

Opposition Movement and Insertion of Undemocratic Provisions in the Constitution of the People's Republic of Bangladesh: A Critical Analysis.

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ABSTRACT:

The role of opposition is as much significant as that of treasury bench in democracy. Opposition operates a shadow government under parliamentary form of government. For the working of secularized political culture there is no alternative to the nourishment of healthy opposition. That means the existence of sound and smooth opposition is the prerequisite of democratic government. Although Bangladesh adopted westminister form of government in 1972 constitution but the governments therein from the birth of Bangladesh termed the opposition as bottleneck and threat to their peaceful governance. Awami League government from 1972 to 1975 brought several amendments to the 1972 Bangladesh Constitution for the suppression of opposition so that her freestyle rule remained unchecked. This article reveals why and under what circumstances government inserted 2nd Amendment in the Constitution of the People's Republic of Bangladesh to arrest opposition voice in the name of democracy.

Keywords: Democracy, Democratic government, Opposition, Opposition movement, Bangladesh Constitution, Amendment.

1. INTRODUCTION:

Commonwealth is a march of God on earth. (Hobbes, 1949) It has come into existence for the protection of life, liberty, and property of the people. (Locke, 1962) If these are not available to the people the state loses its democratic potentiality. Statehood is reflected in the positive activities of the government. If the values of life (inputs/ desired articles) are not rationally converted into output, the system (ruling authority) loses its capability to reign. In the developing countries like ours constitutional opposition to the government is termed as opposition to the state. (Pye, 1967, 1962) The inbuilt character of power is that its holder always applies different strategies to prolong her regime (particularly in developing countries like Bangladesh). (Pye, 1967, 1962) Bangladesh Awami League spearheaded the war of independence of Bangladesh in 1971. Awami League had mobilized the people of East Pakistan against the economic and political exploitative policies of Pakistani regime. It managed to gather popular support of the people of East Pakistan behind it in the name of making and giving better economic, political and social lives in any future government. After independence Awami League took the charge of government and presented the nation a constitution which theoretically incorporated political and economic hopes and aspirations of the people of independent Bangladesh. But in operational field it was defeated to the greed, lust, corruption and misrule of its party men. The creeping opposition political parties surfaced these misdeeds of Awami League government and very swiftly it managed to turn the people against the government. Awami League government instead of accommodating the demands and grievances of the people as well as opposition inserted undemocratic provisions in the constitution by second amendment to make the Constitution of Bangladesh as a complete constitution. But in reality it secured its misrule and suppressed the voice of the people as well as opposition in the name of uprooting enemies of the state.

1.2 Dream of Better Life and Exploitation Free Society:

Prior to liberation the East Pakistanis were mobilized against the West Pakistani ruling elite on matters of economic, political, cultural, and social disparity. Dream of better life as well as exploitation free society was shown to the East Pakistanis. (6-point program, 1966, 11-point program, 1969, and Election Manifesto of Awami League, 1970) Even after independence Awami League government continued to assert their political slogan of making people happy. But the reality was not going in the direction of the dream of the regime.

1.3 Inefficiency of the Government:

Natural calamity caused the price hike of daily goods in 1968-1970. (Ahmed, 1983) As a result shortage of daily needs was felt slightly. Awami League made this one of the issues in 1968-69 mass upsurge and in 1970 election and blamed the West Pakistani rulers for this. (Ahmed, 1983) It drew the sympathy of common masses behind it enchanting the popular slogan, "Why the Sonar Bangla was turned into a graveyard." (Ahmed, 1983) After liberation the blame game of Awami League faced the true reality of government responsibility. (Ahmed, 1983)

It is said during April-May, 1973 flood government did not take proper steps to protect the flood affected marooned people. (The Daily Ittefaq, April to September, 1973) Victims of flood did not get relief or

sufficient relief at all. As a result sufferings of the flood affected people became so acute that people had to lead their lives sometimes by taking one meal a day or in some areas without meal. The dead bodies were buried with banana leaves in severe flood affected areas. (The Daily Ittefaq, May, 1973)

1.4 Falling Law and Order:

It is said that Awami League failed to restore the law and order situation to a satisfactory level. In the second year of liberation law and order situation deteriorated severely. Home Minister Abdul Malek Ukil told the House that from January 1, 1972 – June 15, 1973, 4925 persons had been killed, 377 women had been kidnapped and 190 women had been dishonored. (The Morning News, July, 1973) Such type of declining law and order were unthinkable during Pakistani rule.

