

Agenda for the fourth term

The Sheikh Hasina government must go beyond economic progress to ensure rule of law and democracy



SYED BADRUL AHSAN

The people, as they say, have spoken in Bangladesh. Sheikh Hasina's party, which leads the Grand Alliance, has romped back to power for an unprecedented fourth term in office. The general election has given the Grand Alliance, or, more specifically, the Awami League, a huge majority in the Jatiyo Sangshad, the country's Parliament, to a point where no effective Opposition is in sight.

While Awami League supporters are in a celebratory mood, the Jatiya Oikya Front has rejected the results and demanded fresh polls under a neutral government. Jatiya Oikya Front convener Kamal Hossain, around whose personality the Opposition came together to challenge what it called the authoritarianism of the government led by Ms. Hasina, has called Sunday's vote "faracial".

The significance of this election
The political reality for Bangladesh at this juncture revolves around a couple of factors. First, for the first time in a decade, all the political parties took part in the election (the Bangladesh Nationalist Party, or the BNP, boycotted the 2014 election). In other words, this time voting was based on an inclusive election. Second, this was the first time a general election was held under a political government since the fall of the Husain Muhammad Ershad military regime in 1990. The earlier stipulation of elections being supervised by a caretaker administration, introduced in the final stages of General Ershad's regime and carried on till the period of the Fakhruddin Ahmed-led military-backed caretaker government (between January 2007 and early 2009), was scrapped in 2011 through a constitutional amendment by the Awami League government which assumed office in January 2009. Despite protests from the Opposition against the move, the Hasina government remained unmoved. It stuck to the justified position that a government elected for five years cannot morally and logically hand over power to an unelected administration for



"In a country where politics has often been vulnerable to extra-constitutional interference and where national history has been massively distorted, Ms. Hasina has turned out to be the most powerful political leader in Bangladesh's story." Dhaka on polling day. • AP

three months before a new elected government comes into office.

This election has drawn the usual criticism from the Opposition, which has alleged that candidates did not have a level playing field in the course of the campaign. Moreover, on election day, at a large number of polling centres across the country, polling agents of the Opposition were either not allowed to enter the polling stations or driven out of them by ruling party activists. Mr. Hossain and the BNP have cited these as the reasons for voting having been unfair and not free. The government has rejected the allegations. It has instead pointed to what it describes as a massive degree of popular support for Ms. Hasina and her government's development programmes.

From trauma to victory

For Ms. Hasina, politics has been a long journey from personal trauma following the assassination of nearly her entire family in a violent coup in August 1975 to her rise to political prominence in the years since she took charge of the Awami League. She has been chief of the Awami League since 1981, when she was persuaded to return home from exile in India by senior party leaders, including Mr. Hossain. Her return galvanised a faction-ridden party into coming together as a strong political force, a feat which resulted in her leading it to electoral victory for the first time in 21 years in June 1996. Ms.

Hasina's assumption of office as Prime Minister was certainly significant from the perspective of Bangladesh's history. One of the earliest priorities for her government was a repeal of the infamous Indemnity Ordinance, promulgated in the post-coup circumstances and subsequently accorded legal sanction by a Parliament dominated by supporters of General Ziaur Rahman, Bangladesh's first military ruler. The ordinance had blocked any questioning of the coup as well as a trial of the assassins of Sheikh Mujibur Rahman and his family in any court of law. Five of the assassins were tried and executed in January 2010.

That apart, the Hasina government took steps to bring some prominent Bengali collaborators of the occupation Pakistan army in 1971 to trial. These collaborators, belonging to the Jamaat-e-Islami and the Muslim League and rehabilitated by General Zia and given ministerial berths by Khaleda Zia, were tried by specially constituted war crimes tribunals and hanged. In effect, on Ms. Hasina's watch, the impunity which the 1975 assassins and 1971 collaborators had enjoyed was brought to an end.

