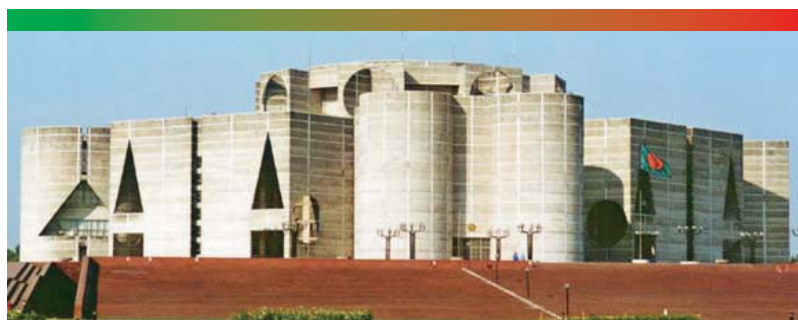


CPD-CMI Policy Brief

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The Parliament of Bangladesh Challenges and Way Forward*

In the forty years since independence Bangladesh has rotated between electoral democracy and military rule, and between a parliamentary and presidential system of government. The frequent systemic changes have hindered the institutionalisation of democracy and adversely affected the development of an effective parliament. In recent years there have been some positive developments. Elections are being held more regularly and the parliamentary committees are becoming more active. But the parliament's overall performance in terms of its core functions such as legislation, budget, scrutiny and oversight lags far behind citizen's expectations and global standards. The opposition repeatedly boycotts parliamentary sittings abdicating its watchdog role. The parliament does not adequately represent the nation's social diversity. Women, minorities and the resource poor are persistently under-represented. The parliamentarians remain largely unaccountable for breaches of parliamentary codes of conduct. A strong political will and agreement amongst all political parties are needed to address these challenges in order to build a democratic parliament.

*This policy brief is prepared by Professor Rounaq Jahan, Distinguished Fellow, CPD. The brief draws on the CPD-CMI Working Paper 2 titled *The Parliament of Bangladesh: Representation and Accountability* authored by Professor Rounaq Jahan and Dr Inge Amundsen, Senior Researcher, CMI. The brief was prepared under the CPD-CMI Research Cooperation Programme.

Evolution of Parliament: First to Ninth

After independence in 1971, Bangladesh started as a multiparty parliamentary democracy. The constitution, adopted in 1972, provided for a parliamentary system based on the Westminster model which invested the parliament with supreme legislative power, while the executive power was bestowed on a cabinet, headed by a Prime Minister commanding the support of the majority in parliament. The President, elected by parliament, was the ceremonial head of the state.

However, the journey towards institutionalising parliamentary democracy was short-lived. In January 1975, the first parliament elected in 1973, amended the constitution. It introduced a one-party presidential system, curtailing the powers of the parliament and made the President, who was to be elected directly by popular vote, the executive head of the government.

In August 1975, the military intervened and ruled the country either directly or indirectly for the next fifteen years. The presidential system was retained by the military rulers. Elections to three parliaments, second, third and fourth, were held under military rule; but these elections were widely perceived as flawed. None of the parliaments could complete their five-year term. Military rule was finally overthrown by a people's movement in 1990. Electoral democracy as well as the parliamentary system were restored in 1991, and have continued till the present with the exception of a two year rule (2007-2008) by a military-backed caretaker government.

Five parliaments have been elected since 1991 of which three, fifth, seventh and eighth, more or less completed their terms. The current parliament, ninth, is a little over half-way through its tenure. Only one parliament, sixth, had to be dissolved after a tenure of a mere 12 days as it lacked legitimacy due to the boycott of the election by all opposition parties.

Performance: Progress and Deficits

Though in the last two decades elections have become more regular with parliaments completing their terms, the parliament is yet to emerge as an effective institution. Initiatives for making laws and budget largely rest on the executive branch of the government. Discussion, debate and scrutiny of the proposals put forward by the executive to the parliament are limited. Nearly half of the working days of the parliament since mid-1990s have been boycotted by the opposition on one ground or another. Instead the opposition has focused on street agitation and has repeatedly called for *hartal* (general strike).

In recent years, there have been some positive developments. The current parliament has demonstrated some activism. All 48 standing committees were established in the first session. The committee meetings and their reports are now more regular. The departmental committees are no longer being headed by ministers. Additionally, for the first time, opposition members have been given chairs of committees. The number of bills passed per session and per year has increased and the members of parliament (MPs) are more active in submitting questions and motions. Nevertheless, the overall performance of the parliament falls far short of its promise of being the central institution of democracy, expressing the will of the people, and making the government regularly accountable to that will.

Key Challenges and Way Forward

The CPD-CMI study has identified several challenges that constrain the work of the parliament. These range from building consensus amongst all parties about the basic 'rules of the game,' to initiating reforms of the electoral system and legislative and budget processes, and strengthening of key institutions. The critical challenges and suggestions to address them are presented below.

