

# Of Independence: Rhetoric and Reality

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## 1. In Lieu of Introduction:

The very first line of the Constitution of Bangladesh is perhaps frequently been overlooked by us. But it deserves great attention. It runs as follows:

We, the people of Bangladesh, having proclaimed our independence, on the 26<sup>th</sup> day of March 1971 and through a historic war for national independence, established the independent, sovereign People's Republic of Bangladesh.

Why we declared independence? The reasons are sacredly embodied in the Proclamation of Bangladesh Independence. We declared independence, as a response to *savage war, unprecedented genocide, atrocities* and *torture* committed by the then Pakistani authorities. We proclaimed independence in order to ensure people of Bangladesh *equality, human dignity and social justice*. The people of Bangladesh became *rebellious as a last resort* at the *disregard and contempt* for *human rights* and against *tyranny and oppression*.<sup>2</sup>

But have we been independent in the true sense of the term? It is true that we extracted ourselves free from the tyranny and oppression of our neo-empirical masters, but were we able to emancipate ourselves from the fetters that still string our minds? If we did, then why are we a country comprising 98% Bengalis, with no significant ethnic, caste, creed, tribal or

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<sup>2</sup> Preamble of Universal Declaration of Human Rights [Adopted and proclaimed by General Assembly Resolution 217A (III) of 10 December 1948] have necessitated this type of revolution. It has been said there that human rights are to be protected by rule of law, unless man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression.

clan divisions, so bitterly a divided nation today? Why is our body politics' schizophrenia so out-of-control and set on a self-destruct course?

## 2. The Birth of Bangladesh

Poet Shukanto once wrote, “*Shabaash Bangladesh e prithibi obaak taki-e roy, jole pure more chharkhar tobu maatha noabar noy*”<sup>3</sup> (Bravo, Bangladesh! The world stands startled; rather it would spare, die being ablazed, burnt yet it would bow down its head to nobody!). Indeed, birth of Bangladesh as a sovereign Republic in 1971 was one of the remarkable events of the world history in the last century. Probably, Bangladesh is the last country to be in the series which has secured independence in the past few decades through a national liberation war.<sup>4</sup> Hardly there is any country in the world as that of Bangladesh whose birth has been so orderly and legitimate at any consideration. People of Bangladesh have shed their blood in the battle field as well as they have ensured the compliance of all the norms and principles of international community through their duly elected plenipotentiary. The formal proclamation of independence have legitimized the war and created the platform of securing international concern.<sup>5</sup>

People of Bangladesh fought for due fulfillment of their legitimate right of self-determination. *Self-determination*<sup>6</sup> was the phrase which was used by the proclamation of independence. Bangladesh fulfilled the criteria of a populace by its commonality in history, language, culture, ethnicity and other manifestations of shared identity and experience, numerousness etc. That was why the insertion of this right in the proclamation was

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<sup>3</sup> See, *Doormor* of Shukanto Bhattacharya (1926-1947). The liability of the translation of the lines in English lies with the author.

<sup>4</sup> Well, some one may mention the name of recently independent Balkan countries, East Timur etc. But these countries have obtained independence directly under the supervision of either UN or organizations like NATO.

<sup>5</sup> In fact, Pakistan was dead and buried under mountains of corpses after 25<sup>th</sup> March 1971. So, the formal Proclamation of Independence was made by the elected representatives on 10 April 1971 at Kustia Bhoberpara.. Only a few countries in the world like America, Vietnam and Bangladesh have their Declaration of Independence. See, S. M. Masum Billah & Khaleda Parven, *Proclamation of Independence: Unsung document on the way of constitutionalism in Bangladesh*, in Jaglul Ahmed Choudhury edited BJNFA, May-June 2005.

<sup>6</sup> Right to self-determination, though a third generation right and often has been questioned for its uncertainty of nature, today, some jurists, for example Hector Gross Espeill has opined that self-determination necessarily posses the nature of *jus cogens* under international law.

significant in the sense that this is a right which denotes the right of a people to determine their own political status and economic, social and cultural development. It is appealing to note that Bangladesh has culminated this right into practice after the insertion of this right by two famous international documents, namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). In brief, Bangladesh got liberation with a view to obtain the right to *life, liberty and pursuit of happiness*, to borrow the phrases from American Declaration of Independence 1776.

