INCLUSIVE GOVERNANCE IN SOUTH ASIA

Parliament, Judiciary and Civil Service

Edited by

NIZAM AHMED

Inclusive Governance in South Asia

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ABBREVIATIONS

ACC	Anti-Corruption Commission
AL	Awami League
ASRC	Administrative and Services Reorganization Committee
BAPA	Bangladesh Paribesh Andolon
BBC	Backward Benchers' Club
BCS	Bangladesh Civil Service
BELA	Bangladesh Environmental Lawyer's Association
BJP	Bharatiya Janata Party
BNP	Bangladesh Nationalist Party
BNPPP	Bangladesh Nationalist Party Parliamentary Party
BNPS	Bangladesh Nari Pragati Sangha
BTRC	Bangladesh Telecom Regulation Commission
CA	Constituent Assembly
CAB	Consumer Association of Bangladesh
CCP	Chinese Communist Party
CHT	Chittagong Hill Tracts
CPI	Communist Party of India
CPN (M)	Communist Party of Nepal (Maoist)
CPN (UML)	Communist Party of Nepal (United Marxist Leninist)
CSO	Civil Society Organization
CSP	Civil Service of Pakistan
DC	Deputy Commissioner
ERC	Energy Regulatory Commission
FGD	Focus Group Discussions
FPSP	Fundamental Principles of State Policy
GDI	Gender Development Index
GoB	Government of Bangladesh

HCD	High Court Division
HDI	Human Development Index
ICS	Indian Civil Service
IDEA	Institute for Democracy and Electoral Assistance
INC	Indian National Congress
IPU	Inter-Parliamentary Union
LG1	Local Government Institution
LGSP	Local Government Support Program
MANRGEA	Mahatma Gandhi National Rural Employment Guarantee Act
MDG	Millennium Development Goal
MP	Member of Parliament
MTBF	Mid-Term Budgetary Framework
NC	Nepali Congress
NCS	Nepalese Civil Service
NDA	National Democratic Alliance
NGO	Non-governmental Organization
NITI	National Institute of Transforming India
NPC	National People's Congress
NPCG	Non-Party Caretaker Government
NPM	New Public Management
OBM	Open Budget Meeting
PAC	Public Accounts Committee
PB	Participatory Budgeting
PC	Planning Committee
PMB	Private Members' Bill
PMQT	Prime Minister's Question Time
PP	Participatory Planning
PPF	Public Policy Forum
PRI	Panchayati Raj Institution
PS	Panchayati Samity
PSC	Public Service Commission
RTI	Right to Information
SAM	Social Accountability Mechanism
SAP	Structural Adjustment Program
SC	Standing Committee
SEBI	Securities and Exchange Board of India
SLGDP	Sirajgonj Local Government Development Project
SSC	Scheme Supervision Committee
SSP	Senior Services Pool
TRAI	Telecom Regulatory Authority in India
UCPN	United Communist Party of Nepal
UDCC	Union Development Coordination Committee

UDP	Union Development Plan
ULF	United Left Front
UNDP	United Nations Development Program
UNO	Upazila Nirbahi Officer
UP	Union Parishad
UPA	United Progressive Alliance
USAID	United States Agency for International Development
UZP	Upazila Parishad
WC	Ward Committee
WM	Women Member
WS	Ward Sabha
YPF	Young Parliamentarians Forum
ZP	Zila Parishad

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PREFACE

One of the important problems confronting various developing countries is identifying ways to make the process of governing more inclusive. While there is a general recognition that governance implies something more than 'rule' by the government, there is no agreement on the nature and number of stakeholders to be included in the governing process. Inclusion has several dimensions—race, religion, color, region, and gender. These may conveniently be referred to as 'external' dimensions of inclusion. Yet inclusion also has an internal dimension. Those who form part of a governing institution do not have equal power and influence. In almost all governing institutions power is unequally distributed, with some exercising greater influence than others, while many may remain outside the formal scope of power. For governance to be inclusive, it has to involve not only individuals and institutions that remain outside the formal machinery of governance, but also the different groups within the same institutional setting.

In other words, there is a need for balancing the influence of different actors involved in the governing process. Balance, however, can be seen as a necessary but not a sufficient condition of 'effective' inclusive governance. Those responsible for governing have to remain accountable for much of what they do. Since the weaknesses of conventional accountability mechanisms have long been recognized, they should be supplemented by social accountability mechanisms. Social accountability, in fact, provides the bedrock of inclusive governance. It can be seen as a key strategy toward enhancing government performance and improving access to quality public services on an equitable basis.

However, our understanding about steps taken to make the process of governance inclusive and accountable in different South Asian countries is limited. Although the external dimension of inclusiveness has received some attention in recent years, the internal dimension has mostly remained unexplored. A study of issues such as the role of opposition members of parliament and government backbenchers in parliament or the implications of neglecting the specialists/professionals in the process of governance deserves as much attention as do other (internal) issues such as the need for adequate gender representation or (external) issues such as associating civil society organizations and various citizen groups. There is no major comparative study on the scope, implications and limitations of the policies and/or measures taken to exclude insiders who deserve inclusion in the governing process. Existing studies focus mostly on the need for and/or difficulty with including the outsiders. This volume seeks to redress this deficiency in governance studies.

Most of the chapters included in this volume are revised versions of papers presented at an international conference on inclusive governance in South Asia held in Dhaka, Bangladesh, in May 2016. The exceptions are Chaps. 7, 10, and 14 which have been written for this volume. The Conference was organized by the Public Administration and Governance Research Network and the Department of Public Administration of the University of Chittagong in collaboration with the Asia Foundation (TAF) and Southern University Bangladesh. I gratefully acknowledge the financial support of TAF, Southern University, the University Grants Commission (UGC) of Bangladesh, the University of Chittagong, Young Power in Social Action (YPSA), and Manusher Jonno Foundation. It would have been almost impossible to organize the Conference without such financial support. I am extremely grateful to the authors of different chapters who, despite their busy schedule, agreed to contribute to the volume. Colleagues from different parts of Bangladesh and abroad traveled a long-way to attend the Conference; many of them also gladly agreed to review papers which the authors have found very useful. I appreciate their kind support and cooperation. I am indebted to Dr. Muhammad Abdul Hakim, UGC Professor, Department of Political Science, University of Chittagong, Bangladesh for his helpful comments on some of the chapters included in this volume. I am also grateful to members of the editorial team of Palgrave Macmillan, particularly to Warren Jemima and Beth Farrow, and R. Arunprakash of Springer Nature for their help and support in making the publication possible.

However, responsibility for accuracy of data and interpretation of facts and information in different chapters rests with individual author(s), and not with the publisher or the editor.

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Introduction

Nizam Ahmed

'South Asia is united by a common thread of misgovernance.' This statement by Sobhan remains as valid today as in 1993 when it was first made. Several reasons account for malgovernance, of which two appear to be crucially important: lack of accountability on the part of those responsible for governance, and lack of any 'real' stakeholder involvement in the process of governance. The issue of accountability, however, has long been recognized and debated in different forums. Although substantial disagreements still exist on the 'appropriate' way of ensuring accountability, the transition from authoritarianism to democracy in different countries of the region can be seen as an essential first step toward securing an accountable governance system. South Asia, as a whole, is more democratic now than at any time in the past. Most of the countries in the region, however, can be labeled as 'electoral' democracies. Some major difficulties still discourage their transition from 'procedural' to 'substantive' democracies, although these are not equally noted in different countries.

For example, while in Bangladesh the lack of agreement between the government and the mainstream opposition on the process of government succession remains a stumbling block, the over-dominant role of the

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military in the political process in Pakistan seriously affects consolidation of the nascent democratic process. In Nepal, after years of trial and tribulation, the dominant elites appear to have reached a compromise and a new constitution providing for the inclusion of all important groups in society has been adopted. Although some groups still express resentment, the adoption of the new constitution can be seen as a major step toward democratic consolidation. Bhutan has had a new democratic beginning since the monarch decided to introduce a parliamentary system of government by decree in March 2008. Two parliamentary elections have been held since 2008 without any allegations, as in some other countries, of vote rigging or irregularities. More importantly, the party which won the first elections in 2008 was comprehensively defeated by the main opposition in the second elections in 2013, and there was an orderly succession of government.

Overall, nowhere in the South Asian region can one find a country run by a military dictator. Nor is there, apparently, any serious threat to the democratic system by 'anti-system' opposition. Notwithstanding differences of opinion, democracy appears to have greater acceptability among the majority of the population and particularly the elites. In fact, the presence of the democratic system itself can be considered as an improvement considering South Asia's turbulent history. The mere existence of a democratically elected legislature can provide a passive check on the executive, forcing it to anticipate the assembly's reaction to a proposed course of action (Hague and Harrop 1982). Democracy implies the existence of a pluralistic political order where different non-governmental actors and agencies exist and provide some kind of check on the abuse of power by those formally responsible for governance. Besides, international concern with dysfunctional consequences of misgovernance has prompted different countries in the region to move toward introducing new accountability mechanisms and/or making the existing ones work, at least up to a certain extent.

However, although the issue of accountability has received some attention, the other issue—lack of stakeholder inclusion in the governance process—has long remained neglected. It has, however, received special attention in recent years, especially since the restoration of democracy. Democracy requires accountability by those with power and more participation for those without. Inclusive governance has been referred to as a governance mechanism that includes active participation of all citizens,

particularly marginal groups such as the poor and women. According to UNDP (2007):

> To be inclusive is a core value of democratic governance, in terms of equal participation, equal treatment and equal rights before the law. This implies that all people – including the poor, women, ethnic and religious minorities, indigenous peoples and other disadvantaged groups – have the right to participate meaningfully in governance processes and influence decisions that affect them. It also means that governance institutions and policies are accessible, accountable and responsive to disadvantaged groups, protecting their interests and providing diverse populations with equal opportunities for public services such as justice, health and education.

Inclusiveness has different dimensions—sex, race, color, ethnicity, region, religion, economic base and political orientation—not all of which can be dealt with simultaneously or given equal attention. There is therefore a need for prioritization. Moreover, inclusion does not automatically generate better results; what is needed is the creation of scope for the engagement of diverse groups of people in the governing process. The involvement of stakeholders is considered to be necessary for making the governance process more broad based. It should encompass all groups. Those involved with governing a country do not have equal access to influence and power. In almost all governing institutions, power is unequally distributed, with some exercising greater influence than others, and many remaining outside the formal scope of power. To be inclusive, one has to take into account the importance of involving not only individuals and institutions that remain outside the formal machinery of governance; inclusive governance will require the involvement of different groups within the same institutional setting.

For example, generalists, who have traditionally dominated the civil service/administrative system and monopolized policy positions, need to accommodate professionals/specialists to ensure inclusive governance. Exclusion breeds discontent and may even cause outright conflict among different groups within administration/government. Similarly, many Westminster-derived parliaments, which have traditionally followed majoritarian principles in decision-making, have in recent years devised mechanisms to include the 'excluded'—government backbenchers and opposition members—thereby trying to make parliament a more inclusive institution. Public consultation on different issues that

confront parliament including pre-legislative scrutiny of public bills, which has become institutionalized in the West, is also seen as an important step to make the legislature more inclusive than before. However, a judiciary cannot be inclusive in the same way as the other two branches, i.e. including outsiders in decision-making; it has to be functionally inclusive and also accessible. An inclusive judiciary refers to the idea of an able and willing judiciary that enforces the rules to ensure inclusiveness in the other two organs of the state. Inclusive governance will specifically require diminution of inequality in gender influence. Women remain seriously disadvantaged vis-à-vis men in almost all governing institutions. Although some improvements have been made over the years, mainstreaming gender in different governing institutions in South Asia still appears to be a challenging task (see Ahmed 2018 forthcoming).

The involvement of both insiders and outsiders cannot be seen as mutually exclusive; one can reinforce the other. The inclusion of insiders is needed to generate better outputs, while making outsiders (stakeholders) part of the governing process is likely to make outcomes more effective. However, inclusion alone cannot always ensure the optimum outcome. To be effective, those responsible for governing have to remain accountable for their actions. In other words, inclusive governance cannot always guarantee accountability. The involvement of outsiders may make the governing process more broad-based, but it cannot ensure that 'governors' will be accountable. It is not unlikely that the more those 'without power' (outsiders) interact with those 'with power' ('dominant' insiders), the more they are likely to behave in a similar manner, and may try to avoid responsibility. There is thus a strong case for bringing stakeholders associated with inclusive governance under the framework of accountability. Gilman proposes a multi-pronged strategy that recognizes both the power of traditional government as well as broader definitions of *governance* that encompass a range of civic actors. This includes thinking beyond *efficiency*, for example, service delivery, toward *effectiveness*—more accountable, transparent, inclusive, participatory, representative and responsive governance (Gilman n.d.).

There is, however, no one best way of ensuring accountability. Traditionally two different approaches to accountability have been emphasized, with one stressing the need for eliciting responsible behavior, and the other focusing on the importance of enforcing it. The first approach, expounded by Carl Friedrich, eulogizes the value of moral responsibility,

while the other, popularized by Herman Finer, considers political responsibility to be more important. Referring to the need to elicit responsible conduct, Friedrich observed:

> Responsible conduct of administrative functions is not so much enforced as it is elicited. It has been the contention all along that responsible conduct is never strictly enforceable, that even under the most tyrannical despot administrative officials will escape effective control – in short, the problem of how to bring about responsible conduct of the administrative staff of a large organization is, particularly in a democratic society, very largely a question of sound work rules and effective morale (1966, p. 240).

Finer, however, distinguished responsibility as an arrangement of coercion and punishment, in contrast to Friedrich who believed in reliance upon responsibility as a sense of responsibility that was largely unsanctioned, except by deference or loyalty to professional standards (Finer 1966, p. 248). He found the need for strengthening external political control to be a means for exacting responsibility and criticized Friedrich for neglecting its importance, arguing that: 'He [Friedrich] gives the impression of stepping over the dead body of political responsibility to grasp the promissory incandescence of the moral variety' (Finer 1966, p. 254). Finer, like Friedrich, also agreed that some latitude be given to administration—both owing to the technical impossibility of complete political coverage and the wise recognition that the permitted latitude could be used for technically good policy (Finer 1966, p. 257). But he differed with the latter's proposal that auxiliaries could be an alternative to political/legislative control. In such a context [absence of political control], 'a self-serving, self-perpetuating bureaucracy would be the principal receptacle of power and knowledge, leading to a government of the technocrats, by the technocrats and for the technocrats' (Kearney and Sinha 1988).

This classic debate that took place between Friedrich and Finer in the 1940s still remains valid as governments across the world struggle with the issue. Both approaches have some limits, and there is a need to adopt measures that are aimed at balancing the effectiveness of the two. If internal mechanisms, particularly hierarchy, become weak or ineffective, external mechanisms of accountability are unlikely to have much relevance. One of the important reasons that accounts for the rise of 'unaccountable' administration in many emerging democracies is the gradual weakening of

hierarchy that mostly results from the tendency to politicize administration. One can notice some kind of fusion of (narrow) political and bureaucratic interests in many countries. Sobhan explains the causes and consequences of such politics–bureaucracy collusion in Bangladesh affecting administrative discretion and autonomy in the following way:

> … attempts to politicize the administration have been compounded by the compulsions of the administration to seek political patronage in order to advance their bureaucratic career. This has led to a collusive link between bureaucrats and politicians whereby bureaucrats transfer their political loyalty from one regime to the other to cover up their corruption and incompetence and to seek advantage over more professional minded colleagues who are dishonestly denounced as being loyalists of the previous regime. This attempt to seek political patronage to promote bureaucratic advancement is encouraged by political leaders who believe, quite erroneously, that they can build a coterie of politically loyal bureaucrats from the local administration upwards to serve both party and personal interests. This process neither builds a politically reliable nor an efficient administration but merely perpetuates misgovernance. (2007, p. 121)

The institutional capacity of the bureaucracy to govern has gradually declined mostly as a result of politicization. Party politicians are more interested in using the bureaucracy to serve political purposes than to strengthen it. This is a characteristic not only of Bangladesh; a similar situation exists in other South Asian counties. Referring to Nepal, Shakya has observed:

> In recent years, bureaucracy has been too much politicized. Chances of being appointed to the position of the secretary or other similar positions, Departmental Head, and the chief of the public enterprises have become a zero-sum game to those who do not enjoy any proximity or sympathy with one or another political party. The biggest source of political influence is in-built in the present Civil Service Act … The Promotion Committee has to recommend candidates three times in number of the vacant positions and the government can appoint anybody from the list. This has motivated the civil servants to develop relationship with the politicians to exert his/her influence for promotion. In fact, the provision of the Act encourages political parties to derive benefits through such appointments … The political parties also use the civil servants for their own purpose. This has created all the more difficult situation in terms of separating political influence on the civil service (2009, p. 40).

Improving the bureaucracy's capacity for governance will necessarily require restoring hierarchy and strengthening it, improving skills and knowledge of its members, and redefining bureaucracy's relations with other actors, particularly party politicians. This is, however, not to under-estimate the pathologies of hierarchy. What is argued here is that the absence of hierarchy (in a real sense, not in a formal sense) is more injuri-ous to the natural development of an organization than when hierarchy becomes routinized. Hierarchy is needed both to ensure bottom-up accountability and to help enforce the legal authority of the superior. Sobhan explains the drawbacks of the decline in hierarchy and bottom-up accountability in the following way:

> Institutional mechanisms of reporting up and surveillance of subordinates were the hallmark of the Imperial system. The tradition persisted in the post-colonial state where the inherited administrative structures maintained this tradition of bottom-up accountability. However, it is writ large in the post-colonial history of each South Asian country how these systems of bottom-up accountability progressively weakened to the point, where at least in such states as Pakistan and Bangladesh this system of accountability has all but disappeared. As a result, each person and tier of the administra-tion has become a law unto themselves. In some cases, different units of administration, working outside the scrutiny of their superiors, have recon-stituted themselves into rent-seeking collectives, aggregating into a full-time predatory state. (2007, p. 163)

There is a growing recognition of the need to supplement the tradi-tional methods of accountability by what can be called social accountabil-ity which represents an advance in thinking about ways in which citizens can exercise control over public authority in contexts where traditional mechanisms of political accountability have largely failed to deliver (Joshi and Houtjage 2012). The World Bank has defined social accountability as 'an approach toward building accountability that relies on civic engage-ment, i.e. in which it is ordinary citizens and/or civil society organizations who participate directly or indirectly in exacting accountability' (World Bank 2003). Initiatives that fall into this category are diverse, and include participatory budgeting, administrative procedures, acts, social audits and citizen report cards, all of which involve citizens in the oversight and con-trol of government (World Bank 2003).

Social accountability has arisen as a reaction against the failure of the traditional mechanisms of accountability to deliver public goods. However,

attempts to strengthen those mechanisms (hierarchy and external political control) may be seen as a necessary but certainly not a sufficient condition to promote accountability. Social accountability mechanisms are likely to supplement the traditional measures. Critical to the success of social accountability initiatives are civil society and state capacities, and the synergy between the two (GoI n.d., p. 1). The role of the state in ensuring social accountability is crucial. For example, the state as a 'willing accomplice' in the broader accountability project needs to render its own 'internal' mechanisms in a way that makes it structurally amenable to accountability, and second, the state needs to identify and adopt mechanisms to facilitate and strengthen civic engagement and the citizen voice (GoI n.d., p. 1).

This edited volume explores the state of inclusive governance in South Asia. It particularly examines the nature and scope of inclusiveness that may be seen in different governing institutions, particularly parliament and civil service in Bangladesh, India and Nepal, and the judiciary in Bangladesh. The main emphasis will be on identifying the extent to which insiders in different institutions have the scope to participate in the governing process. The volume also seeks to assess the implications of inclusiveness/exclusiveness for democratic governance. Attempts will be made to explore the link between inclusiveness and accountability, and to identify the strengths and weaknesses of the existing mechanisms of accountability, particularly social accountability.

A number of themes have been explored in this volume. Chapter 2 examines the mechanisms used at Westminster to include the excluded, particularly backbenchers, in the parliamentary process, while Chaps. 3, 4 and 5 examine the way in which parliaments in different South Asian countries, most of which have been patterned on the 'Mother of Parliaments,' the Parliament at Westminster, have fared in associating the opposition and government backbenchers with issues and problems that confront them. Experience shows that there are diverse ways in which these parliaments have dealt with various issues; these have different implications for parliamentary institutionalization. As the discussion in Chap. 2 shows, government backbenchers at Westminster are not lobby fodder; they have increasingly become assertive and played a critical role in keeping parliament vibrant. The need to associate backbenchers with the parliamentary process has been recognized, especially since the 1960s, when dissension and backbench rebellion became part of parliamentary life in Britain. Several measures have been taken over the decades to allow backbenchers greater activism, mostly to check rebellion.

However, the recent reforms made in the House of Commons have the potential to make backbenchers what Fox calls 'fearless champions.' The main initiative for such reforms came from Speaker John Bercow MP who thought, albeit correctly, that in the absence of mechanisms for 'genuine' involvement, backbenchers will 'look down' and become more involved in local politics to the detriment of national as well as local democracy. He thus facilitated what Fox calls 'the renaissance of the backbenchers' role and power within the legislature.' Several mechanisms have thus been devised, including the creation of a backbench business committee which now decides the agenda for the House for 35 sitting days per session, the introduction of provision for the election of select committee chairs, and the restoration of urgent questions. These reforms have given backbenchers a greater sense of ownership and responsibility for what goes on in the House. Fox has identified a number of factors that helped to introduce the reforms. She cautions, however, that although initiatives for reform may come from different sources, backbenchers themselves must drive and shape reform if it is to be sustainable.

In most of the parliaments patterned on the Westminster model in South Asia, the definition of backbenchers is difficult. In some, for example, Nepal, as Baral (Chap. 5 in this volume) asserts, the question of backbenchers does not arise. Part of the reason is the governmental instability that has characterized Nepalese politics since the fall of the monarchy and, in particular, the emergence of coalitional politics that has followed the adoption of the mixed electoral system—a combination of 'first past the post' and the proportional system. If there is not much scope for backbench activism, neither can one find a 'responsible' parliamentary opposition in Nepal. Most of the oppositional activities are extra-parliamentary in origin. Overall, Baral argues that coalitional politics tends to erase the thin boundary of government and opposition. Even parliament does not function on the basis of strictly defined roles of government and opposition. One positive development, however, is the success of the contending elites to agree on the policy of inclusion in the Constitution, recognizing the need for participation of different groups and regions in the political process. The new parliament awaiting to be elected will probably be the most representative of all elected assemblies not only in the South Asian region but also in some other areas of the world.

Rodrigues finds (Chap. 4 in this volume) that the role of the backbenchers in the most institutionalized of all legislatures in the South Asian region, *Lok Sabha*, the lower House of Indian Parliament, is not as pronounced as one would expect. Although the *Lok Sabha* has in recent

years become more inclusive, both socially and politically, the role of back-benchers remains largely limited. In fact, as Rodrigues (Chap. 4) observes: 'there is little that corresponds to the concept of backbencher/s in India as in the Westminster system where backbenchers, understood as those who are not members of the government or of the shadow government, may differ with the government or the leadership of their respective parties in important respects.' This, however, does not imply that backbenchers always comply with directives issued by their parties. Dissent could easily be noticed within what Kothari called the 'one-party dominant system'. Some 'disgruntled' backbenchers belonging to different parties occasionally formed groups such as Backward Benchers' Club or Young Parliamentarians Group and tried to popularize some issues. But these were short-lived experiments; nor were these strictly 'backbench' groups. They focused mostly on low-profile/general issues to avoid the wrath of their parties and to survive in politics.

Nevertheless, the way they did it, mostly to register their protest, was important. These were cross-party groups; their aim was to promote the cause of parliament and not to sabotage it. However, one of the main problems facing leaders of different parties, particularly the Indian National Congress (INC), was the dominant tendency of many of those expressing dissent to break away from the parent parties and to create new parties. Unlike in the early years of independence when different factions within the INC co-existed, with the left often trying to influence the making of party policies, party leaders in subsequent years, particularly after the Nehru era, became intolerant of opposition views within the party. Factions have some important values; in fact, these help to maintain equilibrium within a big party and discourage the emergence of a single person authoritarian leadership. Rodrigues has argued that the initial opposition to Nehru's policies came mostly from the 'left of the Congress'. It is probably the willingness of the leadership to tolerate dissenting opinion that kept the party united in the initial years of independence. The anti-defection act was introduced later to discourage party splits and to establish the hegemony of the leadership. Rodrigues has argued that the anti-defection law has (negatively) affected the behavior of both government backbenchers and opposition MPs, although the former find it more draconian than the latter.

The opposition in the Indian Parliament has had some notable achievements. Until recently, it was at least listened to, if not always consulted. Rodrigues provides several examples of opposition success during the

Nehru years, notwithstanding its weak nature (in terms of number). He provides convincing evidence that the government–opposition relations changed significantly, albeit negatively, in the 1970s when the two not only found each other as adversaries, but there was also a tendency of treating the opposition as the enemy and measures came to be formulated to quarantine, if not to wholly silence, it. New developments have taken place since the decline of the one-party majority government and the emergence of 'stable' coalition governments in the 1990s. Unlike the 'enemy discourse' of the 1970s, government–opposition relations in the 1990s were characterized by both co-operation and conflict; readiness in the government as well as the opposition for compromise could also be noticed. Many issues raised by the opposition still remained unfulfilled; but it succeeded in highlighting the significance of many important issues, including those that were central to debates in the 1950s and 1970s, such as pluralism, communalism, secularism and inclusion. Besides, Dalits, women and representatives of backward castes have increasingly become assertive.

Procedural changes and institutional mechanisms intended to encourage opposition and government backbenchers to participate more fully in the parliamentary process have been devised, of which the introduction of Departmentally Related Standing Committees (DRSCs) is vitally important. Following the Westminster tradition, chairs of different DRSCs are distributed to different parties in proportion to their strength in the House. Chairs of important committees such as Foreign Affairs, Home and Finance have traditionally been given to senior opposition members. This shows the maturity of the Indian democracy and particularly its leaders. Responsibilities entrusted with DRSCs are very important: scrutiny of legislation and policy, exercise of administrative oversight and most importantly, review of departmental budgets. These are apparently just enough to keep members, both opposition and government backbenchers, happy and busy. Balance in party composition of DRSCs in recent parliaments is also likely to make them both representative as well as effective. Earlier studies lauded the achievements of these DRSCs, but Rodrigues finds a decline in their activism and performance. Nevertheless, the willingness of Indian leaders to follow a policy of accommodation, particularly their readiness to share parliamentary power, can be seen as an important step toward making parliament an inclusive institution. It may also be seen as an important step toward further institutionalization of the parliament.

The Rules of Procedure of Bangladesh Parliament (*Rules*) also provide for the setting up of a number of DRSCs; in fact, there are more DRSCs in Bangladesh than in India. Part of the reason is that the *Rules* in Bangladesh require that the parliament set up one DRSC for each ministry; in contrast, a DRSC in India has jurisdiction over the activities of more than one ministry. The Bangladesh DRSCs are less representative in party composition than their counterparts in India; more importantly, there is no example of sharing of committee chairs between the government and opposition in Bangladesh. All committees have traditionally been chaired by government backbenchers. Earlier, ministers headed the DRSCs. Moreover, the Bangladesh DRSCs do not have any involvement in the budget process. The *Rules* do not allow the budget to be referred to any committee. Thus, in respect of both composition and major functions, the Bangladesh DRSCs compare unfavorably with their counterparts in India.

These, however, enjoy one advantage that the Indian DRSCs lack. The DRSCs in Bangladesh have been granted general competence power in one respect; they can review works relating to a ministry, inquire into any activity or irregularity or serious complaints, and examine any other matters that may fall within its jurisdiction (Bangladesh Parliament 2007, p. 72). But the DRSCs in India need referral from the House or the Speaker to do anything. Ahmed [Chap. 3 in this volume] observes that members of the Bangladesh DRSCs often use committee positions for promoting personal and constituency interests; these are not generally seen in India. Moreover, committee chairs and members in Bangladesh very often complain of ministries' lack of interest in implementing their recommendations. There is no requirement in Bangladesh, as in India, for committees to submit reports to the House on actions taken by different ministries to implement their recommendations. In almost every respect, particularly inclusion and participation, the Bangladesh DRSCs lag behind their Indian counterparts.

More importantly, government–opposition relations in the Chamber as well as outside of it are characterized by mistrust and conflict. In fact, the 'enemy discourse' is widely evident in Bangladesh; one tries to prosper at the expense of the other. What is probably more worrisome is that the government, in collaboration with its alliance partners, now tries to debase the main opposition, thereby risking the rise of a monolithic (one) party system. Unlike in India where coalition politics, as Rodrigues observes, appears to be beneficial, the alliance politics in Bangladesh is likely to make government–opposition relations more adversarial. The government is apparently interested in pursuing a policy of confrontation, not of accommodation. The formation of

a 'political' alliance by the government is intended to edge the main opposition out of its social and political base. In contrast, coalition politics in India is intended to encourage stable collaboration and power-sharing.

Ahmed (in this volume) provides evidence of several cases of collaboration between government and opposition in the early years of the restoration of democracy in the 1990s. Government backbenchers, besides playing a proactive role, also supported, tacitly as well as openly, many initiatives taken by the opposition. In fact, the fifth and seventh parliaments (1991–2001) appeared to be more vibrant and more productive than their predecessors or parliaments elected later. Part of the reason was the willingness of the two Speakers to exercise freedom and discretion in a 'responsible' manner and not to be always bullied by their parties. One Speaker even allowed an opposition-sponsored no confidence motion against the government, disregarding party pressure not to do it. But the Speakers in the parliaments elected subsequently or in the first four parliaments apparently volunteered to be tools of their parties/government. Herein lies one of the main differences between parliaments in India and Bangladesh. Speakers in the Indian Parliament may remain loyal to their parties, but they do not generally agree to act as a tool of government.

On the whole, relatively speaking, one can find a more inclusive parliament in India than in Bangladesh. Such inclusiveness can be noted in respect of recruitment to the legislature (the social origin of lawmakers) and in its internal composition and operation. The role of the opposition is often recognized and respected. Many important issues remain outside party contests; there exists consensus on the basic 'rules of the game.' The rules require that certain fundamental questions, such as the regime and the form of government, remain outside the party fight (Wheare 1968, p. 80). These also require that while the government is to be allowed to push its program through, the opposition must be given all reasonable opportunities for criticizing it (Richards 1978, p. 59). Although disruptions of parliamentary proceedings have become a common feature in recent years in India, the overall working of the parliamentary system has not come under any challenge.

The Bangladesh Parliament lags behind its Indian counterpart in many respects. It is less representative in (social) composition and also less inclusive. Besides, attempts by the government to marginalize the main opposition have become so widespread that the system risks coming under serious challenge. The political parties in Nepal, despite widespread mistrust and hostility toward each other's intention and attitude, have agreed

to compromise on the issue of inclusion. Inclusion lies at the heart of the new constitution approved in 2015. The Parliament of Nepal is likely to be the most inclusive of all legislative bodies in the region. But Bangladesh remains a deviant case. Chapter 6 analyzes the functional-sense inclusivity role of the higher judiciary in Bangladesh. It focuses on the judicial inclusivity function with a reference to three performance areas: social inclusion of marginalized people, participation of women in governance and the protection of the autonomy of indigenous people. Although the proactive role of the higher judiciary in all three areas can be noticed, the extent/level of activism falls short of expectation. Haq, author of Chap. 6, argues that there is not enough activism in the areas that should be the goal of an inclusive society, and explores factors that account for it.

Chapters 7, 8 and 9 identify the extent to which Bangladesh, India and Nepal have succeeded in balancing the policy influence of generalists and specialists in the civil service, which is considered to be an important prerequisite of an 'inclusive' civil service. In most of the countries of the South Asian region, generalists still dominate the civil service, a tradition that owes its origin to British colonial rule, although the need for including specialists has long been recognized. The generalists' domination of the civil service is more entrenched in Bangladesh than in other countries of the region. Shahan and Khair (Chap. 7 in this volume) observe that the introduction of provision for a Senior Services Pool (SSP) in the 1970s provided an opportunity to resolve conflicts between the generalists and specialists, and to ensure a merit-based administrative system. But the abolition of SSP put the specialists at a serious disadvantage vis-à-vis the generalists who now hold more policy level positions in the Secretariat than the law prescribes. In other words, generalists now outnumber specialists in all top level policy positions and outdistance them from sources of power and influence. The two hold a negative view about each other's role and importance; often they define their roles in mutually exclusive terms.

Shahan and Khair have provided a framework for studying the notion of inclusive governance, arguing that governance will be termed as inclusive only when opportunities for participation exists for both internal and external actors, while chaotic governance will follow the unwillingness of the government to ignore the advice of both internal and external experts. Another category of governance—futile governance—may result from the failure of the government to ignore expert advice under the influence of the generalists. This is what is happening in Bangladesh. Shahan and Khair argue that the presence of generalist–specialist conflict is actually moving

the country toward futile governance. They suggest that one important way to resolve this problem is to introduce 'network governance' to replace the existing hierarchic governance. Network governance allows both the generalists and the specialists to effectively contribute to the policy process, and creates a unique opportunity to address this long-standing problem and move toward more inclusive governance (Shahan and Khair in this volume). This will make the civil service in Bangladesh more professional and help it to handle the increasing demands from citizens and the complexities of an interconnected and globalized world.

Chapter 8 examines the way in which policymakers in India have sought to resolve the issue of generalist–specialist controversy with a view to making governance inclusive. Chakrabarty (Chap. 8)] argues that modern governance is neither merely a technical act nor merely a Weberian making of rules. Governance is now seen as a socio-cultural and technical act that is intended to realize certain well-defined societal and culture-specific ideological goals. The chapter focuses on one specific instrument of authority: National Institution of Transforming India (NITI) Aayog and two major regulatory authorities—the Securities and Exchange Board of India (SEBI) and Telecom Regulatory Authority of India (TRAI) to show how the mutual exchange of expertise between professionals and generalists can help develop effective policy alternatives. Chakrabarty argues that 'for a perfect comprehension of the politics of decision-making, besides the prevalent socio-economic and political milieu, one needs to be equally sensitive to the communication involving the generalists and specialists. Although they may not have uniform influences, the fact remains that no decision is possible, especially in today's context when multiple actors contribute to administration, without being appreciative of the inputs coming from both of them. By being complementary to one another, argues Chakrabarty, the generalists and specialists thus remain integral to governance in its spirit and manifestation' (Chap. 8 in this volume).

However, although the need for associating specialists with the process of policymaking at different levels has long been recognized, the task of reforming the administrative system remains difficult. In particular, the generalist domination of top-level policy positions is still widely evident. In India, the Indian Administrative Service (IAS) cadre is still 'relegating all other services to a secondary position.' Departments such as agriculture, power, mining, infrastructural developments (highways, ports), shipping and health that should ideally be headed by specialists are controlled by officers of the IAS cadre. A similar situation also exists in Bangladesh where

Bangladesh Civil Service (BCS) officers belonging to the Administration cadre monopolize policy positions even in technical departments. Worse still, officers of professional cadres (non-admin. cadres) who are promoted to senior levels in the Secretariat usually do not have much social/policy interaction with other (admin. cadre) officials; the two remain apart socially, culturally and psychologically. Such separation has negative implications for policymaking and governance. Nepal, however, differs from other countries in the region in one important respect.

Gautam (Chap. 9 in this volume) has provided evidence to show that the recent policy shift toward clustering of services can be seen as an important way of introducing an inclusive civil service in the country. The policy of inclusion which was evident only at the entry level until recently can now be found at the senior level too. The new arrangement will restrict 'free' movement of administrative service officials among different services; clustering has effectively closed their intrusion into other services. Although nearly half of senior positions are still reserved for administrative service officials, they have effectively lost monopoly or dominance. It is too early to make any assessment of the new system as it was introduced only in late 2015. Nevertheless, Nepal can certainly be seen as a trendsetter. No other country in the region can be compared with Nepal in terms of the adoption of policy measures aimed at making the civil service as well as parliament inclusive institutions.

Chapters 10, 11 and 12 focus on social accountability, which has gained special importance in recent years partly because of the drawbacks of the conventional mechanisms in enforcing accountability, and partly because of its inherent strengths. Rahman (Chap. 10 in this volume) identifies the accomplishments and challenges of social accountability in different South Asian countries. Chapter 11 examines the useful and limitations of public hearing as a social accountability tool in Bangladesh. The authors—Islam, Nasrullah and Haq—have provided a succinct account of the working of different types of hearing and their potential to secure the accountability of public officials. Public hearings, they argue, have different purposes and functions, of which accountability is crucially important. They have identified two major types of hearing, state-centric and CSO-centric, and argue that the former are gaining greater importance, although they are intended more to justify government actions rather than to make the government accountable for those actions. In contrast, CSO-centered hearings, which have greater potential to elicit information and enforce accountability, are often discouraged. This does not appear to be a healthy trend.

Public hearings by parliamentary committees received special attention during the tenure of the ninth Parliament (2009–2013); these were popularized by different donors, particularly the United States Agency for International Development (USAID) and United Nations Development Program (UNDP). In fact, before the intervention of these donors, the parliament apparently did not have any idea about hearings. As the authors of Chap. 11 show, different standing committees held 47 public hearings, of which more than half (27) were organized by a USAID-funded project called PRODIP (Promoting Democratic Institutions and Practices). Many parliamentary officials acquired expertise in organizing hearings, although no attempt has been made in the current parliament to utilize this. Only one committee in the tenth parliament (2014–) has so far organized only one hearing. There are various challenges to the institutionalization of the concept of hearing, of which the lack of interest of the leadership is very important. Public hearings are unlikely to provide any political dividend; hence, many committee chairs are not interested in them. Perhaps more importantly, the lack of any donor support to the tenth parliament can be seen as the main handicap. In fact, no donor has agreed to support the present parliament mostly because of the non-inclusive way it was elected. The main opposition parties did not take part in the elections.

Participatory planning and participatory budgeting, as Chowdhury observes in Chap. 12, are important social accountability tools that are widely noticed at the local level in Bangladesh. The Local Government (Union Parishad) (Amendment) Act of 2009 now makes it mandatory for each Union Parishad—the lowest tier of rural local government—to secure public approval of different development schemes it prepares and the annual budget. While open budget (OB) meetings are held to approve the annual budget, development schemes are proposed and initially approved in ward *shava* (WS) meetings that are held twice a year. Development schemes are also implemented by the ward committee, which consists of the ward member as the chair and a number of local people as members, while the progress of implementation is monitored by a scheme supervision committee, a seven-member body. Members of the ward committee and the scheme supervision committee are elected in ward *shava* meetings.