Institutionalising Credible Parliamentary Elections

The parliamentary system had a chequered history because of frequent systemic changes and contestations over the legitimacy of parliamentary elections. Organisation of elections acceptable to all contestants, which is regarded as a first step for institutionalising democracy, has always been a challenge for Bangladesh. To remove the possibility of an incumbent political government influencing electoral processes, Bangladesh instituted a unique system of Non-party Caretaker Government (NCG) to organise parliamentary elections. Elections held under the NCG in 1991, 1996, 2001 and 2008 were certified as free and fair by election observers home and abroad, and there was a rotation of power between the two major political parties, the Awami League (AL) and the Bangladesh Nationalist Party (BNP). However, the regular rotation of power developed into political confrontation between two major parties, instead of creating stability.

The NCG itself became contested when attempts were made to politicise the system before the scheduled 2007 elections which resulted in widespread street violence and installation of a military-backed caretaker government who organised the ninth parliamentary election in 2008. Finally, the NCG system was abolished by parliament in 2011.

The government, led by AL, is now proposing to hold the next parliamentary election under the incumbent government going into a caretaker mode with an independent Election Commission (EC). The BNP-led opposition wants a return of the NCG, and is

threatening to boycott the next parliamentary election if it is held under the incumbent government. There is now no system acceptable to all contestants to organise a credible parliamentary election due in 2014.

Measures need to be taken to institutionalise organisation of credible parliamentary elections. The followings deserve priority attention:

- There is no technical solution to address the ongoing political contestation over the next parliamentary election. Both sides will need to come to an understanding and agreement through political compromise about the modalities of holding free and fair elections.
- The independence and unchallengeable authority of the EC alongside the neutrality of the state machinery during elections must be established.
- Other measures introduced during the last parliamentary election such as corrected voter list, voter ID, restrictions on election-related expenses, disclosure of information about candidates, maintenance of law and order, etc. need to be continued and enforced by the EC.

Building a Representative Parliament

The parliament in Bangladesh does not adequately represent social diversity. Women, who constitute approximately 50 per cent of the population, are under-represented (usually 2-3 per cent in directly elected seats and at present 6 per cent). Similarly, the religious minorities, who constitute nearly 10 per cent of the population are under-represented

The parliament shall be the centre of all political activities. The accountability and responsibility of the representatives of the people 'shall be ensured'

Awami League Election Manifesto Pledge (2001)

60 per cent of sittings boycotted by the Awami League in the eighth parliament

per cent). The most difficult challenge, however, is to ensure the representation of the resource poor. As the expenses associated with running elections are rising prohibitively high, there is an increasing trend for the parliament to turn into a 'rich men's club.' For example, whereas in the first parliament less than 25 per cent of the MPs were business persons, at present 56 per cent of the MPs belong to that category.

Bangladesh has adopted affirmative measures to compensate for women's under-representation. The constitution has provided for women's reserved seats in parliament to be filled through indirect elections. Starting with 15, the number of women's reserved seats has now increased to 50. But women's organisations have criticised this measure as ineffective and have demanded direct elections for women's reserved seats. No affirmative action is in place to enhance the representation of religious minorities or the resource poor.

Various measures can be taken to increase the representation of women, minorities and the resource poor. For example:

- Direct elections to the women's reserved seats and/or a women's quota in party nominations for electoral contestation will be more effective than the current system.
- Different options to increase the representation of religious minorities such as party quotas, reserved seats or redrawing of constituency boundaries (affirmative gerrymandering) can be considered.
- Political parties need to recruit prospective parliamentary candidates from the resource poor who can then be groomed, nominated and elected. The financing of their election campaign will also need to be underwritten.

Formulating a Code of Parliamentary Conduct

Several issues related to the parliamentarians' code of conduct have been discussed in Bangladesh. These include allegations of misuse of power, privileges and

funds; conflict of interest; use of unparliamentary language; and above all, boycott of parliamentary sittings by the opposition. The media has extensively reported on various cases of breach of parliamentary codes of conduct. Unfortunately, very few of these allegations have so far been investigated.

The parliamentarians' authorised as well as unauthorised roles in local development activities provide them with opportunities to distribute patronage, build personal and party support and indulge in corruption. This role has created tension and conflict between MPs and elected representatives of local governments, as the latter also want to control public resources to build up their own patronage network. In addition, the prioritisation of local development role diverts the MPs' attention from their core functions of legislation and oversight. Specific measures need to be taken to tackle the various forms of violation of the parliamentary code of conduct:

- A registry of MP's financial and professional interests and making the registry public can facilitate the monitoring of the MP's conduct. This registry should be updated on a regular basis. Annual disclosure of parliamentarians' financial and professional interests needs to be made mandatory.
- The appointment of MPs to the parliamentary committees should be carefully assessed to screen out members with a potential for conflict of interest. Allegations of conflict of interest and other breaches of the code of conduct should be investigated.
- The local development role of the MPs should be made more limited and transparent. The roles and responsibilities of parliamentarians and local government representatives should be clearly demarcated.
- The Speaker needs to make more use of Rule 16 of the Rules of Procedure (RoP) which authorises him to punish MPs for misconduct in the parliament.
- A variety of actions ranging from censure to a cut in salary and privileges, and even vacation of seats can be considered to address the practice of boycott of

No party or alliance should boycott parliament sessions though they would be able to stage walkouts on specific issues

BNP Election Manifesto Pledge (2008)

75 per cent of sittings boycotted by BNP in the ninth parliament till December 2010

parliamentary sittings.