Steering the economy

To be sure, there have been questions regarding the government's treatment of the Opposition in the run-up to the election – cases filed against Opposition leaders and activists, laws seen as an impediment to

a free functioning of the media, etc. But it is the strength of its economic performance that the government has projected before the electorate, to a point where the international community, including the World Bank, has been appreciative of the strides made in the economy. Remittances from Bangladeshis working abroad have registered a significant rise, the ready-made garments industry has been performing well, growth has gone up, and massive infrastructure projects have been undertaken. In the field of foreign affairs, the government has based its approach to the outside world on pragmatism, thus successfully preserving a balance in Bangladesh's relations with India, China and Russia. The government has also found appreciation from the international community in its treatment of the Rohingya refugees – nearly 1 million refugees have found shelter in Bangladesh following their expulsion from Myanmar. It has gone out of its way to ensure the safety of the refugees even as it tries, rather fitfully, to strike a deal with Myanmar on the return of the Rohingya.

In a country where politics has often been vulnerable to extra-constitutional interference, as in the coups and counter-coups of the mid-1970s followed by the emergence of two military regimes in quick succession, and where national history has been massively distorted by those who exercised power between 1975 and 1996, Ms. Hasina has turned out to be the most powerful political leader in the country's history, after her father Sheikh Mujibur Rahman. Her three terms in office, and now a promised fourth, make her the longest-serving head of government in Bangladesh. There has been no alternative to her.

In the next five years, it will be the government's responsibility to go beyond an emphasis on economic progress to ensure rule of law and democracy, in the form of a properly functional Parliament, a free judiciary, and an efficient executive. Now that the election is behind her, Ms. Hasina looks to preside over the centenary of the birth of the country's founder in 2020 and the 50th anniversary celebrations of Bangladesh's independence in 2021.

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Mainstreaming victims of crimes

It is time to make victim impact statements mandatory



G.S. BAJPAI

In *Mallikarjun Kodagil (Dead) v. State of Karnataka* (2018), the Supreme Court stressed the need to have a victim impact statement "so that an appropriate punishment is awarded to the convict". This throws up many issues that are of interest to the victims of crimes.

The term victim came to be defined in criminal law only in 2009 in India. The victim of a crime is never heard as a victim during the trial of a case, but as a witness. As the victim is represented by a prosecutor, her concerns as well as the impact of her victimisation remain unexpressed. By and large, the police, prosecutors and courts do not have any substantive legal obligation towards crime victims. Indifference to crime victims remains deep-rooted in the accused-centric criminal justice system. 'Secondary victimisation' takes place when the agencies of the criminal justice system treat victims of crime unfavourably, or marginalise them during the trial.

Marginalised during trial

The trial process is organised in such a manner that the personal appearance of the victim at all the crucial stages is restricted. The victim is not present when charges are framed against the accused, when the accused is discharged, when bail is granted, when parole is considered, and when punishment or compensation is decided. On the other hand, the accused is always required to be present during all these stages. Crimes are registered in the form of sections of the Indian Penal Code (in numbers) which do not mean anything to the victims of crime in terms of their impact. Crimes do not impact all victims in the same manner. There is no way to assess the impact suffered by a victim. And whatever little is tried in this direction is always through a third party, such as a prosecutor or judge, who is invariably incapable of registering the aftermath of victimisation.

The UN 1985 Declaration of Basis Principles of Justice for Victims of Crime and Abuse of Power effectuated a movement for victim empowerment. That led to significant reforms in the criminal process. It enabled victims to have rights and reasonable protections, and assistance and participation in the

system. It also made a powerful plea to provide a voice to the victims of crime during the trial stage.

A victim impact statement is an answer to most of these concerns. It has the potential to alter the course of things for victims of crime in India. Victim impact statements are written or oral statements by crime victims, about how the crime has impacted them. Often, the family members and friends of victims also make written and verbal statements. Victim impact statements could provide information about the damage caused to victims by the crime, which is information that would otherwise not be available to the courts. Details of the financial impact of the crime – lost wages, medical or counselling expenses, transportation costs and damage to property, including a request for compensation or restitution – can also be included. Generally a victim is assisted to submit a detailed form, which is standardised for this purpose, through a prosecutor.