Theoretically, there is no scope for those associated with the working of the Union Parishad to avoid their responsibilities. Discussion in Chap. 12, however, shows that there remains a major gap between what the Act prescribes and the way those associated with the working of the Union Parishad behave. The reasons for such gaps are many and varied, but the following are important: inconvenient times and places of WS and OB

meetings, religious codes and patriarchical restrictions on women's movement, lack of education and awareness of citizens, and mistrust of the elected officials by the citizens because of the institutionalization of corruption. While the accountability tools have some limits, these are not unimportant. Chowdhury (Chap. 12) argues that participatory budgeting and planning are creating a new pathway for participation of the masses in the decision-making process at local level; these are also seen as important mechanism of downward accountability.

Chapter 13 makes a broad assessment of the state of democracy, governance and social accountability in different South Asian countries. South Asia, as a region, is more democratic now than before. The new democracies, however, are likely to witness various challenges stemming from different sources—economic, religious and political. Kashyap (Chap. 13), however, argues that nowhere can one find a 'perfect' democracy; there is a need for revisiting, revitalizing and reinventing democracy at certain intervals. He further argues that democracy needs good governance, not of the style or variety suggested by the World Bank but one that can ensure the maximum benefit for the maximum number of people. He further observes that a purely market-based system of governance does not appear to be suitable in South Asia: there is a need for strategic state intervention to ensure justice and equality. Good governance has to take care of the interests of the poorest. It is also needed for social justice and inclusive growth. Social accountability leads to social inclusiveness. Both lead to government agencies' greater responsiveness, improved public services, better governance and reduced corruption.

Chapter 14 provides a comparative account of the state of governance and inclusive growth in South Asia and East Asia. As case examples, Chou and Huque have selected India (South Asia) and China (East Asia), both of which are now seen as new 'development models.' The two countries employ diverse approaches to governing and development. While India has followed a democratic participatory style of governing, China has remained an authoritarian state. A comparison of initiatives in China and India provides a useful insight for explaining the extent of their effectiveness in achieving inclusive development and public engagement. The chapter finds that democracy and participation are important in many respects, but they may or may not contribute to the goal of inclusive development. It also emphasizes the point that China's economic success is not necessarily resulting in inclusive development. What matter more are those institutions that produce smart social policies targeting development goals.

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'Lobby Fodder or Fearless Champions?' The Role of Backbenchers in Holding Government to Account

Ruth Fox

An MP's role 'is not to govern but to hold to account those who do', said British Prime Minister William Ewart Gladstone in 1855. Over a century and a half later the depiction of the parliamentarian's primary role and responsibility remains as true as ever. But, to be realized, the aspiration requires active and effective scrutiny of the executive by backbenchers, at a time when party affiliation, constituency pressures, and the voracious round-the-clock challenges posed by the press and social media place ever greater and often conflicting demands on today's generation of politicians. This chapter explores the role that backbench MPs play in a parliament and why they are important. It asks what factors shape their role and work. How do the personal and political dynamics—party loyalty, constituency interests, career ambition, parliamentary culture, and procedural rules—influence what they do and how effective they can be? What conditions provide the space for backbenchers to exercise influence, and how does such influence manifest itself? And what kind of institutional reforms to support the role of backbenchers, drawing on examples from

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their renaissance at Westminster in recent years, can help promote a more inclusive and accountable parliament capable of fulfilling Gladstone's accountability dictum?

The Role and Function of a Backbencher

Descriptions may vary across institutions, but for the purposes of this chapter 'backbenchers' refers to MPs who are not government ministers, opposition spokespersons, or leaders of smaller parties. As such, at one end of the spectrum they may be relatively new members of the legislature or, at the other, an experienced, senior politician who no longer holds or has never held ministerial office. For the casual observer, such members are most easily discernible in those parliaments whose architecture of assembly is predicated on two long rows set out in opposition to each other, as in the Westminster or Sri Lankan parliaments. In contrast, the distinction between front and backbench members of a parliament whose design follows one of the four alternative typologies may be less physically obvious to the untrained eye: the horseshoe model such as the Jatiya Sangsad in Bangladesh or the Lok Sabha in India; the circle such as the parliament found in Slovenia or Senegal; the classroom layout such as the Nepalese or Ethiopian parliaments; or the semi-circle such as the National Diet in Japan or the German Bundestag (Mulder van der Veght and Cohen de Lara 2016).

In the absence of a formal job description, the role of a backbencher is essentially what he or she chooses to make of it, but half a dozen characteristics can be discerned.

First, backbenchers exist to support their party of choice and, in Westminster-style parliamentary systems, where the executive is drawn from the legislature, they give effect to the elective function of a parliament in choosing the government after a general election.

Secondly, backbenchers have a critical role in scrutinizing and holding the government to account in respect of policy and regulation, legislation, and public spending. Without such scrutiny, difficult questions may go unasked and institutional assumptions remain unchallenged (Carswell 2012). The execution of this role in formal and public ways is most obviously evident in respect of opposition backbenchers, but backbenchers from the governing party can often exercise critical influence through informal, private, back channels as much as formal, public, accountability mechanisms.

Thirdly, backbenchers of all political stripes have a role in proposing, reviewing, and amending legislation, with reduced emphasis on the former function in respect of those parliamentary models where weight is placed on assenting to rather than initiating legislation.

Fourthly, backbenchers may contribute to policy development—within the parliamentary institution, within their party groups, and in wider public forums through engagement with the legislative process and public debate. In these ways, they may contribute to what the constitutional theorist Walter Bagehot described as parliament's 'teaching' function (Bagehot 1867), their role being to engage the country in debate and learning about what is needed to bring about a change in national fortunes for good or ill.

The fifth and sixth functions are partly fused, for they speak to the MP's representative function, furthering on the one hand the class, group, or sectoral interests of a constituency, and on the other the raising of grievances for individual constituents. These too support Bagehot's theory about the 'expressive' and 'informing' functions of a parliament, in which the members seek to articulate the public's view on matters before the legislature, as well as providing an alarm bell and awareness-raising function for problems that otherwise might not be voiced and heard.

In practice, the modern backbencher is an amalgam of scrutineer and legislator, advocate and campaigner, independent mind and party lobby fodder, ombudsman and social entrepreneur, ambassador and patron. These roles may prove sometimes to be complementary, at others in conflict; and it is in the political minutiae of everyday parliamentary life where the efforts of backbench MPs to link up and resolve the inherent tensions between their functions as parliamentary and constituency representatives are to be found. But sometimes the tension between their roles cannot be reconciled and the conflict proves too great. It is in these circumstances that splits within parties may occur, leading to the formation of new groups.

What Factors Shape the Role of a Backbencher?

A complex array of factors helps determine the approach taken by any individual backbencher. The size of his or her electoral margin may dictate whether he or she chooses to focus more on constituency rather than legislative scrutiny work, and the extent to which he or she will bring local policy issues to the attention of the parliament. A backbencher in a

marginal seat may also be more dependent on party support from the center to help win his or her seat at the next election, and thus perhaps less likely to challenge the party line in parliament.

The size and demographic make-up of their electorate may also influence how backbenchers apportion their time and prioritize certain types of work. In the UK, an MP may represent a geographical area with a population of approximately 70,000 people; but in Bangladesh that rises to roughly 470,000. Similarly, the size of a constituency in the UK is limited (with just a few exceptions) to around 13,000 km², but in Australia seats of between one and two million square kilometers are not unknown.

In the UK, MPs in marginal urban or semi-urban seats with high levels of social deprivation will have large constituency caseloads and pay considerable attention to the grievance-chasing facets of their role compared with their counterparts in rural seats. In other countries, the reverse may be true; there may be greater pressure on more rural seats, with the MPs facing workload and travel demands that require them to take a different approach to their role and work than their colleagues in urban seats. But the nature and volume of work depends not just on the nature of the constituency but also on the powers and responsibilities that lie with the legislature. When governments take on new powers or responsibilities—for example, Australia when it became a member of the G20—the scrutiny demands on backbenchers grow accordingly, as the parliament must expand its remit to hold the executive to account in these new areas.

Similarly, the wider constitutional context is also important. An MP in a federal state such as Canada, Germany, or Ethiopia, for example, will be expected to know not just what is happening in his or her own parliament but also what is happening in their state legislature and state government. With responsibility for certain policy and regulatory issues allocated to different levels of governance, the areas where an MP can get involved may be circumscribed. And in federal systems an opposition backbencher in the national parliament may be a member of the party that governs the state in which his or her constituency is situated, leading to a potential degree of self-censorship when it comes to scrutiny of some policy areas.

Whether the backbencher is a member of the governing or opposition party will also influence his or her approach. If the MP aspires to join the opposition front bench or secure ministerial office this will likely be a factor in determining the extent to which he or she is willing to speak out and vote against his or her party if constituency interests or personal conscience so dictate. The governing context can play an important role here. In the

event of a coalition government the number of ministerial jobs available to members of the largest party may be limited, as the posts must be shared out across multiple parties. This was the case in the UK during the 2010–2015 parliament and certainly contributed to a level of disgruntlement on Conservative benches, as frontbench spokespersons who had expected to secure office after the election found themselves shunted aside or returned to the backbenches, and others found any prospects of future office constrained by the need to accommodate the position of Liberal Democrat MPs in the coalition. Party discipline is also tight when governments have small majorities and backbenchers are consequently given less leeway by the leadership. Conversely, however, a backbencher can exert enormous influence if party whips and business managers conclude that a vote will be very close; in these circumstances, the wily backbencher may extract significant concessions in exchange for his or her support.

New Pressures on Backbenchers

The parliamentary aspects of a backbencher's role have not changed much over the years. The core responsibilities in relation to scrutiny in the chamber and committees remain much the same. What has changed is the broader context in which MPs find themselves operating, both in terms of their constituency and broader civil society, and the demands placed on them as community leaders. The range and pace of political activity has changed beyond recognition in the last 20–30 years, driven by the round-the-clock media cycle, the growth in communication mediums, and the expansion of institutional resources such as staffing and research capacity, as well as the growth in complexity of legislation and policy, the rise of the regulatory state, and the increased strength and vigor of civil society groups in many countries.

The rise of parliamentary monitoring groups and online democracy and transparency campaigners such as They Work For You in the UK can often play a distorting rather than supportive role in the life of a backbencher who may deliberately prioritize one area of work over another simply in order to enhance their ranking by these online campaign sites. The rise of 'clickocracy' through online petitioning sites generates a huge amount of correspondence and casework that has to be serviced. And on top of this is the new realm of social media, where MPs must regularly blog and tweet, as well as update their Facebook, Instagram, and LinkedIn pages, to communicate with their constituents and wider policy groups and

stakeholders. In constituencies where the MPs lie at the center of a patronage web, the number of businesses, schools, hospitals, religious bodies and active civil society groups that can be found in their constituency may influence how they carry out their work as a social worker-cum-ombudsman rolled into one.

Changing public attitudes also matter. Citizens are less deferential toward and more demanding of their representatives than ever before. This has an inevitable impact on the culture of politics in which backbenchers operate. Performance is an important component of representative politics and stylistic questions arise: what kind of representative do local people want? Is (s)he 'a good person'; will (s)he be 'one of us'; will (s)he make sure that 'our voice is heard' (Fenno 2003)? The modern backbench MP needs to take account of these questions in determining how to go about his or her role and work.

THE POWER OF BACKBENCH DISSIDENCE

If an MP cannot contribute meaningfully to the decision-making process and is unable to check and modify the decisions of the executive, then 'the political arrangements are inconsistent with the concept of representative government' (Lynskey 1970). But how does the capacity to check and modify the executive show itself? The most obvious example takes the form of coercive power through backbench rebellions in voting divisions. Despite the UK Parliament's associations with a strong whipping system, the 2010–2015 parliament witnessed the greatest number of backbench revolts in recorded UK parliamentary history. Contrary to public and media opinion which is inclined erroneously to cast UK MPs as compliant lobby fodder, they have become gradually more independent-minded and rebellious in recent decades. Between 1945 and 1970 there were no government defeats due to backbench dissent, but party cohesion began to weaken from the 1970s onwards, and current levels of revolt may be contrasted with the two sessions in the 1950s in which no government backbench member rebelled. In the 2011 session, during a period of coalition, backbenchers from the two governing parties voted against their government in 44% of divisions (Cowley and Stuart 2012). Understandably, party whips are thus concerned that once an MP has crossed the Rubicon and rebelled against his or her own side, it is much easier to do it a second time.

The public, of course, may say that they like independently minded MPs who are prepared to break ranks and speak out, but in truth party splits and divisions are generally detrimental to public perceptions of a party's governing competence, or possible fitness for future office. Some governments of course will simply not tolerate any exercise of backbench independence from within their own ranks. One consequence is that internal morale is sapped. In exit interviews with MPs leaving the Canadian legislature, researchers at Samara found that the party straitjacket created unnecessary levels of dissatisfaction among members. 'I realized early on that … you're there to vote the party's position more or less, or you're there to represent the party to the public', reported one. In the words of another, 'the party isn't always right for my riding. The party in [many] instances was terrible for my riding' (Samara Democracy Report 2012).

Good scrutiny can improve legislation, and backbench dissidence can be an important factor in improving government propositions. MPs pressing on an issue over time can concentrate minds in government (Riddell 2000). But while the opportunity to speak out in a debate on an issue—and if necessary vote against a government's proposition—provides an important safety valve function for a backbench MP who may be caught up in a conflict between his or her party and constituency interests, open rebellion is also a sign that the backbencher has failed to win the argument internally as the government is not prepared to change its position.

Conversely, rebellion also demonstrates that the party has failed to manage its supporters. At the extreme end of the spectrum, this can have catastrophic consequences as UK prime ministers such as Edward Heath, Margaret Thatcher, and Tony Blair all found to their cost, unseated not at the ballot box but by internal party revolt, in part because of a perceived failure to listen to and respect the views of their backbenchers. If a tipping point is reached, precisely because backbench unhappiness can result in ministers being sacked and therefore returned to the backbenches, ministers may put a lot of effort into cultivating the views and support of their MPs even if they cannot always deliver everything they want.

That is why voting records can, at times, be misleading. If the government fears it is under pressure on an issue, it may choose not to put it to a vote. The exercise of backbench influence by way of deterrent is vitally important but the results are hidden and intangible. Such behind-the-scenes influence is often exercised by those on the governing side, with ministers prepared privately to cede points to their own backbenchers to avoid a public display of dissatisfaction.

The role of the whipping system is essential to any consideration of the role and influence of backbenchers. The culture of whipping may vary in the context of the political situation in which a government finds itself. An administration with a narrow majority or in a coalition may need to exercise tight discipline. But if it has won an election in a landslide, it is likely that it can afford to let MPs off the leash from time to time to vote in accordance with their constituency interests or their conscience, albeit while being mindful about the risks of repeat offending once the first rebellion has taken place. Small legislatures where there are capacity challenges, with members having to take on multiple scrutiny roles on committees for example, can also lend themselves to a tighter party management culture.

Whips need not have formal powers to exercise influence and control over backbenchers. At Westminster, whips allocate MPs' offices and nominate the members to legislative committees (Public Bill and Delegated Legislation Committees). But often their influence is felt informally through patronage: dangling the prospect of future ministerial office or organization of party support for the MP's local campaign efforts. Whips also enforce discipline, reporting unauthorized absences, censuring MPs for breaches of party discipline and suspending them from the party whip if it is warranted. Some parliaments hand significant powers to whips. In New Zealand, for example, the parliamentary rules provide that whips can exercise a bloc proxy vote for their party at certain times, a mechanism which reinforces the party leadership's position vis-à-vis backbenchers.

The ultimate arrow in a backbencher's arsenal is the threat of defection to another party or to adopt an independent stance. Here again, the context for backbenchers can vary significantly. In the Indian Lok Sabha and the Bangladeshi Jatiya Sangsad, for example, defection to another party is explicitly forbidden. Anti-defection legislation or constitutional provisions significantly strengthen the party and leadership elite against individual backbench members. In contrast, at Westminster, excluding those MPs who have become independents having had the party whip removed for disciplinary reasons, since 2001, 11 MPs have crossed the floor to another party or have chosen to become independents. The number is not particularly high, but the risk of defection is always there if party leaders neglect backbenchers with a grievance; and an MP moving away from the governing party almost always creates political headaches for the administration, not least as a result of the subsequent barrage of negative newspaper headlines.

Procedure and Culture

Each parliament has its own structure for the daily business agenda and procedural rules to support that business. But broadly, backbenchers can exercise their voice during question time or 'interpellation' periods, and during debate of legislative and policy proposals in both the chamber and committee.

The allocation of time within parliament and who controls it is important for backbenchers if they are going to be able to intervene and make an impact. In principle, all MPs are equals within a parliament, but if seniority rules are applied for debates and interventions this tends to discourage junior backbenchers from taking an interest in the work of the chamber.

In India backbenchers come into their own at the 'zero hour', a daily proceeding at noon where an MP can take up any issue by speaking on it for a minute, enabling him or her to air issues that might otherwise be ignored. A similar system is utilized in the Canadian Parliament.

In a small number of institutions backbenchers may question the Prime Minister directly. The most famous example is Prime Minister's Questions at Westminster, with a similar model adopted in Bangladesh in 1997. In both countries, however, backbenchers are too often willing to undermine their role by compliantly assisting their party by accepting questions from the whips.

Some institutions also enable MPs to lay written questions for answer by ministers. At Westminster a backbencher can also register support for a proposition by signing an Early Day Motion.

Through parliamentary questions—whether oral or written—a backbencher can raise an issue of local constituency or national importance; highlight administrative failure or neglect; put pressure on the government to act and perhaps extract a commitment to do so; and bring information into the public domain that might otherwise be kept hidden by the executive.

Most legislatures also make provision for Private Members' Motions so that individual MPs can put a proposition to the House and have it voted on. In not having this procedural option, Westminster is something of an anomaly.

A parliament may also provide an opportunity for legislative initiative by backbenchers by means of a Private Members' Bill or equivalent legislative vehicle. These provide an important opportunity to bring forward a legislative proposition, facilitate a policy debate around it, check the executive, and respond to issues of public interest and concern.

In the UK in the 1960s, Private Members' Bills were the preferred method to pilot socially controversial legislation through Parliament: the suspension of capital punishment in the Murder (Abolition of Death Penalty) Act 1965, the liberalization of abortion in the Abortion Act 1967, and the de-criminalization of male homosexual acts in the Sexual Offences Act 1967. All these Private Members' Bills had the active support of the Labour government of the day: it allowed parliamentary time for individual MPs to take through what were often highly contentious measures. But even with this governmental support, in the last analysis, it was individual backbenchers who put these Acts on the statute book. Increasingly, however, such measures are now dealt with through a free vote as part of a government bill.

Today, Private Members' Bills in the UK tend to be used to make laws in areas that are generally less contentious or as a mechanism for taking through special interest issues. Nonetheless, they remain an important opportunity for backbenchers to develop their role as legislators, initiators of policy and campaigners. The vehicle provides a useful check on the executive, and it offers a valuable channel to ensure the parliament can address emerging topical issues, thereby demonstrating its responsiveness to evolving matters of public concern.

Access and proximity to ministers is important for backbenchers if they are to exercise influence. The ability to speak to and have the ear of a relevant minister is priceless when a local or national policy issue of concern arises. The extent to which the architecture and organization of the legislature facilitates such access is thus important. It also largely explains why backbench MPs at Westminster have not fully embraced electronic voting for divisions and continue to walk through the lobbies to be counted. The lobbies provide extraordinary access to ministers—a very local constituency matter of concern can be raised by a backbencher with the minister while they stand queuing to vote (Crewe 2015). Parliamentary systems that facilitate e-voting, particularly off-site voting, inevitably curb the access that can be so valuable to the backbencher.

Individually it is often difficult for backbenchers to exercise influence, as opposed to giving voice to their concerns, unless they have broader support among other backbenchers and ideally on a cross-party basis. Here political groupings come into play.

Backbenchers can find like-minded allies on their own side by means of backbench party groups or caucuses covering specific policy areas or on a cross-cutting policy basis. Some parties have powerful backbench

committees that act as an interlocutor with the party leadership—in the UK, for example, the Conservative 1922 Committee and the Parliamentary Labour Party are both highly influential and provide backbenchers with a platform, with the leaders of both groups empowered by election within their respective parliamentary parties.

Also in the UK, All Party Parliamentary Groups at Westminster and the devolved legislatures offer a useful platform for many backbenchers to raise their own profile by campaigning on an issue of importance to them. The cross-party groups provide an opportunity to work with relevant stakeholders to maintain a watching brief over a policy area, raise concerns, highlight risks, and publish recommendations for reform.

WESTMINSTER RENAISSANCE: THE SPEAKER AND A BACKBENCHERS' 'BILL OF RIGHTS'

The role of the Speaker as an impartial and independent enforcer of the Parliament's rules is an important factor in supporting and strengthening the role of backbenchers. In Bangladesh, for example, in the eighth parliament, the Speaker ruled that backbenchers from the governing Bangladesh National Party could not submit Private Members' Bills unless they had permission from their party leaders to do so. This was in direct contravention of the rules but the Speaker acted with impunity because, despite considerable private resentment, there was not enough support among backbenchers to oppose the ruling (Ahmed 2013).

In some parliaments, the Speaker is required to stand aside from his or her party affiliation permanently. At Westminster, for example, once elected the Speaker of the House of Commons resigns from his or her party and at any subsequent general election is generally unopposed by the main political parties and stands as 'the Speaker seeking re-election'. This approach is not without its critics—not least some constituents in the Speaker's constituency who feel that they are disenfranchised by the process. Once the Speaker decides to leave office, his or her departure from the House of Commons is facilitated by elevation to the House of Lords, where he or she sits on the independent cross benches, thus retaining his or her impartiality into retirement. However, this is not always the case. In many other parliaments, in India for example, the Speaker or Presiding Officer remains affiliated to his or her party and is perceived to be a partisan player by backbenchers as well as ministers.

Recent experience at Westminster demonstrates how important a Speaker can be in facilitating the renaissance of the backbenchers' role and power within the legislature. Speaker John Bercow MP has been an evangelist for backbenchers in the House of Commons, proposing a raft of reforms—'a backbenchers' Bill of Rights'—to enhance their opportunities to hold the government to account within both the chamber and committees.

Elected after the historic resignation of the previous Speaker amidst the fallout from the 2008 parliamentary expenses scandal, Bercow put the backbencher front and center in his bid for the Speakership. In response to the tawdry nature of the expenses scandal, the election process was opened up, rather than the new Speaker being appointed following private negotiations between the two main parties as had hitherto been the practice. Thus, Bercow became the first Speaker elected after a proper campaign for the post within the House, including manifestos, public hustings, and a secret ballot. The democratic authority conferred on him by the election process served to strengthen his hand when pushing through reforms.

Aspiring to be a 'catalyst for change', Bercow argued that his vital 'umpire role' as Speaker need not be narrowly interpreted: 'A diligent umpire in cricket, one observes, concerns himself not only with the conduct of play but with the state of the pitch and he would take a dim view of the parliamentary equivalent of ball-tampering. The pitch at Westminster is currently prepared to the disadvantage of the backbench MP and I hope to be able to establish a consensus that we may need a heavy roller to correct this' (Bercow 2009).

Outlining his plans, in a public lecture at the Hansard Society, he observed:

> there must be many a backbencher who has felt akin to the soldiers at the Somme, turfed out of the trenches on the orders of distant masters to charge towards the enemy. The role of the backbencher as inquisitor in the chamber and as a legislator in his or her own right has undoubtedly diminished. Most backbenchers have responded to this by throwing themselves wholeheartedly in a different direction as advocate and de facto ombudsman on behalf of their constituency and constituents.
>
> This is an absolutely admirable function but one which leaves other important themes incomplete and which may, by accident rather than design, have contributed to the near universally recognized erosion of local government and politics in this country as MPs invade terrain that was once considered the property of councillors. We need a better balance than this.

We need MPs to be fearless champions of their electors and of their own interests in and through the chamber as well as by post and in emails. We need the backbencher to move from the parliamentary version of the stalls to center stage. If there is any one measurement by which I would want my time as Speaker to be assessed it is that the backbench MP felt, and emphatically was, more significant in the House than he or she was before I had the incredible honor of being dragged to the chair. That is my personal agenda. (Bercow 2009)

A number of factors created a propitious environment in which the Speaker and others were able to advance reforms advantageous to backbenchers. The first was the MPs' expenses scandal, which prompted a crisis of confidence at Westminster; many feared it had damaged the self-esteem and reputation of MPs beyond repair. Nearing a general election, the party leaders engaged in a bidding war to see who could offer the most wide-ranging reforms—most of which actually had nothing at all to do with dealing with the expenses crisis itself—in order to convey a sense of public contrition and apology, and that they understood the shame and scale of what had happened and were committed to deep-rooted change as a result. Out of this bidding war emerged a temporary Select Committee chaired by Labour MP Tony Wright, tasked with looking at what reforms might rebuild the reputation of the House. It aimed to 'make the Commons matter more, increase its vitality and rebalance its relationship with the executive, and to give the public a greater voice in parliamentary proceedings' (Select Committee on Reform of the House of Commons 2009).

The second factor was the large intake of new MPs at the 2010 general election. Many MPs retired or lost their seats after the expenses scandal, and the election saw the return of 232 new MPs, all of whom came to Westminster promising to be different, demanding reform, and less constrained by past experiences.

The final factor that opened the door for reform was the formation of the Conservative–Liberal Democrat coalition government, after no party secured a majority at the 2010 election. Coalition challenged the norms of party cohesion: without the prospect of patronage the control of the whips over government backbenchers was lessened and, as outlined earlier, there were a high number of rebellions in Conservative and Liberal Democrat ranks. And then there were the Labour grandees: former ministers who now faced a long period in the political wilderness. After 13 years in office many found it difficult to go back to being a backbench constituency

representative. Some found a new outlet through the select committee system, one of the better-known examples being Margaret Hodge MP, who became Chair of the Public Accounts Committee. Having previously been subject to scrutiny as a minister, she became the chief questioner, with the advantage that she knew how government worked, unlike many backbench colleagues.

Together these factors—serious reputational damage, the emergence of a powerful reforming figure in the Speaker, and a new political context—created the environment in which reform was possible.

Three of the most significant reforms to emerge during this period to the benefit of backbenchers, all supported strongly by the Speaker, were the restoration of the Urgent Question; the election of Select Committee chairs and members; and the creation of a new Backbench Business Committee.

The restoration of the Urgent Question is the reform most personally associated with the Speaker. He wanted to know what reforms he could bring in himself, using his existing powers in Standing Orders, to help enhance the backbenchers' role without needing the government's permission, a motion to be laid before the House and voted on, or changes to Standing Orders.

The then Clerk of Legislation, Robert Rogers, wrote a paper outlining a range of reforms that could be pursued (Rogers and Gay 2009). Restoration of the Urgent Question was one of the key ideas. The power existed for any MP to make a request to the Speaker for an Urgent Question to be put to ministers the same day on an issue of concern; but speakers had so rarely granted the request, being unwilling to inconvenience the government, that it had fallen into disuse.

The Speaker proposed to restore it by granting requests more often. The objective was to enable MPs to hold the government to account each day, but also make the agenda of the Chamber more topical. Bercow also hoped to put an end to the situation where major policy announcements were made on the morning news bulletins rather than in the House of Commons.

The previous Speaker had granted only 42 Urgent Questions in the five years before he stood down. In his first five years Bercow granted 154, and he has continued apace ever since. The Urgent Question is utilized by government as well as opposition backbenchers. It has made the agenda of the House more topical and it has empowered backbenchers to pursue issues of concern. But the true success of the reform is to be found in the

power of anticipated reaction; ministers may now 'volunteer' to make a statement knowing that otherwise the Speaker may demand it of them.

The second reform, election of backbenchers as select committee chairs and members, was one of the Wright Committee's primary recommendations. Select Committees are scrutiny (not legislative) committees that analyze the spending, policies, and administration of government departments. The allocation of chairs to parties is still done by the party whips and business managers. But committee chairs are now elected by all MPs, and to stand a candidate for the role must demonstrate cross-party support on their nomination paper. Manifesto statements are published and hustings are held, and there is an open ballot of the whole House using the Alternative Vote electoral system.

Select Committee members are then elected within party groups, their numbers determined in relation to the overall political composition of the House. The process is less open than the election of the chairs, and consequently is more susceptible to whips' influence; and on some lower-profile committees there is no competition for places. However, the election process has made a difference. Committee chairs no longer feel deferential to ministers; they owe their allegiance to the House not to their party and they are higher profile and more influential as a result. After the 2015 election 11 of these high-profile and respected chairs were re-elected unopposed, such was the level of satisfaction with them among their colleagues. Election served to reinforce their and their committees' credibility, authority, and legitimacy.

Select committees are pushing for an increase in their powers to compel witnesses to appear. They hold pre-appointment hearings for some key public roles. Significantly, they are expanding the scrutiny realm. Their work is not just about holding ministers or civil servants to account for the work of government, but now extends to calling the wider public and private sector to account, as well as civil society organizations such as charities, putting the questions the public might want to put when abuse of power, misappropriation of funds, or gross incompetence are revealed. The most high-profile example of this type of work was the decision to question Rupert Murdoch over the phone hacking scandal committed by journalists working on his newspapers.

The Wright Committee also recommended the idea that backbenchers should have control of how non-government time was spent in the Chamber and Westminster Hall (the House of Commons' second debating chamber). Following the 2010 election, a new Backbench Business

Committee was set up with the power to schedule debates for 35 sitting days per session, each debate lasting between three and six hours. Every Tuesday, the Committee met, chaired by the Labour MP Natascha Engel, to discuss ideas for debates put forward by backbenchers, with MPs invited before the Committee to pitch their ideas in public.

Although recognizing the opportunity to enhance the role of backbenchers, make the House's work more topical, and raise the profile of issues, the Backbench Business Committee was also alert to the danger that a large part of the parliamentary timetable—equivalent to one day per week—should not be transferred from the government and its business managers to a small group of unaccountable backbenchers. The Committee was clear from the outset that it would not reach decisions on the basis of whether or not members of the Committee liked or disliked proposals, or found them personally interesting. Rather, they established criteria against which to judge proposals, to make the process as objective and transparent as possible:

- A cross-party group of MPs must make the pitch to the Committee (as a result, for example, former Home Office ministers Jack Straw of Labour and David Davis of the Conservatives came together to champion the case for a debate on denying prisoners the vote).
- The proposed debate must be topical and important.
- There must be a high level of interest among other backbenchers.
- Evidence is required of wider support from select committees and civil society groups.
- The Committee considers whether the issue is likely to be able to secure debating time via other means; for example, in government or opposition time.

The Committee also made no judgment on why backbenchers were proposing an issue for debate. In the Committee's words, 'There are as many different ways of being a backbencher as there are backbenchers in the House. We therefore try to provide a wide forum to allow Members to highlight national or local campaigns, to hold the Executive to account better or even to find a way to get noticed by the front bench to get promotion' (Backbench Business Committee 2015).

The debates certainly brought backbench activity to wider public attention. Viewing figures from BBC Parliament and Parliament's own website suggest that three times as many people watch Backbench business debates as other types of debate.

The reform has also given backbenchers a greater sense of ownership and responsibility for what goes on in the House, and they have influenced the policy process. As the government's chief whip, Sir George Young MP, noted, backbench proposals to the Committee have gone 'where angels fear to tread' (Foster 2015). A debate on military action against Syria is widely recognized as having influenced the Prime Minister's decision to recall Parliament when he wanted to accede to President Obama's request for the UK to join the USA in taking military action against Syria. It was also via the Backbench Business Committee that the first debate and a vote was held on action in Afghanistan since the conflict began.

But there have been some problems. Motions that follow the debates may be Resolutions of the House, but they are not binding on the government and the public does not understand when nothing then happens. The risk, of course, from the backbenchers' perspective, is that if resolutions were binding the government would simply whip them more heavily. Instead, the Committee has therefore called for government statements in response to the debates, setting out what actions it proposes to take and why, and for select committees then to follow these up in the future.

Lessons to be Learnt

Several lessons can be learnt from this period of reform at Westminster. First is the importance of 'cracks and wedges': the need to secure first-stage reforms and then build on them later (Wright 2012). No government will fully open the door of reform to backbenchers and let them simply walk through. When the door to reform opens a little, the reformer must wedge his or her foot firmly in the crack and work to widen it over time. Second is the critical role that gatekeepers and reformers play in making things happen: John Bercow, Natascha Engel, and Tony Wright, all from the backbenches, were critical in making the case for change and then guiding implementation of the reforms. And finally, backbenchers benefited when they engaged in less tribal behavior, forging alliances across party lines for their mutual collective benefit.

If backbenchers in any parliament are to fulfill their function of holding the government to account, they need the political will to do so. If the procedures are put in place to facilitate a greater role and influence for backbenchers, they have to be willing to use those procedures and powers at their disposal. Ultimately, backbenchers themselves must drive and shape reform if it is to be sustainable.

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Including the Excluded: Government Backbenchers and Opposition in the Parliamentary Process in Bangladesh

Nizam Ahmed

Parliament is the prime representative institution in a democracy. It performs a number of functions, the most important of which are: making (as well as unmaking) the government, making the law and making the government behave (Wheare 1968). Representing the electorate is also one of the core functions of parliament. Many of these functions can, however, be seen as formal rather than real. In fact, in most of the parliamentary democracies patterned on the Westminster model it is the government that dominates the parliament and not the other way around. Legislatures do not legislate; these often give the seal of approval to legislative measures that mostly originate in government. The scope and extent of government domination of parliament, however, varies from one country to another. In general, members of the opposition and government backbenchers remain seriously disadvantaged vis-à-vis the government in a majoritarian system. While the former (opposition) may use different tactics to show its presence, the latter (government backbenchers) mostly remain silent, supporting whatever measures the government proposes in the parliament. They

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cannot easily use their main source of power—their votes (King 1976). Nor can collaboration between government backbenchers and opposition members of parliament (MPs) be easily found.

In fact, the intra-party mode of relations (relations between the government and government backbenchers), to use King's terminology (1976), is dominant in a system modeled on the Westminster pattern. King argues that as far as the government is concerned, government backbenchers are the most important members in the House. As long as they are ready to vote for the policies and programs of the government, these are sure to be passed. On the other hand, the more government backbenchers are willing to dissent from the government and its policies, the more likely is the prospect that parliament will be assertive. King has identified four other modes of relations: the opposition mode (relations between the government and the opposition), the non-party mode, the inter-party mode and the cross-party mode. These modes are not mutually exclusive; one can reinforce the other.

While the intra-party mode is necessary to ensure government stability at the risk of marginalizing the parliament, the opposition mode (inter-party mode) can be seen as providing some kind of balance between the parliament and the executive. Rephrasing Hague and Harrop's observation (1982), it can be argued that the mere existence of a numerically strong opposition can at least provide a passive check on the executive government, forcing it to anticipate the assembly's reaction to a proposed course of action. Melhuish and Cowley (1995) argue that the opposition mode is more important (in Britain) than it has traditionally been assumed to be. They argue that without inter-party dissent, no amount of intra-party divide will defeat the government (Melhuish and Cowley, p. 70).

The presence of a strong opposition can thus be seen as an important prerequisite of counterweighing government domination of parliament, particularly in those countries where legal restrictions on 'free' voting in parliament exist. To make the government amenable to some of its demands, the opposition may use different techniques including threatening to withdraw from the system (boycotting parliament sitting and/or resigning from it), thereby trying to cause injury to the government. A numerically weak opposition may also threaten to use its potent power of withdrawal, but the government is unlikely to take it seriously or agree to compromise.

In almost all South Asian countries there exist legal restrictions on 'independent' voting; MPs have to abide by decisions of their parties, failing which they risk losing membership (of parliament). In Bangladesh, the rule is so strict that an MP once lost his membership for joining the parliament defying party directives. Party dominance, however, may discourage dissent but cannot totally eliminate it. Dissent is more likely in a situation where the opposition mode is strongly entrenched. The Bangladesh experience shows that the opposition and government backbenchers have relatively better scope to make their presence felt whenever there exists balance in party composition in the House. Imbalance in party composition reduces, if not totally eliminates, scope for dissent and makes the relationship between the two benches adversarial which, in turn, is likely to weaken the parliament.

Bangladesh has a 350-member unicameral parliament. Of the total members, 300 are elected directly and 50 seats are reserved for women to be distributed among different parliamentary parties on the basis of a proportioanl system. The parliament has used several mechanisms in recent years, especially since the restoration of the parliamentary system of government in 1991, to include the excluded—government backbenchers and opposition members—in the parliamentary process. Prominent among them is the reorganization of the committee system. Committees provide opportunities for cross-bench interaction on important matters awaiting parliamentary approval; these also provide an important avenue for specialization and expertise. New procedural means have been adopted and old ones reformed with a view to encouraging backbench inclusion and participation in the parliamentary process. The extent to which this 'policy of inclusion' has any meaningful effect on the behavior of the two sets of parliamentary actors in Bangladesh—opposition MPs and government backbenchers—is explored in this chapter.

The chapter is divided into several sections. The next section provides a brief account of the development of parliament in Bangladesh. Sections three and four explore the nature of activism respectively of government backbenchers and opposition MPs in the Chamber, while section five examines the usefulness and limitations of parliamentary committees as an 'inclusive' institution. Section six explores factors that help as well as retard inclusion, while section seven concludes the chapter.

DEVELOPMENT OF PARLIAMENT AND PROCEDURES
IN BANGLADESH

At her independence in 1971 Bangladesh began with a parliamentary system patterned on the Westminster model. But it was a short-lived experiment. A one-party presidential system replaced parliamentary government in January 1975. But before the new system could take off the ground, the military intervened in politics in August 1975. The country remained under de facto military control between 1975 and 1990, although parliamentary and presidential elections were held more than once during the period. Bangladesh has had a new beginning in parliamentary politics since the restoration of the parliamentary system in September 1991. None except the sixth parliament has been dissolved prematurely as in the pre-1990 period. Most of the post-1990 parliaments have survived longer and also enjoyed greater legitimacy and better public support than their predecessors (Table 3.1).