1.5 Honeymoon relation with India:

It is said that Awami League had scratchy relation with India prior to Agartola Conspiracy. (BBC Bangla Service, January, 1994) During liberation war members of exile government and top leaders of Awami League turned this relation into a honeymoon party according to some freedom fighters. (Ahmed, 1976) After liberation Awami Government described this relation as friendly one, based on equality and common interest. Awami League government made several agreements with India on different matters. Bangladesh and India made 3 year trade agreement on July 5, 1973. (The Morning News, July, 1973) On July 16, 1973 Bangladesh and India agreed to work jointly on shipping front. (The Morning News, July, 1973) On July 18, 1973 in Delhi on Farakka issue India and Bangladesh agreed that India would not operate the Farakka Barrage project without giving Bangladesh rational share of the Ganges water. (The Morning News, July, 1973) On July 20, 1973 Finance and Jute Minister Tajuddin Ahmed said before the news media that Bangladesh and India had agreed to set up joint jute research centre at Dhaka on foreign aid. (The Morning News, July, 1973) Awami League leaders from top to bottom and the members of Awami League government in every meeting, public gathering, conference, procession formal or informal liked to praise the role of India. It is claimed that those agreements mentioned earlier were beneficial for Bangladesh. (The Daily Ittefaq and the Morning News, March, 1972 and July, 1973) But achievement of these agreements was less than acclaimed. It is said following the defeat of Pak army all the military hardwares and establishments left to Bangladesh were taken away by India. (Aneek Bengali, December, 1974 and the Guardian, June, 1972) India proceeded with her Farakka Barrage Project with full suing defying the interest of Bangladesh. In spite of these events Awami League leader Tajuddin Ahmed, Finance Minister of Awami League government, claimed that Bangladesh was not subservient to any country and would not be dominated by any in future. He further said India was their friend and would remain friend of them. He also added that they followed Indian foreign policy for their own interest. (The Morning News, July, 1973) Sheikh Abdul Aziz, Minister for Information and Broadcasting, said friendship between the people of Bangladesh and India was everlasting. (The Morning News, August, 1973) Perhaps this attitude of Awami League government did not satisfy the freedom fighters and nationalist people of Bangladesh. (Franda, 1982)

1.6 Political Position of the Government:

However when the Awami League and its sister political parties tried to corner the opposition, government's failure in tackling corruption, spiraling price, maintaining Law and order and overall sufferings of common people started emerging. Tofael Ahmed, political secretary to PM, describing the flood situation as precarious urged the generous people help the flood victims. (The Morning News, July, 1973) Sheikh Abdul Aziz, in a conference admitted that the country was facing shortage in essential goods. (The Morning News, August, 1973)

1.7 Corruption and Smuggling:

Before liberation cross border trade between East Pakistan and India was allowed but smuggling of daily needs was very rare. After liberation in the absence of border check posts smuggling of daily needs became so rampant that in order to curb it the government had to deploy army to the border areas. (The Bangladesh Observer, May, 1973) While this army operation was getting success for unknown reason the army was called off. (The Bangladesh Observer, May, 1973) Hoarding was another problem the civilian government from 1972 to 1975 could not tackle. Price hike of daily necessities was so frequent that Awami League government pointed it as the cause of scarcity of daily product in the market. (The Daily Ittefaq, April to September, 1973)

Regarding corruption on July 19, 1973 Tofael Ahmed admitting the true picture of current law and order situation regretted that a section of people had developed a habit to build their fortune overnight through unscrupulous and illegal way. (The Morning News, July, 1973) Nur-e-Alam Siddiqui, general secretary of Awami Jubo League, declared to form military cadre of honest, selfless, and dedicated workers of Awami League to materialize Bangabandhu's dream. (The Morning News, August, 1973) Almost all government officers and top level AL leaders were involved in smuggling of relief products to India. (Franda, 1982) On July 20, 1973 government deployed army to arrest smuggling but for unknown reason army was withdrawn on July 24, 1973 without completing the task. (The Morning News, July, 1973) Interesting thing was that on July 25, 1973 immediately after the withdrawal of army Home Minister Mr Abdul Malek Ukil directed the law enforcing agencies to intensify measures against smuggling through the country. (The Morning News, July, 1973) That means the government was not able to bring down smuggling rate for the 19 months of their administration from

December 22, 1972, the date she took charge of Bangladesh government, to the date of the announcement of the Home Minister.