### **3. The Vestige of Two Nation Theory**

In 1947, Pakistan and India was the necessary out come of the *Two Nation Theory*, which in itself was a progeny of Lahore proposal (Pakistan Proposal). The theory is widely talked, criticized and hailed at a time. The theory is often whipped, though not sometimes insubstantially, on the ground of fundamentalism. But history suggests that nothing could have been better than that, because *Two Nation Theory* germinated from reality was a vestige of the then Indian Subcontinent. One thing needs to be noted that the seeds of Bangladesh independence was sowed in the birth of a peculiar state, namely, Pakistan in very 1947, consisting of two geographical entity thousand miles away from each other. The language was difference; culture was distinct, social norms were diverse, economic pattern was dissimilar turning the unity nugatory simply on the basis of religious uniformity and fervor. The latter history of 24 years of exploitation and successive events i.e. language movement, 1954 election, 1962 education movement, 1966 Six-points movements, 1969 mass-upheaval, 1970 election, incidents of 1971 culminates into the armed war of independence. Birth of Bangladesh is the necessary outcome of that. It can be commented that the birth of Bangladesh can hardly be described without defying the existence of Pakistan itself. However, by saying so one should not mean that the Bengalese should be grateful to the West Pakistani rulers for giving birth to Pakistan and our Independence is gift from them. In international plane, independence of Bangladesh is considered to be the consequence of the game of politics between India and Pakistan, between the US block and Russian block.<sup>7</sup>

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<sup>7</sup> See generally, Kapoor, Dr. S. K. *International Law*, Central Law Agency, Allahabad, 1998, page 701

## 4. What Have We Achieved in Last Three Decades?

In 36 years how much have we progressed towards the goal envisioned by liberation war? Some concrete gains must not be overlooked. This country, at least in theory, has a democracy which our erstwhile ruler Pakistan had not. The Liberation War initially created some pro-people values. The country also did well in social sectors like women's empowerment, reduction of gender disparity, life expectancy, child survival and, to a lesser extent, literacy. Let us have a glance on some core areas:

a. First, we invented the institution of micro-finance. By lending that Bangladesh attracted the world's view and earned for the country the globally prestigious Nobel Prize for Peace, through its mentor and the institution he established to formalize the concept. Despite some muted nay-sayings by doubting bodies, there is no question that micro-finance has brought considerable success significantly helping Bangladesh's over-all efforts at poverty mitigation and establishing a modicum of gender equality. Although, it's application elsewhere in different parts of the world, in different settings, have provided a mixed bag of results.<sup>8</sup> Whether it has been successful in effectively reaching the poorest of the poor in critically sufficient numbers is another matter that needs verification and further inquiry. This should be done in the face of persisting statistics that assert that over 50% of Bangladeshis continue to live below the poverty line.

b. Applause to our industrious farmers and industrial workers (particularly of the garment industry), our notable expatriates workers and their steadily increasing remittances from abroad, and reasonably good macro-economy management, our economy has not performed poorly. Although many feel we could have done at least twice as well if we had had good governance, harmonious politics and been able to corner the beast of endemic and rampant corruption that has plagued us.<sup>9</sup>

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<sup>8</sup> Karim, A. Tarik, *Reflections on Our Independence*, 26<sup>th</sup> March 2007, the Daly Star.