There exists considerable consensus on the current system of government. Substantial agreements also existed on the need for a non-party

Table 3.1 Composition of parliament of Bangladesh (1973–2014)

Parliament	Year Elected	% of Turnout	% of MPs			Total MPs	Ruling Party	Main Opposn.	Tenure (month)
			Govt.	Opposn.	Ind.				
Tenth	2014	51.3[a]	83.1[b]	12.3	4.6	350	AL	JP	Current
Ninth	2008	86.3	76.6	33.4	–	350	AL	BNP	60
Eighth	2001	74.8	64.1	30.2		345	BNP	AL	60
Seventh	1996 June	74.9	52.7	47.3	–	330	AL	BNP	60
Sixth	1996 Feb.	NA	92.7	0.3	3.3	330	BNP	FP	12 days
Fifth	1991	55.4	50.9	48.2	0.9	330	BNP	AL	56
Fourth	1988	52.5	83.7	8.0	8.3	300	JP	COP	31
Third	1986	61.1	62.4	34.9	2.7	330	JP	AL	17
Second	1979	51.3	75.2	23.3	1.5	330	BNP	AL	36
First	1973	54.9	97.8	0.6	1.6	315	AL	–	32

Source: Ahmed (2013); TIB (2007). Bangladesh Parliament http://www.parliament.gov.bd/index.php/en/mps/members-of-parliament/current-mp-s/list-of-10th-parliament-members-party-wise-bangla, accessed: April 11, 2017
[a]Official figures. Unofficial figures are much lower
[b]Including alliance members

caretaker government (NPCG) to facilitate the succession of government until it was abolished in 2011 following the Supreme Court verdict that it was unconstitutional.[1] The abolition of NPCG led to a breakdown in consensus that existed until then on the process of succession of government and encouraged confrontation between the ruling Awami League (AL) and the main opposition—Bangladesh Nationalist Party (BNP). These two parties have alternated in state power since 1991: BNP (1991–1995 and 2001–2006) and AL (1996–2001 and 2009–2017).

Several measures have been taken by the successive parliaments, particularly by the fifth and the seventh, to strengthen parliament vis-à-vis other actors and to increase MPs' scope of activity. Important measures, besides the reintroduction of the parliamentary system, include the establishment of an independent Parliament Secretariat, introduction of Prime Minister's Question Time (PMQT), reform of the parliamentary committee system by replacing the minister as the head of the department-related standing committee (DRSC) by a backbencher and enlarging its scope of operation, and introduction of a provision requiring ministers to respond to short statements made by members in the House. The decision to televise parliamentary proceedings can also be seen as an important step to make parliament transparent. Some conventions are also emerging such as referring government bills to concerned standing committees almost as a routine matter, organizing committee hearings on important issues, and encouraging public engagement in different parliamentary events/activities. The extent to which government backbenchers and opposition MPs have made proper use of the new-found opportunities to make their presence felt by others will be explained in subsequent sections.

Suffice it to mention here that although Bangladesh has patterned its government on the Westminster model, significant differences exist between the two. Many techniques adopted to enlist and sustain the commitment and support of members at Westminster are rarely found in Bangladesh (and also in many other systems following the Westminster tradition). For example, Standing Orders in the British Parliament recognize both opposition and government backbenchers; provisions have been made to associate them with the parliamentary process and to allow them to play a proactive role. Standing Orders also provide for setting aside a portion of parliamentary time for discussion of subjects to be chosen by the opposition as well as backbenchers. The last half hour of every sitting day is also allocated for discussion of issues raised by backbench MPs.

Generally, the opposition and government backbenchers at Westminster are listened to, if not always consulted, by the ruling party and parliament leadership. This tradition is absent in Bangladesh.

Standing Orders in the Bangladesh Parliament (called Rules of Procedure—hereafter *Rules*) recognize the Leader of the Opposition, but not the opposition and/or backbenchers. Rule 2(m) defines the Leader of the Opposition as that MP who, in the opinion of the Speaker, is the Leader in the House of the party, or the group, as the case may be, in opposition to the government that has the greatest numerical strength in the House (Bangladesh Parliament 2007, p. 2). But no reference is made to his/her role, although the role of the Leader of the House (the Prime Minister or a minister nominated by him/her) has been clearly specified in different places. The Speaker is required to do most of his/her work in consultation with the Leader of the House (government).

Conventionally, the role of Leader of the Opposition is recognized. In the (informal) Warrant of Precedence s/he is placed immediately after the Prime Minister and Leader of the House. S/he is also granted membership of important House Committees (Business Advisory Committee and Privileges Committee) along with the Prime Minister and the Speaker. The Speaker also recognizes the Leader of the Opposition on important occasions, allowing him/her floor to speak on an important issue before the Leader of the House winds up discussion. The Leader of the Opposition and the Deputy Leader of the Opposition enjoy the status of a cabinet minister and a state minister respectively. Both have offices within the parliament building. However, much of what the Leader of the Opposition can do has not been codified anywhere in the *Rules*; it depends mostly upon convention and attitude of the Speaker.

However, much of what happens inside the Chamber or in committees is done by backbenchers (private members) belonging to the treasury and opposition benches. The *Rules* prescribe procedures for disposing of parliamentary business. There exists scope, at least formally, for members to play both proactive and reactive roles. Such roles, however, are to be played within general constraints emanating from different sources, particularly the Constitution, the *Rules*, and party rules. All three sources make backbenchers seriously disadvantaged vis-à-vis the party leadership. For example, Article 70 of the Constitution prescribes for a delegate role for the MPs. No MP can cross the floor, vote against his/her party, and/ or abstain from voting on any issue defying party whips. Those who fail to abide by this rule risk losing his/her membership of parliament. The *Rules*

provide that government business shall have priority every sitting day except Thursday when private members' business has priority. There is a high level of concentration of power in the president/chief in each party; any challenge to the party leadership is fraught with serious risks. Party rules and/or convention do not require leaders to seek the opinion of backbenchers on any issue.

Yet, as experience shows, notwithstanding these constraints, government backbenchers and opposition members in recent parliaments have fared better than their predecessors in almost every respect. They have played both proactive and reactive roles in a much more effective manner than those elected in the past. The next two sections try to identify how and why members in recent parliaments have behaved in a different way.

Backbench Activism in Parliament

Formally, a government backbencher, like his/her opposition counterpart, can engage in both proactive and reactive activities. The *Rules* do not discriminate between members of the two benches. However, traditionally government backbenchers not only lagged behind their opposition counterparts in moving different types of motions; they also refrained from undertaking any activity that was likely to embarrass the government or antagonize the party leadership. This situation changed somewhat in the early 1990s, particularly in the fifth parliament (1991–1995) when government backbench activism increased significantly, and this could be noticed both in the legislative field and in other areas of parliamentary activity. Several government backbenchers moved a number of private members' bills and resolutions that apparently did not fit with the party's ideology or its political tactic (Ahmed 2002).

What was more important was that many backbenchers often remained defiant, refusing to follow requests/directives made by the frontbenchers. This represented a sharp departure with the past when government backbenchers could rarely assert themselves. Some of the leading government backbenchers, especially those who had held ministerial positions in the first BNP administration (1979–1982), did not appear to be happy about the way(s) government policies were being formulated and implemented. They often alleged that ministers were more concerned with power and had a tendency to neglect the party and its organizational activity. They further alleged that ministers did not take them into their confidence. Some of them also supported the opposition contention that ministers

were undermining their privileges. Ministers and government backbenchers also confronted each other in public in the House more than once. Disenchanted backbenchers once opposed a bill moved by the law minister, arguing that it did not provide for adequate remuneration and privileges for MPs. Ministers also came under serious backbench attack in the meetings of the BNP Parliamentary Part (BNPPP). It was noticed that ministers and party whips often faced considerable difficulties in disciplining the disenchanted backbenchers. They often had to turn to the top leadership, including the Prime Minister, for help and support to resolve the problem (see Ahmed 2002).

Many government backbenchers in the fifth parliament not only tried to defy the whips; in some cases, they also followed the lead of the opposition in exerting pressure upon the government. It is generally observed that as government backbenchers and opposition MPs are not members of the same party, they have few incentives to agree. Their aim is not accommodation but conquest (King 1976, p. 16). Yet it was observed that notwithstanding mutual distrust and hostility, government backbenchers and opposition MPs in the fifth parliament occasionally became allies without making any formal alliances. The two, in a number of cases, sought to resist the adoption and implementation of measures they considered illogical or unnecessary. They also succeeded in some cases in influencing the adoption of measures they considered necessary.

For example, the opposition MPs and government backbenchers in the fifth parliament almost forced the government to rescind the Election of President (Amendment) Ordinance promulgated on the eve of the presidential elections in October 1991. The ordinance provided for stringent measures against MPs seeking to cross the floor in the presidential elections. The government backbenchers also followed the lead of the opposition lawmakers in exerting pressure upon the government to modify several bills such as The Suppression of Terrorist Bill of 1992, The Local Government (Union Parishad) (Amendment) Bill of 1993, and The Local Government (Zila Parishad) (Amendment) Bill, 1993. The strategy worked well. The government amended the first two bills the way government backbenchers and opposition members wanted, while the Zila Parishad bill was referred to a 15-member all-party committee.

The above cases do not imply that the opposition could not win concessions from the government on its own; in fact, as observed subsequently, the opposition MPs succeeded in influencing the decisions of the government in a number of cases on their own. What is argued here is that

government backbenchers had a better prospect of securing concessions from the government when the issues that interested them also appealed to opposition MPs. Generally, they did not have much scope to influence the government on their own. What united the opposition and government backbenchers was their generic urge for power and influence. The interests of the two converged especially in those cases where a certain measure was likely to enhance their collective image or provide them with common benefits. Both had a natural tendency to oppose measures that were likely to curtail their privileges.

However, this type of (unwitting) collaboration between government backbenchers and the opposition MPs was virtually absent in the seventh parliament. Although the opposition BNP MPs seriously objected to many legislative and other measures, government backbenchers remained absolutely loyal to the government. No schism could be noticed in the rank and file of the AL lawmakers. Comparatively speaking, government backbenchers in the seventh parliament remained far less active than their counterparts in the fifth parliament. No private members' bill moved in the seventh parliament between July 1996 and December 1999 was initiated by government backbenchers. There was also not a single instance of ministers and government backbenchers holding conflicting views in public. Nor was there any example of the government revising measures under backbench (or opposition) pressure.

This is not to argue that the (AL) government and its backbenchers always held similar opinion on all issues confronting the parliament and/or the party. Backbenchers occasionally criticized ministers for various reasons either in meetings of the parliamentary party or in other party forums. But rarely was there any public clash, as in the fifth parliament, between government backbenchers and ministers. Government backbenchers in the seventh parliament behaved differently from their predecessors for several reasons. One reason might be that there existed a better scope for them to participate in the parliamentary process than before. The seventh parliament had undertaken several reforms to encourage backbench participation, probably the most important being the reform of the committee system. Following the amendment of the *Rules*, ministers were replaced as heads of different department-related standing committees (DRSCs), numbering about 40, by government backbenchers.

This change heralded a new beginning. Many senior backbenchers who could not be included in the cabinet (as ministers) were made chairs of different DRSCs which had the authority to oversee the ways different

ministries were run. Ministers were also often asked to explain failures of their ministries. On the other hand, ministers headed different DRSCs before 1997. They were thus doubly privileged, while backbenchers felt alienated and disenchanted. The change in composition of DRSCs was intended to de-privilege the frontbenchers, to some extent, and to encourage greater and perhaps better backbench participation in the parliamentary process.

A second probable reason was that not only was the AL better organized than the other parties; the authority of central leadership was also more entrenched in AL. It also succeeded in utilizing a 'carrot and stick' policy more effectively than most of the ruling parties in the past, penalizing those attempting to rebel against the party leadership, while rewarding the loyalists. This strategy worked as a deterrent, discouraging potential rebels from expressing their dissenting opinion in public. Thirdly, the (then) ruling AL remained in political wilderness much longer than the other two major parties—BNP and JP—which exercised state power in the past. Its members were apparently more cautious about the risk of losing power because of intra-party squabbling and conflict; hence they exercised some kind of restraint, and/or did not engage in serious conflict with each other, at least, in public as that might affect the party's image.

Moreover, the AL President Sheikh Hasina convened meetings of different party units more frequently than the BNP Chairperson and former Prime Minister Khaleda Zia, who rarely consulted the party. In other words, the AL MPs had better opportunities to raise their grievances in different party forums than their counterparts in the BNP. Many BNP backbenchers in the fifth parliament expressed resentment against the policy of excluding them from the decision-making process in parliament and the party. On different occasions, they complained against the dominance of the frontbenchers in the parliamentary process. For example, one BNP member demanded in December 1993 that the *Rules* be amended to enable all MPs to speak in the House and to express their opinion. He alleged that only three to seven members in the House spoke most of the time but the silent majority of the 330 MPs were ignored (*Daily Star*, November 3, 1993). Although other lawmakers appreciated his comments, there was no sustained pressure to change the *Rules*. The main reason was that none probably wanted to be seen as a rebel. What most of them wanted was to toe the line followed by the leadership; to refuse to do so was to encourage problems. In fact, some of the proactive members were penalized subsequently.[2]

The Opposition in the Parliamentary Process

Historically, the government and the opposition in Bangladesh have confronted each other more on the streets than in the parliament. Part of the reason was the lack of agreement between contending political forces on many important issues including the system of government and the process of succession of government. Following the restoration of democracy in 1991, both issues, as stated earlier, were resolved. What is important to note is that the opposition in the fifth parliament—the AL—initiated the process of resolving both issues that separated the government and opposition for a long time. In case of the reintroduction of the parliamentary system, most of the BNP backbenchers supported the move; while the AL and all other opposition parties almost forced the BNP to amend the Constitution in 1996, providing for holding elections under a non-party caretaker government, thereby ensuring peaceful succession of government. Besides resolving two critical issues of national significance, the opposition (in the fifth parliament) also played a major proactive role, moving 93% of private members' bills and 80% of private members' resolutions, and also making greater use of different parliamentary techniques to make the government accountable. It also succeeded in extracting more promises from the ministers than government backbenchers.

The opposition even moved a no confidence motion against the government, the first in Bangladesh's history. It also forced the government in July 1993 to form a special parliamentary committee to inquire into allegations of corruption against the minister for agriculture. Never before in Bangladesh's history did the government ever agree to the demand of the opposition to constitute such a probe body. The committee, however, could not do much because of the failure of its members to agree on its terms of reference; while the no-confidence motion was defeated in a division vote. But the two measures initiated by the opposition were seen as beneficial from several standpoints (Hakim 1993; Ahmed 2002). The scale of opposition activism, however, decreased considerably in the seventh parliament. The opposition members were comparatively less active and also apparently less effective in the seventh parliament than their counterparts in the fifth parliament. They even trailed behind the government backbenchers in almost every respect except moving private members' bills. More than three-fifths of the motions moved in the seventh parliament were initiated by government backbenchers; the ruling party members also outdistanced the opposition members in moving private

members' resolutions. The motions moved by opposition MPs also did not focus much on governmental accountability (Ahmed 2002). Nor did the various issues raised by opposition appeal to the government back-benchers, partly because these were mostly political in nature and not intended to strengthen parliament.

Reasons accounting for the differential performance of the two benches in the seventh parliament were many, perhaps the most important being that the main opposition, BNP, had more frequently stayed away from the House than its counterpart in the fifth parliament. This discouraged the scrutiny of government activities to a large extent. A second reason was the time constraint faced by members of the opposition. The BNP had probably more part-timers than the AL; they had other occupations to pursue. As a consequence, they could spend little time in parliament-related activity. The AL, on the other hand, had more 'politicos,' who also had better 'constituency roots' than their opposition counterparts. The AL MPs used the floor of the House to sharpen their attack on the opposition as well as for raising different constituency issues.

Thirdly, it reflected a weak nature of party control over members' behavior. The opposition leadership was apparently more interested in ensuring the allegiance of the MPs than encouraging and resourcing them to exert pressure upon the government inside the parliament. Party meetings were held very irregularly; whenever held, they did not last long. Nor did the backbenchers have much scope to express themselves. Although the BNP once decided that the parliamentary party would meet regularly before the commencement of each sitting day, this was honored in the breach. The BNP, however, alleged that it was not allowed to be proactive in the House, especially by the Speaker.

Opposition and Government Backbenchers in Committees: Collusion or Collaboration?

As stated earlier, the fifth parliament and the seventh parliament made some important changes in the composition and functions of parliamentary committees; these reforms were likely to make them effective watchdogs. The case for committees rests on a number of grounds. For example, committees allow the legislature to perform numerous functions, such as review of proposed legislation, oversight of executive branch activities, examination of and reporting on policy issues, and special investigations that otherwise might not be conducted at all (Benda 1997, p. 17). They

are considered to be capable of offering MPs a variety of rewards and opportunities such as helping them build up a more specialized knowledge of policy areas and granting them more active and rewarding participation in the governing process (Jogerst 1993, Rush 1983; Shaw 1998). In particular, committees provide an opportunity to the opposition and government backbenchers to interact face to face and learn the art of bargaining and compromise.

Available evidence shows that following the reform of the committee system, MPs now have more important things to do. Unlike in the House where members belonging to the two benches have to follow party lines, committee members enjoy freedom, at least to a certain extent. Committees now meet more or less regularly; they also deliberate on important issues confronting different ministries. Probably the most important change is noticed in the legislative sphere. Since 1996, most bills have been referred to concerned standing committees after the first reading. Earlier, bills were passed in haste. Table 3.2 provides a summary account of the nature of activism of standing committees in the legislative arena.

It is clearly evident from Table 3.2 that the DRSCs suggested amendments to at least two-thirds of government bills introduced in the House,

Table 3.2 Committee scrutiny of government bills in Bangladesh

Variables	Committee recommendation	Parliament		
		Seventh $N = 190$	Eighth $N = 184$	Ninth $N = 201$
Bill scrutinized by committees (%)	–	65.8[a]	60.8	79.6
Nature of committee recommendation	Bill be passed the way it has been introduced in the House	32.0	21.6	32.4
	Bill be amended and passed the way the committee has suggested	68.0	78.4	67.6
Percentage of committee reports prepared unanimously		99.0	96.8	99.3
Amendment proposed (per bill)		5.6	6.2	13.7

Source: Ahmed (2013)

N Number of government bills passed

[a]Excludes (23.7%) bills scrutinized by the special committee

while reports on bills are mostly produced in a consensual manner. The average number of amendments passed per bill has also increased in successive parliaments. These amendments are not always trivial in nature. In some cases, committees have made fundamental changes. Public hearings on bills (and other matters) also took place in several cases in the ninth parliament. These could rarely be seen in the past, particularly when ministers headed different DRSCs. What is especially important to note, however, is the willingness of the government to accept recommendations made by committees. This change in behavior is noteworthy. In the past, rarely did the government accept any amendment to bills moved in the House; in fact, it was apparently allergic to any suggestion for amendment to any bill. Now the situation has changed, with ministers and bureaucrats often agreeing to amendments proposed in committee reports.

Standing committees set up by recent parliaments also appear to be equally active in exercising administrative oversight as in scrutinizing legislation. Meetings of different DRSCs are held more regularly than before, and members also attend committee meetings in good numbers. This could be seen as a positive development. Three-quarters of members regularly attend committee meetings, while half of the committees have held between 9 and 12 meetings per year. Some committees, for example the Public Accounts Committee (PAC), could be seen as hyper-active, holding one meeting per week. Most of the DRSCs also set up a large number of subcommittees to inquire into lapses in the working of different ministries and/or agencies under them, a trend in parliamentary politics that could rarely be seen in the past.

The above observations are not intended to idealize the role of the committees and/or their members. Committee decisions are not always taken in a consensual way. Party differences figure prominently when substantive issues of policy are discussed in committee meetings. What committees often do to avoid party differences is to focus on less important issues, while important policy matters remain dormant. The case of legislation is different as bills are referred to committees by the House. One strategy that different committees often adopt is to focus on constituency issues, which appeal equally to government backbenchers and opposition members. It is thus the mutuality of interests that often unites the opposing forces, and as a compromise, they generally deal with 'soft' issues and conveniently ignore 'hard' issues. One study has revealed that while members often consider committees as an important device to promote their constituency interests rather than to keep the officials on their toes,

the latter (officials) look upon committees more as a means of enhancing the efficiency of their organizations than as agencies to which they owe accountability (Ahmed 2010).

Notwithstanding the above drawbacks, committees are still seen as an important avenue, especially by government backbenchers who have relatively limited scope to make their case in the House. Generally, opposition MPs enjoy berrer scope to speak on different issues, particularly legislative issues. They are free to move amendments, although most of these are usually rejected along party lines. Yet they give notice of amendments as a strategy to claim time, one of the most important parliamentary resources, to speak. On the other hand, government backbenchers are often 'forbidden' from taking part in the legislative process in the House. Usually frontbenchers of the ruling party speak on legislation, if necessary.

DRSCs, however, allow members of both benches to play a meaningful role should they wish to do so. Available evidence shows that parliamentary committees are more active now than before; they are also seen as one of the most important means of including the excluded. In particular, government backbenchers, who remain more disadvantaged than the opposition MPs, consider committees as an important mechanism to use their expertise and specialization and also to make their views known to the leadership.

Toward an Inclusive Parliament: Assessing the Experience

Much of what backbench MPs in a majoritarian system can do depends upon a number of factors, of which the availability of sufficient scope to participate in the parliamentary process is vitally important. Institutional arrangements are thus needed to allow them to 'engage' in different activities that are discussed in parliament. Regular caucus meetings, formation of all-party committees, and procedural reforms aimed at encouraging greater backbench participation are some of the mechanisms used to make ordinary MPs active participants. As observed earlier, there now exists better scope for MPs to participate in the parliamentary process in Bangladesh. The reform of the committee system, for example, can be seen as an important step toward possible inclusion of the excluded and for encouraging their participation in the parliamentary process. Members now have access to new mechanisms (e.g. PMQT) to ask the government

to account for its activities; they can also now play a very important role in lawmaking, particularly through scrutinizing legislation, which was not possible before 1997.

However, the extent to which various mechanisms will actually work will depend on different factors, of which the leadership role of the Speaker is crucially important. In a system dominated by parties, speakers are elected in a similar manner as are ordinary members of parliament. The only exception is Britain where the Speaker may remain in his/her position as long as s/he wants. The main parties do not nominate candidates in the Speaker's constituency; hence s/he is elected almost unopposed. This helps the Speaker to act as a neutral umpire. Most of the speakers in Westminster-derived democracies, however, face a dilemma after their election. Once elected, they are expected to behave in a 'party neutral' way by almost everyone, except probably by members of the government. The task of the Speaker is thus very delicate. S/he can displease neither the government; nor can s/he afford to antagonize the backbenchers. Experience shows that while some speakers succeed in balancing the role of the two groups, others work as faithful party loyalists.

Bangladesh has not yet been able to elect as Speaker a Mavalankar (as in India) who could be a faithful party man but not a tool of the government. One minor exception was the Speaker of the fifth parliament, Sheikh Razzak Ali. He tried to follow an even-handed policy, accommodating as much as possible the legitimate claims and demands of both government backbenchers and opposition MPs. Experience shows that he was more tolerant of the views of the two groups of MPs than his predecessors as well as his successors. Speaker Ali even went to the extent of allowing an opposition-sponsored no-confidence motion against the government, thereby creating a precedent. Although many senior government members and ruling party lawmakers tried to persuade the Speaker to reverse his decision, he remained steadfast arguing that it was necessary to institutionalize democracy, maintain its continuity, and cultivate it (*Daily Star*, August 10, 1992). Members of the ruling and the opposition parties thus gained experience of a vital constitutional practice of parliamentary democracy (Hakim 1993).

Speaker Ali also helped government backbenchers move private members' bills in the face of objections by ministers. As an example, reference can be made to the Muslim Family Law (Amendment) Bill moved by a female government backbencher in 1993. The bill was aimed at discouraging polygamy in Muslim society. Several ruling party MPs as well as

ministers sought to resist the bill at every stage of the parliamentary process. The law minister in particular raised serious objections to the introduction of the bill, arguing that it did not receive due concurrence of the law ministry (*Daily Star*, May 14, 1993). The Speaker, however, rejected the minister's objection on the grounds that the *Rules* did not oblige any member to seek permission of the law ministry for placing any bill in the House. He thus allowed the member to introduce the bill. In contrast, the Speaker of the eighth parliament (belonging to the same party, BNP) ruled that private members belonging to the (then) ruling party (BNP) must receive approval from the party top leadership before moving any private members' bill, a ruling that clearly violated the *Rules*. It shows the subservience of the Speaker to the ruling party leadership, which might be personally rewarding but was clearly a retrograde step from the standpoint of strengthening the parliament.

Several other examples of the Speaker (of the fifth parliament) supporting backbench initiatives can be cited. For example, Speaker Ali defended a parliamentary committee chair who, in one of the reports of the committee, alleged that the chairman of a government bank, a senior ruling party MP, was involved in corruption and malpractices around the sanctioning of loans (by the bank). In the face of serious resistance by ruling party MPs to the tabling of the report, the Speaker referred it to the Privileges Committee. The Speaker, who was the chair of the Privileges Committee, subsequently introduced the report in the House on behalf of the committee chair, a move that was fraught with risk.

Speaker Ali also tried to ensure that the opposition received much of what was due to it. In other words, he tried to accommodate the demands of the opposition as much as possible, although many ruling party MPs did not like this type of positive attitude of the Speaker. The Speaker formed several special committees with an equal number of members from the ruling party and opposition parties, although the general practice was to select members from different parties in proportion to their strength in the House. He also played a key role in bringing the two benches together when they were following separate paths. Speaker Ali allowed many opposition-sponsored adjournment motions to be moved and discussed in the fifth parliament. In no other parliament has any motion for adjournment been accepted, although the opposition has given hundreds of notices for adjourning the House. He also allowed many unscheduled debates initiated by the opposition; these were considered to be very useful from the standpoint of making the government accountable (Ahmed 1994). To some

extent, these decisions helped improve the opposition's confidence in the leadership role of the Speaker. The speaker of the seventh parliament also brokered agreement more than once between the government and the opposition when the latter threatened to withdraw from the system. He somehow succeeded in convincing the ruling party (AL) of the need to compromise on some issues raised by the main opposition (BNP).

In both the fifth and seventh parliaments, the opposition was numerically much stronger than it was in earlier parliaments and/or parliaments elected after the dissolution of the seventh parliament. The two Speakers were probably aware of the need to include the opposition in the parliamentary process as it had the ability to create disruption both in the House and outside of it. In contrast, the Speakers of the eighth and ninth parliaments remained disadvantaged in several respects. The leadership role of the Speaker was more often challenged and criticized than in the past. Part of the reason for this was their inability to play a role independently of the influence of the executive or the ruling party.

It is, however, not argued that Speakers' decisions in the fifth and seventh parliaments were always accepted. In fact, resentment against them was quite common. According to one estimate, the opposition staged nearly a quarter of the walkouts in the fifth parliament and about one-third in the seventh parliament, protesting against the decisions of the Speaker (Ahmed 2002, p. 193). But the Speakers somehow succeeded in resolving many conflicts between the government and the main opposition, as stated earlier. On the other hand, Speakers of the eighth and ninth parliaments did not have much success in bridging the gap between the government and opposition, perhaps not for their own follies but because of the resistance of the government/ruling party to any kind of compromise. As a result, boycotts by the opposition in both parliaments surpassed any previous record (for details, see Ahmed 2013).

One thing to be stated here is that although backbenchers find committees to be a useful device, the other mechanisms do not appear to have much effect. Moreover, leaders of different parliamentary parties do not appear to be willing to share parliamentary power or to consult backbenchers very often. In fact, meetings of parliamentary parties are held very irregularly. Decisions are mostly taken by the leadership; these are not communicated to the backbenchers properly. What is particularly important to note is that backbenchers do not appear to be very keen to bargain with their party leadership for any major role/participation in policymaking. They tend to be more orientated to local issues than to

national ones. Several mechanisms have been developed to allow MPs to participate in local politics and development. As examples, reference can be made to the provisions made in the Upazla Parishad Act and Zila Parishad Act, allowing MPs to act as advisors to the two *parishads*. In fact, these two local councils cannot do any anything without the agreement of local MPs. MPs' representatives have been given membership in various committees set up at the local level to select beneficiaries for different safety net programs.

MPs have also been made chairs of different school and college governing bodies, although the High Court has declared this illegal. Perhaps more importantly, special allocations have been earmarked for MPs to recommend local development projects. Each MP is now entitled to recommend local infrastructure development projects amounting to Tk. 40 million ($512,000) every year. MPs are likely to immerse in local level politics and development. Since elections have become extremely competitive and expensive, MPs are likely to concentrate more on local politics and issues than on national issues and priorities. One is unlikely to find many MPs who want to be policy advocates or parliament men, to use Sear's terminology (1994). Leadership of the main parties thus does not face any major challenge from backbenchers for sharing of policymaking functions; rather, most of the MPs tend to be happy when they are given responsibilities for local activities. Herein lies one of the main differences between backbench behavior in Bangladesh and other countries.

Conclusion

One of the important challenges facing parliaments that are mostly patterned on the Westminster tradition is to ensure some kind of balance between diversity and inclusiveness. Inclusive parliaments have the potential to strengthen democracy, promote integration within society and prevent conflict. While there is general recognition that parliaments should be all inclusive, there is no widely accepted definition of inclusiveness. The Inter-Parliamentary Union observes that a democratic parliament should reflect the social diversity of the population in terms of gender, language, religion, ethnicity, or other politically significant characteristics.[3] It further argues that "a parliament which is unrepresentative in this sense will leave some social groups and communities feeling disadvantaged in the political process or even excluded altogether, with consequences for the quality of public life or the stability of the political system and society in general."[4]

Such an 'ideal' parliament, however, can rarely be found in the modern world. Part of the reason is that much of what takes place in a parliament, especially one modeled on the Westminster tradition, is decided by parties. Parties are ubiquitous. In a Westminster-derived parliament, what matters most is the party composition of the House. Even a parliament which is representative in terms of the criteria stated above (e.g. gender. language, religion) cannot do much for the main reason that members have to toe the party line, failing which they risk punishment. MPs can rarely claim to be trustees; they mostly have to remain (party) delegates. Even in consensual democracies, parliaments often remain 'party inclusive'; any effort to make parliament an inclusive institution from the standpoint of social diversity will necessitate major changes in party policies, which is a difficult task.

The Bangladesh experience shows that there is no serious demand from MPs for engagement in policy debates. The type of backbench activism one could notice in the early years of democratic rule withered in later parliaments mostly because of the imposition of strict party control over the behavior of the backbenchers. Successive ruling parties, however, have tried to compensate the backbenchers by creating opportunities for them to engage in various kinds of local level activities. Most of the backbenchers consider these rewarding as they are now better able to extend patronage to their support base than before. To most of the MPs, getting involved in local activities is probably more important than seeking to specialize in policy matters. In particular, as they are confident that the leadership will rarely agree to concede any policy role to them, backbench MPs probably find it convenient to stress the promotion of constituency issues and interests.

NOTES

1. The Constitution (Thirteenth Amendment) Act 2006 provided for an 11-member NPCG to run state affairs for three months between the dissolution of a parliament and the election of a new Prime Minister. Members of the NPCG could not belong to any political party. Nor could they contest the elections. NPCG could only take routine decisions; it was barred from taking any policy decision (Ahmed 2011).
2. Speaker Sheikh Razzak Ali as well as the chairman of the committee on public undertakings (Mia Mansur Ali), who referred to the alleged corrupt behavior of the BNP MP cum bank chairman in a committee report in the fifth parliament, were denied nomination in subsequent elections. One AL

chair of the DRSC in the ninth parliament played a key role in drastically amending a government-sponsored bill. Although the quality of the bill improved substantially following the amendment, its chairman who played a key role in revising the bill was denied chairmanship in the next (tenth) parliament.

3. IPU, 'Promoting inclusive parliaments: The representation of minorities and indigenous peoples in parliament' (http://www.ipu.org/dem-e/minorities/overview.htm. Accessed March 19, 2017).

4. IPU, 'Promoting inclusive parliaments: The representation of minorities and indigenous peoples in parliament' (http://www.ipu.org/dem-e/minorities/overview.htm. Accessed March 19, 2017).

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Parliamentary Opposition and Government Backbenchers in India

Valerian Rodrigues

Parliamentary opposition and government backbenchers were institutions that developed in Britain as integral to the larger complex of the parliamentary system, creating a distinct role for themselves over time. The opposition was an active interlocutor in the process of government and strove to change government policy by employing all means at its disposal while respecting certain canons such as rule of law and rights of citizens. It also tried to shape public opinion against the government in order to step in after the next election. The government backbenchers saw their role as supporters of the executive, awaiting their turn to take up that role as and when an opportunity arose. The discrete members of these institutions had to act as the representatives of their respective constituencies and ensure that the government was responsive to their demands. The institutions could play their full role only if their discrete members were in sync.

The political and institutional complex in which parliamentary opposition in post-colonial India developed was markedly different from that of Britain. In India, there was the looming presence of the erstwhile colonial state, the Congress Party that had spearheaded the anti-colonial

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movement had stepped into the shoes of the government, and complex cultural and popular demands affected representation, responsiveness and accountability greatly. Such institutionalization of authority impacted the self-definition and strivings of members of the ruling party as well as those of the opposition. In this context, this chapter seeks answers to the following questions. How did the parliamentary opposition in India define itself over time? Is there an institution in India that can be called the government backbenchers? What kind of institutional links exist between parliamentary opposition and ruling party Members of Parliament (MPs) who are not members of the executive? The chapter begins with a brief introduction to the Parliament of India.

Parliament in India

The Indian Parliament comprises of the President and two Houses, formally known as Lok Sabha and Rajya Sabha. The President is indirectly elected, by the members of the two Houses of Parliament and directly elected members of state legislatures. While he/she has to act according to the advice of the Union cabinet, there is little doubt today that when constitutional law provides little direction, the office enjoys much discretion. Members of the Lok Sabha are directly elected on the basis of universal adult franchise through the first-past-the-post-system for a period of five years, while the members of the Rajya Sabha are elected by the directly elected members of state legislatures for a period of six years. The Rajya Sabha is never dissolved, but one-third of its members retires every two years. Twelve members of the Rajya Sabha are nominated by the President from among those with special knowledge or experience in literature, science, art and social service.

At present, the Lok Sabha is made of 543 elected members and the Rajya Sabha 250 members. While both the Houses enjoy equal powers on all matters, the Lok Sabha has final say on money bills. However, the Rajya Sabha has powers to transfer a subject from the State List to Union List for a specified period and can create All-India services. It is important to note that the strength of the ruling party or coalition can widely vary across the two Houses, greatly impacting the functioning of parliament as a whole. The parliament is vested with the authority of Union powers, and the central or Union government should enjoy its confidence to retain power. However, state power in India is heavily tilted in favor of the Union. Long spells of majority party rule, and the enactment of the anti-defection law

in the 1980s providing for stringent punishment for floor-crossing, have led to the concentration of power and initiative in the executive and party bosses, thereby disadvantaging both the opposition and backbenchers.

PARLIAMENTARY OPPOSITION IN INDIA

The constitution of the opposition in the Lok Sabha has been one of the remarkable developments in India's parliamentary democracy. For the sake of convenience, we can use the time-spans of the 1950s, the 1970s, and the 1990s to review the working of the parliamentary opposition in India. In the 1950s, a one-party dominant system ruled the roost in the parliament, while in the 1970s, an opposition-led government replaced the Congress regime for the first time. The parliamentary opposition in India redefined Indian polity by greatly expanding its scope and reach in the 1990s.

The Ruling Party and the Opposition in Parliament in the 1950s

The first parliament in independent India was elected in 1952. Before that, not many people believed in the parliamentary pattern of ruling and opposition, particularly "considering, the moral tone of the Congress organization and the Congress ministries" (Austin 1999, p. 16). The opposition in the parliament in 1950s, largely consisting of left-oriented parties, was numerically weak and divided (Shankar and Rodrigues 2011, p. 113). The Indian National Congress (INC) won 364 seats out of 489 in the first Lok Sabha elections in 1952 and 371 seats in the second in 1957. The Communist Party of India (CPI) followed the lead of the INC in both parliaments, securing 16 and 27 seats respectively in 1952 and 1957. The other seats were shared by numerous political parties. However, in spite of their limited numbers, the opposition parties and their leaders acted as if they were the conscience keepers of democracy from early on. Even the CPI, whose activity was characterized in official circles as "open hostility to government … bordering on open revolt" and which saw entering the parliament as an opportunity for "wrecking it from within," was soon to declare its task as to "play its rightful role as builder and spearhead of the democratic movement" (Ministry of Home Affairs 1949, p. 56). But unease with the highly skewed balance between the opposition and the ruling party persisted (Rajagopalachari 1957, p. 1).

India's first Prime Minister Nehru's attitude to parliamentary opposition in general, and in India in particular, remained deeply ambivalent. He felt that the great social and economic conflicts of society were not reflected in the two-party system of Victorian England in spite of the avowal of different programs and ideologies by political parties (Nehru 2004, p. 642). However, by 1951, Nehru had changed his stance. He argued the need for strictly disciplined parties: "Suppose our Parliament at Delhi had 500 chosen men of integrity and ability, each thinking according to his own lights, the result would be that, while they would be the chosen of the nation in regard to ability, nothing will be done by the Parliament because all the 500 will pull in 500 different directions" (Smith 1958, p. 54). He, however, appreciated the need for stronger opposition and once wrote provocatively under the pseudonym Chanakya, saying that "a little twist and Jawaharlal might turn into a dictator sweeping aside the paraphernalia of a slow-moving democracy" (Mukherjee 1964, p. 222). He even tried to persuade Jayaprakash Narayan, who had called it a day for electoral politics and joined the Sarvodaya movement,[1] to enter Parliament and lead the opposition to reinforce parliamentary democracy (Nehru 1997, p. 516). Nehru deprecated criticisms that he did not let a stronger opposition emerge, and argued that he could not be expected to split Congress in order to beget an opposition.

However, confronted with a resolute, although numerically small, opposition, Nehru felt that parliamentary procedures were slow and important legislation was held up. This oscillation between an efficient government and a government by discussion and debate, where the role of the opposition was crucial, was a recurrent theme for Nehru in the 1950s. The ruling party did not hesitate to call into question the nationalist credentials of the opposition when irked, particularly its role in the nationalist movement. This, however, did not deter many opposition members from questioning the nationalist role that Congress was arrogating to itself (More 1952, p. 1072).