1.8 Popularity of Constitutional Opposition:

Cashing on the failure of government opposition parties created different issues and hammered the government to heed the people's cause. On July 23, 1973 opposition party Bangladesh Jatiya League led by Aatur Rahman Khan decided to observe "Resistance Day" on August 5, 1973 throughout the country to protest against the spiraling price and suppressive policy of the government towards oppositions. Bangla Jatiya League Chairman Oli Ahad called upon the people to observe Resistance Day. (The Morning News, July, 1973) Maulana Bhasani Chair person of NAP(B) on August 6, 1973 in a meeting arranged by his party men called for united struggle for economic emancipation. (The Morning News, August, 1973)

Watching government's failure in controlling sky high price, law and order, in managing relief work for the flood victims, and unbearable sufferings of poor people NAP(B) head Maulana Bhasani started hunger strike from May 15, 1973 which drew the support of all. (The Daily Ittefaq, May, 1973) On May 22, 1973 all party alliance consisting of NAP(B), Jatiya Samajtantrik Dal, Bangladesh Jatiya League, Bangla Jatiya League, etc called 'law breaking movement' against AL government. (The Daily Ittefaq, May, 1973) In the meantime government closed down printing and publication of the *Desh Bangla* on the allegation of reporting fake news. The editor and other reporters were arrested. (The Morning News, August, 1973) But the reality was that it had published news on government's failure in running the state. As a result the journalist union observed protest throughout the country. (The Morning News, August, 1973) Maulana Bhasani the president of NAP (B) sent an open letter to Sheikh Mujibur Rahman in which he said that both of them fought for the freedom of press and thought, and for democracy. But what type of democracy you had presented them in which mouthpiece of the common people became the victim of government wrath. (The Morning News, January and August, 1973)

Against this backdrop NAP (B) on August 19, 1973 called for countrywide *hartal* against the overall failure of government on August 29, 1973. (The Morning News, August, 1973) A successful *hartal* was observed. (The Morning News, August, 1973) It is opined such spontaneous *hartal* marked that the sky high popularity of Awami League government had reached at its extinct point.

1.9 Political Strategy of Awami League to Face Opposition:

In order to face August 29, 1973 *hartal* Awami League, NAP (M) and Bangladesh Communist Party held joint meeting on August 24, 1973 to make program to realize Bangabandhu's call for creating movement against social vices. (The Morning News, August, 1973) On August 25, 1973 Mr Zillur Rahman general secretary of Awami League, Pankaj Bhattacharjee general secretary of NAP (M) and Abdus Salam general secretary of Bangladesh Communist Party called for to resist enemies of independence. (The Morning News, August, 1973)

This three party alliance headed by Sheikh Mujibur Rahman branded all other political parties as anti-liberation force. Such labeling did not suit Jatiya Samajtantrik Dal because it was born in the womb of Awami League and all the leaders and members of JSD were frontline freedom fighters. (Ahmed, 1983) Cashing on the decaying popularity of Awami League JSD started throwing challenges to Awami League at every level of the state. (Jahan, 1980) In order to resist the fascist rule of Awami League government JSD directed its party men to form committee in every village to counter three party alliance on September 13, 1973. (The Daily Ittefaq, September, 1973) On the other hand three-party alliance on September 3, 1973 pledged to work unitedly. (The Bangladesh Observer, September, 1973) On September 4, 1973 NAP (B) chairman urged the government to publish the total amount of capital so far smuggled out of Bangladesh. (The Morning News, September, 1973) Government should bring out a list of the persons connected with such activities, he further demanded. (The Morning News, September, 1973) On September 5, 1973 Mr Abdul Malek Ukil in a meeting held at Mymensingh addressed that government was firm to punish the anti-socials. It was determined to take stern measures against miscreants engaged in anti-social activities. He directed his party men to extend their all out cooperation to government measures aimed at eliminating miscreants from the society. (The Morning News, September, 1973) Mr. Sayed Nazrul Islam, Industry Minister, urged Awami League party men to resist forces of disruption unitedly. (The Morning News, September, 1973) On September 13, 1973 three party alliance under the leadership of Prime Minister Sheikh Mujibur Rahman vowed to act together in order to root out anti-socials from the society. (The Morning News, September, 1973) Mr Zillur Rahman, general secretary of Awami League, said that stern action would be taken. (The Morning News, September, 1973) On September 14, 1973 NAP (B) Chairperson Bhasani called for united approach to combat social evils. (The Morning News, September, 1973) On the same day Home Minister Abdul Malek Ukil called for concerted efforts of the government and people to wipe out anti-social and anti-state elements from the sacred soil of Bangladesh. (The Morning News, September, 1973)