<sup>9</sup> Ibid.

c. To the lexicon of democracy, we added a new and unique concept -- that of the Non-party Caretaker Government (or NCG) as the inter regnum of choice between two consecutive elected governments. It is another matter that this institution ultimately belied the promise it had held out at its inception, of acting as a neutral umpire between feuding parties in the electoral battlefields of our political history. With the passage of time, this institution that had been hastily contrived by men to surmount man-made political disasters also proved the capacity of men who excel in positive innovation to have imbibed within them an equal capacity to subvert and negate their own earlier good deeds.

d. In a curious way Bangladesh has emerged as a cricketing nation, bewildering the eyes of millions of cricket fans all over the world, putting the image of Bangladesh in a different height by taking the full advantage of the sky culture. Whereas in the history of 24 years of Pakistani regime, not a single Test Cricketer from erstwhile East Pakistan was given chance in the Pakistan Test Squad<sup>10</sup>, such progress in cricket field is a big response to sheer deprivation of them and whereas Dhaka was an established Test Venue from nineteen fifties.

## 5. What Are the Saddest Tales?

But these successes have become too blurred and swims in a grey area apart from other main business. Within the short span of its life, the country has witnessed 15 years military regimes nullifying the constitutional supremacy. What is more, the nation stood traumatized on 15 August 1975 when Founder of the Nation *Bangabandhu* Sheikh Mujibur Rahman was brutally assassinated. Later the national leaders were brutally killed leaving the country lagging behind. The saddest tale goes further again, in 1981, with the assassination of President Ziaur Rahman.

Today, vast segments of society have subsided into crime and violence. Intolerance is the mark of political conduct. The country has been listed as the most corrupt one in the world. There are incipient signs that people are losing faith in democracy itself. Only here it is possible that musclemen occupy river space, shop owners have to pay toll to miscreants,

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<sup>10</sup> Rakibul Hasan, the ex-Captain of Bangladesh National Cricket Team was the only man who was accorded as a twelfth man in 1969-70 series against England.

political leaders are alleged to harbor criminals, students thrash teachers for not allowing them to copy in exams, policemen protect murderers and criminals in consideration of a share in the booty.

Democracy as prevailing in Bangladesh is a majoritarian democracy rather than participatory democracy. Parliament has been dysfunctional under the guillotine of brute majority. The democracy of Bangladesh has been the subject of sarcasm of people by saying, “*bye* the people, *off* the people, *far* the people” Without truly subscribing to this sarcasm it can be said that democracy here is by the people, of the people but hardly for the people. The judiciary has been shoddily politicized<sup>11</sup>. Separation of judiciary from the executive is recently made but we are yet to receive its fruits.

An earth-shattering question pinches us as to the trial of war criminals and their collaborators. With the decaying of the spirit of liberation war, with the socio-politico-legal fiasco the trial of the war criminals has been too remote a possibility. But crimes against humanity, genocide, war crimes and crimes against international law are never time barred. The universal jurisdiction to try these types of fugitives by any competent tribunal or court of any country is a peremptory norm of international law and international community owes a responsibility to actively associate in prosecuting them.<sup>12</sup> The Bangladesh genocide shocks the conscience of mankind. To quote Justice VR Krishna Iyer, the legal legend of India “The scenes of blood and bestiality ensuing from the military crackdown under General Tikka Khan’s deadly direction was such the like of which no eye has seen and no tongue could adequately tell. Bangladesh is fortunately free today but its *sweetest songs of freedom* are those that tell of *saddest thought of the million dead*. The appalling human annihilation perpetrated by

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<sup>11</sup> This politicization was in such an extent that even in a verdict the High Court Division stands in favor of a High Court Judge who had provenly obtained fabricated law certificate.

<sup>12</sup> See, *Preliminary Draft of the Cairo Guiding Principles on Universal Jurisdiction In Respect of Gross Human Rights Offenses: An African perspective*. Some times it is said that general clemency acts as a barrier in trying the war criminals and their collaborators. But, provision of international law is different. While amnesties for serious crimes [gross human rights violations] granted to individuals may, in certain cases, be politically expedient, such amnesties are generally incompatible with international law. They do not have any effect outside the borders of the country in which they are granted; nor do they absolve other States of their responsibility and their duty to prosecute or to transfer for trial such individuals.

military personnel of Pakistan in Bangladesh, in its dimensions and dastardliness prima facie constitutes an international crime.”<sup>13</sup>