One of the great strengths of the opposition in its early days was its refusal to cave in to the ideological insinuations and material inducements of the ruling party. The "saintly" mode of politics (Morris-Jones 1963, p. 37) and ideological commitments of parties and their leaders proved to be great assets in this regard. The opposition called into question the socialist pretensions of Congress (Jaisoorya 1952, p. 641) and drew attention to the larger role of opposition as the guardian of public accountability,[2] goading the House to embrace radical measures and increase spending

on welfare rather than the defense budget (Nair 1952, p. 1060). The opposition also succeeded in punching holes in some of the flagship policies of the ruling party, such as land reforms (Panigrahi et al. 1958, pp. 1456–76). The patronage that government extended to Hindi became a bone of contention in the deeply multilingual context of India. N.S. Nair from Kerala held out a threat: "You want to drive your language down our throats. We are going to resist it" (1958, p. 1061).

The opposition also resorted to civil disobedience and *satyagraha*, and supported mass movements to galvanize public opinion in its favor. In the process it tried to tap much social capital associated with these modes of protest during the national movement. Ram Manohar Lohia, a socialist leader, told his party colleagues that instead of seeking an alternative to parliamentary forms of government in an exclusionary insurrectionary path, the party ought to choose a balanced mix of constitutional actions and civil resistance. This strategy of the opposition proved infectious, bolstering its strength subsequently.

In the 1950s the critique of Congress within parliament primarily came from the "left of the Congress" and the left parties. However, the Bharatiya Jan Sangh and the Swatantra Party subsequently mounted their own attack from the right with issues such as right to property, state control and preferential considerations, national security, Hindi as national language, refugee settlement and cow protection, perceived leniency to Pakistan and non-alignment policy being their favorite themes. The ruling party responded to the opposition by internalizing it and assigning to it a specific but peripheral significance in parliament. The response of the opposition was partly to draw its energies and resources from the factions within the ruling party itself (Kothari 1964, p. 1161–73; 1967, pp. 83–96; 1974, pp. 1035–54). The opposition also made a place for itself in the institutional working of the Lok Sabha assiduously fostered by some of the early Speakers, such as Ganesh Mavalankar (1952–1956).

The inclusive institutional setting of parliament and the rules of the game it fostered had many consequences in the forming of the opposition in the 1950s. First, the parliamentary opposition did not become a simple extension of the political party it belonged to. This autonomy elicited a grudging respect from the concerned political party toward its parliamentary wing as well as a deep suspicion.[3] Secondly, there soon developed a distance between the reasons of a political party and its parliamentary counterpart. The parliamentary framework heavily constrained the options available to opposition members to express themselves and initiate new

moves. Even to make their presence felt they had to work through the rules and regulations governing the institution. The institution also subtly shaped the ideological overtones of parliamentary parties and disciplined them to work within its framework.

By the end of the 1950s parliamentary opposition in India had marked a distinct space with regard to the following. It had succeeded in making a claim to the moral high ground; was largely tilted to the left and a democratic space; projected the ruling party, that is, Congress, as the guardian of vested interests; appropriated the constitutional–civil disobedience axis as the space of the opposition; and made Congress look statist rather than concerned about popular welfare. At the same time, it is important to point out that the opposition did not succeed, or succeed enough, in highlighting the narrow base of parliamentary representation; caste and gender inequality (except social evils such as dowry); the continued marginality of Adivasis (who had to take to arms in several parts of the country, particularly the northeast), and the shrinking space for Muslims in the emerging political dispensation. The opposition was also far too caught up in the political language of the past, of elsewhere, and even of the ruling Congress Party itself, rather than throwing up a political imaginary of its own.

Parliamentary Opposition in the 1970s

In the late 1960s, when the ruling Congress leadership noted the assertive stance of the opposition, it attributed this development to the neglect of socialist programs and the loss of the mass base of its own party. It strove to capture the space on the left by invoking the rhetoric of democratic socialism and tried to nail down mainstream opposition to the right. It eventually led to the split of Congress in 1969, giving a different complexion to the opposition. While the ruling Congress Party succeeded in attracting the CPI and some left groups, it was not successful in polarizing the opposition to its right, since a broad range of Socialists, the CPI (Marxist), several peasant-based parties and the "Young Turks" (the radical group made of such leaders as Chandrashekar, Krishna Kant and Mohan Dharia) remained opposed to it. The parliamentary opposition, as a whole, distanced itself from the ruling party on issues such as authoritarianism, surveillance and coercion, accountability of power, decentralization and respect for diversity, and citizen rights and civil society. Employing a pathway opened up during the 1950s, parliamentary opposition also made

mass action and support to social movements integral to its role, and partly to compensate the lack of opportunity to make their case in the Lok Sabha. During the Emergency (1975–1977) parliamentary opposition became indistinguishable from civil society, but returned to power with a victorious electoral verdict following the withdrawal of Emergency.

Congress, as the parliamentary opposition for the first time (1977–1979), presented itself as the resolute other of the ruling dispensation. It denigrated the language of rights employed by the new ruling Janata Party and spoke of popular welfare. While the ruling party attempted to whittle down authoritarian institutions, although at a snail's pace, Congress termed the move as undermining authority and deserting the responsibility of representation. The inclination of the government to de-center power at the federal level was denounced by Congress as inability to govern. The latter also tried to connect itself to mass action not by revitalizing civil society institutions such as trade unions and peasant organizations but by resorting to populism.[4] The parliamentary wing of Congress, however, was not wholly united with regard to its role. The ruling Janata Party, which had a weak presence in the Rajya Sabha, utilized cleavages within Congress to see some of its measures through the parliament. The Congress opposition, in turn, stroked the factions within the ruling dispensation and eventually succeeded in bringing down the government. In fact party lines had become highly porous in the 1970s and the prospect of power tended to trump ideological and party loyalties.

Parliamentary Opposition in the 1990s

The nature of the opposition underwent radical transformation in the 1990s. Part of the reason was the great ethnic upsurge that took place across India around issues of Hindutva, the caste question, Dalits, Adivasis and religious minorities in the 1980s. There were two large parties that made their presence felt in the Lok Sabha around which other parties gravitated, resulting in two camps. The smaller parties that gravitated toward one of the two specific poles did so on grounds of regional, cultural or ethnic affiliations, and therefore had distinct electoral viability in relation to the larger partner in a specified state or region. There were a few parties with strong ideological overtones that centered around one of the two camps or sought to find a third alternative.

The debates in the Lok Sabha during this period were profoundly shaped by the way in which the two main parties characterized their

opponents and the interests of the smaller parties. Issues that were high-lighted included pluralism, communalism, secularism and inclusion, which were not central to the debates of the 1950s and the 1970s. Unlike in the earlier period, the larger political partners did not try to edge out smaller partners from their social base but devised mechanisms of relatively stable collaboration and power-sharing. While some of the partners in the coalition saw this as long-term engagement, others considered it as their interest in the shorter run. There were some floating partners who sided with a coalition in power and shifted their electoral allegiances with an eye on electoral viability.[5]

Electoral outcomes became decisive for the opposition parties in devising their strategy in the 1990s. Therefore, parliamentary opposition moved just a few no-confidence motions against the government and did not overtly work to pull down a government as it did in 1970s. This stance led to the stabilization of the coalition governments. While from 1989 until 2014 there were seven coalition governments at the Centre,[6] four governments, 1991–1996, 1999–2004, 2004–2009 and 2009–2014, lasted their full terms. Parliamentary opposition, although on the face of it centered on a pole during this phase, was not merely differentiated but shot through and through by identity markers. Dalits were more willing to speak on Dalit concerns, as women were on gender. One of the social groups that came to be assertively present during this period in the Lok Sabha was the backward castes, in terms of significance as well as sustained strength. This group was not welded into any single party but was dispersed across the political spectrum, notwithstanding the fact that it represented a constituency that was united in much of its way of life, dispositions and affinities.

For the backward castes, caste became a common way of "seeing and being in the world" (Menon and Nigam 2007, p. 18). MPs who identified themselves with this constituency hailed from peasant communities, held strong stakes in land, were well versed in the regional languages, ethos and folklore, had little versatility in English and relished ethnic ways of life. Their approach to power was much more instrumental and they made the boundaries between the opposition and ruling party fragile. While the political assertion of Dalits was very different from those of the backward castes, there was also much in common between the former and the lower strata of backward castes. While Dalit members of the House cutting across political parties supported the cause of reservation for the Backward Classes and certain imaginative slogans of the Bahujan Samaj Party formulated a common bond across the boundaries, they did not necessarily

translate into a political bond.[7] The backward castes did not show a positive desire to work under the political leadership of Dalits.

The aggressive advocacy of Hindutva or Hindu nationalism spearheaded by the Bharatiya Janata Party (BJP) came to define the Lok Sabha in the 1990s, first as an opposition party and subsequently as a ruling dispensation. Its interventions in the Lok Sabha raised fundamental issues regarding the nature of democracy, nationalism, citizenship and the rights of minorities. It resorted to mass action as in the demolition of the Babri Mosque in Ayodhya in 1992, but such action mobilized very different constituencies in comparison to those of the socialists and communists in the 1950s, and that of the Congress in the 1970s. The public sphere in India came to reverberate with slogans that were far removed from those of the early 1970s. With the rise of the BJP to power, particularly as the leader of the National Democratic Alliance (NDA) in 1999, the opposition was constantly on its feet, charging it with a communal agenda. There were non-party affiliates of Hindutva such as the Vishwa Hindu Parishad which were threatening to take the law in their own hands to pursue designs dear to them, such as the construction of the temple in Ayodhya, the alleged site of the birth of Lord Rama. How state institutions would function given the intransigence of such groups who were ideologically affiliated to the leading party of the ruling alliance was an important concern before the parliamentary opposition throughout the 1990s, and even beyond.[8]

The majoritarian assertion in the Lok Sabha in the form of Hindutva invariably brought the issue of minorities to the fore, particularly the religious minorities. Muslim, Christian and Buddhist minorities became important considerations in the House in the 1990s and 2000s. The opposition zeroed on certain vexing issues such as the ghettoization of Muslims, Babri Mosque–Ramajanmabhoomi stand-off, preferential policy measures for the Backward Classes, the uniform civil code, and internal security and terrorism. Concern for peripheral regions such as Jammu and Kashmir (J&K) and Northeast India echoed in parliament more loudly. Article 370 of the Indian Constitution that confers special powers on J&K became a focal issue of contention.

Representative concerns associated with Dalits, Adivasis and Backward Classes were to impact considerations regarding women representation as well. The 81st Constitutional Amendment Bill, called the Women's Reservation Bill, provided for the reservation of 33 % of seats in parliament for women.[9] By 1996, a significant section of women were arguing

that abstract citizenship was only a cover for privilege and that difference should inform representation.[10] While gender inequality invoked a shared concern across the House, it was far too thinly spread to beget the kind of intensity required for a constitutional act factoring in the difference quali-fier. A significant section of the representatives of Backward Classes opposed reservation for women in the House without factoring in caste and community.[11]

Major issues that the opposition had highlighted over the period but which could not muster adequate support in the House resurfaced again, such as the creation of new states and statutory recognition of languages. It was a demonstration of the emerging consensus on these issues within the polity as a whole. In the Communist opposition and for a time among sections of the BJP there was apprehension about the policy of liberaliza-tion that came to be such a prominent face of public policy in India from the early 1990s. The rest of the opposition, however, tended to endorse substantial aspects of the policy. Even among smaller parties there was a broad consensus on this issue. However, certain consequences of liberal-ization were not acceptable to significant sections of the opposition, such as dispossession of land, special economic zones (SEZs) and displacement of people in the name of industry and infrastructure.

By the end of the 1990s it was abundantly clear that no one single issue, no matter how emotive it was, could be the basis of governance. Internal security, however, became one of the most important issues confronting the polity in the 1990s and in the first decade of the third millennium. This issue encompassed a range of concerns and rights of citizens caught in the vortex of security, such as the Naxalite violence, counterinsurgency operations, such as Salwa Judum, the insurgency in the northeast, mili-tancy and army action in Jammu and Kashmir, activity of militant religious outfits, and even censorship of public culture and mores. The opposition also subjected India's external policy to critical scrutiny in the late 1990s and in the first decade of the third millennium.[12]

The nature of opposition behavior in the 1990s and the first decade of the 2000s differed significantly from that of the 1970s. While the opposi-tion sometimes acted in a contrarian fashion, as the absolute other of the ruling party/coalition, a stronger disposition to extend issue-based coop-eration was manifest on several occasions. In the process a party breaking ranks with the ruling combine or the opposition alliance became much more frequent. The range of issues that the opposition registered encom-passed a large spectrum of governance. The opposition was closer to the

exercise of power during this period than at any time previously. It invested a sense of responsibility in the opposition that had rarely been displayed earlier, and it came under the scrutiny of the media as never before. One of the major developments in the 1990s was coordination within opposition parties. The NDA, first formed in 1996 as an opposition platform, continued to survive even after its defeat as part of a ruling alliance in 2004, although in a reduced capacity. There was an attempt in floor coordination by opposition parties.

In the first two decades of the third millennium parliamentary opposition is trying to define a new axis. Against the political fragmentation and regionalization of Indian polity witnessed in the 1990s, the Congress Party as the leading element of the ruling United Progressive Alliance (UPA) (2004–2014) attempted to secure liberalization and market reforms by a series of right-based initiatives relating to employment, health, housing, food and social security, and minority concerns. Such initiatives, aside from the inbuilt inequality that a market economy begets, called for a gestation period, effective delivery systems as well as able public defense of the policy measures that were embraced. It also called for sensitive handling of the massive ethnic and regional upsurge of the 1990s, the newer concerns of national security and the rising aspirational quotient. The UPA lost out on most of these requirements. The regime itself was marred by widespread corruption and administrative seepage.

The parliamentary opposition led by BJP while holding onto its plank of Hindutva, national security and non-preference targeted institutional probity and competence. During the second phase of the UPA (2009–2014), civil society groups attempted to don the mantle of opposition by targeting public institutions as corrupt and bereft of public purpose. They argued that public institutions were a misnomer and were actually serving vested interests. It was easier for the opposition to align itself with this tendency, although it may not have been wholly in agreement with it. In fact, some of the most wide-ranging initiatives of the government to reach out to economically marginal groups, such as Mahatma Gandhi's National Rural Employment Guarantee Act (MANREGA) in the early 2000s, themselves were targeted as breeding grounds of corruption and bureaucratism.[13] By making public corruption its battle-cry and calling for recompense, the opposition succeeded in ensuring that both the Houses of Parliament became non-functional for long intervals. In fact, stalling the functioning of parliament has become the principal mode of action for parliamentary opposition from 2012 onwards.

Some glaring weaknesses of the institutional opposition stand out in the 1990s and 2000s. It has failed to enforce day-to-day accountability and subject the government to close scrutiny. Only the spectacular has come to be highlighted, with the media in view. Discreet scrutiny of departments or ministries or the collective working of the government as a whole remains weak, in spite of the evolution of a departmentally related committee system. Most members of the opposition do little homework, a strong feature of the opposition in 1950s and 1970s, and are much more concerned about nursing their image for their respective constituencies. A number of issues that confronted the opposition during this period required complex analysis and steady application, but such talent and commitment has been scarce. In this context, the leaders of political parties in the opposition have loomed large, given their role in elections. The opposition has produced few heroes in the 1990s, compared with the 1950s, in spite of its spectacular growth. It raised interesting issues but rarely followed them through.

The Backbencher in the Indian Parliament

Strictly speaking, there is little that corresponds to the concept of backbenchers in India as in the Westminster system, where backbenchers, understood as those who are not members of the government or of the shadow team, may differ with the government or the leadership of their respective parties in important respects. Such differences may precipitate suggestions for important policy changes, either for the government or the party, as the case may be. In such instances, parliamentary leadership, be it of the ruling party or that of the opposition, has to pay heed to the stances of their respective backbenchers if they wish to press ahead with certain policy measures. Often a backbencher can bring to bear his or her specialized knowledge on an issue and shape policy accordingly. It is not uncommon for backbenchers to defy the whip and vote for amendments to a policy proposal. In the process, backbenchers can make the boundary between the government and the opposition porous.

Rajni Kothari's concept of a one-party dominant system alludes to a dimension of the formation of the institution of backbenchers in India (Kothari 1964). According to him, the party system in which the INC exercised power at the federal level uninterruptedly from 1947 to 1977 could not be said to be a one-party system. Although it enjoyed an overwhelming majority in parliament for most of this period, it was made up

of distinct and often contentious factions. On occasions, a faction from within Congress would join hands with the opposition and prevent the government from stonewalling parliament or ride roughshod over articulate public opinion. Sometimes, a faction from within Congress tended to support autonomous mass actions of a limited kind, even though the party as such did not endorse such a stance openly. Kothari called such a system one-party dominant. But factions, as distinct interest groups, can hardly be wholly equated with the institution of backbenchers.

There emerged an influential group of backbenchers in India in the early 1970s, known as the Young Turks.[14] However, the kind of partisanship that entrenched itself in the 1970s did not leave much room for such an institution to flourish. In India, until the enactment of the anti-defection law in 1985, those MPs who found that their party leadership was not responsive to them simply walked out to form another political party or joined an existing party that they found amenable. The anti-defection law left very little space for these options. Political culture in India also nurtured excessive deference and even servitude: In fact, Desai (2015) far too wryly comments that "The backbencher MP in India is mere lobby fodder or a battering ram for rushing into the well of the House and shouting slogans."

There have been, however, some initiatives when MPs have come together, cutting across political parties. In May 2000, three young MPs who called themselves the Backward Benchers' Club (BBC) came together to discuss the active participation of backbenchers.[15] Soon this group was expanded to include 31 MPs, and they renamed themselves the Young Parliamentarians Forum (YPF). However, owing to the anti-defection law, they tried to "steer clear of controversies and stick to safe topics, such as health, technology and development" (Sahgal 2003). The Scheduled Caste and Scheduled Tribe MPs have sometimes come together whenever they have felt that special provisions extended to these castes and communities have been threatened (Galanter 1984, p. 105). In the wake of the Sachar Committee (2006) and the Ranganath Misra Commission (2007) reports, Muslim and Christian MPs have branded themselves as single groups to pressurize the government to implement their recommendations. Female MPs too have come together on the issue of reservation of seats for women in parliament. MPs from the northeast have tended to join hands on issues common to this region of India, cutting across party lines.[16] But such activism can hardly be encapsulated within the notion of backbencher in a strict sense.

Parliamentary Opposition and the Institutional Complex of Parliament

Article 105 of the Constitution provides for the granting of an unrestricted power of freedom of speech to members of the House, and no member of the House can be proceeded against in a court of law for anything said and done in the House. However, the provisions of the anti-defection law have constrained the options available to backbenchers and members of the opposition, and greatly strengthened the hands of party leadership in the name of political stability. Elected members crossing over the floor and joining hands with their political opponents in the House, derogatively called 'aya ram, gaya ram' became a widespread phenomenon in India during the second phase of parliamentary development, i.e. in the 1970s.

The anti-defection law tried to respond to this situation by primarily focusing on responsibility of choice and political stability. This constitutional amendment sought to ban defections of elected MPs and state legislators from one party to another, with special provisions for party splits and mergers, and empowered the Speaker of the House to decide on this issue. In the case of Kihoto Hollohan v. Zachillhu and others, a five-judge constitution bench of the Supreme Court held that the law does not violate any rights of freedom or the basic structure of parliamentary democracy, but only lays down the codes of propriety in personal and political conduct.

Parliamentary democracy, however, envisages that government policies should be discussed and approved by the elected representatives of the people. Debate, discussion and persuasion, therefore, become the very essence of the democratic process. Such an exercise may put forth different points of view and advance causes with appropriate justifications. Quite often, the views expressed by MPs have resulted in substantial modification, and even the withdrawal, of proposals. Debate and expression of different points of view therefore serve an essential and healthy purpose in the functioning of parliamentary democracy. At times, such an expression of views during the debate in the House may be at variance with formal party positions on such issues.

The anti-defection law, in the name of party discipline, has led to excessive control over MPs, curbing their freedom of expression and choice. Apart from commitment to reasoning and deliberation, it can also violate a member's right and duty to be faithful to his constituency, whose representative s/he is supposed to be. The speaker/chairman of the house who

decides the issue of defection could himself/herself be an interested party. The provision can lead to much caution with regard to violating party norms, and violates inner-party democracy. It can be argued that the provision has become a major hurdle in fresh thinking within parties and has had a deleterious impact on debate in parliament. It is the backbenchers, the ruling party as well as the opposition, who are greatly affected by this provision.[17]

Scope for Backbench Activism

Formally there exists scope for the opposition and government backbenchers to play a proactive role in the House. Two important mechanisms that they can use are moving private members' bills (PMB) and questioning ministers in the House. While parliament's law-making function is primarily carried out through government legislative procedure, private members, that is government backbenchers or members of the opposition, can also initiate bills. The primary responsibility in the case of the latter lies with the member/s concerned. Through such initiatives, a member assumes a larger responsibility to legislate for the polity as a whole. The Rules of Procedure and Conduct of Business provide that during a session two and a half hours on every Friday should be allotted to dispose of private members' business. Since independence, 14 bills have become laws at the initiative of private members. Barring two independent members, the rest of the sponsors of these bills were from the ruling Congress itself. No bill introduced by an opposition member has become a law so far. The last bill that was passed under this initiative was in 1970. While nine of these bills originated in the Lok Sabha, five of them originated in the Rajya Sabha.

The Nehru regime has been credited as a "a golden age" for initiatives of this kind (Dash 2014, p. 67). It is important to point out that in all, 3748 private members' bills were introduced in the Lok Sabha and 1528 in the Rajya Sabha, and out of them only 712 were taken up for consideration by both Houses of Parliament from the first to the 14th Lok Sabha (1952–2009). Dash has argued that

> despite its great potential, the PMB procedure has achieved limited success due to a number of factors, which include: executive inflexibility, procedural vulnerability, lack of resources and support at the disposal of the private members to pilot qualitative legislative proposals, besides their failure to mobilize requisite support for the passage of PMBs. (Dash 2014, p. 66)

The question hour has emerged as one of the most vibrant part of the day in parliament to elicit accountability and probe into the policy implications of government measures over time. It has been denoted the "open plenary" of the House. The extent of participation in it is noteworthy, as this account highlights:

> Over a 30 year period (1980–2009), on an average, an M.P. asked 0.42 questions per session per day, amounting to half a million questions over the 30 year period, indicating that a voluminous amount of information is being sought from a national government. (Iyyangar and Jacob 2014, p. 2)

However, while the extent of participation under this provision continues to be enthusiastic, and almost evenly spread across the ruling and the opposition in the House, Scheduled Castes, women, the less literate and the representatives from the northeast tend to ask fewer questions. Inclusion and participation therefore need not go hand in hand. There is, however, a difference between government backbenchers and the opposition members when they raise questions. The former tend to be deferential, while the latter are strongly interrogative (Iyyangar and Jacob 2014, p. 2). In general, the two groups of MPs tend to be much more enthusiastic with regard to question hour as it affords an opportunity to them to showcase themselves before their constituents as well as make themselves visible before their own party leadership.

The Departmentally Related Standing Committees (DRSCs)

One of the most innovative institutional measures that parliament has embraced in recent years, both to enhance backbench participation and encourage effective oversight, has been the constitution of Departmentally Related Standing Committees (DRSCs) in the 1990s. There are 24 DRSCs today, covering under their jurisdiction all the ministries/departments of the Government of India. Each of these committees consists of 31 members—21 from Lok Sabha and 10 from Rajya Sabha. Each MP serves a two-year term on at least one committee. These committees study the key concerns confronting the departments/ ministries falling within their purview, scrutinize bills of these departments/ministries forwarded to them by the Speaker or the Chairperson of the Rajya Sabha, draw up action taken reports and evaluate long-term policies of the concerned

departments. Most importantly, they scrutinize the demands for grants of the concerned departments. DRSCs also undertake study visits.

The Speaker of the Lok Sabha and Chairman of the Rajya Sabha ensure that a fair representation is provided to the members of the opposition as chairpersons of these committees in proportion to the strength of a political party in the House. Some committees such as Home Affairs, Finance and External Affairs are conventionally chaired by a senior member of an opposition party. The meetings of these committees are much better attended than sessions of parliament. These committees allow backbenchers to study closely certain important issues such as policy, legislation and demands for grants pertaining to the concerned departments, provide an opportunity to bring to bear their specialized knowledge and experience to legislative process, help to evolve consensus across party divides and lessen the pressure on the Houses of Parliament as a whole.

However, the working of these committees suggests that there has been a slackening of interest in their functioning both by committee members and the ministries/departments concerned in recent years; their functioning often fragments discussion along party lines; they tend to be overtly deferential to the ministries concerned; and the government has often tended to sidestep their suggestions and recommendations (Rodrigues 2014, pp. 160–88).

Conclusion

Parliamentary opposition in India has charted its distinct course and reflects the aspirations and tensions of a large, complex and deeply diverse post-colonial society. While the initial frame for such an opposition was drawn from the way the opposition functioned in the Westminster system, the course that it has taken is *sui generis*, and is deeply caught in the stirrings of Indian democracy. The relationship between the ruling party and the opposition has undergone significant changes over time. While there are times when the opposition has taken up a grandstanding "I am not the other" (Shourie 2007, p. 68) against the ruling party, they, however, share a broad range of norms, codes and rules and also actively participate in reviewing them and devising new ones.

The opposition has been an active interlocutor of the ruling regime, and has tended to associate itself strongly with social movements to augment its own strength and rally public opinion in its favor. There is a clear divide between the issues that the opposition parties to the right of the

political spectrum have raised such as national integrity and security, right to property and freedom of the market, equality of citizens, cultural belonging, national language, antipathy to Pakistan, and mainstreaming minorities, while parties to the left have spoken for the laboring masses, agrarian reforms, citizen rights, pluralism, minority rights and preferential policies, federalism, and against state repression.

The importance of these issues has varied over time. While this divide within the opposition is manifest in several forms and takes on its own hue when elements of it become ruling parties, the opposition has generally tended to rally against authoritarianism and surveillance and coercion, and for accountability of power, decentralization, respect for diversity and citizen rights. Issues of pluralism, communalism, secularism, inclusion, autonomy and state control have often divided the opposition, as they have the ruling regime and the opposition. These agreements and disputes are often reflected in institutional cooperation and conflicts as well. All of this goes to suggest that parliamentary opposition in India has charted its own distinct course.

While there is nothing like the institution of backbenchers in India, there are some concerted attempts by MPs, often cutting across party lines, to raise issues and mobilize support within the House which their party leadership has not avowed, or even spurned. The anti-defection law, however, has proved to be a dampener in mounting such initiatives. The DRSCs have afforded an opportunity for backbenchers to scrutinize the work of ministries and departments entrusted to their charge as well as to work with their political opponents. But in the last few years there has been a scaling down of their role and significance. The actual ability for backbenchers to move private members' bills remains limited for various reasons, while the question hour continues to be popular among them, particularly to showcase themselves to their constituents.

One of the major challenges for parliamentary opposition in India has been to represent and highlight India's deep diversity. The opposition has spoken for certain facets of this diversity such as language, caste and region with a certain measure of success. But it has had a very poor record in highlighting the concerns of religious minorities such as Muslims, in reaching out to the Adivasis or indigenous peoples, or to negotiate a principled agreement on the highly skewed gender representation in the House. The rising tide of cultural majoritarianism in India has placed these issues on the backburner.

NOTES

1. It sought to ethically persuade people to work for the welfare of all and employ their resources and skills for the purpose. The movement was led by Vinoba Bhave, one of the close disciples of Mahatma Gandhi, who carried out a hugely popular campaign called Bhudan that solicited land from the large landowners for distributing to the poor.

2. S.S. More said, "We have been sent to this house by a large number of voters and it is our duty to criticize the Congress wherever we feel that the Congress is going wrong. However when we criticize imputations are made and motives are attributed." *Lok Sabha Debates*, Vol. 10, 1952, p. 1073).

3. In this context it has to be noted that political leaders tended to keep leadership in the Lok Sabha and party leadership to themselves, to the greatest extent possible. Nehru set an example in this regard by easing out Purushottamdas Tandon and assuming party leadership himself (Kochanek 1968, ch. 2).

4. Soon after the Janata Party came to power, one of the major demonstrations of a resort to populism was Indira Gandhi's visit to Belchi, a village in Bihar, in August 1977, where a dozen dalits were massacred and thrown in the fields and burnt. During her regime earlier, there was little concerted action by her to undermine widely prevalent practices of untouchability!

5. Such as Dravida Munnetra Kazhagam (DMK) or Ram Vilas Paswan's Lok Jan Shakti Party (LJSP).

6. The P.V. Narasimha Rao government too was a minority government initially but soon the Congress acquired a majority due to the switching over of other groups to the Congress.

7. The popular slogan of the platform of DS4 (Dalit Shoshit Samaj Sangharsh Samiti) floated in 1981 was "Thakur, Brahmin, Bania Chor, Baki Sab hai DS4" (Thakurs, brahmins and banias all are thieves, the rest are united as DS4) *or* "Tilak, taraju aur talwar, isko maro joota char" (those who bear the ritual marks on their foreheads, live-off the weighing scale, and wield the sword, deserve a good drubbing).

8. *Lok Sabha Debates*, Vol. XXII, 2002. pp. 25, 26, 27, 32–3, 36.

9. There were certain precedents already set in this regard. The 73rd and 74th amendments had introduced one-third reservation for women in all Panchayat Raj Institutions (PRIs).

10. *Lok Sabha Debates,* Vol. XLVII, No.8, 1996, pp. 198, 200, 201, 202, 203, 204.

11. The Bill on Reservation of Seats for Women in the Parliament and State Legislatures, 1996 was referred to a Joint Select Committee. In 1998 the Bill was introduced afresh by the coalition government led by BJP but

again met with strong opposition and was derailed. Those who favored women's reservation without qualifying it made their plea on grounds of gender justice. Representatives of OBCs and Dalits argued that a blanket reservation of seats for women would reinforce upper caste presence in the polity in general and in the House in particular. They demanded "reservation within reservation." This opposition to reservation without any qualification made even major parties less ardent to pursue the measure, which otherwise they upheld in public. Under UPA II (2009–2014), while a modified version of the bill was passed by the Rajya Sabha, it met the same roadblocks in the Lok Sabha that it had encountered earlier.

12. Parliamentary opposition in India had always evinced a critical interest in foreign policy issues from early on, but India's nuclear deal with the United States for the first time threatened the defeat of the government on the floor of the House by a united opposition. While the government did everything to ensure that the trust motion moved against it was defeated, the opposition closed its ranks across the ideological divide. It was a splendid demonstration of an overlapping consensus in the opposition, otherwise divided on issues that they ostensibly regarded as of prime importance to the health of the polity.

13. It is interesting to note that measures such as MANREGA and food security became the targets of opposition ire in the 14th and 15th Lok Sabhas. But when the opposition came to power in 16th Lok Sabha, it embraced them enthusiastically.

14. In India, the so-called Young Turks within the Congress party were led by Chandra Shekhar who became the Prime Minister for a few months in 1990–1991. The political tendency represented by Young Turks had its moorings in the Praja Socialist Party faction under Asoka Mehta that merged with the Congress in 1964, citing right-wing parties such as the Bharatiya Jana Sangh and the Swatantra Party as emerging threats which, it felt, were best opposed by strengthening Congress.

15. These three were Ravishankar Prasad of BJP, Kripal Kumar of Congress and Jai Panda of Biju Janata Dal.

16. There has been no systematic study on such groupings so far.

17. For the relation between the anti-defection law and its effect on the quality and quantity of debate, see Sanyal (2014).

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Government Backbenchers and Opposition in Unsettled Political Environment: The Case of Nepal

Lok Raj Baral

Conventional democratic exercises without formal opposition are inconceivable. Such a government and opposition interface, which treats the latter as the government in waiting, is practiced in the established parliamentary system. Moreover, dissent alone cannot constitute political opposition as the latter is basically seen as parliamentary process, while the former is just dissent. However, many distortions can be noticed in today's liberal democracies. Sometimes it becomes difficult to make a distinction between government and opposition because of their similarities in agenda, mission and funding sources. It is also because frequently revolutions and movements are launched in order to change regimes.

In Nepal, most political upheavals have taken place in order to change regimes rather than to pursue an evolutionary path toward democratic development. The country is full of surprises and unexpected consequences. The end of monarchy, the metamorphosis of Maoist and other Left groups into liberal democratic parties along with the agenda of federalism are the results of the so-called "jump theory of politics," which

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reveals the swings that take place from one extreme to the other. How is it possible to relate such uncertainties to the democratic process?

Thus, the question of backbenchers does not arise in Nepal. Even backbenchers in a conventional sense have to validate the changes accepted by their respective parties' leaders, and in a way they are responsible for this endorsement. The coalition politics which is a reality in the present context of mixed electoral systems (both proportional and first past the post) tends to erase the thin boundary between government and opposition. Even parliament does not function on the basis of strictly defined roles of government and opposition. The demand for consensus in order to implement the basic features of the constitution is great, as in its absence no constitutional process can move forward. Perhaps the greatest challenge facing Nepalese politics today is the consolidation of the constitution in the spirit of the 2006 revolution. The 2006 Democracy Movement (*Loktantrik Āndolan*) is a name given to the political agitations against the direct and undemocratic rule of King Gynendra of Nepal. The movement is also sometimes referred to as *Jan Andolan* II ("People's Movement-II"), implying it being a continuation of the 1990 *Jan Andiolan* (Wikipedia).

REGIME TYPES, INSTABILITY AND OPPOSITION

Political dissent, which is the life blood of democracy, is not encouraged in traditional authoritarian and totalitarian systems. Authoritarian regimes have no fixed character as they swing between liberal democratic values and a tendency to be absolute. Some scholars have therefore defined authoritarianism as a mixture of these systems. It adopts limited pluralism because it is deprived of the universally accepted popular legitimacy that demands accountability, intrinsic capability and durability through periodic elections. The classical representative democracy based on a first past the post electoral system has been criticized for its "unrepresentative" character. The introduction of proportional representation is therefore designed to ensure greater inclusiveness, and also empower hitherto marginalized sections of society.

The Constitution of Nepal framed by the Second Constituent Assembly (the first was dissolved after it failed to deliver a constitution) provides for a bicameral parliamentary system. A mixed electoral system has been chosen for the elections of the lower house, with both the first past the post system and a proportional system prescribed in the constitution. The practice of representative democracy and a mixed electoral system nevertheless

seems to be problematic. It is neither stable nor essentially representative, despite the inclusion of various sections of society. It tends to be broad based without gaining stability. How unstable it is may be observed in today's Nepali experiment with mixed electoral systems.

The coalition government headed by the Communist Party of Nepal (Unified Marxist-Leninist) (CPN–UML) leader, K.P. Sharma Oli, was under serious stress because it had failed to be as efficient and responsive as the people and coalition partners wanted. Its failure to manage constitutional crisis, its weak performance in discharging its duty to redress the difficulties of earthquake victims plus a failure to combat rampant corruption in the distribution of cooking gas and other petroleum products, despite steady supply from India, put the government on the defensive. The Nepali Congress (NC), which was in opposition, tried to embarrass the Oli government with the help of disgruntled coalition partners, such as the Unified Communist Party of Nepal (UCPN) (Maoist).

The recent experiments with a mixed system along with the import of some features of check and balance practices from the United States do not provide us with a clear picture. The parliamentary hearings in order to determine government appointees' qualifications for jobs to be assigned to them seem to be irrelevant. First, the judges of the Supreme Court have to undergo a hearing process in a parliamentary committee. Unlike in the US senate, the members come from various parties that are represented in parliament. Since the constitution is yet to be implemented fully and since the parties lack ideological congruence, it is likely to be difficult to operationalize such provisions.

The constitution is not clear about the role of opposition as observed in other parliamentary systems. Many of these systems are far removed from the classical concept and practices of parliamentary systems. The emergence of regional parties in India and the antagonistic attitudes developed by both government and opposition, along with the problem of numbers, have made the Indian parliamentary process a mere formality. Today, the Indian National Congress lacks the required numbers to stake a claim to be recognized as the official opposition party in the Lok Sabha. In the Rajya Sabha (Upper House), the Modi government does not have a majority; therefore it faces considerable difficulties in getting its legislation passed. Many bills passed by the Lok Sabha are blocked by the opposition in the second chamber. What is more disturbing is that parliament sessions often end without doing any important work. Despite such negative trends, it is clear that India is still a democratic miracle, which maintains

systemic stability through periodic elections. India's 8% economic growth and democratic stability would be worth emulation by other countries.

But Nepal's historical and political contexts cannot be directly compared with India or with any other county of the region. A lack of incremental growth and political disjuncture, what I prefer to call the "jump theory of political development," did not allow Nepal to move on an evolutionary path. Intermittent revolutionary changes and the process of institutionalization are incompatible. Most oppositional activities are extra-parliamentary because of the controversy raised over the contents of the new constitution by different regional, oppressed and ethnic groups. The coalition of these groups on occasion obstructed the making of the constitution, as they asserted that their major demands for inclusion, identity and empowerment needed to be addressed. The hill janjatis (ethnic and tribal groups), Madhese of the plain and others use parliament in a limited sense, as they tend to be primarily extra-parliamentary. Yet from a formal and legal point of view, it was difficult to distinguish between the parties in government and those in opposition. Most of the members of such groups, either in government or in opposition, formed caucuses to bargain for greater benefits, which would be guaranteed by the constitution.

Even while the Constitution of Nepal was being promulgated, the Madhese parties opposed both the contents and the processes adopted in order to promulgate the constitution. The issues of opposition were basically related to identity, demarcation of federal boundary, elections based on the size of population, number of provinces (a minimum of two for Madhesh) and inclusion for a proportion of the population. When the major parties did not accept all of these demands, the Madhese/Tharus launched a movement that turned out to be violent, killing more than 50 persons. For more than four months, the Mid- and Western Tarai (Madhesh) was disturbed so much so that a blockade at the India–Nepal border points was imposed, with a view to putting pressure on the major parties. India was also dragged into the fray when the Nepali side paid no heed to the request of the Indian Prime Minister and the government of India to respect these groups. Although India denied its involvement in the so-called "undeclared blockade", the supply of essential commodities, especially petroleum products, was disrupted, hitting the Nepali people hard. Anti-India sentiments rose until the constitution was amended to address the two demands of the Tarai parties—elections based on proportionate size of population and inclusive proportional representation. The Madhese leaders also withdrew their border-concentrated agitation in order to ease the daily life of ordinary people.