What was stern measure? What was iron hand? Who were enemies of independence? Who were social vices? Awami League leaders did not clarify them. It was said earlier army was deployed twice in order to root out smugglers, black marketers, hoarders, profiteers and corrupts but army was called off before completion of their mission for unknown reason. (Ahmed, 1983 and the Morning News, August, 1973) It is said earlier Awami party men and members of government were involved in such activities. (Franda, 1982) And family members of

Bangabandhu became *nouveauriche*. (Franda, 1982) The researcher opined that enemies of independence, anti-people, social vices, imperialist agents mean nothing but political opposition.

The spontaneous *hartal* of NAP (B) observed on August 29, 1973 perhaps alienated Awami League from the common people. As a result Awami League did not show boldness to face the opposition politically, the political analysts argued.

Suddenly underground political parties in the name of scientific socialism gathered tremendous support among the workers and poor people. (Ahmed, 1983) Siraj Sikdar, an engineer, was the exponent of this scientific socialism. (Ahmed, 1983) This group became so strong that they confronted *Rakkhi Bahini*. (The Morning News, July, 1973) *Rakkhi Bahini* was formed to protect the Awami League regime in perpetuity and to accomplish indirect Indian interest. Although Jatiya Rakkhi Bahini Order -1972 was passed on March 7, 1972 but it was given retrospective effect from February 1, 1972. It is supposed that members of this bahini were drawn from Awami League workers and members of Mujib Bahini. Maintaining internal security was its main duty. It was created to counter the army. It had no accountability. It remained under the direct auspices of the political government. In operational field this force was directed to arrest and detain political dissidents and criminals who did not hold Awami view. (Ahmed, 1983) This force had no rule to follow and no document with regard to its day to day business. It was opined that *Rakkhi Bahini* became a branch of Awami League party. (The Holiday, May, 1973) Tofael Ahmed said *Rakkhi Bahini* had shed blood for freedom of Bangladesh. It had done splendid job in combing up antisocial elements whenever Bangabandhu ordered. (The Morning News, July, 1973)

Awami League had a chance to manhandle the opposition by *Rakkhi Bahini*. But law and order situation became so vulnerable that extra judicial action against opposition could have isolated the government further. Such action could have reduced popularity of the government further.

In order to eliminate secular political forces from anti-government movement through lawful way the second amendment to the constitution was made. On September 18, 1973 Law Minister Mr. Monoranjan Dhar tabled the second amendment bill before the *Jatiya Sangsad* and it was passed on September 20, 1973. (Parliamentary proceeding, September, 1973)

1.10 Passage of the Constitution (Second Amendment) Act, 1973:

On September 18, 1973 Law Minister Mr. Monoranjan Dhar tabled the second amendment bill before the *Jatiya Sangsad*. (Parliamentary proceeding, September, 1973 and the Morning News, September, 1973) On September 20, 1973 Constitution (Second Amendment) Bill was passed without any dissenting vote. Six opposition members staged walk out in protest against this unconstitutional amendment. (Parliamentary proceeding, September, 1973 and the Morning News, September, 1973) Aatur Rahman Khan MP from Bangladesh Jatiya League proposed for referendum of the bill to elicit public opinion before moving ahead with the amendment. (Parliamentary proceeding, September, 1973 and the Morning News, September, 1973) Opposing the motion Mr. Dhar, Law Minister said the constitution amendment was merely a routine measure. The amendment would only incorporate those provisions which constitution of other countries usually have. The Law Minister said our constitution was in dearth of those usual provisions of a constitution and added, this incorporation did not necessarily mean their application unless the situation in the country demanded such measures. (Parliamentary proceeding, September, 1973 and the Morning News, September, 1973) The bill contained provisions of emergency, preventive detention, extension of amendment procedure and increasing gap between two sessions of Parliament.