Deciding the quantum of sentence

Hearing the victim in person or through a victim impact statement at the stage of sentencing could be crucial. After a criminal defendant is found guilty or pleads guilty and is convicted, a judge decides on the appropriate punishment. The decision about punishment is a complex one. The judge needs to consider the adequacy of the sentence as Indian laws do not follow a fixed punishment model. Instead, there is a scale of punishment and the court decides the quantum of punishment according to this scale. The Criminal Procedure Code, in Section 235(2), places a mandatory duty on the court to hear the accused on the question of sentence. The idea is to collect personal information and consider it while specifying the quantum of punishment. While this practice is laudable, it causes a huge disadvantage to the victim of the crime as the trial court is under no legal obligation to hear the victim. A victim impact statement will help the court take a balanced view at this stage. Hearing the victim during the sentencing will help the court decide the quantum of punishment as well as assess the amount of compensation to be ordered. The U.S., Canada, Australia, and many countries in Europe have made victim impact statements mandatory. It is time for India to do so too. The victim has a right to speak and the nation has a responsibility to listen.

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SINGLE FILE

Saving Kerala

It is not the religious validity of a court order, but the very mettle of society that is being put to test in Kerala now

SWAMI AGNIVESH



Kerala is at a crossroads. For the first time, the very essence of this progressive State, applauded as a model for the rest of India, is being put to test. Kerala did not achieve its enviable position of being a progressive, liberal and modern society without struggle or sacrifice. It was as recent as December 1892 when Swami Vivekananda was shocked by inhuman caste-based customs there.

The journey from that low point of social and spiritual degradation to being the most progressive society in India has been achieved with the help of radical reformers – Narayana Guru, Ayyankali, Sahodaran Ayyappan, V.T. Bhattathiripad, Mannathu Padmanabha Pillai, and a host of visionary leaders in the freedom movement – who fought the evils of caste oppression and the various forms of discrimination that women in Kerala faced.

It is not the religious validity of a Supreme Court order, but the very mettle of society that is being put to test in Kerala now. To anyone observing developments around the Sabarimala face-off, it is obvious that the issue has been politically hijacked, even as the façade of religious fervour is maintained. It was to be expected that the RSS-BJP phalanx, which has been waiting for the kill for long, would sense in this the most opportune moment. By the candid admission of the State BJP President, the party is treating the Sabarimala issue as a political goldmine. A massive drama of deception is being thrust upon Keralites.

The RSS has also been inflicting a covert atrocity on Dalits and Adivasis in respect of their religions. The Adivasis aren't Hindus. They never were. They have their own religious forms of worship. Over the years, the RSS has worked in a calculated fashion to blot out their distinct religious heritage and identities. It is ironic that the very same RSS is now spearheading the movement to "save Sabarimala", willfully overlooking the fact that Sabarimala belonged to the Adivasis, who have been driven out of its precincts.

The RSS-BJP agenda is not to save Sabarimala. It is to use Sabarimala. Lord Ayyappa, who was a forest deity worshipped by Mala Arayans, is valued only as a potent entry point into the hearts of Keralites. If Lord Ayyappa is sensitive to the pollution of menstruating women, he should be even more allergic to the hypocrisy of men.

Annexing the politics of Kerala is crucial for the RSS-BJP combine for the 2019 general election. The BJP may fare poorly in many north Indian States. The loss there can be compensated only if the politics of south Indian States is annexed. The desperation underlying this strategy is an indirect tribute to the good sense of Keralites. The RSS and the BJP know that Keralites cannot be hoodwinked politically. Religion, perhaps, is their point of vulnerability.

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NOTEBOOK

The man and his horrific crime

Meeting the 'tandoor murder case' killer and his family

HEMANI BHANDARI

When I entered Sushil Kumar Sharma's drawing room one cold winter afternoon in December, he was wearing a deep blue jacket and sitting cross-legged on a cot, talking on the phone.

I waited nervously. Sharma is a former youth Congress leader and MLA, but he was no ordinary interviewee. He had been released from prison only a few days before our meeting, 23 years after he was arrested and then convicted for killing his partner Naina Sahni, also an aspiring politician.

The crime shocked the nation, but the gruesome manner in which Sharma disposed of Sahni's body was especially chilling. Sharma suspected that Sahni was having an affair. After a heated argument one night, he shot her dead. And then, to hide the crime, he chopped her

body into pieces and burnt it in a tandoor (clay oven) in a restaurant. The case led to non-stop chatter in newsrooms given that it involved a politician, an alleged affair, and a gruesome killing.