However, the Madhese parties and some *janjatis* have not been reconciled to the present constitution, stating that the present government, and the Nepali Congress which is in opposition, has not come out in support of the delineation of provincial boundaries as demanded by the Madhese parties. The Madhese parties think that the hill elite mentality that considers Madhesh as the site of convulsion and external involvement works as a major obstruction to giving due share to the Tarai people and *janjatis.*

PARTY DOMINANCE AND DISSENTERS

In the Nepali context, the frontbenchers are those who control their respective parties and take decisions in their names. The rest are backbenchers who add their signatures after a few leaders have made a decision. This came about when the constitution was being drafted and finalized. All these members spent most of their times in darkness as they did not know what items were being cooked in the name of the constitution. So most hill ethnic groups and Madhese leaders who were the members of the three major parties—NC, CPN (UML) and CPN (Maoist)—kept their members together during the promulgation of the constitution, although many of them who represented the Madhesh-Tarai and *janjatis* were not happy with its contents. Only a few Madhese parties (eight out of 116) did not vote for the constitution, and launched the movement. Thus, theoretically speaking, the present constitution has been overwhelmingly endorsed even by the Madhese members, despite their resentment at the decision of their parties, but from the point of taking ownership of the document this is far short of reality. As a result, conflict has endured, creating a psychological chasm between the hill elites and others. It is to be seen how far the principal parties that were able to win a large number of seats in the parliament will be able to maintain their popular base in the Tarai in future.

ISSUE OF INCLUSION

Apart from the demand for greater participation in politics and administration, various ethnic, dalit, Madheses, gender and other groups were more concerned about their own group and regional interests. During the royal regime, some hill ethnic groups formed a coalition of Sherpa, Tamang, Magar, Gurung, Rai and Limbu (SEGTAMAGURALI) to promote their group interests and identity, and strongly put their demands before the Constitution Commission formed by the King to amend the constitution in 1980. The main opposition party, NC, rejected the contents

of the constitution on the grounds that it would only widen the conflict between the King and the people. However, such ethnic demands subsided after the victory of the regime in the national referendum held in May 1980. It was known that freedoms enjoyed by these groups and other parties were not likely to be entertained by the royal regime, which maintained that the people had endorsed the regime led by the King.

During the three parliamentary elections held in 1991, 1994 and 1999, the pattern of representation continued to be unchanged in both number and substance, as not many social groups and gender could make any headway in terms of representation. Parliamentary perversions and debasement were so blatant that those people who expected a qualitative change in politics and governance lost their faith in the multiparty system. Frequent changes of government without any principled actions and inter-party and intra-party squabbling tarnished the image of parties and leaders, thus preparing fertile ground for more radical and populist politics under the new banner of the Maoist Party. The CPN (Maoist) thus started its armed movement with the objective of liquidating the class enemies who were considered to be thriving under the "corrupt" parliamentary system.

From the opposition's point of view, this helped to derail the process by contriving a rift between the traditional monarch and parliamentary practitioners. On the one hand, it succeeded to neutralize the King and the Royal Nepal Army by juxtaposing them with the politicians; on the other hand, it forged an understanding among politicians marginalized by the vaulting royal ambition and the King's follow-up action against them. Nevertheless, the Maoist movement also contributed to the agenda of inclusion and empowerment of various groups, which subsequently became common to all parties. It is estimated that even within the Maoist guerrilla force, more than 30% female enrollment was ensured. Many of these former guerrillas have now occupied different positions of power and prestige. The speaker of parliament was the commander of the Maoist force, and many others have become ministers and other position holders under the present dispensation.

The composition of two constituent assemblies (CAs) or "legislature-parliaments," formed in 2008 and 2013, shows a dramatic change in the pattern of representation. Out of 601 members, 197 (33%) were women in the first CA. This figure is slightly reduced today, with only 29%. Similarly, the number of dalit increased multifold (to 49).The numbers of hill ethnic groups and Madhesees also recorded phenomenal increase. Yet such quantitative change has not solved the issues of identity, or the

proportionate sharing of power and empowerment of the hitherto under-privileged sections. Nor has any party put forward a roadmap for ending social and economic disparities that persist in the country. The same old elite groups based on caste, if not class, continue to enjoy the lion's share of state structures and power.

Politics is becoming polarized into hill dominant groups represented by the high castes—Brahmin and Chhetri—who constitute about 29% of the total population (2011 census) and marginalized sections. From a population distribution point of view, Nepal is a country of minorities, because no single social group makes up more than 17% of the total. There are more than 100 minority groups (59 of them being officially recognized), with each not exceeding 10%.

Today's politics therefore centers around various ethnic and regional groups despite the continued dominance of the hill caste groups. There has been a qualitative change in Tarai politics with Madhese parties, though highly divisive, being able to wrench some major concessions relating to their share in power structures. The first President and Vice-President were Madheses, and two have already become Deputy Prime Ministers in addition to becoming Chief Justices.

One of the significant developments is that the Madheses have been able to establish their national identity despite being regional in orientation. The politics of identity and ethnicity or regionality is pronounced in today's Nepal, because party ideologies are not as strong as in the past. Such emergent trends have almost sidelined the ideological moorings for which political activists gave their lives in the past. The Nepali Congress, which claims to be a social democratic party, has almost forgotten the agenda of social and economic justice; the CPN (UML) is only a communist party in name; the Maoists are no longer Maoists, since their transformation into multiparty liberal democracy, which they denounced in the past.

The Madhese parties are region-focused and can hardly think of political ideology. The conservative force represented by the Rashtriya Prajatantra Party (Nepal) (RPP (Nepal)) and Rashtriya Prajatantra Party (RPP) are not ideology-bound. RPP (Nepal) emphasizes the Hindu state and constitutional monarchy despite taking an oath in the name of a republican, federal and secular constitution. The RPP swears by the constitution but dithers on the agenda of a Hindu state. Such inconsistencies and lack of ideological clarity have only contributed to political uncertainty and social conflict. Ethnic groups and democratic secularists do not subscribe to such ambivalent positions held by parties and leaders.

It can be stated that two contradictory trends are simultaneously dominating current Nepali politics. Positively, the Nepali political class and others have realized the significance of inclusive democracy, in which all citizens can claim their due space in state structures. This means a greater demand for both participation and empowerment. Although the caste-based elite structure continues to dominate national life, people are increasingly becoming conscious of their rights and privileges. The second development is more pessimistic: there has been a general erosion of norms and values in public life. Institutions are in a moribund state, putting the entire democratic exercise in peril. Rampant corruption, the increasing role of extra-constitutional power centers, and mafia and money have affected the growth of democracy. Since the country is in poor economic shape, with 0.7% growth and a crisis of governance, democracy's future cannot be fully assured. First of all, Nepali political leaders should be clear about the relevance of the type of system chosen. Can a conventional parliamentary model with new features borrowed from other systems relieve the country of the daunting task of consolidating its democracy?

Parliamentary features adopted in the present constitution and trends of societal fragmentation and the vanishing role of the state are often brought into discourse. The subordination of political ideology to an ethnicization of politics to which political parties have almost capitulated, failing to find a route to future political development, are also matters of serious concern. As both society and the state are shrinking rather than undertaking the role of transformation, people seem to be worried about the future of the country. The agenda of carving a federal state based on *jatiyata* or ethnicity was the immediate source of fear among many people. Creating a constitution would not solve the problem, since sources of conflict are many, including the Maoists vs. others, use of army, inter-party relationships and the issue of secularism.

Returning to the original discourse about society and state, there is no denying the fact that Nepal is passing through the most turbulent phase it has witnessed in its modern history. Despite many changes brought about by palace conspiracies, family rule and its collapse, or coups and other movements against absolute rule, no substantive change was made in the spirit and style of governance. Nevertheless, since the 2006 movement Nepal has entered into a new phase in which both the pangs of change and hope for the future have mixed the old and the new. Since the old values and norms resist qualitative transformation, the imagination of a new state and society is also a reality. The mutuality of interests is being realized as

various social groups, regions and individuals try to situate themselves in the new dynamism of politics. It is also worth observing that Nepalis in general seem to be negotiating with a variety of identities in order to add substance to the future democratic polity.

PARTIES AND OPPOSITION

The nature of political parties in Nepal does not neatly fit into the conventional definition of parties. Nor are all of them sustainable. The NC has not only survived but has also led the three major movements both violent and peaceful since its birth, first as Nepali Rashtriya Congress and later as the NC. It led the anti-Rana armed insurrection in 1950. In 1990, its own initiative cobbled together the various communist parties under the banner of United Left Front (ULF), in order to launch a mass movement for the restoration of a multiparty system. Its role after 1990 failed to stabilize the semi-parliamentary system introduced by an agreement between three players—the NC, the ULF and the King—owing to various reasons. First, the NC's own internal quarrels and leaders' egoistic behavior led to the defeat of a majority government that it headed in the mid-term election, in 1994, and second, parties in general and the King were not enthusiastic about adhering to the spirit of constitutional democracy.

In fact, all stakeholders squandered the gains of the 1990 movement, with the major parties in particular scrambling for Palace favors. This meant that the monarchy once again bared its teeth and defied many initiatives being taken by the government. Recommendations made by the Prime Minister and bills sent for assent were either turned down or were withheld indefinitely. The blame for this can be apportioned to the political parties for their failure to provide democratic stability and development. Their lack of understanding of the changed political environment following the 2006 *janandolan* is also likely to lead to a lost game, with all the parties forgetting their primary mission of making a new constitution. Why have the leaders of major political parties dragged their feet when it comes to charting some common ground on which they could engage in order to work on the major agenda of reconstructing the country?

Leaders of political parties have similar socio-economic backgrounds as most of them represent the middle or lower middle class and are not immune from entrenched interests. Moreover, parties that belong to mainstream multiparty politics failed in the past to provide any transformational agenda that could improve the conditions of poor people. Nor

did they ever try to introduce reforms that would make democracy more broad-based and inclusive, including and empowering marginalized, dalit, Tarai people, women and other deprived sections of society. The three elections held under the 1990 constitution and two local level elections could not bring about a departure from the past, thus continuing the same pattern of representation in the national parliament and local institutions. In other words, the same caste and class were in positions of power and authority.

Nevertheless, time and situation forced all the political parties in the post-2006 *janandolan* to agree on some common issues. As a result, the CA became for the first time a truly representative body, though such numerical strength (601) is not geared to settling all outstanding issues and areas that have been identified for restructuring the state as well as for consolidating democracy through the constitutional order to be provided by the new constitution.

Fallacy of Constitution-Making

Constitutionalism combines both the principles and practice of democratic governance. It aims at accepting popular sovereignty along with the objective of ensuring the election of accountable, efficient and stable government at certain intervals. So the imagined democracy should be reflected in a constitution that is given by the people to themselves. But to the dismay of the people, Nepali politicians have miserably failed to fulfill this agenda, despite repeated attempts being made to create a popular constitution. Leaders of political parties who come from a variety of backgrounds and political cultures are not at ease with universally embraced norms and values. At a time when democratic systems are under great stress all over the world owing to new challenges and crises, Nepal faces multiple challenges that are specific to its own environment and background.

The fallacy of constitution-making can be observed in a lack of conceptual clarity of parties' leaders, whose overall roles have shown that their political commitments to the basic principles of modern democracy are spurious and ad hoc. They continue to change their political stands if pressure develops. They seldom foresee a situation that might develop after they decide to do something, and immediately start to retract their commitments to those who opposed their previous decisions. The signing of a 16-point agreement with the objective of hastening the constitution-making process has an immediate backlash, because of their inability to

assess the possible political scenarios that might be produced by this agreement. Drafting a constitution without addressing the most contentious issue of delineation of federal boundary units or without ensuring the proportionate share of all deprived and marginalized sections of society was also impractical. Though their intention could have been positive, fast-tracking the constitution-making agenda, they were ignorant of the gains of the revolution or of the Interim Constitution. The consequences of this are likely to be dismal and uncertain, as the ugly head of regression is being raised—and this will dilute the achievements of the people's movement.

The theory of constitution-making, a Western import, is based on certain political underpinnings. Since it is a long and arduous development that needs a trinity of courage, commitment and vision, only visionary and strong leaders with unflinching faith in democratic principles can undertake the project. Today, Nepal has leaders who are incapable of taking decisions let alone sticking to them. Their characteristics are common to most "big" parties around which other "smaller" parties revolve, expecting a share in the spoils of government. The Prime Minister also continues to change his commitments in order to satisfy disgruntled lobbies and pressure groups, both internal and external. Although he is one of the signatories to the 16-point agreement reached between the four parties—NC, CPN (UML). UCPN (Maoist) and the Madhese Janadhikar Forum (Loktantrik)—his latest utterances indicate that he is no more the champion of the agreement for which the CPN (UML), a party impatiently waiting to head the government under the leadership of K.P. Oli, lambasted Koirala for going against the agreement.

The informal understanding reached during the finalization of the 16-point agreement was that Koirala would prepare the ground for UML to head the next government after promulgating the constitution. Since no single party was in command to form a government on its own strength, the help of other large parties, especially the NC and UCPN (Maoist) and Madhese, was necessary. This scenario was repeated when it was planned to vacate the post of Prime Minister in favor of the CPN (Maoist) leader, Prachanda. According to their gentleman's agreement, Oli was supposed to hand over power to Prachanda after the passage of the budget. Oli subsequently denied making such a deal, and said that he would not leave his job until the election in 2017. But ultimately he had to hand over power to Prachanda.

Apportioning blame to political leaders would be an excuse for all of us, because the Nepali political context is not as simple as we like to portray. Nevertheless, their failure to understand the changed dynamics is a problem that has made politics more complex. People's multiple assertions and demands need to be tackled dispassionately. The politics of compromise has given ground to the politics of opportunism and short-term interest. The fear that the dominance of certain high caste and class groups would be compromised if they accept the demand for proportionate sharing of power and resources has made them indecisive. For a substantive departure, therefore, the new constitution needs to be crafted with a long-term perspective and strategy in order to keep a societal and politico-economic balance.

Moreover, the politics of identity and ethnicity cannot be entirely ruled out on traditional grounds; nor is it possible to run the state without the cooperation of all Nepalis. Since Nepal is a country of minorities, notwithstanding the continued domination of high caste groups, a new theory and practice of statecraft is an imperative. The constitution does not provide any clue as to how such proportionate sharing for marginalized and oppressed groups is possible, unless the major parties prepare themselves for understanding such gross miscalculation while promulgating the constitution. The orthodoxy with which major parties' leaders are trying to buy time would not benefit the country; nor would it be any good for them. Conflicts sown by the constitution would take an ugly turn if leaders continue to be intransigent. Such conflict-prone countries' elites have often been forced to make a U-turn from their previous position and thinking when unexpected small movements create great impacts.

Thus, constitution-making in Nepal has become complex and imponderable owing to political leaders' lack of deeper understanding concerning such complexity. First, parties and leaders have not yet come out of the cobweb of traditional political style and knowledge, thus distancing themselves from emergent trends and aspirations. The surging popular demands, which range from religion to social and political recognition on the one hand and their audacity in not being flexible in searching for reasonable grounds on which to address them on the other, have put them in the wilderness. Second, constitutionalism, as it is understood in the West or in so-called developed democracies, cannot be a good import for Nepal, with its disrupted political history and fractured political culture. Constitutionalism is a sine qua non of modern liberal democracy but in the given context, constitution cannot be replicated; however, it can be so

designed as to make a workable mixture of order, social justice and political democracy. Third, the draft constitution is the product of confused minds and principles. It is like a garden covered in wild grass. Finally, constitution-making alone is not sufficient; what is needed is a good constitution with good intentions. It must combine the elements of modern participatory democracy so that it is lasting and acceptable for the greatest number of people.

Dilemma of Democratization

These days, democracy is on the slippery slope or in the process of decline. The reasons for this are numerous and intractable. Ideological grounds cannot be dismissed, despite the powerful wave of democratic movements taking place across the world. Democracy is still hailed as the preferred system, and both instant and long-drawn-out struggles have restored the attractions of liberal democracy. Francis Fukuyama (1989, 1992) even went to the extent of applauding this momentous development as the "end of history," as democracy, in his view, could triumph over all other regimes—both authoritarian and totalitarian. To quote Fukuyama (1989):

> What we may be witnessing is not just the end of the Cold War, or the passing of a particular period of post-war history, but the end of history as such: that is, the end point of mankind's ideological evolution and the universalization of Western liberal democracy as the final form of human government.

Communism that arrived with a big bang eventually ended in a whimper in most countries. And no one can predict the extent and content of transformation that will take place in countries such as the People's Republic of China and Vietnam. It is often observed that these "communist states" are not fully communist except in the sense that they are strict one-party controlled political regimes. Economically, there have been remarkable changes that may trigger stronger political pressures for eventual transformation.

It seems that no new alternatives for ongoing democratic practices are being made available either by social scientists or by politicians. This is why democratic aspirations rise high in countries where authoritarian and other forms of dictatorships have had time to deliver or not to deliver. And regimes without delivery and performance for the greater interests of the

people are doomed to decay or will be destroyed by the wave of revolution. Democracy too has to undergo this process, because eventually people evaluate the failures of political elites as failures of the democratic system itself. How long can people count on the promises of politicians whose mission is often betrayed by their selfish desires to manipulate the system for their own aggrandizement. Such popular perceptions of so-called democratic and progressive elites are evident not only in developing and underdeveloped countries: serious concerns have of late been raised even in Western democracies. (For details, see Coggan 2013; Fukuyama 1989, 1982).

Samuel P. Huntington hinted about reverse trends if parties' leaders faltered in their mission and succumbed to anti-democratic practices. Patronage distribution, clientelism, failure to internalize democratic values and norms, the increasing role of mafia, muscle and money (the three Ms) in influencing election results, and the links established between such operators and political parties and their leaders have stultified the democratic process. To cite Coggan, "voter turnout has fallen; politicians are held in low esteem, support for the extremist is on the rise" (2013, p. 10). The financial crisis that often occurs as a result of these practices has affected the efficacy of political regimes. Moreover, most politicians spend their time generating funds for the next election, thinking that without money and manipulation no candidates and parties can think of taking power.

Some of the trends found in Western democracies are also observed in South Asia and other Asian countries. Comparatively, South Asia is still poor and divided in both political and societal contexts, and the nature of its crises varies from country to country. The United States of America and other developed countries have been affected by the financial breakdowns since 2008, with Greece being the latest sufferer, but South Asian countries and China plus a few others have not undergone such an ordeal. Now, to be more precise, we can conceptualize the democratic process as it is understood in South Asia, highlighting some stark realities of the region.

Oppositional politics in Nepal is increasingly becoming empty of alternative agendas, with major parties making the politics of power the core agenda for their existence. NC, now in opposition, has hardly articulated people-oriented issues. Some parties in government and opposition are making the issue of Tarai-Madhesh weaker. Therefore, in the absence of a strong mobilizing agenda, opposition politics does not look as if it can effectively deliver. The Tarai-Madhese movement has met with a similar

fate as the important leaders in the movement do not seem to be supportive of each other's endeavor. A new party, Naya Shakti Nepal (New Force Nepal), led by Dr. Baburam Bhattarai (former Maoist leader and former Prime Minister), was born in June 2016, hoping to set new trends in the politics of the country. Yet, with its red flag with a star in the middle and Bhattarai being the only figure projected during its launch, and also his background as a Maoist leader, questions have been raised about whether it is truly a democratic party. So far, Bhattarai claims it is a left of center party with progressive agendas of social justice and democratic values. But time alone will prove its survival and effectiveness, as many such parties have withered away with the passage of time.

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The Inclusivity Role of the Judiciary in Bangladesh

Ridwanul Hoque

Inclusive governance is a core value of participatory democracy, both in procedural and substantive senses.[1] It denotes the idea of inclusive constitutionalism that requires a system of governance "characterized by accountability, responsiveness, and integrity" of governance institutions and public agencies (Sigdel and Sharma 2013). However, unlike the other branches of government, the discourse on inclusive governance seems to be a little reticent. Moreover, the inclusiveness–judiciary nexus is somewhat tricky in that, unlike in the case of parliament or the executive, an inclusive judiciary may not necessarily mean the formal inclusion within that very institution of "others." Inclusive judicial governance, nevertheless, requires a judicial system that should be internally diverse or representative. Importantly, the existing global literature tends to suggest a positive co-relation between a diverse judiciary and inclusive constitutionalism.[2]

The concept of inclusive judiciary has a functional aspect too, which emphasizes the judiciary's role in protecting, and including within the governance system, minorities or those excluded in society. It also means the wider public's access to the justice system. A society cannot be equal and inclusive without equal access to justice. While a diverse judiciary is

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inevitable for the establishment of an inclusive rule of law, an accessible and functionally inclusive judiciary is even more important to provide justice for the most disadvantaged people. This role helps to achieve the objective of social inclusion by preventing, for example, further marginalization of the disadvantaged and excluded people.

The aim of this chapter is to analyze the functional-sense inclusivity role of the higher judiciary in Bangladesh. Although the Supreme Court of Bangladesh has handed down certain important decisions that promote inclusive governance generally, a discourse on inclusive judiciary has yet to emerge.[3] This chapter seeks to address this gap, by focusing on the judicial inclusivity function with a reference to three performance areas: social inclusion of marginalized people, participation of women in governance, and the protection of indigenous peoples' autonomy. A limitation of this chapter is that it does not assess the formative diversity of the judiciary, which is no doubt a significant marker for the evaluation of Bangladeshi or any other democracy. This chapter also leaves out an analysis of the role or capacity of the judiciary in enhancing inclusiveness in the other two organs of the State, the executive and the legislature.

Inclusive Governance and the Role of the Judiciary

This section posits the judiciary as an inclusive governance institution. It would be convenient, for that purpose, to begin with the concept of inclusive governance. First, "governance," which is different from "government" (Bellamy 2010), is inclusive, and refers to an idea of government that is inclusive of not only all relevant horizontal institutions or factors, but is also re-oriented in its role and functions.[4] Within that framework of "re-invented" governance, scholars tend to emphasize development and social justice as the cores of governance (Rizvi 2007, 2008). The overarching objective of inclusive governance is to ensure active participation in the governance process of all groups of citizens, particularly marginal groups such as the poor and women. According to Dias and Sudarshan (2007, p. 1):

> To be inclusive is a core value of democratic governance, in terms of equal participation, equal treatment and equal rights before the law. This implies that all people – including the poor, women, ethnic and religious minorities, indigenous peoples and other disadvantaged groups – have the right to participate meaningfully in governance processes and influence decisions that affect them. It also means that governance institutions and policies are

accessible, accountable and responsive to disadvantaged groups, protecting their interests and providing diverse populations with equal opportunities for public services such as justice, health and education.

Now I take up the question of the role of judges in ensuring inclusive governance in the above sense of the term. The judiciary in any plural society is a significant institute of inclusive governance (Tiruchelvam and Coomaraswamy 1987; Thiruvengadam 2013). If "social justice," "public participation," and "inclusion of marginalized communities" are constitutive attributes of inclusive governance, then there should be no doubt about the role of the judiciary in promoting these values. Debates nonetheless remain about the capacity and willingness of the judiciary as the protector and guardian of the value of inclusiveness. In traditional Western politico-constitutional theories, the judge is often considered the neutral arbiter of disputes, lacking a capacity to promote and direct social changes. The conventional wisdom, based on a democratic argument, is that the task of achieving social justice or of including marginalized people within the governance framework belongs to the representative branches of a polity, and is dependent on the availability of resources. Accordingly, the judiciary, having neither purse nor sword, is considered unable to ensure social inclusion or to have a legitimate role in this regard. The arguments about judicial incapacity to diagnose the problems of social exclusion and injustice properly, to oversee effectively the complex implementational process, and to handle polycentric issues such as resource allocation (Fuller 1978) have been advanced to confine judges to the role of dispensing formalistic justice (Hoque 2011, p. 43). This view of the judicial role vis-à-vis social justice was indeed a consequence of a narrow view of constitutionalism that originally remained overly concentrated on the goal of *limited* as opposed to *unlimited* government (Walker 2010, p. 209), and hence was not inclusive (Ghai 2013, p. 279).

Liberal constitutional scholars, however, argue for a social transformative role for constitutional law or for what O'Cinneide (2015, p. 212) terms as "socially engaged constitutionalism." Speaking from the Indian and Ethiopian contexts, Thiruvengadam and Hessebon (2012, p. 154), for example, argued that there is a "deep connection" between the application of principles of constitutionalism and impoverishment. This social-inclusive view of constitutionalism admits of a broader judicial role in achieving social justice through the adjudication of social and

economic rights (SERs).[5] Michelman (2015, p. 279) regards "constitutionally binding" SERs as a compelling democratic idea, able to exert "metamorphic pressure" on our received notions of constitutionalism, rights, and adjudication. He endorses this idea of social rights as being "of the essence of a morally supportable, just and democratic political order" (Michelman, p. 293). Another democratic argument in this vein is that of Tasioulas (2016), who has advanced a distinctive "minimum core" argument, emphasizing that there are certain minimum core obligations associated to SERs that must be "immediately" fully complied with by all states.

The autochthonous Constitution of Bangladesh (hereafter "the Constitution"), which came into effect on December 16, 1972, placed "the people" at the heart of the country's new constitutional order and promised a reversal of past injustices and inequalities. The founding fathers sought to embrace transformative constitutionalism, setting social justice as its goal. The realization of a socialist democratic society, "free from exploitation" and based on the rule of law and respect for fundamental human rights and human dignity, was announced to be the nation's "fundamental aim."[6] This vision of an inclusive society ultimately led to the constitutionalization, albeit in a weak form, of certain social rights styled as judicially non-enforceable Fundamental Principles of State Policy (FPSPs). The FPSPs created an obligation for the State to pursue a planned economy to secure citizens' basic amenities of life such as food, shelter, education, and medical care, to bring about a "radical transformation" in rural life, and to emancipate the toiling masses from exploitation.[7]

As said, the state policy principles or the SERs, however, are judicially non-enforceable.[8] Put in other words, this means that even an aggrieved community, which is in desperate need of basic facilities and entitlements such as education, employment, medical care, and so on, would remain incapacitated to seek judicial help in compelling the State to undertake measures to ameliorate their precariousness. This proposition no doubt belittles the rule of law. For Sen (2012), basic human entitlements draw their value from an appreciation of "political normativity." In this sense, judicial non-enforceability of social rights should not have serious rule-of-law implications. In contrast, in the context of Bangladesh, where lawmaking is largely colonial in nature as well as in spirit and where public policymaking is still not adequately welfare-enhancing, to regard social

and economic justice purely as a matter of political wisdom would render the rule of law an empty rhetoric. Moreover, Sen's "political normativity" in effect reinforces the idea of legal normativity of social rights, as he was arguing for social entitlements from the perspective of political constitutionalism.

If the constitutional scheme of social justice is to be taken seriously, the non-justiciability of social rights in Bangladesh should not be a deterring factor vis-à-vis transformative constitutionalism. In other words, the Constitution of Bangladesh should be interpreted in a way that sustains and promotes the normativity of the FPSPs. Article 8(2) of the Constitution announced that these principles would be "fundamental" in the governance and lawmaking of the State (of which the judiciary is a part) and "a guide" for the interpretation of laws and the Constitution.[9] A closer look at these principles or SERs reveals that they are not only normative, but also are capable of employment as a tool to achieve inclusive constitutionalism. These principles, along with the fundamental rights, "provide a reservoir of legal resources which can be drawn upon to bring about [social] change" (Hossain 1997, p. 43) and empower the court to assume its inclusivity role.

Although Bangladesh's independence Constitution (1972) failed to adopt an unambiguously inclusive approach, it had nevertheless enacted several provisions that aimed to establish an egalitarian, inclusive society.[10] "Socialism" and "democracy" were thus declared to be the "high ideals" of the newly born State. Next, the Constitution enjoined the State to ensure "effective participation" by the people at all levels of administration through their elected representatives.[11] The Constitution also established a substantive concept of legal equality, with a provision for affirmative State actions for women or children as well as "for the advancement of any backward section of citizens" or for securing their "adequate representation in the service of the Republic."[12] These provisions leave no doubt that the Constitution supports, and indeed requires, affirmative actions in favor of various socially marginalized groups including indigenous people. The affirmative actions-enabling provisions could have been used to alleviate social discrimination, that is, to promote social inclusion (Barber 2010, p. 53). It remains a different but curious question, however, whether or to what extent Bangladesh has adopted any affirmative programs for its several excluded or marginalized groups.

Social Inclusion, Social Justice, and the Judiciary[13]

The law generally has a role in promoting social inclusion in the sense of eradicating poverty or ensuring social justice.[14] Beyond this deceptively simple drawing of the law and poverty connection, most scholars think that social inclusion of people living with poverty is the preserve of other disciplines than the law. Similarly, the job of constitutional law in establishing and maintaining inclusive constitutionalism has often been regarded as only minimal, if present at all. This minimalist approach is predicated on the weak position of social rights in state constitutions, which, relevantly, is a product of persistent international human rights politics of division and preference between civil and social rights.

As stated above, Bangladesh's Constitution accorded a weak position to social and economic rights by making them unenforceable by the judiciary.[15] The problem of this inchoate constitutionalization of social rights can, however, be overcome by a willing judiciary that is tasked with the interpretation and application of a democratic constitution premised on the rule of law framework. Scholars have generally argued that despite the judicial unenforceability of social rights in Bangladesh, the senior judiciary is both capable and possessed of constitutional tools to deal with resource issues or to realize its role in achieving social justice (Hoque 2006; Chowdhury 2012; Haque 2012b).

Today, there is an increasing global record of judicial protection of the rights of socially excluded, marginalized, or disadvantaged people.[16] In South Asia, too, judiciaries have assumed a socially inclusive adjudicative responsibility through public interest litigations (hereafter PIL). PIL allows any publicly interested person to petition the court on behalf of any affected or marginalized group of people to vindicate a constitutional cause or to enforce constitutional rights. Prominently, when the Indian judiciary developed the PIL tool in the late 1970s, it was driven by a deep sense of duty seriously to address injustice and suffering of India's excluded and underprivileged citizens (Hoque 2006, p. 399).[17] Through their PIL jurisprudence that stands on the justificatory ground of the "interests of the poor" (Thiruvengadam and Hessebon 2012, p. 166), the Indian superior courts began enforcing judicially non-enforceable social rights of the Indian Constitution strategically, that is, by using the social rights as an aid to interpret enforceable constitutional rights, notably the right to life.[18]

The Indian example offers an imitable instance of judicial enforcement of social rights negatively or indirectly, that is, by preventing the State from arbitrarily depriving the people of their livelihood or other entitlements, rather than by imposing positive obligations on it. This approach by the Indian judiciary, which was once known as Olga Tellis-way, has been recently rebranded by Khosla (2010) as the "conditional social rights" approach. In Olga Tellis,[19] the court halted the eviction of slums and pavement dwellers in the City of Bombay as the evictees were not served with a notice of eviction. As a matter of fact, the court was not enforcing the citizens' right to home but rather was policing the procedural safeguards of justice. Importantly, when the Indian Supreme Court later directed the provision of alternative accommodation for the would-be evicted slum dwellers, it was even then relying on the government's policy (a promise indeed) to arrange for alternative shelter for the slum dwellers, and hence was not technically requiring the government to spend resources on constructing homes for the homeless. This doubtless has been a unique strategic approach to the inclusion of the excluded in a constitutional context that does not make social rights explicitly justiciable.

On the same note, it is pertinent to cite the Indian Supreme Court's "right to food decision" that in effect sought to protect extremely poor people who were on the verge of death for want of food. In PUCL v. Union of India,[20] which arose in the backdrop of widespread drought in some six Indian states, chiefly in Orissa and Rajasthan, and which sought to prevent deaths in future from starvation, the court issued a strategic remedy by requiring the government to execute its various food schemes and distribution policies, and thus apparently not enforcing the right to food (Hoque 2011, pp. 84–85). Here, the court found the central government's reluctance or laxity in distributing the food grain that it had in plenty in a timely manner to be a constitutional failing in breach of the people's right to life. This intervention yielded some positive impacts such as, for example, the introduction of daytime meals for children in school.[21]

The Bangladesh Supreme Court entrenched the concept of PIL authoritatively in the mid-1990s in its landmark decision in Dr. Mohiuddin Farooque v. Bangladesh (1996).[22] Public interest litigation by and in itself has a tremendous inclusivity virtue, as this juridical tool widens the scope of "excluded" people's access to the constitutional court.[23] The founding motto of PIL in Bangladesh was to make meaningful the collective rights of those people who could not access the court for various social, educa-

tional, and economic reasons. Initially, therefore, PIL was directed against issues such as environmental justice, child health, the protection of the homeless (the slum dwellers in Dhaka), preservation of public parks/open spaces, public health and hygiene, and so on (Hoque 2006, p. 326).

Bangladeshi senior courts were initially hesitant in actively engaging with "non-enforceable" social and economic rights. A reason for this reluctance was the idea that the Constitution barred the court from enforcing social rights or the FPSPs. The Supreme Court, however, later made a move toward recognizing the significance of implementing the social and economic rights of those who were excluded, marginalized, or impoverished.[24] Beginning in the early 2000s, the court began enforcing social rights indirectly, rather than by imposing positive obligations on the State. The strategy adopted by the court was the one of interpreting and enforcing statutory duties of relevant government agencies or extending the most important constitutional right to life to cover social rights.[25] Appreciably, when rendering this sort of strategic protection to the hapless and the disadvantaged sections of the public, the court usually seeks to enlighten the government about its duty vis-a-vis "social justice" and "the minimum necessities of life."[26] In a 2001 case, for example, the High Court Division (hereafter HCD) of the Supreme Court cited the precarious position of slum dwellers as a justification for its protective order directed against their eviction from their homes.[27] Ten years later, in Ain o Salish Kendra v. Bangladesh (2011) that concerned the problem of child labor, the court relevantly recommended as follows:

> [The government] must take the initiative to ensure that the compulsory education provided by statute enacted under the mandate of Article 17 of the Constitution [that concerns] all the children of Bangladesh becomes a realistic concept and not just lip-service. To that end, steps must be taken to ensure that children can attend school without jeopardizing the family's food security. In other words, there must be financial provision for the family such that the child's attendance in school should not result in the reduction of the family's income earning capacity.[28]

Several instances can be cited in which the court exercised activism in the protection of several weaker or excluded sections of society, such as slum dwellers, sex workers, people with disability, garment factory workers,[29] and the accident-victims needing urgent medical treatment. In a series of cases, the court intervened prospectively to protect the slum

dwellers, Bangladesh's homeless people, from arbitrary eviction. In Ain o Salish Kendra v. Bangladesh (1999), for example, the court held that the slum dwellers could not be evicted without first being given notice as a matter of constitutional due process and without first ensuring their alternative shelter.[30] The court specifically required the government to conduct the eviction in phases and only after making alternative accommodation arrangements for them.[31]

In another case concerning the eviction of female sex workers, the court declared unlawful the arbitrary and sudden eviction of hundreds of sex workers, which according to the court was tantamount to depriving them of their livelihood and the right to life.[32] The court then asked the government to formulate its promised rehabilitation schemes compatibly with the notion of human dignity and containing such educational, moral, and socioeconomic facilities that would deter prostitution. These actions indeed resonate the Indian Olga Tellis approach, noted above.

In yet another case that involves the rights of people with disability, a court directive was sought to compel the government to initiate an affirmative action scheme for visually impaired people by reserving quotas for them in the public service.[33] In an ongoing PIL case, the HCD issued an interim remedy by asking the government to initiate measures toward installing a national emergency medical service scheme for traffic accident victims.[34] Here, again, the focus was on constitutional proprieties and "the right to life" of citizens.

It appears that the jurisprudential trail toward the enforcement of social rights in Bangladesh has been set, although there is simply not enough activity in the area of social rights to augment the efforts of social inclusion. By contrast, even with regard to the limited judicial actions vis-à-vis social inclusion of the marginalized that have been accomplished, implementation and monitoring of good decisions remain a challenge.[35]

The Judiciary and Women's Participation in Governance

At one level, the role of the court in promoting women's participation in governance is limited. The issue of women's participation is indeed a matter of political constitutionalism. To be engaged with this, the court first needs to be seized with constitutional or legal challenges relating to the exclusion of women from participation in public affairs. Such legal challenges

occur only rarely in Bangladesh. At another level, the court plays an inclusivity role in all cases that challenge the breach of women's human rights or discrimination against them. Gender equality is doubtless a significant aspect of inclusive constitutionalism.

In a case that promotes the effective citizenship of women, Bangladesh National Women Lawyers' Association v. Bangladesh (2009), the court issued detailed guidelines, which were in "the nature of law," mandating employers and educational institutions to take measures to prevent and suppress the sexual harassment of women.[36] This important judicial directive came out in the context that, despite the constitutional principles of gender equality and the equal legal protection for all, there was virtually no law to effectively prevent and punish what is known as sexual harassment of women. Although no law has so far been enacted as the court wished, the judgment has remained as a kind of protective shield for women vis-à-vis sexual harassment.

The focus here, however, is on the court's role in protecting and promoting women's right to participate in politics and state affairs. There are instances in the field of women's participation in which the court has sought to achieve the inclusiveness goal of the rule of law. At a micro-level, the Supreme Court's endorsement of several constitutional amendments that preserved parliamentary seats for women provides an inspiring instance of the judicial promotion of women's participation.[37] There is yet another judicial intervention that is of transformative effect regarding women's participation in politics. In Kudrat-E-Elahi Panir v. Bangladesh (1992),[38] which concerned the local government system, the Appellate Division of the Supreme Court refused to strike down an Act of Parliament abolishing an existing local government tier, but issued certain directions asking the government, inter alia, to make all existing local government laws compatible with the Constitution and to hold local government elections within six months of the decision, "keeping in view the provision for special representation [of women]" in local government institutions under Article 9 of the Constitution.[39]

It is indeed after this landmark judgment that parliament enacted several laws to facilitate women's representation in local government institutions in Bangladesh. This participation of women in local government may be limited or constrained, but there is evidence that it has increased women's empowerment. There is also evidence that, women elected to local government bodies have been contributing significantly to the promotion

of transparency and accountability in local government institutions (Rahman 2015; Hasina and Hasan 2015).