1.10.1 Emergency:

A new chapter on emergency provisions was incorporated. This chapter contains three Articles namely: (Parliamentary proceeding, September, 1973 and the Morning News, September, 1973)

Article 141A (1) If the President is satisfied that a grave emergency exists in which the security or economic life of Bangladesh or any part thereof is threatened by war or external aggression or internal disturbance, he may issue a proclamation of emergency.

(2) A proclamation of emergency

a) may be revoked by a subsequent proclamation,

b) may be laid before Parliament

c) shall cease to operate at the expiration of one hundred and twenty days, unless before the expiration of that period it has been approved by a resolution of parliament.

Provided that if any such proclamation is issued at a time when the parliament stands dissolved or the dissolution of parliament takes place during the period of 120 days referred to in sub-section(C), the proclamation shall cease to operate from the date on which parliament first meets after its reconstitution, unless before the expiration of the said period of 30 days a resolution approving the proclamation has been passed by parliament.

(3) A proclamation of emergency may be declared on contemplation of any threat to the security of Bangladesh. This provision was made in violation of the spirit of the liberation war. It violated points no-2 and 9 of the Students 11-point programme which asserted to ensure freedom of thought, speech and press, and demanded the

abolition of emergency, State Security Act, and all sorts of preventive detention Acts. (Students' 11-point programme, 1969)

This provision gives the government the power to declare emergency on the basis of subjective satisfaction. It does mention the minimum duration of emergency but it does not give maximum limit. Here first two reasons for declaring emergency were ridiculous in the context of first Awami League rule. But the third one i.e., internal disturbance was justified because of decaying popularity of the regime. Awami League government used this power on December 28, 1974 in the name of restoring law and order after the killing of AL MP Gulam Kibria on December 28, 1974. (The Morning News, December, 1974)

Article:141B. While a proclamation of emergency is at work government shall make any law and take executive decision contravening Articles 36-40 and 42, and these laws and decision cease to exist as soon as the proclamation is withdrawn.

This provision automatically deserts the people of their political rights and proprietary rights immediately after promulgation of emergency. That means emergency refers to absence of political activities. And the first AL government was very much for that.

Article:141C (1)While a proclamation is at work President may by order with written advice of Prime Minister stop the operation of Article 102 for the enforcement of all the provisions or some provisions referred by chapter three of the constitution.

(2) An order made under this Article may extend to the whole or any part of Bangladesh.

(3) Every order made under this Article shall, as soon as may be, be laid before parliament.

In UK, USA, and India constitution contained special provision for emergency. In the name of emergency it could not suspend the enjoyment of all sorts of fundamental rights. (Kapur, 1971 and, John and Mchenry, 1959) Stopping the operation is equal to denial of enforcing fundamental rights.

This provision makes the government autocratic authoritarian under emergency and makes the people helpless creature without fundamental rights.

1.10.2 Preventive Detention:

By second amendment an inhuman provision of preventive detention was inserted in the Constitution. This special concept was enumerated in four new clauses after clause (2) of article 33.

The provisions are as follows- (The Ministry of Law, Justice and Parliamentary Affairs, 1973)

Article 33(3). Nothing in clauses 1 and 2 of Article 33 shall apply to any person-

- a) who for the time being is an enemy alien; or
- b) who is arrested under preventive detention.

Article 33(4): No law providing preventive detention shall authorize the detention of a person for a period exceeding 6-months unless an Advisory Board consisting of three persons of whom two shall be persons who are, or have been, or are qualified to be appointed as, judges of the Supreme Court and the other shall be a person who is a senior officer of the Republic, has after affording him an opportunity of being heard in person, reported before the expiration of the said period of 6-months that there is, in it's opinion, sufficient causes for such detention.