- Though many of the breaches of the code of conduct can be addressed under the existing provisions of RoP, it will be useful to formulate and adopt a Code of Parliamentary Conduct that will make the principles and codes explicit and transparent. A consensus amongst all major political parties will be required, without which, no measure can be adopted or sustained by successive parliaments.

Strengthening Key Institutions

Some of the vital institutions of the parliament such as the Speaker, committees and the parliament secretariat are relatively weak. There is no mechanism to ensure the neutral role of the Speaker. The committees are not adequately empowered. The parliament secretariat is under-staffed and under-resourced. Specific measures need to be taken to strengthen these critical institutions:

- The Speaker should be selected through a consensus, based on all-party consultation, and should recuse from party affairs as is the custom in India. Alternatively, the Speaker, following the UK model may resign from the party and be identified as 'Speaker Seeking Re-Election' in the next parliamentary election.
- To promote neutrality, the Speaker should consult with the Leader of the Opposition in setting the agenda of the parliament. A random system by a computer shuffle for selecting questions to the Prime Minister (PMQT) can be introduced to ensure the Speaker's neutral image.
- The committees should be empowered by establishing the principle of 'no bills without committees' and 'no budget without committees', as is the case with many other countries.
- A timeframe should be prescribed by the RoP for implementation of the recommendations of the committees.
- Key committees such as Public Accounts Committee (PAC) and Public Undertakings Committee (PUC) should be chaired by opposition members.
- Parliamentary committees should be provided with appropriate research and technical support as well as given the opportunity to invite experts to give

testimony before them.

- The parliament secretariat should be made more autonomous with guaranteed staff and avoid frequent rotation of senior staff. The scope for professional capacity development of the staff needs to be improved.

Removing Structural Constraints

There are several structural constraints inhibiting the parliament's performance in terms of its core functions. For example, Article 70 of the constitution, which prohibits floor-crossing, has long been cited by MPs as a constraint on their freedom of expression. There is also a structural constraint in the budget making procedure restricting department-related committees from participating in the budget making process. Time allocated for questions is short. Some options can be considered to address these structural constraints:

- There is now wide consensus that the stringent conditions of Article 70 should be relaxed, and the parliamentarians should be allowed to speak and vote against their parties, except in a no-confidence motion.
- Rule 111 (3) needs to be amended to allow the department-related committees to discuss the budget before its presentation in the parliament, as is the practice in India.
- The time for discussion of questions should be increased to reduce the number of *Tamadi* (lapsed) questions.

Reforming Legislative and Budgetary Processes

Changes in legislative and budgetary processes can enhance the parliament's performance. Several changes can be considered:

- The widespread practice of legislation by ordinance should be restricted.
- 'White Papers' should be commissioned to promote transparency and public participation as well as debate on policy making. Proposed legislation and budgets should be automatically referred to

committees for scrutiny before being placed in the parliament.

- Partnership with civil society groups should be encouraged to broaden participation in the law making process as well as to make parliament's work, including budget work, more transparent and accessible to the public.

Engaging the Opposition

The practice of boycott of the parliament by the opposition is unique to Bangladesh. It has been and continues to be a major cause for the weak performance of the parliament's accountability function. The opposition has boycotted sittings of 43 per cent of the seventh, 60 per cent of the eighth, and over 75 per cent of the ninth parliament. Measures

Consensus on Abandoning the Politics of Confrontation and Exclusion

It will however not be possible to engage the opposition in parliamentary work unless there is a consensus amongst all major political parties to abandon the politics of confrontation, exclusion and violence. All political parties need to agree to make the parliament the central forum for holding political discussion and debate.

need to be introduced to keep the opposition engaged in parliamentary work:

- The opposition can be given the opportunity to chair a larger number of parliamentary committees than may be proportionate to their seats in parliament.
- The opposition should be given the right to speak immediately before the Finance Minister's reply at the end of the budget session.
- Following the UK model, 'opposition days' can be introduced when the opposition will choose subjects for discussions.
- A move towards forming a semi-official 'government in waiting,' where the opposition will 'shadow' the responsibilities, policies and actions of the

About CPD-CMI Programme

The CPD-CMI Research Cooperation Programme is to be implemented during August 2010-July 2013 with support from the Norwegian Ministry of Foreign Affairs. The broad objective of this programme is to contribute towards improved governance and inclusive growth in Bangladesh. The programme will cover two broad themes: the *Inclusive Growth* component will include studies on – Agricultural Trade with India: Implications for Food Security and Poverty; Private Sector Development: The Role of Education and Business Training; and Governance and Energy in Bangladesh: The Role of FDI. The *Good Governance* component will carry out research on – The Parliament of Bangladesh; The Political Parties of Bangladesh; and Democracy and Corruption. Along with research, the programme also envisages a number of other activities including expert consultations, dialogues and workshops (in Bangladesh and Norway), trainings, publications and exchange of visits.



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