The higher judiciary has also shown activism in protecting the political rights around the effective participation of women representatives. In Shamima Sultana Seema v. Bangladesh,[40] for example, the court appeared to be zealously promoting the constitutional principles of equality and participation. The case involved the undignified allocation of differentiated functions and pay to female commissioners of the Khulna City Corporation, a local government institution. These commissioners were elected for the "reserved women seats." The High Court Division quashed the concerned executive notification and undertook a pedagogic role, seeking to educate the government about its protective duty toward women in an egalitarian, welfare state such as Bangladesh (Hoque 2011, pp. 122–123). The court emphasized that a dynamic, as opposed to a technical approach to the constitutional concept of gender equality, was to be cultivated.[41]

Protection of Indigenous Peoples' Autonomy and Cultural Diversity

In this section, the role of the higher judiciary in Bangladesh in the protection of indigeneity and cultural diversity is examined, with specific reference to the Chittagong Hill Tracts (hereafter CHT).[42] While institutional political insularity generally places judiciaries across the world in a unique position to protect and promote the autonomy of indigenous nations, some judiciaries are less inclined to discharge that protective role. The US judiciary is one such institution, whose role in ensuring the participation of indigenous communities is often questioned and critiqued (Duthu 2013). By contrast, Indian courts provide an encouraging example of inclusive adjudication vis-à-vis indigenous communities.[43] The role of the Bangladesh judiciary in this regard, as will be seen below, is a mixed bag of inclusive and anti-inclusive responses.

To begin with, in a pre-Independence case decided by the then Dacca High Court, Mustafa Ansari v. Deputy Commissioner, Chittagong Hill Tracts (1965), a specific provision in the Rules framed under the Chittagong Hill Tracts Regulation 1900 was declared unconstitutional.[44] The impugned provision (Rule 51) authorized the government to expel any non-tribal person ("who is not a native of the district") from the area if

that person was found to be undesirable and injurious to the peace and good administration of the district. Historically, the Chittagong Hill Tract has been subject to a special administrative regime, and the provision to exclude any non-tribal person from the area was in effect a reflection of this administrative specialty and the autonomy of its indigenous communities. Upon independence in 1947, Pakistan retained the special status of the CHT in its 1956 and 1962 Constitutions.[45] Later again, that special status of the CHT was altogether deleted from the Pakistani Constitution in 1964.[46] It is in this context of de-recognition of a tribal status of the CHT that the Mustafa Ansari court judged Rule 51 of the CHT Rules as unconstitutional. Apparently, the court seemed to be influenced by the constitutional de-recognition of the CHT's tribal area status. A closer scrutiny of its reasoning, however, would reveal that it was indeed judicial prejudice against the "autonomy" of indigenous people that was in action. This was clearly reflected in the court's argument that the "restrictions" created in the impugned rule was a "drastic infringement" of "a right of a citizen to move freely throughout Pakistan."[47] However, the court did not strike down the 1900 Regulation itself that was the source of Rule 51.

Bangladesh's Constitution did not categorically recognize the CHT as a special administrative area. The independence Constitution of Bangladesh was premised upon democratic principles, but it was nevertheless deficient in inclusiveness. At its founding moment, Bangladesh did not consider the claim for recognition of non-Bengali *adibashi* communities of the CHT, but rather clearly dismissed it. Constitutional silence about the administrative status of CHT and the exclusion of the indigenous people were to produce visible consequences later. Soon after independence of the country, the CHT entered a long-standing time of hostilities and instability. In the wake of mounting conflict there, a peace accord with the indigenous representatives was signed in 1997 with a clear commitment to uphold the indigenous rights of self-government and participation.

Despite the constitutional deficiency in terms of indigenous inclusion, the Supreme Court generally played a significant role in protecting indigenous peoples' participation and cultural autonomy.[48] In a series of cases, the validity of the 1900 Regulation was endorsed either directly or by implication.[49] Also promisingly, the court on several occasions upheld the legal indigeneity of the indigenous communities, often by endorsing their local laws and customs. This role of the court reinforces the pluralist character of the Bangladeshi legal system as well as the imperative of indigenous peoples' participation in the adjudication of local, social, or cultural

matters. In Aberchai Mog v. Joint District Judge, Khagrachari, for example, the HCD directed the concerned authorities to resolve the property dispute according to customary succession law of the Marma community in Khagrachari, a CHT district, in consultation with the Circle Chief and the Headman of the community as envisaged in the Chittagong Hill Tracts Regulation 1900.[50] In an important early decision in Rajkumari Unika Devi v. Bangladesh and others, the Appellate Division recognized that the indigenous people's "customs" had "the effect of local law".[51]

Unfortunately, however, the court in a handful of cases demonstrated its lack of understanding of the value of indigenous inclusion and autonomy. Two such cases would bear evidence of this type of judicial insensitivity toward indigenous claims. In a 2003 decision in the case of Rangamati Food Products Ltd v. Commissioner of Customs,[52] the HCD held that the CHT Regulation 1900 was a "dead law," a decision that runs counter to the above decisions.[53] In Rangamati Food Products Ltd, a private company challenged an order of the customs department, arguing that the relevant taxation law would be inapplicable in the CHT as it was not declared to be so applicable per section 4(1)(2) of the Chittagong Hill Tracts Regulation 1900.

The court refuted this construction, arguing that the 1900 Regulation was a dead law and hence "not applicable" under the Constitution.[54] It seems that the court could have decided the case otherwise than adjudging the regulation as a law non-extant. Whether a company or an individual in the CHT could be granted exceptional tax benefits is an issue that is inextricably linked with the notion of inclusive constitutionalism, which requires a broader approach to the concept of constitutional equality. The court in this case skillfully avoided the argument of affirmative action or positive discrimination invoked by the petitioner's counsel. Instead, it remained obsessed with the idea of application of all laws equally to the inhabitants of the CHT. This over-obsession with the perceived hegemonic character of the nation is discernible in the court's view that "the hill districts" cannot have any "extra privileges" under the Constitution,[55] as well as in its advice that it was a high time for the government to "apply all other laws of the country to that area without any let or hindrance."[56]

The 1900 CHT Regulation is at the core of the autonomy and linguistic–ethnic diversity claim of the peoples in the Chittagong Hill Tracts. Although it was not so mentioned in the CHT Peace Accord of 1997, the validity of 1900 Regulation was by implication endorsed in that accord

when "the preservation of the character of the region [CHT]" was regarded as an overarching objective of the arrangement. In holding that the CHT was a part of unitary Bangladesh and hence no special law for its administration was valid, the Rangamati Food Products court defied the body of judicial decisions that endorsed the validity of the Regulation and also belittled the CHT peace treaty and the political wisdom of the executive branch. It also clearly ignored several existing statutes that preserved the specialty of the CHT.[57]

The second case is that of Mohammad Badiuzzaman v. Bangladesh (2010),[58] which concerned the constitutionality of the Chittagong Hill Tracts Peace Accord of 1997[59] and several other associated arrangements that were brought forth to ensure indigenous peoples' participation in governance. In 2000, a non-indigenous CHT resident challenged the legality of the CHT Peace Accord and the Chittagong Hill Tracts Regional Council, a local government-type institution that was established in furtherance of the Accord. Later, another identical challenge, based on similar grounds, was brought in 2007 by a Dhaka-based lawyer.[60] Both petitioners argued that certain provisions of the Accord and the establishment of the CHT Regional Council were unconstitutional for diminishing the unitary character of the State. Deciding the two petitions jointly, the HCD declared the CHT Regional Council unconstitutional for violating the State's unitary character and for not being a local government within the meaning of the Constitution.[61]

The court also struck down certain statutory provisions, reasoning that they were discriminatory against non-indigenous citizens, an approach that is even more problematic from the perspective of inclusive constitutionalism. One such provision was a rule that required any non-tribal person to be both a permanent resident of, and an owner of land in, the CHT for being eligible to vote in the elections of district councils. For the court, provisions like this contravened the constitutional equality to be enjoyed by all citizens of the country.[62] Interestingly, the Badiuzzaman Court refused to invalidate the Peace Accord that the court considered an act of political expediency and wisdom. Radically departing from this plausible view of the judicial role vis-à-vis politically charged problems, however, the court in effect negated the core of that accord by striking down the consequential laws providing for indigenous self-government.

The CHT Peace Accord, envisaging certain exclusive privileges and rights for indigenous people, was a high-level policy matter. The CHT Regional Council was one of the two new institutions innovated pursuant

to the Accord, which was not only a paradigmatic improvement in the style of indigenous peoples' participation, but was also a means of tacitly recognizing distinct indigenous cultural–political identity. From the normative perspective of inclusive constitutionalism and given specific political contexts, it seems that the court failed to properly appreciate the much-needed political solution that culminated in a special body such as the Regional Council in the CHT. Moreover, in invalidating the CHT Regional Council on the ground of its having "potential to eventually claim the status of a federating unit for the CHT, thereby destroying the very fabric of a unitary Republic,"[63] the court in fact over-focused on the regional aspect of this institution while marginalizing indigenous participation. In its view, the consolidation of indigenous self-governance through the establishment of the Regional Council projected the tribal peoples as "distinct peoples," going beyond the pale of "autonomy" within the existing constitutional framework.[64]

It is quite clear, therefore, that the Court invoked the conservative notions of "autonomy" and "self-determination" that are unsupportive of inclusiveness. It indeed failed to appreciate that indigenous self-determination in a unitary state such as Bangladesh can be achieved through "a range of possibilities of institutional re-ordering other than the creation of new states" (Anaya 2002, p. 12), or without undermining the State's unity. The Badiuzzaman decision was also built on a narrow concept of constitutional equality. The court dismissed, without giving a strong reasoning, the argument that the CHT Regional Council and the new model of enhanced indigenous participation through the district councils could alternatively be seen as an affirmative action. The court's response was that there are no objective standards to determine the "backwardness" of the indigenous people warranting such affirmative actions, and that positive constitutional discrimination in favor of any group must not at the same time be discriminatory against other groups.[65] Needless to say, the court again resorted to an understanding of indigenous autonomy through a lens of majoritarian, hegemonic citizenship. Constitutional inclusion of ethnic minorities is in effect an issue of active citizenship which at times requires political equality in the form of positive discrimination—an aspect that went missing in the Badiuzzaman decision.

In a positive development, the Appellate Division has recently overruled the effect of the above two conservative decisions of the HCD. In Bangladesh v Rangamati Food Products Ltd. (Civil Appeal. No. 8 of 2008), the Appellate Division by a decision of November 22, 2016 held that the HCD

was wrong in treating the CHT Regulation as a dead law. Earlier, in Wagachara Tea Estate Ltd. v. Muhammad Abu Taher and others (2014),[66] the Appellate Division in the clearest terms recognized the CHT's administrative specialty and used the terminology of "indigenous people" for the first time. For the court, there is an implied constitutional recognition of the special status of the CHT that, it said, was "completely distinct" from other parts of the State.[67] Importantly, the Appellate Division also established, in principle, the constitutional eligibility of indigenous people as beneficiaries of affirmative State actions (Michelman 2009). As it remarked:

> There is no doubt that the citizens of three hill districts are backward people. These provisions embody the concept of making special provisions for the weaker backward section of the citizens by taking such measures as are necessary for [the] removal of economic inequalities and rectifying discriminations resulting from State actions between unequal[s] in society.

Conclusions

The role of the judiciary is critical for inclusive governance. The realization of this role depends on many factors—institutional, political, legal, and social. Generally, a constitutional court has the mandate as well as the institutional legitimacy and capacity to promote inclusive governance. As shown above, the Bangladeshi judiciary has often acted in the protection of marginalized peoples' right to participate in governance. In doing so, the higher courts even had to overcome constitutional deficiencies and silences regarding, for example, the enforcement of social rights and indigenous peoples' special participatory rights. For the realization of this proactive role, the judges needed to invoke the fundamental constitutional premises of social justice, democracy, and the rule of law.

The above also shows that there is not enough activism in the areas that belong to the goal of an inclusive society. One reason for this might be the absence of a vibrant environment of legal and civic activism for wider inclusive governance in Bangladesh. For example, unlike in India where the PIL tool is often employed by civil action groups in achieving social inclusion, PIL in Bangladesh has not witnessed enough actions for the enforcement of social rights of those excluded. Having said this, it should be acknowledged in fairness that the Bangladeshi Supreme Court's performance as the guardian of the value of inclusive constitutionalism needs to be more pre-eminent and transformative.

NOTES

1. For example, many argue for inclusive governance for an inclusive socio-economic development. See Juzhong (2010).
2. See, for example, Vagras (2005) who argues that inclusion of judges of different racial backgrounds improves the quality of the rule of law. See also Hunter (2015) and Rackley (2013).
3. The Supreme Court is composed of two divisions, the High Court Division (HCD) and the Appellate Division. The Appellate Division hears appeal from orders and judgments of the HCD that has the original judicial review power.
4. For a theoretical conceptualization, see Bonnafous-Boucher Maria (2005).
5. See Fiss (1979) (arguing that judges may produce significant social reforms). For a middle-ground argument that judges should enforce social rights only incrementally, see King (2012).
6. See the Constitution of Bangladesh, preamble and art 19(2).
7. Ibid., art. 16. For the FPSPs, see articles 8–25 of the Constitution.
8. Ibid., art. 8(2). Insertion of these principles (FPSPs) as non-enforceable social goals was influenced by similar Indian constitutional provisions on 'directive principles'. For the debate on the normativity of these 'directive principles' see Baxi (1969). There was not much debate in the Constituent Assembly of Bangladesh about the enforceability of FPSPs. In a singular exception, Mr. Suranjit Sengupta, the only opposition member in the Constitution Drafting Committee, objected that judicial non-enforceability of social rights would have made these principles hollow, and urged for the deletion of this enforceability-bar (Huq 1973, p. 62).
9. As Badrul Haider Chowdhury J observed in Anwar Hossain Chowdhury v. Bangladesh (1989) BLD (Special) (AD) 1, para. [53], "the directive principles cannot be flouted by the executive. The endeavor of the Government must be to realize these aims and not to whittle them down."
10. Article 10 of the original Constitution (1972) longed for '[a] socialist economic system [...] with a view to ensuring the attainment of a just and egalitarian society, free from exploitation of man by man.'
11. Ibid., the preamble and art. 11.
12. Ibid., respectively arts. 27, 28(4), and 29(3)(a).
13. I have elsewhere analyzed the Bangladeshi judiciary's role in the protection and promotion of constitutionalism generally. See Hoque (2013).
14. See, for example, Munger (2006) and Baxi (1988).
15. For a brief historical account of the concept of judicially non-enforceable economic rights in Bangladesh, see Haque (2012a).
16. See, among others, Sepúlveda (2008), ICJ (2008), Gauri and Brinks (2010), and Ghai and Cottrell (2004).

17. There is now a very large volume of literature on Indian PIL, mostly applauding the court's activism. For certain critical studies, see Rajagopal (2007) (arguing that the Indian courts have increasingly shown a bias against the poor, making judicial activism a more problematic device for social movements to rely upon) and Pillay (2014).

18. On this, from among a large volume of works, see Abeyratne (2014), Bhuwania (2016), and Khosal (2010).

19. Olga Tellis v. Bombay Municipal Corporation (1985) 3 SCC 545.

20. (2001) 7 SCALE 484. This is a continuing case. As of 2012, many interim orders were passed, and all the Indian states were eventually added as parties. See Right to Food Campaign. *Legal Action: Supreme Court Orders.* Available at http://www.righttofoodindia.org/orders/interimorders.html.

21. The Indian Supreme Court made remarkable contributions also in the fields of education and public health. See, e.g., Unni Krishnan v. State of Andhra Pradesh (1993) 1 SCR 594.

22. (1997) 17 BLD (AD) 1 (Appellate Division's decision of December 1996). This had been a result of legal and policy activism by rights-based organizations and lawyers as well as of the influence of the Indian successes.

23. It is not within the scope of this chapter to provide a detailed analysis of PIL jurisprudence in Bangladesh. For details, see Ahmed (1999), Byrne and Hossain (2008), Hoque (2006), and Hossain et al. (1997).

24. In the early 2000s, for example, senior judges began urging the new-generation judges to be 'visionary' in building the country's 'own jurisprudence' to suit the needs of its 'poverty-stricken multitudes' (Hasan 2004, p. 40).

25. See art. 32 of the Constitution that provides that no person shall be deprived of life and liberty except "in accordance with law". The expansion of the right to life to embrace the right to a healthy environment was first made in Dr. Mohiuddin Farooque v. Bangladesh (1996) 48 DLR (HCD) 438, 442. In Rabia Bhuiyan, MP v. Secretary, Ministry of LGRD (2007) 59 DLR (AD) 176, the court held that the right to life includes the people's right to safe drinking water.

26. Kalam v. Bangladesh (2001) 21 BLD (HCD) 446, 448.

27. Ibid. Note the following remark by M.M. Haque J (at p. 448): "After all, the slum dwellers […] are also citizens of this country […]. Their fundamental [social] rights may not be fully honoured because of the limitations of the state, but they should not be treated [like] slaves […]. [T]hey have a right to be treated fairly and with dignity, otherwise all [constitutional] commitments […] shall prove to be mere mockery".

28. (2011) 63 DLR (HCD) 95, at 115–116 (*per* M. Imman Ali J).

29. See BLAST v. Bangladesh, WP No. 1256 of 2006 (seeking to ensure that the neglected garments-industry workers are paid for their overtime work).

See also ASK v. Bangladesh, WP No. 4269 of 2005, challenging the lingering detention of a mentally ill person and seeking to ensure rights of all mentally challenged people.

30. (1999) 19 BLD (HCD) 488.
31. Ibid. For other cases in which the court protected the homeless people see Aleya Begum v. Bangladesh (2001) 53 DLR (HCD) 63; Kalam v. Bangladesh (2001) 21 BLD (HCD) 446; Modhumala v. Director, Housing and Building Research Institute (2001) 53 DLR (HCD) 540; BLAST v. Bangladesh (2008) 60 DLR (HCD) 749; Alauddin Khan v. Bangladesh (2009) 14 BLC (HCD) 831. A few other cases seeking to protect the slum dwellers against forced eviction are currently pending before the court. See, e.g., ASK and others v. Bangladesh, WP No. 974 of 2010.
32. Bangladesh Society for the Enforcement of Human Rights v. Bangladesh (2001) 53 DLR (HCD) 1 (*per* M.F. Karim J).
33. BLAST v. Bangladesh, WP Nos. 343 of 1997 and 1783 of 1998. The government made a law reserving quotas for the people with disability in 3rd and 4th grade public jobs.
34. See Syed Saifuddin Kamal and BLAST v. Bangladesh, WP No. 1509 of 2016 (interim order of 10 February 2016).
35. See further Hoque (2006, pp. 413; 2013, pp. 326–327; 2014, p. 468).
36. (2009) 14 BLC (HCD) 694, 706 (the court ordered that the guidelines were to be complied with until an 'effective legislation' was made).
37. See, for example, Farida Akhter v. Bangladesh (2007) 15 BLT (AD) 206 (finding as constitutional the reservation of seats for women in parliament, an exception introduced in 1972). For an old similar decision, see Dr. Ahmed Hossain v. Bangladesh (1992) 44 DLR (AD) 109.
38. (1992) 44 DLR (AD) 319.
39. Ibid., at 336–337 and 342 (*per* Mustafa Kamal J). Article 9 was later replaced by the Constitution (Fifteenth Amendment) Act 2011 (Act No. XIV of 2011), section 9. A provision on women's participation is to be found now in article 19(3), which provides that "[t]he State shall endeavour to ensure equality of opportunity and participation of women in all spheres of national life."
40. (2005) 57 DLR (HCD) 201.
41. Ibid., at 212–213 (*per* A.B.M. Khairul Haque J).
42. I have developed this idea in further detail in Hoque (2017), on which this section has partially relied.
43. See, e.g., Kailas and Others v. State of Maharashtra (2011) 1 SCR 94, in which it held (at paras. 34–39) as follows: 'Among the[..] disadvantaged groups, the most disadvantaged and marginalized in India are the Adibashis (STs), who, […], are the descendants of the original inhabitants of India, […]. […] It is time now to undo the historical injustice [done] to them.'

44. (1965) 17 DLR (Dacca) 553; (1965) PLD (Dacca) 576 (*per* Salahuddin Ahmed J).

45. See, respectively, art. 103 (read with arts. 1 and 201) of the Constitution of the Islamic Republic of Pakistan 1956 and art. 223 (read with art. 222) of the 1956 Constitution of Pakistan.

46. See the Constitution (First Amendment) Act of 1964 of Pakistan (with effect from 10 January 1964), deleting the CHT from the list of special/tribal areas mentioned in article 242(2) of the 1962 Constitution.

47. (1965) 17 DLR (Dacca) 553, at 561 (paragraph 19). The court reasoned that restrictions on the right of movement could be employed "strictly in the public interest" and only under exceptional circumstances.

48. See, e.g., Ziaur Rahman Khan v. Bangladesh (1997) 49 DLR (HCD) 491 (the Court issued a strategic remedy directing the authorities to hold elections to the three CHT district councils that had representations from the indigenous communities).

49. Notable among them are: Bikram Kishore Chakma v. Land Appeal Board (2000) (2001) 6 BLC 437; Bangladesh Forest Industries Development Corporation v. Sheikh Abdul Jabbar (2001) 53 DLR (HCD) 488; SheweHlaPru v. Commissioner of Chittagong (1992) 44 DLR (HCD) 539; Aung Shwe Prue Chowdhury v. KyawSain Prue Chowdhury (1998) 18 BLD (AD) 33; Sampriti Chakma v. Commissioner of Customs (2000) 5 BLC (AD) 29; Abu Taher v. Land Appeal Board (2003) 8 BLC (HCD) 453; Rajkumari Unika Devi v. Bangladesh (2004) 9 BLC (AD) 181. See also a pre-1971 case, the Collector of Central Excise and Land Customs, East Zone, Chittagong v. Azizuzddin Industries Ltd. (1971) 23 DLR (SC) 73.

50. (2014)19 BLC (HCD) 358. Arising from Writ Petitions No. 2829 of 2006 and No. 3285 of 2009, this case involved the rules of succession of property in the Marma community.

51. (2004) 12 BLT (AD) 141 (the court applied social customs of the Mong Circle in determining the question of succession of Mong Chief). An older, similar decision is Aung Shwe Prue Chowdhury, as in n. 49 above.

52. (2005) 10 BLC (HCD) 525 (judgment of May 13, 2003). Recently, the Appellate Division has overruled this decision. See Bangladesh v Rangamati Food Products Ltd. (Civil Appeal. No. 8 of 2008, decision of November 22, 2016).

53. Ibid., at 534 (para. 12).

54. Ibid.

55. Ibid., at 533.

56. Ibid., at 535 (para. 15).

57. See, e.g., the Chittagong Hill Tracts Land Disputes Resolution Commission Act 2001 (as amended in 2016).

58. (2010) 15 BLC (HCD) 531. An appeal against this decision is currently being heard by the Appellate Division.
59. The government concluded this peace-accord with the Parbatya Chattagram Jana Samhati Samiti (PCJSS) (CHT People's Solidarity Association), with a view to ending the armed rebellion that was going on in support of the indigenous peoples' right to self-determination.
60. Advocate Md. Tajul Islam v. Bangladesh, WP No. 6451 of 2007.
61. Badiuzzaman, above n. 58, at 230.
62. Ibid., at 237–8. Compare with the Indian case of Manchegowda v. State of Karnataka 1984 (3) SCC 301, concerning the constitutionality of an Act prohibiting transfer of land of the tribal grantees in Karnataka. The Supreme Court held that such a special law exclusive of other communities was not incompatible with constitutional equality.
63. Badiuzzaman, above n. 58, at 235.
64. Ibid., at 229.
65. Ibid., at 236–237.
66. Civil Appeal No. 147 of 2007 (judgment of December 2, 2014), *per* S.K. Sinha J. Available at: http://supremecourt.gov.bd/resources/documents/450020_Civil_Appeal_No.147_of_2004.doc.pdf. Accessed 2 February 2017.
67. Wagachara Tea Estate Ltd., ibid., at 4.

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Inclusive Governance for Enhancing Professionalism in Civil Service: The Case of Bangladesh

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Since its origin, the study of public administration has faced a number of theoretical and practical challenges. When Wilson (1887) wrote his famous essay "The Study of Administration" and arguably developed the pathway of scientific study of public administration, he was essentially trying to deal with the challenges associated with the "spoil-system." His most quoted lines, "The field of administration is a field of business. It is removed from the hurry and strife of politics" were wrongly interpreted, though, eventually generated the founding theory of public administration (Svara 2001). The principles of scientific management, the progressive era movement, and the effort to develop specific "theories" to analyze administration (e.g. POSDCORB) emphasized on necessity of building a scientific basis of administration.

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However, this field of study faced a significant crisis when Simon (1946) identified the so-called theories as mere 'proverbs'. This criticism was important as it, at one end, pointed out the need for considering a scientific approach for studying administration and, on the other, it pointed out the shortcomings of the field in developing its unique place in the academic arena. The discipline faced an "intellectual crisis" and a search for identity started which has not yet come to an end. Over the years, the discipline has seen a number of debates (such as the Friedrich-Finer exchange that pointed out the problems of defining accountability and limitations in holding the bureaucracy accountable, the Waldo–Simon debate) that not only indicated the difference of approach in terms of analyzing administrative functions but also raised a key concern—what should the role of a democratic administration be?

Since these early years, public administration has come a long way. In the 1970s, the field embraced (though shortly) the New Public Administration movement (Frederickson 1976) and in the mid-1970s, focused on the concept of representative bureaucracy (Krislov 1974). In the 1980s, the economic and political populism swept the field and by the late 1980s, public administration was desperately trying to remain relevant by borrowing from economics, sociology, and other disciplines to find out how it could provide services to the citizen in the most effective way, without wasting public resources. Then the era of New Public Management (NPM) arrived, wherein process was replaced with focus on outcome, hierarchy was challenged, and network emerged as the possible solution. Moreover, private sector principles and methods were encouraged to be applied in the public sector and public–private partnership became a common theme. Then performance management and measurement movement started and by the early 2000s, NPM actually became the most acceptable public sector model.

However, the new tools and ideas generated new challenges. What is the boundary of public service? What should be the role of public administrators in a democracy? How can we develop network? Is hierarchy really over? How can we ensure accountability in the era of third-party government? Does performance management work? Should bureaucrats be specialized? Is the era of generalists over? In other words, the controversy and challenges associated with the study of administration have moved from the ivory tower of the academicians to the practical laboratory of the practicing bureaucrats.

Two things should be clarified at this stage. First, although challenges and key questions are important in ensuring the scientific advancement of a discipline, these do not necessarily mean that all questions can affect the

discipline positively. Writing in 1968, Dror pointed out that a number of mis-questions have actually plagued public administration, and these mis-questions often generated unnecessary controversies. As he argued:

> Every profession and every discipline is troubled from time to time by many questions which mislead efforts to illusionary problems and feed controversy on meaningless issues. Public administration seems to be especially prone to the disease of mis-questions. … Whatever the exact causes may be, illusionary problems–usually posed in the form of dichotomies–continue to plague public administration and retard its development as a profession and as an academic discipline. (Dror 1968, pp. 1–2)

However, it is important to note that even though these questions may welcome misleading assumptions and conclusions, they can very well survive and shape the practice of public administration. In fact, Dror pointed out, "One of the most misleading questions in public administration which has shown especially stubborn survival capacity and is still being seriously discussed for a long time, is the issue of 'specialists vs. generalists'". This chapter specifically focuses on this important yet misleading question, makes an effort to explore how this has affected the public administration system in Bangladesh, and offers a theoretical solution to this.

The second issue to remember is that the dilemmas, challenges, and questions mentioned above have not affected developed and developing countries in the similar manner. Whereas some key issues such as different dimensions of accountability, especially in the era of third-party governance and the question of administration ethics dominate the academic sphere of the developed world, it is interesting to note that in developing countries these have not emerged so far. On the other hand, in most of developed countries, the controversy regarding specialists and generalists have been resolved to a large extent and in fact, back in 1968, Subramaniam (1968) observed that most of the developed countries (except for Britain), owing to their devotion to economic development, had given a specially advantageous position to the specialist. However, in developing countries this controversy has refused to die out.

Therefore, for a developing country such as Bangladesh, the issue of specialist–generalist is still significant and it has continued to play an important role in generating rivalry not only between the generalists and the specialists, but also between different cadres in the Bangladesh Civil Service (BCS). It is widely assumed that in the domain of public administration, the generalists receive extra privilege; they enjoy higher status,

exercise more power, and get priority with regard to promotion. It seems to have affected the morale of specialists and those who belong to different cadre services, and has posed a challenge to the country in terms of attaining the goal of "inclusive" governance. Thus, in this chapter, we analyze the current situation in Bangladesh regarding this conflict and offer a theoretical solution to the problem. We argue that given the Government of Bangladesh is generally embracing the principles of NPM, focusing on multi-sectoral collaboration in formulating policies, and implementing programs, an opportunity has been created to incorporate the perspectives of both specialists and generalists in policy formulation and implementation.

The chapter is divided into five sections. The next section will provide a theoretical framework and will show the link between inclusive governance and generalist–specialist conflict. The third section will explain the specific case of Bangladesh. The final section will explore the potential of resolving this dilemma while emphasizing the utility of multi-sectoral approach.

Governance, Inclusive Governance, and Specialist– Generalist Conflict: A Theoretical Framework

In this section, we have made an effort to define the various concepts related to this chapter and explore how these concepts are related to each other. The goal here is to identify specific situations where conflicts between specialists and generalists may thwart a country's efforts in attaining the objective of inclusive governance, and under what condition this conflict can be minimized.

Governance and Inclusive Governance

Although the concept of governance is not necessarily a new one, it became immensely popular in the academic world in the mid-1990s. Since then various efforts have been taken to define and measure governance and, as a result, the concept has been defined differently by different disciplines. Economists mainly focused on analyzing the "enabling" political government that allowed the market to perform effectively, and henceforth, they often tried to define governance while limiting the role of government. Political scientists, on the other hand, have a different view of the issue, and when March and Olsen (1995) talked about democratic

governance, they identified the limitations of the exchange theories of politics, and highlighted how political institutions can create and sustain a democratic governance structure while ensuring that democratic values and ethos are maintained and nurtured within a society. North et al. (2013) followed the same point of view and by arguing that society's main function is to contain the level of violence inherent within it, they pointed out the role of different institutions that can assist it in making a transition from Limited Access Order to Open Access Orders. Interestingly, though, even the political scientists did not place much emphasis on the role of government in analyzing different theories of democratic governance.

Public administration scholars have taken a somewhat different route. Government has always remained at the core of governance and in its simplest sense, to public administration scholars, governance means the process of governing, where government agencies are no longer the only actor. Public administration scholars, therefore, do not ignore the government and simply point out that governance means a change or shift in the ways the government does its work. From this perspective, governance means ensuring better interaction between the government bureaucracy and citizens, where agencies work together with private and non-profit sector actors to serve the citizens in an effective and efficient way. Thus, it includes institutional and managerial aspects of government, as the agencies are required to find modern, innovative managerial styles which include more non-government actors and require greater coordination and cooperation (Hill 2004; Frederickson 2005). In this chapter, we have specifically focused on this aspect of governance and, to a large extent, we agree with Fukuyama's definition of governance "as a government's ability to make and enforce rules, and to deliver services, regardless of whether that government is democratic or not" (Fukuyama 2013, p. 3). Let us consider this definition and build on this using the literature on public administration.

First of all, considering the fact that governance is being defined as the "government's ability," the focus here is of course on the capacity of the government to get things done. For public administration scholars, this is not a new issue. Frederickson (2005) pointed out that when Cleveland (1972) first introduced the term governance as an alternative to public administration, he specifically argued that "what the people want is less government and more governance"; and to him, this can be achieved only though organizations that "get things done". However, a close inspection of Fukuyama's (2013) and Cleveland's perceptions actually reveal an

important distinction. To Fukuyama, governance is a value-neutral term that simply talks about the government's ability to do certain, specific things. Cleveland, on the other hand, considers governance to be a value-laden concept, where a movement from government to governance is essentially good as it allows the government to perform more effectively and efficiently. He made this very clear by stating:

> The organizations that get things done will no longer be hierarchical pyramids with most of the real control at the top. They will be system-interlaced webs of tension in which control is loose, power diffused, and centers of decision plural. … Because organizations will be horizontal, the way they are governed is likely to be more collegial, consensual, and consultative. (Cleveland 1972, p. 13)

In other words, he not only defined governance as an improvement of traditional "government," but also identified some key characteristics of this improved process, as explained later on.

Secondly, considering the argument that governance is essentially better than government, the key question therefore is what are the essential components of this governance. Donahue and Nye (2001) provided a vague description of this when they defined governance as "the organization and regulation of our collective lives–the things we do with other people." This definition is too broad, and its all-encompassing focus does not help us to gain any clear idea about the concept. From this perspective, Stoker's (1998) five propositions are more helpful, and based on this it is possible to argue that governance, as a concept, acknowledges the limitations of the government in terms of utilizing its authority and resources in getting things done, and that is why it draws a number of institutions and actors from outside the government, reflecting a "blurring of boundaries and responsibilities for tackling social and economic issues" (Stoker 1998, p. 18). It therefore identified the necessity of interdependence and of identifying new managerial responsibility for the government to steer and guide. It is important to note that this emphasis on "steer and guide" has pushed the concept of governance closer to NPM, and, as Rhodes (1996) noted, "NPM is relevant to this discussion of governance because steering is central to the analysis of public management and steering is a synonym for governance."

Thirdly, if governance is about blurring the boundaries and incorporating outside actors and institutions, then the question is what should the

appropriate structure be for doing that. In effect, this indicates a shift from hierarchy to heterarchy, where a public management becomes a "collaborative public manager" (O'Leary 2015). In this particular case, services are provided by "any permutation of government and the private and voluntary sectors" where interorganizational linkage becomes the defining characteristics of service delivery. This is when networks emerge, which are "made up of organizations which need to exchange resources (for example, money, information, expertise) to achieve their objectives, to maximize their influence over outcomes, and to avoid becoming dependent on other players in the game" (Rhodes 1996). Agranoff and McGuire (2004) explained it in the following way:

> The principle that managers often must operate across organizations as well as within hierarchies is becoming an accepted component of contemporary management theory. This includes the work of government connecting with other governments and with the nongovernmental sector. Through partnerships, networks, contractual relationships, alliances, committees, coalitions, consortia, and councils, managers in public and private agencies jointly develop strategies and produce goods and services on behalf of their organizations. (Agranoff and McGuire 2004, pp. 1–2)

Fourthly, this brings us to the most important question. What does the government plan to achieve through governance? The important thing to note here is that the paradigm of governance does not promise anything new in terms of serving the citizens. Rather, it emphasizes a process which allows the government to perform better in terms of carrying out its responsibilities. That is why Fukuyama (2013) talked about designing and enforcing rules, and delivering services while defining governance, and Donahue and Nye (2001) concluded that "Governance means making rules that matter." In other words, through following the principles, structure, and process of governance, the government would still develop policies, plans, programs, and rules, would still try to implement and enforce these, and would still make efforts to provide services through citizens. The process through which the government is trying to perform these functions becomes more participatory, more inclusive, and more transparent owing to the participation of various actors.

In other words, whereas the end has remained the same, the means of achieving these ends have gone through significant changes. In fact, it can be argued that since in developing policies and programs the government

is receiving inputs from different groups of professionals working within and outside the government and implementing these programs, it is actively seeking the help of different groups, the entire process is becoming much more inclusive, and from this perspective governance as a concept essentially embraces the value of inclusiveness. However, especially for the purpose of this chapter, as we are analyzing the relationship between governance and conflicts between generalists and specialists, we also consider the internal aspect of governing while defining governance. Therefore, we argue that "governance," that is inclusive governance, means that in designing policies and implementing them, government machinery should have proper mechanisms in place that will allow both the specialists and the generalists to contribute. If this particular aspect is not fulfilled, the process of governance cannot be considered inclusive.

Conflict Between Specialists and Generalists

As mentioned above, often posed as the mis-questions of public administration, the conflict between specialists and generalists has a British origin. Dahl (1947) made this clear in his essay, arguing that it is an outcome of the British system's emphasis on developing an administrative class. According to him:

> the administrative class idea rests upon a scholastic system that creates the educated non-specialist, and a recruiting system that selects him. … The British public school system and the universities have long been dominated by the ideal of the educated gentlemen; and for centuries they have succeeded admirably in producing the "generalist" mind, even when that mind is nourished on apparently specialized subjects. It is a peculiarly British paradox that persons of high general ability are recruited into the civil service by means of examinations that heavily weight such specialties as classical languages and mathematics.

Interestingly enough, this very British phenomenon has remained a key highlight of the British framework of bureaucracy. Even though bureaucracy's need to respond to the "increasingly complex and wide-ranging scientific, technological and industrial ventures undertaken by the modern state" made the need for specialization inevitable, "the organizational structure of the civil service still secures the subordination of the specialist to the generalist administrator." Even though this drew the criticism of the Fulton Committee's report of 1968, while writing in 1981 Judge

(1981) concluded that "It is clear, therefore, the concept of the generalist administrator has to remain the basic philosophy of the higher civil service in the early 1980s." A 2012 article published in the *Guardian* newspaper showed the situation had not changed that much: "A key challenge is that specialists continue to be under-represented and under- valued at all levels of government."

It is important to note that the countries that were under British colonial rule embrace this principle of generalist administrator, not because of the presence of historical conditions that encouraged the growth of a specific pattern for the British civil service, but because "the British administrators took the gentleman amateur condition to these countries." As Subramaniam (1968) pointed out, two specific factors helped the establishment of these traditions in these countries. The first was the very British practice of concentrating all coordinating authority in the hands of a "local generalist officer in charge of a manageable region." Once this practice was firmly established and institutionalized, it created its own client-base and "a lot of myth and legend naturally grew up around it." More importantly, the continuation of this practice strengthened the position of the generalist coordinators and also encouraged society as a whole to accept the superiority of the gentleman amateur. The second factor that helped the establishment of the dominance of the generalists was what Subramaniam (1968) called "the compulsive imitativeness of every colonial middle-class." While analyzing the growth of the Indian Civil Service, he argued that "The Indian middle-class first took over the values of British liberalism and parliamentary government amongst which was included the cult of the gentleman-amateur" (Subramaniam 1968, pp. 337–8; Pandit 1968). It is not far-fetched to argue that these same two factors have subsequently played an important role in establishing the dominance of the generalist in the civil service of Pakistan and then in Bangladesh.

However, before moving into that discussion, it is essential to understand what these two words (i.e. generalists and specialists) mean and what is the nature of the conflict. As indicated earlier, generalists actually means a specific group of civil servants who are educated non-specialist and have general instead of specialized training. It has been argued that they pose a unique capacity to manage and coordinate different programs while relying on a fresh and sharp look and common sense, "unencumbered by too much knowledge about any of them" (Dror 1968). Specialists, on the other hand, are a different group of administrators, who possess specialized knowledge and training in a specific field.