Article 33(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order.

Provided that the authority may, for public interest, not disclose the reasons for such detention.

Article 33(6)

Parliament may, by law, prescribe the procedure of the Advisory Board.

This provision violated point no-9 of the Students 11-point programme which was the spirit of war of independence. It demanded for the abolition of emergency, State Security Act, and all sorts of preventive detention Acts. (Students' 11-point programme, 1969)

In UK, (Kapur, 1971) USA, (John and Mchenry, 1959) and India (Kapur, 1971) constitutions did not hold any provision regarding preventive detention in those days. UK in 2006, India in 1987 and USA in 1984 adopted preventive detention laws for curbing terrorist activities but they have not inserted it in their constitutions. Therefore the argument of Minister M. Dhar at that point of time was given on a false pretext.

These provisions gave the government unlimited power to arrest and detain any person in the name of public interest for indefinite period. Under this inhumane provision on February 9, 1974 the notorious black law "the Special Powers Act, 1974" was made to protect sovereignty and security of the country, friendly relation with foreign countries, arrest law and order, stop corruption and smuggling, hoarding, and above all stop opposition politics.

1.10.3 Extension of Amending Power:

In original Constitution Parliament had power to amend, alter or change any provision of the Constitution. But it had restriction that it could not bring any change in the Constitution in breach of any fundamental rights

enumerated in Part III of the Constitution. It also stipulated that Constitution amendment bill must be passed by two thirds majority of the House and the President should sign the bill within seven days after its submission before him. (The Ministry of Law, Justice and Parliamentary Affairs, 1972)

By second amendment this article was changed as follows:- (The Ministry of Law, Justice and Parliamentary Affairs, 1973)

142. (1) Notwithstanding anything contained in this Constitution-

- (a) any provision thereof may be amended by way of addition, alteration, substitution or repeal by Act of Parliament:

Provided that-

- (i) no Bill for such amendment shall be allowed to proceed unless the long title thereof expressly states that it will amend a provision of the Constitution;
- (ii) no such Bill shall be presented to the President for assent unless it is passed by the votes of not less than two-thirds of the total numbers of the Parliament;
- (b) when a Bill passed as aforesaid is presented to the President for his assent he shall, within the period of seven days after the Bill is presented to him assent to the Bill, and if he fails so to do he shall be deemed to have assented to it on the expiration of that period.

And a new clause 2 was inserted in the article containing the following provisions;

142. (2) Nothing in Article 26 shall apply to any amendment made under Article 142. This provision gives the parliament freehand to amend any provision of the Constitution or make any new law infringing fundamental rights enumerated in Part III of the Constitution.

This provision was made in violation of the spirit of the war of independence. It violated points no-2 and 9 of the Students 11-point programme which asserted to ensure freedom of thought, speech and press and demanded for the abolition of emergency, State Security Act, and all sorts of preventive detention Acts. (Students' 11-point programme, 1969)

The Constitutions of USA and India did not give the legislature any power to make any law violating fundamental rights. (John and Mchenry, 1959) In India in *Golak Nath and others v. the State of Punjab* the Supreme Court said the legislature had no right to make any law violating any fundamental rights. (Kapur, 1971) In UK the Parliament has right to make any law but it could not make any law violating common law rights.

1.10.4 Increasing Gap between Two Sessions of Parliament:

In original Constitution second paragraph of article 72 laid down that intervening period between two sessions of parliament would not be more than 60 days. By second amendment it was increased in the following language:- (The Ministry of Law, Justice and Parliamentary Affairs, 1973)

There shall be not more than 120 days gap between two sessions of the Parliament.

In UK the House of Commons is summoned by king and its meetings go all the year round except interval of recess. The House of Lords sits four days a week. (Kapur, 1971) There is no specific gap between two sessions of Congress. However Congress remains in break every year from July 8 to September 16. But if any party requests the speaker in writing the Congress may assemble at any time. Again it may meet continuously. In 1939, 1940 and 1941 the Congress was in continuous session. (John and Mchenry, 1959) In India there existed no such provision that there shall be two months gap between two sessions of Parliament. (Kapur, 1971) This provision reduced the role of parliament in ensuring the accountability of the government which was the goal of Westminster system.