I have been a crime reporter for only over a year. Sharma's release naturally piqued my curiosity. What kind of a person was he then and how had he changed? Was he scary, as we imagine killers to be? Did a person who had once been so unimaginably vile have normal human emotions? Did he remember that night vividly? I wanted to meet Sharma, much to my mother's dismay. I spoke to the legal reporter who had covered his release. A few calls were made and I was on my way to Sharma's house in Delhi's Pitampura the next morning. I had previously reported of murder cases from a distance. Sharma was the

first man I was going to meet who had been convicted of murder and released.

The house was locked from the inside. The family didn't want to entertain too many people. I peeped inside and saw Sharma's 80-year-old mother's smiling face. She looked at me and asked an attendant to unlock the door. Greetings were exchanged and she pointed to the room where he was sitting. My heart skipped a few beats. Sharma finished his call and greeted me with a handshake and a smile. "There are two types of criminals," he began, his lawyer seated next to us. "Those who are naturally criminal-minded and those who do something in a rage." Sharma said he was full of regret, especially for making his parents' life "a living hell". He said he had contemplated suicide. "But I slowly learnt that I was suffering as a consequence

of my own actions and accepted that fact while in prison," he said.

After speaking to Sharma for an hour and a half, I stepped outside, my muscles relaxed. The first thing I did was to text my mother. "It's done," I said. "Nothing to worry. He is not scary."

The interview was not intimidating or nerve-racking as I had thought it would be. Sharma's crime was horrific, but to the extent that one can take appearance to be the reality, he seemed a changed man, keen to look ahead. As I drove back to work, I realised that it wasn't the things he said that stuck in my mind; it was what his mother said. "Our life span has now increased by 10 years," she said of herself and her husband. Sharma had committed the crime but they also suffered the consequences. My heart went out to them.

FROM The Hindu. ARCHIVES

FIFTY YEARS AGO JANUARY 1, 1969

Six dead in Dacca firing

Maulana Bashmani, leader of the National Awami Party, said yesterday [December 30] his party would boycott the coming elections following a clash between his supporters and police in which three people were killed and several injured. Three people were killed and another wounded yesterday when police fired at a mob in Hatirdia Bazar, a Dacca suburb, according to an official communiqué. The mob had stoned a shop and attempted to free several people taken into custody by police, the communiqué said. Three more persons were killed in police firing in Mancherdi, Dacca district, to-day. Police were reported to have arrested four people in the Awami Party demonstration at Dacca in favour of a general strike. Speaking at Pabna, in East Pakistan, Maulana Bashmani called on other parties to follow his lead and boycott the elections. Meanwhile President Ayub Khan has urged members of the ruling Pakistan Muslim League at Lahore to defend the regime against opposition attacks.

A HUNDRED YEARS AGO JANUARY 2, 1919.

The Kaiser's Defenders.

The League of German men and women to protect William the Second's personal life and security has been formed in Berlin and has issued an appeal denying that its purpose is other than is described by the League's official name. The appeal exhorts diplomatists and others to furnish information for the projected white book exculpating the ex-Kaiser from the guilt of the war. Prince Henry of Prussia was offered the Presidency of the League but declined saying that Hindenburg should be appointed. Prince Henry in accepting membership says that he expects to be called as a witness on behalf of his Imperial brother. The "Daily News" Munich Correspondent says that a Monarchist movement with the centre in Munich and ramifications in the country districts of Bavaria has been discovered. Forty arrests have been made including officers.

CONCEPTUAL Kübler-Ross model

PSYCHOLOGY

This refers to the five emotional stages that a person usually goes through during a period of grief. They are denial, anger, bargaining, depression, and acceptance. However, not all people who experience grief go through all these stages. Some people may skip past some of the stages. The duration of each stage of grief may also vary from person to person depending on various reasons. The Kübler-Ross model was first proposed by Swiss psychiatrist Elisabeth Kübler-Ross in her 1969 book *On Death and Dying*, based on her study of patients who were terminally ill.

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