The question is, what is the nature of conflict between these two groups? The answer lies in exploring the perception that one group holds of the other. Generalists usually consider the specialists narrowly focused, single-disciplinary professionals who cannot address a problem from a broad perspective and are "incapable of comprehending in a holistic way the complexities of real life problems" (Dror 1968). The generalists consider themselves to be of superior managerial capacity, able to address a problem from different angles, while not being influenced by specific knowledge. That is why they are the best people for managing a program and, as Pandit (1968) argued, since administration incorporates the "capacity of coordinating the many, and often conflicting, social energies in a single organism. … Probably no very specialized class can be strong in this intellectual quality because of the intellectual isolation incident to specialization; and yet administration or generalization is not only the faculty upon which social stability rests, but is, possibly the highest faculty of human mind" (Pandit 1968, p. 59). On the other hand, the specialists have a tendency of considering the generalists as "amateur," not only intolerant of specific knowledge but also with inappropriate self-confidence in their idiosyncratic judgment. The specialists consider themselves to be the experts who can "substitute reliable facts and explicit algorithms for fallible human intuition" (Dror 1968, p. 3).

Whereas having these opposing points of views about each other is problematic, it becomes a much bigger issue when one group feels threatened by the other, comes to the conclusion that it is being under-represented, feels that its opinions are not adding any value or being taken into consideration, or finds out that the group is being deprived of promotion within the organization. This is not only a personnel management problem, but also creates a scenario where the government as a whole is deprived of receiving knowledge and expert advice in designing and implementing its policies. Once the specialists are excluded from participating in the entire policy process, the principles of inclusive governance within the public sector are challenged.

A Theoretical Framework Encompassing Inclusive Governance and Specialist–Generalist Conflict

Based on discussion in earlier sections, it is possible to draw the following conclusions. First, the conflict between generalists and specialists emerges from the perception each group holds of the other, and it is transformed into a chaotic conflict only when one group (generally the generalists) tries to dominate the other. Under such conditions, the specialists find themselves to be under-represented and they have fewer opportunities to

be promoted and to reach the higher echelons of the administrative structure. Secondly, from a governance perspective, dominance by generalists is harmful as it often bars the participation of one specific group from the policymaking and implementing process. Consequently, the governance no longer remains inclusive, even if the participation of the private and non-profit sectors is allowed.

This raises an important question. What are the conditions under which the conflict may arise or decline? Identifying the factors will be extremely helpful as it will help us to identify the issues that may control the conflict or create an opportunity to mitigate it. In order to do so, we have attempted to develop a framework. In doing so, we have relied on the basic definition of governance in terms of a collaborative public manager, and argue that in order to establish a governance-based framework the most important issue is the scope of participation that is allowed to different actors. In fact, our argument indicates that if we want to develop an inclusive governance framework, it is essential that the governing structure of the country allows the public, private, and non-profit sectors equal opportunity to participate in the policymaking and policy implementation process. Based on this, we have considered two different factors:

- Scope of participation for the external actors, including the private and non-profit sector. This scope can be either high or low, where high indicates the presence of an effective mechanism that allows the outside actors to make their voices heard and influence the process. On the other hand, low indicates the absence of such a mechanism.
- Scope of participation for the internal actors, which means whether the government allows equal opportunity for the specialists and the generalists to participate in the policy process. The presence or absence of such a mechanism has been defined as high and low.

Table 7.1 shows interaction between exteral and interal factors and four different likely governance scenarios:

- *Inclusive Governance*: This exists when opportunities for both external and internal participation exist. Under these conditions, the government seeks and acts upon advice received from external and internal experts and generalists work together with specialists and outside actors to implement government programs. As we will explain later, the shift from hierarchy to heterarchy creates the opportunity to develop an inclusive governance framework.

Table 7.1 Interaction between internal and external factors

Scope for External Participation Scope for Internal Participation	High	Low
High	Inclusive Governance through Network	Governance by government (Inter-organizational management within the government)
Low	Futile Governance (where external opinions are sought but not acted upon)	Chaotic Governance (Conflict between Specialist and Generalist)

- *Governance by Government*: In this particular case, the government has solved its internal conflict and is moving toward inclusive governance. Even though hierarchy has not been replaced completely, the fact that the government is willing to incorporate the views of internal specialists indicates the opportunity for outside actors to participate.
- *Chaotic Governance:* This takes place when the government ignores both internal and external experts.
- *Futile Governance*: In this case, the government's decision to open up policy space for outside actors proves to be inadequate or fruitless, because the dominant generalists are still not willing to listen to experts. As a result of this, even though expert opinion is collected, the government rarely acts on it.

Based on this framework, we have explored where Bangladesh stands, and whether any opportunities exist that may encourage the country to move toward inclusive governance.

Relations Between Specialists and Generalists in Bangladesh: Historical Evolution and the Current Situation

As mentioned earlier, the conflict between generalists and specialists has British roots, and the countries that were colonized by the British eventually inherited this dilemma. Between 1947 and 1971, when Bangladesh was part of Pakistan, the administrative structure reflected dominance by the generalists; they played the most important role both in the making of policy and its implementation. Although there were demands at different times to replace the generalists with specialists, "the stronghold of the generalists at the policy level was maintained by the secretariat system and the reservation of top posts for the generalist civil servants"

(Khan 2015, p. 65). As Khan (2015) pointed out, the generalist cadre was led by an elite cadre known as the Civil Service of Pakistan (CSP), and its members defended their position, basing this not only on their existing place within the civil service but also because of the understanding that generalist administrators were not amateur; they were specialists in administration.

In independent Bangladesh, efforts were taken to resolve the conflict between these two groups and to allow opportunities for the specialists from the very beginning. The first reform commission, which was formed in 1973, the Administrative and Services Reorganization Committee (ASRC) headed by Professor Muzaffar Ahmed Chowdhury, made strong recommendations to this end. The committee observed that the civil service system at that time was divided into a number of identities and that officials had tried their best to isolate themselves from the rest of society. It pointed out that civil service officials were too conscious about their social status; they lacked professionalism; and they were divided into a number of classes among whom rivalry was quite common. Most importantly, the committee identified the dominance of one class (generalists) over the others as the root cause of problems, and strongly recommended the abolition of all elite cadres. It suggested that no post should be reserved for any cadre and that all competent officials should have the same opportunity to climb to the top.

It was probably the ideal time to bring about radical reform within the civil service, especially because the generalists were at a very vulnerable stage; they were struggling hard to find a place within the newly independent country's administrative set-up. The government initially showed some indication that it might set an overhaul in train, but the political turmoil and internal difficulties in a newly independent country eventually forced the government to rely on the generalists (Shahan and Jahan 2014). Consequently, the recommendations of the ASRC were shelved. Zafarullah and Huque (2001) explained the reasons behind this as follows:

> Intense political opposition to the regime, a near-famine economic situation, increasing criminality and social delinquency forced the regime to reassess its relationship with the bureaucracy. It could no longer afford to ignore the bureaucracy in providing the support it needed to arrest the worsening state of affairs. Inevitably, the regime had to compromise its earlier stance vis-à-vis the bureaucracy, especially the generalist corps; the latter was now in an advantageous position to influence the political executive to discard the ASRC report, which, if implemented, would possibly have eroded its dominant position. In the end … the status quo was retained (Zafarullah and Huque 2001, p. 1385).

Later on, another attempt to deal with the problems related to generalists and specialists was made through the establishment of the Pay and Services Commission in 1977. It is important to note that the current civil service structure of Bangladesh owes its origin to this Commission and, based on its recommendation, "a unified civil service system was created where all cadre services were theoretically equal" (Khan 2015, p. 88). However, the most important contribution of the Pay and Services Commission was its proposal to establish the Senior Services Pool (SSP) with a view to providing equal opportunities for all cadre officials to enter into the upper echelons of the administrative structure (GoB 2000). SSP was therefore likely to bring an end to the domination of the civil service by any individual service or cadre by creating a "super cadre to man all senior secretariat positions" (Khan 2015, p. 87). SSP was formally constituted in 1979, and it included the following provisions:

- With some reservations, SSP would consist of all Deputy Secretaries and above.
- Recruitment to the SSP would be made by the Public Service Commission (PSC) based on competitive examinations, in which officials from all cadres with specified eligibility criteria would participate.
- Up to 75% of the posts of Deputy Commissioners and up to 5% of the posts outside the Secretariat would be filled from the SSP.
- "All officers who held, before the commencement of the SSP order, the posts of Deputy Secretaries and above would be encadred in the SSP," whereas future appointments would be made through the PSC (Ali 2004, p. 105).
- The government was given the power to recruit to the SSP without consulting the PSC up to December 31, 1979.

Whereas the generalists, especially the senior ones recruited during the Pakistan era, indicated their displeasure regarding the process of recruitment to SSP being through competitive examination, the last two provisions mentioned above proved to be the most controversial. The specialists were also not happy with the arrangement for a number of reasons. First, they pointed out that since all the posts of Deputy Secretaries and above would automatically be part of the SSP, this essentially meant that the dominance of the generalists would continue for a long time. Their dissatisfaction continued to grow as the government continued deferring the date of recruitment for SSP through the Public Service Commission

(PSC). Secondly, as Morshed (1997) pointed out, "in case of reservation of quota for promotion no equitable system has been provided by the government. Any objective analysis would show that most of the top position in the SSP and outside the SSP is still occupied by the elite cadre, i.e. BCS (Administration), especially by members of the erstwhile CSP" (Morshed 1997, p. 83).

However, once the officials belonging to the professional cadre became organized, they started blaming the government for giving all the opportunities to a particular cadre service. Finally, in December 1985, they resorted to a strike which "created a negative reaction among the public" (Morshed 1997, p. 98). Eventually this generated an opportunity for the generalists, and as they were holding the top positions within the government they "availed the opportunity to raise their demands to the government." They presented themselves as professionals and specialists in management and made an effort to reestablish their supremacy. However, the Government issued a circular in 1989 to hold a competetive examination to the posts of Deputy Secretary in SSP- which soon came under fire from some of the post- independence recruits on the grounds that if their seniors for so long could get automatically absorbed in SSP, why they should sit for the exams? Finally, as the SSP by that time was drawing criticism, it was finally abolished by the government in 1989.

The removal of SSP brought back the provision of quota reservation in the civil service promotion system, and as per the existing system 75% of Deputy Secretary posts and 70% of Joint and Additional Secretary posts are now reserved for generalist cadre, i.e. one cadre: BCS (Administration). In a way, this provision has ensured the dominance of the generalists in the civil service. As a result, the conflict persisted especially in areas of promotion prospects and pay (Alam et al. 1998). However, the legality of reserving a quota for one specific cadre was challenged in court in 2010. The Appellate Division of the Supreme Court concluded that no cadre except BCS (Administration) had any inherent right to senior policymaking posts in the Secretariat (Khan 2015, p. 101). This judgment actually boosted the promotion prospect of government officials who belong to the generalist administration cadre. Khan explains the current scenario in the following way: "this decision has nullified all previous attempts to eliminate the dominance of generalist cadre in the administration of the country" (2015, p. 101). Table 7.2 shows the cadre-wise distribution in the different echelons of civil service in Bangladesh.

Table 7.2 Representation of BCS (Administration) and other cadres at senior levels

Cadre	Secretary (%)	Additional Secretary (%)	Joint Secretary (%)	Deputy Secretary (%)	Total (%)
BCS (Admin.)	87	82	82	83	82
Others	13	18	18	17	18

Adapted from Khan (2015), p. 102

Inclusive Governance in Bangladesh and Opportunities for the Future

Based on the theoretical framework developed above, it is possible to conclude that the scope for internal participation in the governance process has always remained low in Bangladesh, which has allowed the generalists to dominate. Different studies have pointed that this has affected the governing structure in a number of ways:

- It has allowed the generalists to maintain their elitist feature and allowed them to dominate in positions of power.
- The specialists have largely been excluded from the policymaking role and as result of this, the policies often do not reflect the necessary technical rigor. Rivalry between and within cadres has also remained.
- Administrative reform has been difficult.
- Ensuring accountability within the civil service has been difficult.

However, the question is where Bangladesh fits according to our governance structure. Has the scope for external participation in the policymaking and implementation process improved over time?

For a long time, it has been argued that the policy arena of Bangladesh is centralized and closed and that outside actors have very limited/no access to shaping policy. However, few recent studies on policy processes in the country including environmental policy (Khair 2004), health policy (Osman 2004), food policy (Jahan and Shahan 2016), nutrition policy (Shahan and Jahan, unpub.), and the National Integrity Strategy (Khair 2017 forthcoming) indicate that the policy domain is opening up and creating opportunities for different outside actors including development partners, non-governmental organizations (NGOs) and international

non-governmental organizations (INGOs), business organizations, civil society organizations (CSOs), and think-tanks (TTs) to participate in the policy process.

From a governance perspective, these are important findings, as they indicate that the government is slowly but gradually allowing outside actors to participate and contribute in the policy arena. At the same time, in terms of implementing programs, it is important to note that since the mid-1990s the government has been working with different NGOs in implementing development programs. At the same time, the recently formulated National Nutrition Policy has put specific emphasis on adopting a multi-sectoral approach. The government has acknowledged that it is not possible for the government to tackle the subject alone. This experience has encouraged the government to follow an inclusive governance approach, that is, working in collaboration with different government agencies and other non-state actors.

Therefore, it can be argued that whereas in the past the governance format of Bangladesh could be identified as chaotic, things are changing slowly as the policy space for non-state actors and outside experts is opening up. However, this does not mean we are moving toward inclusive governance, since the presence of generalist–specialist conflict is actually moving the country toward futile governance. In this particular scenario, even though government bureaucracy is allowing the participation of outside actors in policymaking, implementation remains extremely difficult. This results in a paradoxical situation.

In this context, we argue that this emphasis on multi-dimensionality and a multi-sectoral approach has generated a unique opportunity for the government to deal with the generalist–specialist problem. In order to exploit this opportunity, the government needs to understand that working through the governance approach essentially means following an organizational structure that is somewhat different from the traditional hierarchy. In fact, recent studies on governance indicate that in this particular approach hierarchy should be replaced with network, which is defined as:

> structures involving multiple nodes—agencies and organizations—with multiple linkages. A public management network thus includes agencies involved in a public policy making and administrative structure through which public goods and services are planned, designed, produced, and delivered (and any or all of the activities). Such network structures can be

formal or informal, and they are typically inter-sectoral, intergovernmental, and based functionally in a specific policy or policy area. That is, officials from government organizations and agencies at federal, state, and local levels operate in structures of exchange and production with representatives from profit making and not-for-profit organizations. (McGuire 2003, p. 4)

This definition indicates that the shift from government to governance essentially means shifting attention from hierarchic agencies toward organizational networks where emphasis is placed on establishing interdependencies between public agencies and a number of non-state actors. This interdependency is key in the case of network governance, as, instead of working separately toward achieving some common objectives, in network governance the government agencies are forced to continuously interact with each other to develop a collaborative relationship "rooted in reciprocity and trust and subject to rules negotiated by network partners." Consequently, command and control that guide the process of coordination between the hierarchic agencies no longer apply, as "trust becomes the central coordinating mechanism" (Rhodes 1996, p. 660; Salamon 2000, pp. 1628–9; Davies 2005, pp. 312–13). In other words, management of network is not about sharing information while acting separately or establishing a command and control structure to ensure compliance. Rather, it is about:

- Working together, that is, adopting a multi-sectoral approach toward attaining a common goal.
- Collaborating with each other to ensure collaborative governance.
- Sharing information, knowledge, resources, and risks while engaging in a relationship of reciprocity and trust.
- Subjecting the management of the network to specific rules negotiated by the network actors.

In other words, working within a network means applying both specialized and managerial knowledge in an effective and efficient way. However, the network approach can only be successful if specialists contribute through sharing their knowledge, information, and expertise and the generalists contribute by exercising their managerial expertise in coordinating the role of various actors within networks. From this perspective, a network allows both generalists and specialists to contribute effectively to the policy process, and creates a unique opportunity to address this

long-standing problem and move toward more inclusive governance. This would make the civil service in Bangladesh more professional and help it to handle the increasing demands from citizens, the complexities of an interconnected and globalized world, and facilitate the growth of the private sector, which will effectively help the nation to realize its goal of becoming a middle-income country by 2021.

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The Interface Between the Generalists and Professionals: The Indian Experience

Bidyut Chakrabarty

Public policymaking is a complex area of governance in which both professionals and generalists interact supposedly by drawing on each other. Conceptually, this is a two-way traffic, though in practice the latter appear to retain a domineering role. This is a puzzle in governance that has always attracted serious academic attention. The analysts may differ from one another while assessing the degree of influence that professionals and generalists respectively retain while making and executing a policy design.[1] There is, however, an agreement that efficient public policy needs mutual adjustment between the professionals and their generalist counterparts. Otherwise, public administration will cease to be an instrument for public well-being. Implicit here is the assumption that for efficient governance, inputs from the professionals are as critical as those of the generalists who are generally well equipped, given their training at various levels of their involvement in administration, to understand the implications and also consequences of specific policy designs.

The idea is very simple: public administration, to be efficient, needs both professionals and generalists; while the former may not have a wider perspective of public administration, the latter, by virtue of their acquaintance

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with how administration functions, translates ideas into specific policy designs by ascertaining their feasibility in specific socio-economic circumstances. In this sense, they are complementary to each other. In other words, since policies are nothing but an articulation of well-directed ideological designs, they need inputs from both professionals and generalists; otherwise, they will hardly be tuned to the goal for which they are devised. In the light of the argument that professionals and generalists are integral to governance, by drawing on the Indian experience, the aim of this chapter is (1) to understand their relative importance in the practice of public administration and (2) to ascertain that the distinction is more analytical and less substantial.

In other words, the chapter makes an argument that the distinction despite being analytically viable does not seem to be realistic, since public administration is primarily a context-driven practice in which the contribution of professionals is as critical as that of generalists. This is a two-dimensional argument: at one level, the chapter makes a major point by suggesting that the distinction appears to be vacuous for obvious reasons; at another level, it defends the point that a review of the debate also enables us to reconceptualize governance as a function by simply reiterating that generalists and professionals complement one another while being involved in making and executing decisions for public well-being. The idea is simple: despite having separate nomenclature, generalists and specialists remain integral cogs of the machine called public administration, which is a context-driven articulation of specific, well-directed and also ideological functions.

HISTORICAL GENESIS

With the consolidation of colonialism in India, concerted efforts were made to transform administration to fulfill specific ideological goals. The 1853 Northcote–Trevelyan Report on the Organization of Permanent Civil Service was an obvious reference point for those who were responsible for this task. It was therefore not surprising that the 1854 Macaulay Report on the Indian Civil Service (ICS) preferred generalists comprising 'the most talented young men, recruited through a competitive examination,' an idea that the Northcote–Trevelyan Report uncritically endorsed. The arguments that these two committees advanced to favor generalists can be attributed to a context when administration was far less complex with an almost complete absence of functional specialization; this gradually

became integral to governance following the expansion of administrative tasks so that they remained relevant to the colonized.

Independent India inherited the generalist culture in the civil service from British colonialism. Despite being critical of the colonial civil service for being exploitative during the British hegemony, the founding fathers, especially Jawaharlal Nehru and Vallabbhai Patel, supported generalists as probably the only effective tool of governance for the young nation. Hence, it has been argued that 'the British civil service was mistrusted because of its colonial paternity, but respected [*sic*] for its obvious competence and expertise' (Khilnani 1997, pp. 80–1). So 'political support for the administrative tradition' that evolved before India's independence came almost naturally (Potter 1996, p. 161). It was thus not fortuitous that apart from the Indian Army the other institution that survived after British withdrawal was the ICS.

Despite their obvious colonial roots, these institutions provided the infant state, argues Tariq Ali (1985), 'with an adult spinal cord' as it were. While the Indian Army defended India's frontiers, the civil service was 'able to ensure a smooth transition to the new regime.' The new state was therefore, Ali concluded, 'Indian in color, composition and make-up, but its pedigree was unmistakably British' (Ali 1985, p. 78). It is true that Nehru was persuaded by the instrumental utility of the prevalent administrative machine of the past regime. Equally important was his emphasis on 'the human element' in administration because '[a]fter all, whatever department of life [one deals with] or whatever department of government [one deals with], it is ultimately a problem of human beings and the moment we forget that, we are driven out of the reality' (Jawaharlal Nehru Fund 1999, p. 254). Furthermore, he was also aware that the stereotypical instrumental of bureaucracy did not appear to be relevant in a post-colonial situation. The administration was to be charged 'to keep up with the changing conditions of human beings, whether in the world or in [India]' (Jawaharlal Nehru Fund 1999, p. 254).

Despite its imperial roots, the Indian political leaders chose to retain the structure of the ICS presumably because of its efficient role in conducting Indian administration in accordance with prescribed rules and regulations supporting a particular regime. As is evident in the Constituent Assembly debates, what guided them was a utilitarian logic, as Potter succinctly puts it by saying that once in power the Congress justifiably clung to 'the imperial bureaucracy' because it was always better 'to use the known instruments in hand in a time of political uncertainty

rather than experiment with the unknown' (Potter 1996, p. 125). As is evident, arguments were marshaled by the founding fathers to support the generalist-based administration as it was a time-tested mechanism. In view of the political chaos following the 1947 partition of the country, the arguments found favor even among those who were staunch opponents of the British Raj presumably because of its utility to govern a new nation, such as India. As a result, those who resented the continuity of the steel frame of administration even after India's independence lost their battle, and the nationalist leaders seem to have swayed the members of the Constituent Assembly in favor of the British-type generalist administration.

The generalists were favored given the fact that they had their utility for governance. It was possible to continue with the same legacy presumably because of the continuance of the earlier education system and also the training that the erstwhile ICS officer had received. The role of professionals was recognized only as supportive to the decisions taken by the generalists. This idea did not appear to be sustainable in view of the expansion of administrative responsibilities and commitments in the context of democratic governance that India adopted following the withdrawal of colonialism. The Second Pay Commission (1957–1959) made a clear-cut distinction between specialists and generalists along with the suggestion that the former were well equipped to meaningfully intervene in policymaking. By insisting that the role of specialists was equally critical in administration, the Pay Commission also underlined that

> [w]here the work of a department is mainly technical, it is desirable in our view that the Secretary should be a person who, while possessing administrative ability and capable of taking a broad government-wide view of matters has a technical background in the particular field. In a department which has a considerable amount of technical as well as administrative work, the Secretary may be either a technical officer, with proved administrative capacity or a generalist administrator (Government of India 1959, p. 111).

For all practical purposes, the recommendations of the Second Pay Commission can be said to have set in motion processes whereby the idea that professionals also play a critical role in governance gained momentum over time.

In tune with the ideas that the Second Pay Commission had floated, the First Administrative Reforms Commission which, in its Report on

Personnel Administration in 1969, made a distinction between 'the general-purpose-service' and 'functional service.' For the latter, training in specific skills was a requisite qualification; these services were identified as those endowed with technical function for which pre-entry vocational training was required or comprising those who specialized after their entry in a particular area of administration. This was a report which had a magnetic effect on India's public administration because not only did it recognize the importance of functional service, it also endorsed its utility in fulfilling the ideological mission that the ruling authority had set for itself. As a step toward reforming administration, the First Administrative Reforms Commission also argued strongly for allowing professionals to occupy the top posts in administration which were, so far, denied, presumably in view of the hegemonic hold of the generalists over governmental bureaucracy. The primary consideration for recruiting specialists was whether the candidates had a high caliber in their fields of specialization, while for the generalists there was no such constraint; the only criterion being that the best candidates, regardless of their technical skill, should be recruited and then should be prepared to handle all sorts of administrative responsibilities. The other important aspect that the Report emphasized was the fact that when a specialist occupied a generalist post, he/she performed the role of a generalist as the job so demanded, confirming the idea that a professional does not need to stick to a functional service but can be shifted to non-functional departments as well.

Although the idea that professionals are equally important in governance began to spread, they were not allowed to sit for the combined civil service examination, for entry into the top civil service cadres, until the late 1970s. It was the D.S. Kothari Committee, in its 1976 report, which officially allowed the graduates of engineering and medical sciences to sit the exam. As a result, since then, the number of technical graduates, especially those trained as doctors and engineers, becoming administrators has considerably increased, though this has been opposed from within the government. In order to address this note of discord, the 1989 Satish Chandra Committee looked into the issue. Being 'disturbed' by the fact that a large number of technical graduates preferred to shun the services for which they were trained at the cost of the government exchequer (because the expenses for their training were subsidized), the Committee attributed this to a lack of job satisfaction in their respective fields of specialization. By characterizing this as an aberration in 'the contemporary

Indian social value system,' the Committee further suggested that political authority needed to take corrective measures to reverse the situation.

Hence the Satish Chandra Committee did not consider it appropriate to deprive doctors and engineers of their right to take part in the combined civil services examination. The Committee further noted that 'if, in their perception, the higher civil services offered more attractive career opportunities, the Doctors and Engineers should be able to take their chances along with the graduates in other disciplines' (Arora and Goyal 2001, p. 568). Given these circumstances, the Committee apprehended that their recommendations were 'likely to create ripples' among those opposed to the entry of technical graduates into the ICS unless there was 'an attitudinal change' in society. By being appreciative of the contribution made by both technical and non-technical graduates, the Committee created a level playing field for all, because public administration needed staff who were capable of discharging their roles to the highest possible standards. What was required was, the Committee strongly felt, healthy competition and creative solutions to the myriad socio-economic problems that were confronting India.

A perusal of the generalist–specialist debate in India highlights two major points which are useful in comprehending the changing nature of public administration. First, it is clear that given the constantly changing context, a one-size-fits-all formula will never work. What is thus required is a comprehension of the nature of public administration with reference to the socio-political milieu in which it is located. In a contemporary context, when global ideological forces are also at work, it would be conceptually misleading to push them under the carpet while seeking to understand the domestic administrative structure and its operation. This is not to suggest that the generalist–specialist debate has lost its relevance, since contemporary public administration provides challenges that need a concerted joint endeavor in which the role of generalists and specialists remains critical. It is necessary for them to come together instead of earmarking specific domains of activities. The other important point that impinges on the debate relates to the argument that supports a creative dialogue between generalists and professionals. A professional is well equipped, for obvious reasons, to understand an area of activity that requires specific skills. For instance, a civil servant with training in medicine has an advantage when he/she heads the health ministry because of his/her intimate knowledge of health issues. This knowledge will be of

help, though it will not make him/her an efficient administrator; this will be possible only if he/she understands the functioning of the ministry in a wider perspective, in which issues besides health need to be taken into account to arrive at a meaningful, if not an efficient, administrative decision.

Reiterating the idea that the separation between generalist and specialist may not be useful in the conceptualization of public administration, the Sixth Pay Commission (2008) adds new dimension to the debate. According to the Commission, India's civil services need to be reformed, and the distinction between generalist and professional cannot be stretched beyond a certain point because a creative blending between the two is unavoidable if public administration is to be successful. The Commission also underlines the fact that 'the machine model approach to jobs with the employee as a cog in the wheel and extreme division has to be replaced by a learning organization approach where employees are continually enhancing their capabilities and skills in high performance work cultures' (Government of India 2008, pp. 366–7). The Commission's insistence on multiskilling of civil servants is a testimony to its efforts toward professionalizing administration. To be efficient, an administrator has to go beyond routine matters; he/she has to be innovative when domestic public administration does not remain insulated from the global influences and directions which become binding under specific circumstances. Furthermore, technological advancement has its impact on the civil service; as computers have taken over much manual work, a decrease in the number of employees is unavoidable.

Administrators need to be professionally trained and those who join the civil service with a prior training will have an obvious edge over those who lack it. What is fundamental here is the idea that instead of treating generalists and specialists/professionals as distinct, given the growing complexities of public administration they need to work together to contribute to public well-being. By virtue of being intimately involved in the making of policy decisions and their execution, an administrator, well endowed with skill and experience, is expected to become a useful tool in fulfilling administrative goals in rapidly changing socio-economic and political circumstances. The idea is not new, but the emphasis is— since public governance, especially in the non-Western world, has been appropriated by private interests, leading to the consolidation of a rent-seeking bureaucracy.

Globalization and Administrative Change

Issues arising out of globalization have dramatically changed the nature and scope of public administration. No longer confined to analyzing the structure of administration, the government has to respond to the challenges of the 'new economic order' that has decisively influenced, if not determined, public administration. In the context of globalization, national economies are becoming more and more 'open' and subject to supra-national economic influences. As economies lose their discrete, self-contained character and become enmeshed in global networks and processes they become less and less amenable to national control and management. In a nutshell, the ideology and practice of globalization privileges voluntarism and the market as the underpinnings of the new economic order.[2] The role of the state as the sole responsible agent for providing welfare services is being challenged. The state, it is believed, should be a facilitator rather than a provider because 'any attempt to combine Government with "doing" on a large scale paralyses the decision making capacity. Any attempt to have decision-making organs actually do, also means very poor doing. They are not focused on doing. They are not equipped for it. They are not fundamentally concerned with it' (Osborne and Gaebler 1992, p. 32). Government is thus to steer and not row. In other words, it is not required to be involved in delivering services. This is the foundational assumption on which the governance paradigm rests, as a World Bank note stipulates:

> civil service reform involves revamping government functions and organizational structures, improving human resource policies in central, local and sector governments, revising the legal and regulatory framework for public administration, providing institutional support for government decentralization, and managing the process through which these changes are implemented (World Bank 1989, p. 1).

Unlike the traditional public administration that focuses on bureaucracy and delivery of 'public' services, the governance model envisages public managers as 'entrepreneurs' of a new, leaner and increasingly privatized government adapting to the practices and values of private businesses. Seeking to transform civil services, the neo-liberal governance ideology underlines reforms that reorganize and downsize government, set up performance-based organization, adopt private sector management practices and promote the customer orientation of administration (Singh 2003).[3] The governance approach emphasizes 'three dimensions of civil

service reform: institutional environment, economic management and pay/incentive systems as they affect performance' (Das 1998, p. 49). These three dimensions are interlinked. Institutional environment is indicative of 'the mission of the state,' especially its ideological preferences whereby the state defines its relationship with private sectors, nongovernmental organizations and other professional and community associations. Economic management dwells on 'the quality of the core economic management functions' of the polity such as budget and financial management and policy management.

The importance of the pay/incentive system is obvious because of two valid reasons: by providing attractive pay packages, one can make the civil service the most sought-after profession; and a satisfied civil service is perhaps the best guarantee for better delivery of services. There is no doubt that these three dimensional characteristics of civil service reform are drawn on a realistic assessment of the processes of administrative reform in any concrete situation. The reform package needs to take into account the administrative profile of the country in question, which means both the institutional and economic environments.

A patrimonial bureaucracy is, for instance, always partisan and thus resistant to Weberian normative values. Ignorant of this dimension, no reform package will yield results and the exercise regarding civil service reform will remain merely academic. Better pay and incentives therefore may not be an effective device unless the institutional environment is also tuned to appreciate the neutral character of civil service. Globalization has thus created an environment with newer socio-economic and ideological issues that cannot be tackled in the conventional format. A generalist-driven civil service may not always be adequate to address the myriad issues emerging out of the growing consolidation of 'a global village.' It requires a new kind of thinking, giving space to ideas that appreciate the role of professionals in the unique challenges of public administration. A purely Weberian notion of generalist-dependent bureaucracy does not seem to be conceptually apt in the contemporary era when decision-making is hardly monocentric, because it is usually an outcome of complex interrelationships involving state, market and civil society.

In the light of the visible changes in public administration, it can thus be fairly argued that conventional approaches to governance shall never be useful in locating a conceptually meaningful theoretical tool. This is also evident in the actual functioning of public administration. Examples abound. Because of pressures of space, two representative examples are

cited here to show that in the changed ideological milieu a generalist-based administration seems to be ill equipped unless it is complemented by specialists/professionals, who are capable of addressing issues that require specialist training.

Furthermore, administration is not merely instrumental, but politico-ideological in character; an administrator is there to make and execute decisions within context-sensitive permissible rules and regulations. So the task has become far more complex than before. A perusal of the functioning and also the nature of the National Institute of Transforming India (NITI) and Securities Exchange Board of India (SEBI) reveals that a creative combination of generalists and specialists contributes to a healthy administrative culture which is both rejuvenating and a source of sustenance for a new mode of governance, in which the enabling role of the state is complemented by market and civil society.

Professionalizing Administration: The National Institute of Transforming India (NITI)

The space for professionals in the civil service was recognized in the Second Pay Commission. The debate persisted over the years though it was never conclusively resolved. In general, the generalists continue to exert determining influences in decision-making processes in which the role of professionals is also recognized as significant. In an earlier era, it was the Planning Commission where the technical experts remained most critical in deciding the nature of planning and the generalists acted as facilitators. With the dismantling of this Commission, the trend seems to be continuing. A new institutionalized outfit, NITI, was created. Opposed to the post-colonial dirigiste state, the NITI Aayog, founded in 2015, is the outcome of India's preference for a free market strategy in which the role of private capital is considered to be critical for growth and development. Appreciative of sectoral planning, which is tuned to India's socio-economic diversity, it is also an endeavor to become integrated with the global market that has become a critical player, even in domestic policies.

Conceptually, the NITI Aayog is rooted in Indian tradition. As the cabinet resolution of January 1, 2015 suggests, the ideological roots of the Aayog are found in Mahatma Gandhi's urge for 'constant development,' in which the desire to 'maintain one's dogma in order to appear consistent' is suicidal. Hence it was argued that in 'the changed dynamics of the new India, the institutions of governance and policy

have to adapt to new challenges and must be built on the founding principles of the Constitution of India, the wealth of knowledge from civilizational history and the present day socio-cultural context' (Government of India 2015a, p. 6). The NITI Aayog is not a mere institutional innovation, it is reflective of the heart-felt desire of the people 'to seek elimination rather than alleviation of poverty.' For this what is required is an overhauling of the system by introducing significant institutional reforms in governance and 'dynamic policy shifts that can seed and nurture large-scale change,' the Cabinet Resolution insists. In the proposed institutional changes, the role of stakeholders is also appreciated; besides the critical importance of the people in development, the Resolution further reinforces that the constituent states should have a decisive say in 'determining the architecture of economic growth and development,' challenging the one-size-fits-all approach which was inherent in the era of centralized planning.

India is being radically transformed, and the forces that have contributed to such transformation are, as per the Cabinet Resolution (Government of India 2015a, pp. 6–7), as follows:

- The industry and service sectors have developed and are operating on a global scale now. To build on this foundation, new India needs an administration paradigm in which the government is an "enabler" rather than "a provider of first and last resort". The role of the government as "a player" in the industrial and service sectors has to be reduced. Instead, government has to focus on enabling legislation, policymaking and regulations.
- India's traditional strength in agriculture has increased manifold on account of the efforts of our farmers and improvements in technology. We need to continue to improve, and move from pure food security to a focus on a mix of agriculture production as well as the actual returns that farmers get from their produce.
- Today, we reside in a 'global village', connected by modern transport, communications and media, and networked international markets and institutions. As India contributes to global endeavors, it is also influenced by happenings far removed from our borders. Global economics and geo-politics are getting increasingly integrated, and private sector is growing in importance as a constituent within that. India needs to be an active player in the debates and deliberations on the global commons, especially in relatively uncharted areas.

- India's middle class is unique in terms of its size and purchasing power. This formidable group is increasing with the entry of the neo-middle class. It has been an important driver of growth and has enormous potential on account of its high education levels, mobility and willingness to push for change in the country. Our continuing challenge is to ensure that this economically vibrant group remains engaged and its potential is fully realized.
- India's pool of entrepreneurial, scientific and intellectual human capital is a source of strength waiting to be unleashed to help us attain unprecedented heights of success. In fact, the social capital that is present in our people has been a major contributor to the development of the country thus far and therefore, it needs to be leveraged through appropriate policy initiatives.
- The non-resident Indian community, which is spread across more than 200 countries, is larger than the population of many countries of the world. This is a significant geo-economic and geo-political strength. Future national policies must incorporate this strength in order to broaden their participation in the new India beyond just their financial support. Technology and management expertise are self-evident areas where this community can contribute significantly.
- Urbanization is an irreversible trend. Rather than viewing it as an evil, we have to make it an integral part of our policy for development. Urbanization has to be viewed as an opportunity to use modern technology to create a wholesome and secure habitat while reaping the economic benefits that it offers; and
- Transparency is now a sine-qua-non for good governance. We are in a digital age where the tools and modes of communication like social media are powerful instruments to share and explain the thoughts and actions of the government. This trend will increase with time. Government and governance have to be conducted in an environment of total transparency—using technology to reduce opacity and thereby, the potential for misadventures in governing.

As is evident, governance has become far more complex in today's context. A simplistic approach, which is inherent in centralized planning, does not seem to work in such circumstances, as the Cabinet Resolution underlines. In order to be effective, developmental strategies need to take into account the complexities of socio-economic realities while devising effective policies for inclusive growth and development. In other words,

contrary to the one size fits all approach, the new strategy is multidimensional and sensitive to the specific requirements of various segments of society in a global perspective. This is a unique approach to the socioeconomic regeneration of as diverse a country as India, where centralized planning does not seem to be effective in the changed environment.

Critical of planning which was a relic of the Soviet era, it was thus argued in the Cabinet Resolution that 'we need to find out our own strategy for growth [and] the new institution has to zero-in on what will work in and for India [since] … no single model can be transplanted into the Indian scene [though the proposed institution must] incorporate influences from the world' (Government of India 2015a, p. 8). It will be, the Resolution further insists, 'a Bharatiya approach to development.' What is distinctive in this approach is the insistence on finding context-driven solutions rather than having a pre-designed formula to tackle the contingent issues. The erstwhile Planning Commission was guided by a macroformula that had hardly paid attention to the specific requirements of the constituent states, while the proposed NITI Aayog, being sensitive to the unique demands of each state, shall evolve policy alternatives in accordance with what seems to be appropriate for them.

The objectives which the NITI Aayog was created to work toward have been clearly spelt out in the Cabinet Resolution. By taking care of national priorities, the NITI Aayog is equally sensitive to the distinctive needs of constituent states in federal India, which the Resolution has highlighted in an unambiguous manner. There are three types of interrelated objectives. The first objective is that as an institution with focus on national priorities, the NITI Aayog is to evolve 'a shared vision of national development priorities, sectors and strategies with the active involvement of the states in the light of the national objectives.' With its strong belief in the fact that strong states make a strong nation, the Aayog seeks to foster 'cooperative federalism through structured support initiatives and mechanism with the states on a continuous basis.'