1.10.5 Amendment of Article 26:

In original Constitution parliament was barred to make any law in contravention of fundamental rights mentioned in Part III of the Constitution which is specially laid down in article 26 of the constitution. (The Ministry of Law, Justice and Parliamentary Affairs, 1972) Second amendment laid down that henceforth parliament could make law violating any provision of fundamental rights enshrined in part III of the constitution. (The Ministry of Law, Justice and Parliamentary Affairs, 1973) This provision encouraged the government to make any law for securing its power in the name of public interest.

The second amendment allowed the government to detain any person for six months without trial and without showing any reason. This also sanctioned the detention of the detainee beyond six months' period with the approval of the Advisory Board consisting of one senior government official and two other persons competent to be appointed as judges of the Supreme Court. Here the Advisory Board was not bound to disclose the reason of detention of concerned detainee. The detainee was kept in darkness regarding reason of his arrest for public interest. These provisions blurred the principles of natural justice as well as the fundamental rights guaranteed by the constitution. It also vitiated human rights declared and guaranteed by universal Declaration of Human Rights and UN Charter.

Regarding the inclusion of preventive detention in the constitution it reminded the threat issued by Awami League leaders prior to the second amendment that government would take stern measure against anti-people, enemies of independence, social vices and agents of imperialist or capitalist power. Sub-clause(a) and (b)

of Clause 3 of Article-33 contains that alien enemy and person arrested under preventive detention law will not enjoy the normal process of criminal trial. With regard to enemy alien Prime Minister Sheikh Mujibur Rahman said in a public gathering held at Bangladesh High Commission, Canada that no power could frustrate their freedom. Some elements acting on behalf of the imperialist and capitalist force in the country were trying to foil the government. (The Morning News, August, 1973) With a view to actualizing the provision of preventive detention Special Powers Act 1974 was adopted on February 9, 1974. This law contains a list of pre-judicial acts in section 2, clause (f). Such acts are-

1. Act to prejudice the sovereignty or defense of Bangladesh;
2. Act to prejudice the maintenance of friendly relation of Bangladesh with sovereign states;
3. Act to prejudice the security of Bangladesh to endanger public safety or the maintenance of public order;
4. Act to create or excite feelings of enmity or hatred between different communities, classes or sections of people;
5. Act to interfere with or encourage or incite interference with the administration of law or the maintenance of law and order;
6. Act to prejudice the maintenance of supplies and services essential to the community;
7. Act to cause fear or alarm to the public or to any section of the public;
8. Act to prejudice the economic or financial interest of the state.

Sub-section (b) and (c) include black marketing and hoarding respectively.(F-104)

The Awami League Government from the very beginning had been accusing the opposition of these subversive acts stipulated in the Special Powers Act, 1974. (Ahmed, 1983) Perhaps for restoring its pre-independent as well as immediate post independent day's image the Awami League regime made efforts to combat the prevailing political environment by inserting anti-democratic provision by second amendment. This amendment instead of bringing about political stability worsened the image of the regime further, as it was against the spirit of liberation war. It was further argued this provision paved the way for creating authoritarian system.

1.11 Conclusion:

In a democratic polity the role of opposition is as significant as that of ruling party. Awami League took the charge of independent Bangladesh. As a ruling party it failed to fulfill its commitments made during opposition movement. It showed inefficiency in running administration. Law and order became worst instead of improvement. People frustrated of AL government's very much dependency on India. Corruption and rampant smuggling among AL party men destroyed the economic structure of the country. Opposition was very vocal against misdeeds and failure of AL government. Although government accepted the reality but it denied its failure. It blamed the opposition for the failure of the government and sufferings of the common people. In order to suppress the democratic rights of opposition and common people AL government inserted undemocratic provisions in the constitution in the plea of making the 1972 Bangladesh Constitution a complete constitution. AL government used the constitution for making its misrule opposition free. Though AL government had committed wrong by inserting undemocratic provisions in the constitution yet the latter governments did not take any step to correct that wrong. Such action of AL was not desirable, nor helpful for the growth of democratic culture in a newly born country.

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