were taken in the Central Committee as found in the preceeding lines.

Many Bangladeshis and observers of Bangladesh very soon realised the implications of the draconian measures. With dismay and anger they watched Mujib transformed from a democrat to a dictator. The constitutional parties like the National Awami Party of both factions could do little in mobilising people as they themselves had to contend with factionalism in their ranks. Situation in the country did not improve and the fact remained that there was no scope for dissent in a democratic way.

The National Party of Sheikh Mujibur Rahman professed certain programmes which may be put down below :

(i) It was envisaged to have a compulsory multi-purpose co-operatives in every village. Each co-operative would comprise about 500 to 1000 families and would stand for the economic unit of the nation. Here, ownership of the land would not be taken over , and the produce would be shared among the owner, the local co-operative and the government.

The unemployed and the landless people, specially the youth would stand to gain from this system as they would now be able realise their potential. However, sensing the resistance of the middle farmers who grew suspicious of the co-operative scheme and reluctant to join it, he went slow on this policy and started with a smaller number of co-operatives (70 to 80 for the whole country) on an experimental basis.

(ii) An administrative council at the thana level comprising representatives from the BAKSAL, youth, females, workers, farmers and government officials also was envisaged to be headed by a Governor. However, this council was to start functioning a year after the District Administrative Councils start functioning.

(iii) 61 new districts were created out of the existing 19, and in these districts a new Administrative Council comprising of representatives from the people, from BAKSAL, from Parliament and from the government to be headed by the Governor was envisaged. He was responsible for development and planning, law and order, and general administration of the district. This Council was to function under the overall control of the central government.

(iv) In order to effect speedier administration of justice, tribunals or courts were sought to be set up at the thana level.

(v) A 'people-oriented' administrative system which would respond more effectively to the needs and grievances of the populace was sought to be effected.

(vi) In order to forge national unity at all levels he wanted to bring together people from different walks of life so that the best talents would be used for the advancement of the nation.

(vii) A new system of education was sought to be introduced.

(viii) Corruption was sought to be eliminated, and for this those who were occupying important public offices would have to set examples of honesty, dedication and incorruptibility.

(ix) The 'Second Revolution' of Sheikh Mujib with its emphasis on (a) building up of a self-reliant economy by boosting production in the field and factory (b) controlling the population boom, (c) weeding out corruption and (d) unity of Bengali nation, was not an end in itself but a means to realise the above objectives<sup>24</sup>.

Nonetheless, what was lacking in Sheikh Mujib's programme was of cohesion and consistency. In spite of the high-sounding objectives he failed to provide the methodology to achieve them. In the main, "these so-called programmes were more of emotion, anger, frustration, than any concrete philosophy"<sup>25</sup>.

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24. Holiday (Dhaka), March 16, 1975.

25. Moudud Ahmad, op. cit, p. 247.

## CHAPTER 5

### CONCLUSION

Sheikh Mujib, an avowed believer in constitutional politics, opted for the westminster model of parliamentary form of government, but the character, goals and policies of the government established at the end of the Liberation War led to the undermining of his credentials as a constitutionalist. It must be borne in mind that western democracy stood for civil and political rights, and debate rather than force and a particular social setting for its success. However, Bangladesh on her independence was a country with her economy ravaged and the administrative fabric shattered. By Presidential Decrees the new Awami League government nationalised industries, foreign trade, banks, insurance companies, shipping, airways, took over 60,000 abandoned houses and put a ceiling of TK. 2.5 million on private investment. Under Presidential Order No. 9 about 6,000 government employees were dismissed or removed with no right to appeal "in the interests of the People's Republic of Bangladesh". Further, the government banned the right-wing parties and put into custody a large number of 'collaborators' on charges of collaboration with the Pakistan army. These measures, though needed, were no doubt at variance with the normal practice of a parliamentary

democracy. The other option of going in for a national government comprising of various social and political groups would not have solved the problems but led to a weak government unsuitable for a society to be rebuilt on a definite political ideology<sup>1</sup>.

Conditions that prevailed in Bangladesh after the liberation, however, went from bad to worse. Sheikh Mujib's nationalisation measures failed due to mismanagement and corruption, inefficient management of state affairs, rampant corruption and immoral practices among his party workers and relatives. With soaring inflation, unequal share of austerity, anarchy and political killings, factionalism in the Awami League, the army, the bureaucracy, armed opposition to his regime - all these alienated the bulk of the population from his government<sup>2</sup>. Thus, he created a new political structure to replace the loose westminster type of democracy. It was a last desperate effort to reverse a trend hw himself had allowed to develop<sup>3</sup>.