## **6. The War with Difference:**

The Liberation War was a war with a difference. A disloyal regime on pretence of carrying out negotiation suddenly torpedoed all peaceful strategies and turned their guns upon innocent, unarmed civilians. The peace-loving Bengalis were unprepared for it. They were untrained and uninitiated into the use of arms. Ever since the Language Movement they had been struggling for their rights through peaceful means; little did they know that they would have to confront an army bent on committing genocide in order to perpetuate their overlordship. But though overpowered and perplexed, the common people rose to this mortal challenge to their existence. Seventy-five million people demonstrated granite-hard unity in resisting a modern army armed to the teeth and balking at no atrocity to subdue and humiliate a freedom-loving people. Wars are fought between armies; in this case it was a regular triphibian army with inexhaustible supplies and reinforcement pitted against common villagers, women, students, old men.<sup>14</sup> Villages after villages were burnt, farms and factories were destroyed, libraries were ransacked, elderly professors were dragged from their homes and shot. Intellectuals were especially targeted. More than two hundred thousand women were dishonored, ten million were uprooted from their homes and forced to find shelter in the refugee camps in India. Apart from killing and maiming the misery inflicted upon the people was horrendous. In that sense the entire people were Freedom Fighters.

To say that there were seventy-five million Freedom Fighters is not to belittle the heroism of those countless gallant sons and daughters of the land who laid down their lives in order that the rest of us might live in freedom and dignity. The nation salutes their heroism, today and everyday. Their deathless valour shall never be dimmed in the collective memory of the Bengali nation. The honor that we show to the Liberation War heroes will become mere

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<sup>13</sup> Iyer, VR Krishna, as cited by Kapoor, Dr. S. K. *International Law*, Central Law Agency, Allahabad, 1998, page 701, see also Dr. Rahmatullah, *Trials of 1971 War Criminals: A Politico Legal Fiasco?*, in Dr. Mizanur Rahman edited *Human Rights and Domestic Implementation Mechanism*, HRSS Journal, ELCOP, Dhaka, December, 2006

<sup>14</sup> Editorial, *The Independent*, 16<sup>th</sup> December, 2004.

ritualistic if we cannot implement the ideals for which they fought. A country which would be neither Utopia nor Arcadia but one in which poverty and inequality will be diminished and democracy and the rule of law will prevail, and people will live with dignity and freedom from fear.

## **7. Lets March, Lets Move:**

How can Bangladesh march forward from here? Reformation of our sordid political culture is the need of the time. Few reforms have already been carried out by the present Caretaker Government and others await urgent attention. The Anti-Corruption Commission (ACC) has been reconstituted to keep corrupt people out of the electoral race. The Bangladesh Bank and NBR are working against the black money holders and tax evaders so that they can be disqualified from contesting election. Most importantly, the Election Commission (EC) has been reconstituted to prepare an authentic electoral roll with voter photographs and carry out electoral reforms concerning expenditure ceiling, furnishing of candidates' assets, liabilities and other antecedents, the power to disqualify candidature and setting up of speedy election tribunals. Now the nation awaits a timetable, even if notional, for completing these tasks followed by declaration of an election schedule by the Election Commission.

How do we like to see Bangladesh after twenty years? Let us set a vision like this:<sup>15</sup>

1. 9<sup>th</sup> Parliamentary Election held in a free, fair, uninterrupted manner. With the flourishing of new political culture, the democracy plies for a golden destination. The new generation is stirred up by the spirit of liberation war. The new generation graduates from high school that has been taught to respect both *Bangabandhu* Sheikh Mujib as Father of the Nation, other important leaders as National Leaders and Late Shaheed Ziaur Rahman as National Hero. (By 2008)

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2. Nearly 90% of adult population in Bangladesh will carry a mobile phone device and will actively SMS each other from all the remotest villages in Bangladesh. (By 2010)

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<sup>15</sup> To observe an optimistic list in this regard, please visit [www.drishtipat.org](http://www.drishtipat.org). /Unheard Voices/36th Birthday Wish: Optimism.htm.