That new political structure was the single party presidential form of government which he brought about by

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1. Azizul Haque, "Politics in Bangladesh : Conflict and Confusion", Foreign Affairs Reports, (Indian Council of World Affairs, New Delhi), Vol.35, No.1, January 1986, p. 5.
  2. Ibid.
  3. K. Bhaumik, "Mujibur Rahman - Where He Faltered", World Focus, (New Delhi), Vol. 3, No. 7, July 1982, p. 10.

the enactment of the Fourth Amendment. By changing the form of government Sheikh Mujib wanted to bring out the country from the growing chaotic and disorderly condition. Being an ardent constitutionalist and a champion of liberty and rights he had only sought to consolidate the gains of the war of liberation which were achieved after a great deal of struggle and sacrifice. Democracy, Nationalism, Secularism and Socialism - these were the four principles (or Mujibism) by which he had sought to guide the ship of the state in its new uncharted course. In his address to the Parliament on January 1975 he asserted that the Constitution was changed in order to establish "the economic freedom of the masses in an exploitation - free society and to establish socialism and democracy of the exploited". He said as much in Parliament that as Prime Minister he enjoyed wide powers, but a fundamental change was necessary "in order to create a healthy administration where people would be able to sleep peacefully and would be free from injustice and repression".

That Mujib meant well for his country and his people could be gauged from the following points : he was critical (i) of the existing bureaucratic system of administration, and was in favour of a change which would be more responsive to the people, (ii) of the lawlessness, chaos etc. that was going on in the country, and the clandestine role of the underground groups



who had free possession of arms,  
(iii) of the worsening economic situation leading to famine,  
(iv) of the educated class who were not ready to do anything for the masses,  
(v) of the high degree of corruption in the administration,  
(vi) of the judicial system which needed to be freed from its colonial legacy,  
(vii) of the smuggling, hoarding, black-marketeering and profiteering that was going on.

These ills which were eating into this socio-political life could be removed only by changing the system. And when he did change the system, at once a fear psychosis set in among the people. This was understandable because the people had suffered a lot under the Pakistani rulers under the guise of a presidential form of government. Their understanding of democracy was that there ought to be parliamentary form of government with the prime minister at the head of a council of minister to govern the country, and who are elected directly by the people on the basis of adult franchise; a multi-party system whereby there exists one or more political parties who contest the elections so as to capture power and govern according to their manifestoes; an independent judiciary whose job would be to interpret the constitution, safeguard the rights of the individual and to deliver justice; a free press whose job would be to keep the

public informed by dissemination of ideas, news, information so that the public could form opinions on issues of importance etc. In other words, these were the very issues on which the people of Bangladesh had fought against the autocratic rulers of Pakistan.

In trying to justify his act, Sheikh Mujib referred to the pressures from outside the government, namely, the underground communist parties. The various acts of political terrorism had resulted in the murder of thousands of his party workers including four members of parliament<sup>4</sup>. This rising tide of violence led to an atmosphere of terror, and the practice of constitutional politics was seriously hampered. His own party members were demanding his permission to use violent means against the opposition. Parliamentary democracy was degenerating into a 'free style', free-for-all democracy and he had to put a stop to it<sup>5</sup>.

Sheikh Mujib curiously enough, never talked of the internal pressures from Sheikh Moni (his nephew) and his group who advocated the "second revolution". This group had advocated Mujib's personal rule, and the establishment of a  
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4. The Statesman Weekly (Calcutta), December 21, 1974.

5. R. Jahan, Bangladesh Politics : Problems & Issues, University Press Ltd., Dhaka, 1980, p. 120.

stronger system by threatening to purge the Awami League of corrupt elements<sup>6</sup>. And in the words of Raunaq Jahan, it was the internal pressures which proved decisive in eroding the regime's support from the parliamentary model<sup>7</sup>.

Nonetheless, whether it was the external or internal pressures which proved decisive, Sheikh Mujib changed the political system. But his "second revolution" did not bring about any radical change. The new government comprised more or less the same people from the previous regime. BAKSAL was very much made up of erstwhile Awami Leaguers. Infact, the new model was being put into operation by the same old leadership with the same factional cleavages and the same style<sup>8</sup>. Sheikh Mujib failed to realize that his regime's failure to implement the policies and non-performance was due to his own party members with their factional fights which led to incoherent and contradictory policies.

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6. Before the 1973 election, Sheikh Moni and Mannan threatened that upon Mujib's order they would launch a purification campaign to cleanse the administration, party and the country of unpatriotic and corrupt elements. After the election they waited for Mujib's directives which did not come through. Purification campaign was started anyway and Mannan "arrested" Ahmad Fazlur Rahman, a businessman and Awami League supporter and brought him for questioning. Fazlur Rahman was released when Sheikh Mujib intervened personally. That Mannan, an Awami League leader would "arrest" a person without going through the due process of law and that no action would be taken against him was an indication of the weakness of the constitutional system.

7. R. Jahan, op. cit, p. 21.

8. Ibid, p.123.

On the contrary, as mentioned earlier, what was needed was not the repudiation of the democratic system which was yet to be given a fair trial, but the assertion of leadership and mobilization of the people on the basis of a programme that could capture their imagination. Infact, he did not lack the necessary powers to deal with the situation. The more sensible approach would have been to tackle the country's problems at their source - by ridding the administration and the party of all corrupt elements<sup>9</sup>. But such a thing did not happen. Instead, when the people found that issues which were dear to them were forcibly taken away from them, they reacted against him, and ultimately led to his assassination on August 15, 1975.

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9. The Dawn (Karachi), January 28, 1975.

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