3. Seventy percent of Bangladeshi youngsters will have access to a PC and internet. A considerable number of private TV and radio channels, will be beaming 24 hours of quality news and entertainment. (By 2010)

4. Bangladesh will be one of the countries with highest number of vernacular newspapers published online. Bangladeshi's all over the world will be hooked to 24 hours of live programming and online newspapers from Bangladesh. (By 2010)

5. Bangladeshis will be one of the fastest growing immigrant communities in North America and Europe. One will hardly be able to walk a New York or Toronto Street without bumping into a Bangladeshi. (By 2010)

6. As a result of massive reformation in every sphere of the country the major political parties have established democracy within themselves. There is no place of the hoodlums in these parties. There is transparency in political culture. The politics is done by the intellectuals. (By 2010)

7. Bangladesh wins the 2011 cricket World Cup.

8. 2012: As a result of 5 years of stunning economic growth Bangladesh touches double digit GDP growth and crosses China to record the highest GDP growth in the world.

9. 2013: In the second general election since 2008; for the first time in history, all the winning members have highest university degree.

10. 2018: Biman Bangladesh Airlines crosses Emirates and Singapore Air to become the largest Asian operator.

11. 2020: The Padma Bridge, the longest in Bangladesh is completed. With the opening of *Uttara -Purbachol* line, the work of massive state of the art greater Dhaka subway (Underground Railway) system completes.

12. 2021: Through underground cable system Bangladesh starts exporting electricity to power starved China.

13. 2027: Second Nobel Prize comes for Bangladesh. This time it is BRAC and Fazle Hasan Abed. They win Nobel Prize in medicine for their revolutionary contribution to an effective healthcare delivery in Bangladesh which became a model for the rest of the world.

14. By 2020, the SARC will be a dynamic organization and be transformed to USAC i.e. Union of South Asian Countries. And that will be exactly or better than European Union. The 1/4th of the total population [about 150 crores] of the world will get real freedom. The people will liberate themselves from the bondage of too much nationalistic pride which is, in other words, nothing but chauvinism. Bangladesh should have resolved all the problems with neighboring India

## 8. Epilogue

*Shob Kota Janala Khule Daona, Ora aashbe ...Chupi Chupi....Jara ei Deshtake valobeshe Die geche Praan*<sup>16</sup>...is a famous patriotic song written by Nazrul Islam Babu and composed by Ahmed Imtiaz Bulbul. Some days ago (23 March 2007) Bulbul was giving an interview with Bangla daily *Prothom Alo*. He was asked, “Why songs like these are not being written today?” Bulbul simply answered with anguish, “for lack of patriotism.” Yes, all of our national achievements become decadent, dismal because of lack of patriotism. And patriotism is the crying need of the day. Fortunately, now the national scenario is beside the mass. It is the high time to revive the spirit of liberation war.

Dr. Bhim Rao Ambedkar, the Founder Father of Indian Constitution made a cautionary note on the eve of adopting the constitution of India which is very pertinent for Bangladesh also:

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<sup>16</sup> The English version may run as, ‘keep open all the windows...they would come shadowed, those who have sacrificed their lives loving this country’.

Will history repeat itself? Will the Indians place the country above their creed? Or will they place creed above country? It is not certain. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever.<sup>17</sup>

Indeed, *undefended independence* is the paraphrase of *dependence*. If that is the case, we will murmur to ourselves, “this cramped land once upon a time was our dearest motherland!” Before I conclude let me once again resort to the constitutional pledge, “*It shall be a fundamental aim of the state to realize the democratic process a socialist society, free from exploitation—a society in which the rule of law, fundamental rights and freedom, equality and justice —political, economic and social, will be secured for all citizens.*”<sup>18</sup>

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<sup>17</sup> Ambedkar, Dr. B R , in his introductory speech while adopting Indian Constitution, as cited by VD Kulshreshtha:1997

<sup>18</sup> 3<sup>rd</sup> Paragraph of the Preamble, Constitution of the People’s Republic of Bangladesh.