The second objective is to make the Aayog functional by being sensitive to the specific requirements of those at the grassroots. As the Resolution suggests, the NITI Aayog is to develop mechanism to formulate 'credible plans at the village level and aggregate these progressively at the higher levels of government.' In order to achieve inclusive growth, the Aayog is also expected to pay 'special attention to those sections that may be at risk of not benefitting adequately from economic progress.' And finally, for sustained development, the NITI Aayog is also responsible for designing

'strategic and long term policy and program frameworks and initiatives and monitor their progress and their efficacy.'

The third objective relates to the contribution of the Aayog in generating knowledge which will be of use in improving its efficiency. It is believed that the lessons learnt through monitoring of the projects and feedback from the stakeholders shall always remain critical in so far as designs for economic developments go. In the context of the growing importance of networks among the stakeholders, the NITI Aayog cannot avoid being in partnership with its key stakeholders and national and international like-minded think tanks in order to fulfill its objective of creating 'a knowledge, innovation and entrepreneurial support system through a collaborative community of national and international experts, practitioners and other partners.' Given the well-articulated design through which the Aayog functions, it is likely to be 'a state-of-the-art resource center for good governance and best practices in sustainable and equitable development' (Government of India 2015a, pp. 8–9).

As the above elaboration of the objectives reveals, the NITI Aayog will not merely devise plans for the country, but will also be responsible for facilitating implementation of the development agenda. This involves making implementation central to the planning process through an emphasis on tangible outcomes, realistic targets, strict time lines and robust monitoring and evaluation—a clear transition from 'the isolated conceptualization of merely planning to planning for implementation' (Government of India 2015b, p. 13). Seeking to articulate a model which is 'all-round, all pervasive, all-inclusive and holistic' (Government of India 2015b, p. 16), the NITI Aayog is a clear break with the past given the objectives that it seeks to fulfill in contrast with its bête noire, the Planning Commission, which was neither organic to the processes of economic change nor sensitive to the rapidly changing socio-economic milieu when the state-driven planning seems to have considerably lost its salience.

The formation of NITI Aayog is a bold initiative, fully tuned to the neo-liberal ethics of governance in which government is merely an enabler rather than being a doer. As the past has shown, the Planning Commission seems to have exhausted its potential in contributing to a uniform development of the country as was expected when it was conceptualized. In the transformed context, where the dirigiste state has been dismantled in view of changes in the domestic and international milieu, the Planning Commission ceases to be as critical in economic planning as it was at the outset. In other words, the decline of the Planning Commission was

contingent on the declining significance of the state-directed development paradigm, in which the role of the state as a hegemonic force was always appreciated at the cost of other parallel actors in economic planning and development.

Challenging this assumption of upholding the hegemonic role of the state, the creation of the NITI Aayog is a powerful step in seeking to involve myriad stakeholders in planning and its implementation. In this sense, the formation of the NITI Aayog is an outcome of disillusionment with the planned economy and the role of the Planning Commission, which was reduced to a mere forum for disbursement of the annual allocation of funds to constituent states in accordance with its priorities. This strategy backfired in the light of the growing consolidation of neo-liberal ethics of governance, in which the state ceases to be a critical force in governance. A context-driven design, the NITI Aayog is thus an endeavor to seek an appropriate mechanism for inclusive growth and *antyodaya* (uplifting the weakest sections of society), which means that development is futile unless it reaches the poorest of the poor.

The design of NITI Aayog also reveals the critical role that politicians, as generalists, play in devising decisions which are tuned to the ideological priorities of the nation. By including ministers who bring ideological values to decision-making processes, the NITI Aayog also officially builds a platform for regular dialogue between the professionally equipped bureaucrats and their political masters who are ideologically committed to specific socio-economic goals for the citizens. In a democracy, this is how governance is conceptualized and executed. There were occasions in the past when serious differences of opinion between ministers and permanent executives led to a stalemate in administration.

Nonetheless, the basic point remains that a healthy interaction between generalists and professionals ensures the success of governance, which is an outcome of a fine blending of ideological priorities with what is possible under present circumstances and taking into account the availability of resources. The NITI Aayog is illustrative of a unique trend in public administration in India in which, along with the elected representatives, the generalists and professionals are engaged in devising models of governance that are considered to be better equipped to address the human needs of *bijli, sadak* and *pani* (electricity, road and water).

Conceptually, the Aayog is reflective of the disenchantment with the state-driven economic planning and appreciative of neo-liberalism as perhaps the most effective vehicle for sustainable growth. It is too early to

comment on its future, though as its objectives suggest, it is likely to usher in a new era of thinking in so far India's development trajectory is concerned. In the current neo-liberal dispensation, when the state is relegated to the background, the Aayog may be hailed as an appropriate institution given the growing importance of stakeholders in its functioning; furthermore, by discarding the top-down approach in favor of bottom-up planning, the NITI Aayog also gives voice to those at the periphery who so far remain neglected in economic planning. The NITI Aayog is also a clear step toward upholding states' rights by forming both Governing Council and Regional Councils. By replacing the National Development Council, which was a state forum for these institutionalized councils, the new political dispensation in India created institutions for dialogues and debates among the stakeholders, which means that decisions cannot be imposed but shall be the outcomes of their deliberations. In this sense, the NITI Aayog is more than an institution for planning, but a forum for strengthening the processes for further democratizing governance in India in the neo-liberal context.

The idea is very clear. Governance involves interaction between generalists and professionals for their critical role in decision-making processes. The NITI Aayog is equipped to devise a planning design which is also appreciative of inputs from the professionals who, with their first-hand knowledge of the field, shall always be useful in conceptualizing the reality. Likewise, SEBI, which was set up in 1988, was constituted to promote an orderly and healthy stock market in India; it was given additional statutory power by the Government of India through an amendment to the Securities and Exchange Board of India Act, 1992 and 1995. Comprising members from the Ministry of Finance and the Reserve Bank of India, SEBI has also shown that it is equally sensitive to the requirement for technical inputs in its functioning. Similar to the NITI Aayog, this is a forum where generalists and professionals come together to suggest effective policy designs to direct and control India's capital market. A perusal at the basic functions that SEBI discharges confirms that professionals, by providing technical inputs, help to run the organization in accordance with the objectives for which it was created.

In a similar vein, TRAI is another regulatory agency in which the role of professionals is as critical as that of generalists. Created to regulate telecom services, including fixation/revision of tariffs for telecom services which were earlier vested in the central government, TRAI is another forum in which decisions are taken on the basis of inputs, drawn from

both generalists and specialists. Committed to play a determining role in evolving a 'knowledge society' in India, the TRAI is one of those institutions of governance where the inputs that the professionals provide are needed in view of its technical nature. It is not surprising, therefore, that along with generalists, engineers and management experts are integral to TRAI's decision-making processes. In fact, the decision to open up telecommunication services to private operators is largely attributed to the advice tendered by professionals in the light the market demands that government interference in the delivery of basic services should be reduced.

This was an occasion when the generalist bureaucrats involved in making and executing policies relating to telecommunications heeded the advice of the professionals, who felt that decontrolling was the best option available. On the basis of a dialogue between generalists and specialists, a specific decision was taken whereby a government monopoly in the telecommunications market was discarded in favor of an open market policy. This was a context-driven decision, but the fact remains that opinions drawn from both the generalists and their professional counterparts mattered most in adopting an ideologically justified decision. In other words, for a perfect comprehension of the politics of decision-making, besides the prevalent socio-economic and political milieu, one needs to be equally sensitive to communication between generalists and specialists; although they may not have uniform influences, the fact remains that no decision is possible, especially in today's context when multiple actors contribute to administration, without being appreciative of the inputs coming from both sides. By being complementary to one another, generalists and specialists thus remain integral to governance both in its spirit and in its manifestation.

Concluding Observations

A perusal of the generalist versus specialists/professionals debate underscores two simple and obvious points and one not so simple point. The two simple points substantiate the statement that given their palpable importance in administration, a debate about the relevance of the debate is futile and also that it is not useful in understanding the actual nature and texture of governance in the contextual sense. Dwelling on the complexities of administration, linked with the rapidly changing socio-economic milieu, the not so simple point highlights the relevance of the debate in seeking to review the hegemonic role of the generalists, especially in the developing

world where the spirit of colonial administration does not seem to have completely disappeared. This is a complex situation that cannot be clearly conceptualized unless the process of governance is understood as a praxis which regularly transforms within the established system of governance that was bequeathed by the former rulers.

What this means in simple terms is that in view of the structural continuity between the erstwhile colonial administration and its aftermath in India or, for that matter, any other country in the developing world, public governance seems to have remained a captive of the past when specialists/professionals were always subordinate to generalists. The scene has gradually changed, however, which confirms the extent to which context plays a determining role. Given the rapidly changing socio-economic circumstances, including the growing democratization of governance, a strictly Weberian generalistic and hierarchical public administration appears to have lost, to a significant extent, its viability. The generalists, as hegemon in governance, no longer remain, in other words, as critical as they were in the past. Input from the professionals has to taken into account: by virtue of being technically trained, they provide policy alternatives which would not been available otherwise.

This is the beginning of the realization that the aim of independent India cannot be fulfilled without bringing on board both generalists and specialists. The first Administrative Reforms Commission (1966–1970) therefore earmarked specific areas of administration that needed technical expertise for the professionals to head. What was thus initiated became a pattern over time, as the generalists also recognized that they were handicapped in certain areas of administration which, without specific training, could not be conclusively addressed. The era of planned economic development is illustrative here: engineers, economists and management experts were given important positions in the higher echelons of Indian administration. The trend continued even after Nehruvian state-led planning was discarded with the acceptance of the New Economic Policy in 1991.

In view of the fact that governance is a cobweb of functions which needs both generalists and professionals, the distinction is largely unrealistic. While being critical of those insisting on a separation between generalists and specialists, Dror (1983) argues that 'only by overcoming this dichotomy not only in discourse, but in action, can we achieve the public administration qualities needed for handling new and difficult

problems and for absorbing new very promising and very frightening knowledge under conditions of accelerated social change.'[4] What is thus needed is, as Dror (1983, p. 6) further adumbrates, is a 'new breed of top administrators who are experts in a broad approach and experts in the uses of diverse knowledge [making public administration as a forum] for achieving a mix between various types of new professionals and administrators who are equipped for symbiotic work.'[5] In order to make public administration efficient and cost effective, the aim is therefore 'to achieve a synergetic mix between large varieties of differently qualified persons.'[6]

The argument is very clear: despite having analytical value, the distinction between generalists and specialists has a very limited academic appeal given the growing complexities in public administration that can be meaningfully addressed by a synergetic mix of expertise. Critical of the Weberian justification for domain-specific administration, this argument also helps us capture the actual functioning of public governance which, besides being a rule-driven exercise, is also tuned to public well-being. What is primary in governance is to ensure not only efficient delivery of public service but also its cost-effectiveness while fulfilling this role. By forcefully arguing for a symbiotic network between generalists and their specialist counterparts, Dror takes the debate in a different direction where, instead of dwelling on the distinction, he evolves an approach of drawing on each other for a better kind of public administration.

How do we conceptualize the distinction in an Indian context? There cannot be a conclusive answer since generalists and specialists are intertwined in the actual practice of public administration, which has clear colonial roots. Even during colonialism, the generalists who were preferred by the rulers did not work on their own; in order to effectively govern, they needed the advice of specialists who, for a variety of complex reasons, did not receive adequate recognition for their contribution to decision-making. This is a fundamental point that needs to be kept in mind while pondering on this distinction, which can, at best, be reflective of an issue in public administration that has mere cosmetic value. As argued above, public administration is a creative mix of generalists and specialists/professionals regardless of circumstances. The exact degree of influence of professionals in decision-making is, however, context dependent. In the Indian context, during colonialism, the generalists prevailed, a situation that gradually waned once independence was won, since public

governance also had a responsibility for public well-being besides performing the basic administrative functions and the maintenance of law and order.

The scene has undergone a sea-change following the guarded acceptance of a neo-liberal economic model of development. Besides the conventional areas that require technical expertise, several newer areas have emerged for which professional expertise is needed. For instance, issues arising out of environment or information and communication technology or networked governance involving multiple nation states can never be convincingly addressed without adequate professional input. A reasonably fair decision in this regard is possible only when the generalists and specialists draw on one another. This is universally valid in today's context because of the increasing importance of 'boundaryless societies,' largely because of economic compulsion. Conceptually valid and empirically visible, the idea that there exists a two-way traffic between generalists and professionals provides us with a powerful conceptual input in order to comprehend the complex functioning of public administration in varied historical perspectives. In this sense, the generalist–specialist debate is theoretically provocative and can be said to have reconceptualized the nature of public administration by suggesting the importance of a symbiotic network between the generalists and their professional counterparts.

Notes

1. The terms professionals and specialists are used interchangeably in this chapter since their connotation is identical, though, broadly speaking, American authors prefer the former to specifically mean specialists, while their Anglo-Saxon counterparts seem to have no qualms in identifying professionals as specialists. Illustrative here is the widely publicized debate between Herman Finer (a British academic) and Carl J. Friedrich (an American scholar) in the early 1940s over the relative importance of professionals and specialists in ascertaining bureaucratic accountability in a democratic context.
2. For details, see Caiden (1994, pp. 49–59).
3. I have drawn on Singh (2003, pp. 128–31).
4. www.dtic.mil/dtic/tr/fulltext/u2/680695.pdf, Y Dror, 'specialists Vs. generalists – a miss-question' (Tss.), Rand Corporation, Santa Monica, 1983, p. 6, accessed on March 26, 2016.
5. Ibid.
6. Ibid.

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Generalists and Specialists Service Career: A Case of the Nepalese Civil Service

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The Nepalese Civil Service (NCS) is composed of both generalists and specialists. In the Nepalese context, broadly, generalists refer to the employees with non-technical education, and those with technical education and specialization in some specific fields of work are called specialists. Both groups are indispensable for modern administration. Generalists claim to have multi-faceted skills, such as building and managing complex partnerships, developing and implementing inter-connected strategies, listening and synthesizing divergent ideas, finding commonalities and identifying shared goals among people who work in different fields to achieve organizational goals (Doby and Reeves 2012). They also have the ability to compare, contrast and connect a variety of disciplines that may contribute to achieving organizational goals.

Specialists, on the other hand, are believed to be experts in their subjects. They are assumed to be more skillful than others in one specific area or discipline that helps them to address issues and resolve problems in an effective way (Doby and Reeves 2012). Specialists can provide rich analysis and critical reasoning on a particular issue and contribute to fostering plans, policies, programs and strategies of an organization. It is also argued

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that experts understand each other better because they speak in a common language and know each other's difficulties sufficiently well to appreciate and understand each other's problems. The generalist administrator usually does not develop a sustained interest in any particular field of activity. Even in exceptional cases when he does develop such an interest, this is unprofitable, because by the time he has gained expertise he is transferred to some other job.

There is, however, no one best way of balancing the influence/contribution of the two sets of actors, Part of the reason for this is that each has a tendency to consider the other as an adversary; each also tries to prosper at the expense of the other. Generalists often argue that they have better knowledge of management and can lead an organization more effectively. On the other hand, specialist employees argue that they can better manage and lead the organization, if given the opportunity. In short, generalists who often claim to know something of everything and specialists who, as the conventional view suggests, know everything of something are often engaged in a fierce battle for authority and influence.

The Nepalese bureaucracy is mostly dominated by generalists, while specialists often remain on tap and not on top. Therefore, some sort of conflict between generalists and specialists, particularly regarding the issues of career advancement and the exercise of administrative authority, is clearly evident. The latest reform, the Civil Service (Fourth Amendment) Act, is intended to make the NCS more specialized through clustering services on the basis of ministerial and organizational functions. However, from the career advancement point of view, employees from the generalist category have more opportunities to move to the executive and decision-making levels compared with employees from the specialist category.

The main objective of this chapter is to discuss the career opportunities of these two types of bureaucrats, generalists and specialists, in the context of the NCS. At present this incorporates administrative, economic planning, engineering, judicial, foreign, audit, forest, agriculture, education and miscellaneous services, as provided for by the amended Civil Service Acts. In addition, the Health Service and the Parliamentary Service are also part of the NCS, regulated by their own Acts. The next section overviews the NCS, focusing on the characteristics of the two types of service career. Section three focuses on the relationship between generalists and

specialists with reference to a few cases, while Section four examines the viability of changes made in recent years to resolve the generalist–specialist conflict. Section five concludes the chapter.

Overall, the chapter aims to broaden an understanding of the status of generalists and specialists in the NCS and their influence on administration and decision-making. The chapter is based on data collected from Office of the Civil Service records, which has been supplemented by interviews with several generalists and specialists working in the NCS. Information based on the author's own work experience and observation as a senior official has also helped to develop the chapter's main theme.

Overview of the Nepalese Civil Service

The modern civil service in Nepal owes its origin to the Civil Service Act of 1956 (Poudyal 1989). The NCS is part of the Nepalese public sector. Approximately 500,000 people are employed in the public sector (Subedi 2015), of whom 82,816 (16.5%) are civil servants (Department of Civil Service Personnel 2015). Public sector employees include those working in or for the civil service, army, police, police force, public enterprises, teaching service and other public services. Since its inception the NCS has been influenced by the Weberian model of bureaucracy with formal structures, set rules and regulations (Lakshmanna and Rao 1991). The constitutional definition of civil service is:

> Civil Service position means all positions in the Civil Services of the Government of Nepal, other than the positions in the services of army personnel, police, or armed forces police, and such other positions in the services as are excluded by Act from the Civil Service. (Article 243)

There are 13 categories of services in the NCS. These are: general administration, agriculture, auditing, economic planning and statistics, education, engineering, forestry, health, justice, parliament, foreign affairs and miscellaneous. Two-fifths (42.6%) of the civil servants belong to general administration, while the health service employs about one-fifth of all civil servants. Engineering and forestry services are in third and fourth positions respectively. Other services such as economic planning and statistics, education, parliament and auditor general have a smaller proportion of civil servants (Table 9.1). The government has opted for the policy

Table 9.1   Structure of Nepalese Civil Service (by category)

	Categories	*Number of employees*
1	Administrative service	35,292
2	Agriculture service	4758
3	Audit service	344
4	Economic planning and statistics service	396
5	Education service	1654
6	Engineering service	8002
7	Foreign service	230
8	Forest service	4924
9	Health service	20,652
10	Judicial service	3366
11	Miscellaneous service	2998
12	Parliamentary service	200
	Total	82,816

Source: Civil Service, Health Service, Parliamentary Service and Department of Civil Service Personnel 2015

of increasing decentralization and placing services closer to the people, with the result that more field offices have now been established. The duties and responsibility of central government's organizations are formulation of basic policy, macro-level planning and monitoring, and evaluation; whereas the responsibility for implementation of these policies rests with departments and regional and district-level organizations.

Among the total number of civil servants, approximately 46% can be referred to as generalists/non-technical personnel, while 54% have technical/specialist background. The civil service structure is heavily dominated by subordinates, with only 22.4% officer level employees. It is also highly male-dominated, with women constituting only 15.3% of the total employees. Generalists/non-technical employees outnumber specialists or those with a technical background at officer level; the latter mostly populate non-officer levels. The NCS is based on rank rather than position classification. Therefore, it is mostly hierarchical in nature and there is a great psychological division between officer-level employees and non-officer-level employees. The class system in the NCS is shown in Table 9.2.

According to the Civil Service Act and Rules, officer-level jobs are considered as professional jobs with a certain career development path up to Secretary level. Non-officer-level employees are considered to be support staff and have no career development path. Therefore, non-officer -level

Table 9.2 Officer and non-officer level

	Officer Level/Gazetted	*Non-Officer Level/Non-Gazetted / (Assistant Level Employees)*
1	Special Class/Secretary	Non-Officer First Class
2	First Class/Joint Secretary	Second Class
3	Second Class/Under-Secretary	Third Class
4	Class Third/Section Officer	Fourth Class
5	–	Fifth Class

Source: Civil Service Act, 1993

employees holding technical posts are not considered specialists or experts in the NCS, even though many of them may possess greater technical knowledge and skills than other employees (Pandey and Adhikari 2006).

In total, 70% of posts at entry level (Section Officer) are filled by open competition; the others (30%) are filled by promotion. For promotion to upper posts, such as Under-Secretary and Joint Secretary, a candidate has to fulfill certain requirements such as minimum years of service and level of education. There is provision for performance evaluation. Promotion to Secretary level is made by the Cabinet from the pool of Joint Secretary-level employees recommended by the Promotion Committee. One thing to be stated here is that the Civil Service Act per se does not define generalist and specialist careers clearly. However, considering the nature of the NCS, the types of jobs, educational requirements and the terms and conditions of entry and career movement, we can categorize two types of career service: generalists and specialists.

Generalist Service Career in Nepal

The generalists mainly belong to the Administrative Service; they mostly have a general educational background. However, they have the opportunity for multiple and spiral career movement. Generalists/non-technical employees constitute, as stated earlier, about 46% of civil servants. They have the scope for all-round movement in the NCS: even transfer to various core technical ministries and organizations is very often seen. Generalists have a better prospect for promotion and the potential to influence the process of decision-making compared with their specialist colleagues. They have also better opportunities for horizontal and vertical movement in the NCS. Horizontal movement refers to movement to similar posts in other

Table 9.3   Cluster of civil services and number of secretary–level posts

	Cluster of Civil Service	Number of Posts of Special Class/Secretary Level
1	Administrative Service	29
2	Judicial Service	12
3	Engineering Service	10
4	Agriculture and Forest Service	4
5	Audit Service	4
6	Foreign Service	1

Source: Fourth Amendment of Civil Service Act and 12th Amendment of Civil Service Rules, 2015

agencies, while vertical movement refers to the potential for promotion in the same service. Employees from the Administrative Service take advantage of horizontal movement and can be posted to other clusters.

Generalists also have a better chance for spiral movement; in other words, they may be posted to one service, transferred to another agency, then moved back to their first agency in a higher position. There is an administrative wing in each of the services, and the Ministry of General Administration can depute generalist employees. There is an administrative wing in the Ministry of Agriculture, Ministry of Forestry and Ministry of Health led by a Joint Secretary-level employee from the generalist career service. These ministries are specialized, and have specialist employees with technical education and expertise. However, their administrative wing is occupied by employees with a generalist service career.

If we look at Secretary-level positions in Table 9.3, we can see that half of them (29) are reserved for the Administrative Service, which is mostly composed of generalists. The position of chief secretary, the highest administrative position in the Nepalese government, is usually reserved for generalist service members. Therefore, it can be said that the NCS is still dominated by generalists. This domination is, however, less entrenched than before. The provision for clustering has curtailed the privileges of the generalists, at least up to a point.

Specialist Service Career in Nepal

The specialists mainly belong to agriculture, forest, engineering, statistics, education, and health services. These all require technical education and work skills. Computer engineers, sociologists, geographers and people

with other specialized qualifications are employed in the Miscellaneous Service. In addition, the Audit Service is also considered specialized because of the nature of its work. Specialists and/or people with technical knowledge account for 54% of the total number of civil servants in Nepal. Specialists, however, hold more lower-level positions than the generalists. Officer-level positions are mostly held by generalists. Those with specialist service careers also have limited prospect for horizontal movement, and they are rarely transferred from one agency or ministry to another. Their scope for vertical movement is also limited, while members belonging to the Miscellaneous Service have an incomplete career path. Specialists also have limited potential to move to the level of Secretary.

Relationship Between Generalists and Specialists

The relationship between generalists and specialists in the NCS is characterized by unease and tension, if not outright conflict. Part of the reason for this is their uneven opportunities for career movement and advancement and the different ways in which they are able to play their roles in public administration. As stated earlier, generalists have better opportunities for both vertical and horizontal career movement. Members of generalist services are appointed even to the technical job-oriented ministries such as health, agriculture and forestry. Over the years, owing to strong pressure from the specialists, career employees from technical services have occasionally been included in the pool for promotion to Secretary-level positions, even in 'generalist-type' ministries.

For example, a veterinary service specialist was once appointed as regional chief, a Secretary-level post in the Administrative Service. Similarly, an officer with a survey background was appointed Secretary to the Ministry of Labour, while an engineer was once appointed Secretary to the Ministry of Finance. The generalists, however, were not happy with the government decision to appoint secretaries from the specialist services to head generalist-type ministries and organizations. Administrative conflicts between two types of bureaucrats now exist, and in turn this is likely to hinder their joint contribution to the policy process, affecting both decision-making and service delivery. A few cases of hostility between generalists and specialists are noted below.

Case 1: Specialist Employees from Ministry of Health Versus Generalist Secretary from the Administrative Service

The Health Service is regulated by a law separate from the Civil Service Act. Employees have their own career and promotion system. However, the post of Secretary, the administrative head of the Ministry of Health, is at present occupied by an officer belonging to the Administrative Service. In August 2014, when the government transferred a generalist secretary to the Ministry of Health, employees from the Health Service strongly protested the decision. The government did not reverse its decision and argued that the post was not a specialized one. However, as the Health Service is considered to be in the specialized category, having a separate law to regulate its affairs, its members, who are mostly based in the Ministry of Health, claimed that the Secretary should be selected from among their number. To strengthen their argument, the health officials argued that the two secretaries who had earlier headed the Ministry of Health had been members of the Health Service. The government, however, decided to stick to its decision, arguing that it had the right to appoint a Secretary from the Administrative Service if suitable candidates were not available in the Health Service.

Case 2: Supreme Court Verdict, Government Needs to Be Clear on Generalization or Specialization in Civil Service

In 2010, members of the Judicial Service turned to the Supreme Court claiming that they had the right to be included as Joint Secretary of the Administrative Service, which entitled them to be promoted to Secretary-level positions reserved for the Administrative Service. The Promotion Committee had earlier declined to consider inclusion of employees from the Judicial Service for positions in the Administrative Service, arguing that it was a separate service with special education requirements and also had its own career paths. The Supreme Court observed that if employees from the Administrative Service were not barred from joining other services under the Civil Service Act, then members of the Judicial Service also had the right to be included in the pool for promotion to Secretary level in the Administrative Service.

Following the Supreme Court verdict, members of the Judicial Service became united and raised their earlier demand that they should be made eligible for promotion to the post of Secretary in the Administrative

Service. On the other hand, Joint Secretary-level employees from the Administrative Service opposed this demand, arguing that members of the Judicial Service belonged to a separate service/cluster; they therefore should not compete against them for promotion in their service. They further argued that since members of other services could not be included in the Judicial Service as its members must have law degrees to become judges, Judicial Service employees should also not have the right to join other services.

The Supreme Court verdict also required the government to explain if the NCS was orientated to specialization or generalization. Since the Judicial Service was not considered to be specialized, its members had the right to be candidates for promotion anywhere. Therefore, employees from the Judicial Service were included in the pool of promotion to the post of Secretary and promoted in the Administrative Service before the fourth amendment to the Civil Service Act was passed. However, since the Judicial Service is now recognized as a separate cluster, its members cannot move freely to other clusters.

Case 3: Sociologists as Specialist Career Service Struggling for Career Development

The government created 12 sociologists' posts in 1996 under the miscellaneous category to provide expert sociological advice to the government's development projects. They were recruited at Officer level as specialists. Their career advancement was limited, however; only one Undersecretary-level post was created for them in 2006. They have served as experts for more than 20 years and are now demanding that they have the right to be promoted to Joint Secretary and Secretary, and that the government should create Joint Secretary posts specifically for sociologists; or alternatively, their posts be merged with those in the Administrative Service. The sociologists have argued that sociology is not a core part of technical education and that their jobs are not specialized in nature; so they can perform administrative jobs. They have also complained that their potential for career development has been completely ignored by the generalists who hold decision-making positions in the Administrative Service.

Administrative Service officials, on the other hand, defended their decision, observing that sociologists who had entered the NCS were aware of the career path; hence they had no right now to ask for further career upgradation since they had been appointed for their specialized knowledge

and not for leadership or administrative posts. The sociologists suggested that if the government could not create promotion opportunities for them, they should not have been recruited in the first place. Because of this, sociologists are facing serious constraints on their career advancement. The matter has so far not been properly addressed or resolved.

The above cases are illustrative, not exhaustive; they have been used to show the kind of relationship that exists between generalists and specialists in the NCS. The government has appeared to be aware of the conflict and has adopted measures, as stated below, to deal with it.

Clustering of Services and Resolution of Conflict?

It was a long-standing practice in the NCS that generalists were appointed to the top or executive posts, that is Secretary, in both generalized and specialized ministries/organizations. Over the years, employees from the technical field have also demanded appointment to the post of Secretary not only in their own services but also in the generalized ministries. The question of professionalism has arisen constantly (Administrative Reforms Committee 2013). To encourage professionalism in the NCS, the fourth amendment to the Civil Service Act was made in 2015. This provided for the clustering of services into six groups, as shown in Table 9.3.

In addition to the services mentioned in Table 9.3, the Health Service and the Parliamentary Service have long been recognized as specialized services; they have their own Secretary-level posts. The main objective underlying the clustering of services is to develop specialization. It is assumed that this clustering of services and stability in their leadership will have an impact on policy decisions and management with in-depth institutional memory. It can also be seen as one of the important ways in which conflict can be resolved between the generalists and the specialists. Although the Administrative Service appears to have a greater share of Secretary-level positions than the other services, the latter also have a share (of senior positions) protected by law.

Unlike in the past, it will not be an easy task for members of different services to intrude into each other's territory. In fact, the clustering of services under the 2015 Act may be seen as an important step toward making the NCS inclusive from a professional standpoint. The Civil Service Act also provides for making the NCS socially inclusive at entry level; the provision for clustering creates a provision for inclusion at the top. However, members of some specialist services do not appear to be

happy because the number of posts reserved for them is limited, and also because they cannot move to services outside their own cluster. Therefore, members of specialist services often remain in career limbo, mostly because they have limited opportunities to gain leadership roles in other service categories.

CONCLUSION

This chapter has explored and explained the relations between generalists and specialists in the NCS. The relationship between the two is not as cordial as one would hope. Each group advances unique arguments to justify its claims and to counter the other's opinion. Part of the reason for the negative perception of each group toward the other's role is the different potential that exists for career advancement and mobility. Until recently, the generalists had better chances for excelling in professional life, while the specialists were apparently less satisfied, if not less motivated. Relations between the two groups were characterized by hostility and mistrust, although outright conflict was an exception. Conflictual relations between the two, however, fall short of any serious risk of stalemate and immobilization. The recent decision to organize different services into clusters and thereby making arrangements for 'rational' career advancement within each cluster may be seen as recognition by the state of the importance of the contributions of both sets of actors. Other countries could take a lesson from the Nepalese experience.

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Social Accountability for Inclusive Governance: The South Asian Experience

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Accountability can be defined broadly as the obligation of power-holders to account for or take responsibility for their actions.[1] It is a consequence of the implicit 'social compact' between citizens and the sovereign state, especially in a democracy. The fundamental principle of a democratic state is that citizens have the right to call to account the office holders, bureaucrats and elected representatives, who are obliged to provide information about and/or justification for their decisions and actions.In the context of democratic governance, the state-centered accountability mechanisms, often referred to as horizontal accountability, have two distinct dimensions: the *constitutional dimension*—in which public authorities are held accountable for a variety of well-established rules and procedures to prevent unfairness or abuse of power; and the *performance dimension*—in which public authorities are accountable for their performance and accomplishments. States attempt to realize these functions through measures of answerability—public authorities are answerable to designated institutions for adherence to norms and rules as well as their performance; and enforcement—applying sanctions for noncompliance and strengthening incentives for fulfilling commitments.

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However, citizens have the final say, since ultimate authority and ownership of the state finally rests with them. Citizens execute this democratic function by electing public authorities as their representatives. Elections are therefore important mechanisms for 'vertical accountability' through which elected government offices remain answerable to the public. However, elections are a fairly blunt instrument for citizens to exercise their right to hold the state to account. While citizens can make elected representatives answer for their policies during elections and enforce electoral retribution, they do not always offer the opportunity to hold public actors answerable for specific decisions or behavior, or contribute in a meaningful way toward making routine administrative decisions related to public goods or basic public service.

The World Development Report 2004 (WDR 2004) is renowned for having stimulated important thinking on the key importance of accountability relationships and citizen demand in improving public services and development outcomes. This landmark publication argued that development outcomes are rarely about providing technical fixes or making more resources available; there is a need to foster institutional change and strengthen accountability relationships. WDR 2004 highlighted two dimensions of these relationships: the short route (citizen to service provider), strengthening direct citizen demand and pressures on service providers; and the long route (state to citizen), in which policymakers take actions to ensure service provider accountability and citizens influence policymakers to do so via voting.

Delineating Social Accountability

Social accountability can be understood as an inclusive approach toward improving accountability relationships between citizens and the state, in which ordinary citizens and citizen groups, civil society organizations and independent media participate directly in exacting accountability on an equitable basis. However, there is a broad diversity of practices and approaches related to social accountability initiatives. No universally agreed definition of the range of actions that fall within the remit of social accountability exists. Malena and McNeil (2010) define social accountability as '*the broad range of actions and mechanisms beyond voting that citizens can use to hold the State to account, as well as actions on the part of government, civil society, media and other societal actors that promote or facilitate these efforts.*'

Transparent and inclusive engagement between citizens and state actors prepares the ground for bolstering '*answerability*' and allows for direct input into improving government performance. Embedding inclusion within this discourse is important, because an inclusive approach allows citizen groups on the margins of society to address the inequity in their 'voice relationship' with the government, public institutions responsible for service delivery or even within the broad contour of citizenry. Social accountability involves the voice of informed and mobilized citizens coordinated with governmental reforms that bolster public sector responsiveness to neutralize the 'power imbalance' between citizen and state actors in public decision-making processes. Grandvionnet et al. (2015) argue this accountability relationship as the interplay of three constitutive elements: information, civic mobilization and citizen–state interface. However, civic mobilization on its own, especially by the poor and marginalized, may not be sufficient to ensure accountability relationships; such endeavors need to be coordinated with broader state-led reform efforts that actively encourage the voice and representation of those who would normally be excluded. Four elements, as depicted in Fig. 10.1, are central to the success of social accountability initiatives.

1. Citizen–state bridging mechanisms (for information exchange, dialogue and negotiation between citizens and the state). This can involve the introduction of new tools for citizen–state interaction or the reform of existing mechanisms.
2. Willingness and ability of citizen and civil society actors to demand government and service provider accountability. Capacity development for citizen groups and civil society is often required, in areas such as mobilization, coalition-building, negotiation and advocacy.
3. Willingness and ability of service providers and policymakers to be accountable to the public. Transparency and information disclosure, attitudes and practices favoring listening and constructive engagement with citizens are critical here.
4. Broader enabling environment. Three key areas of relevance are the policy, legal and regulatory environment for civic engagement; the type of political system and tradition of political freedom for open pluralistic debate; and the values and norms in society, and the presence of societal institutions that support (or inhibit) open pluralistic debate and critical but constructive engagement
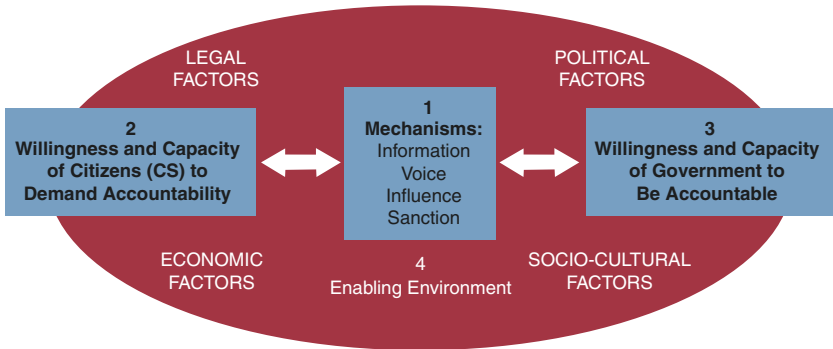
Fig. 10.1 Elements of successful social accountability mechanism (Source: World Bank (2012))

SOCIAL ACCOUNTABILITY TOOLS AND INTERVENTIONS

Across countries, citizen-led social accountability interventions are initiated, to complement and reinforce existing horizontal accountability mechanisms to make governments more responsive and to tackle service delivery inadequacies. The discourse encompasses an array of tools and interventions: social audits, citizen report cards, community scorecards, public hearing, participatory budgeting, public expenditure tracking and so on, which ordinary citizens and civil society use to track public programs and use of resources. While these tools and methods of social accountability are diverse and varied, there are certain basic similarities. Common components include collection, analysis and dissemination of information, mobilization of public support, advocacy and negotiation for change.

Information campaigns
These are efforts to inform citizens with relevant and actionable information about their rights to services, quality standards and performance to improve service access and delivery. The existence of a legal framework for the public provision of information (access to information legislation) is a valuable enabler for information campaigns.
Social audit
A social audit is a process through which information on development initiative or project is collected, analyzed and shared publicly in a participatory fashion. Social audits may go beyond the oversight of project finances and procurement to examine all aspects of an initiative, including level of access to information, accountability, public involvement, project outputs and outcomes. Social audits are typically carried out by community volunteers (social audit teams/committees) and findings are presented at a public hearing or public forum.

Public hearing

These are formal community-level meetings where citizens, local officials and other stakeholders have the opportunity to exchange information, ask questions and submit opinions on community affairs and/or a project that is designed or is under implementation. In certain instances a public hearing is the final opportunity for public input before a decision on project preparation / implementation is made, and may even be mandated legaly. Public hearings are often one element of social audit initiatives.

Citizen report card

This is an assessment of public services performance by actual users (citizens) of the service through systematic feedback surveys. It goes beyond data collection to become an instrument for exacting public accountability through extensive media coverage and civil society advocacy, which accompanies the process.

Community score card

A community-based monitoring tool, this assesses services, projects and government performance by analyzing qualitative data obtained through focus group discussions with the community as well as the providers. It usually includes meetings between service providers and users to formulate an action plan that addresses any identified problems and shortcomings.

Participatory budgeting

This is a process through which citizens participate directly in budget formulation, decision-making and monitoring of budget execution. It creates a channel for citizens to give voice to their budget priorities, and involves providing people with information regarding revenue and expenditure of public resources. Access to information along with an enhanced ability to shape fiscal decisions by the people ensures greater transparency of the budgetary process and more sensitivity to people's needs.

Public Expenditure Tracking Surveys (PETS)

PETS is a method that assesses the efficiency of public spending and the quality and quantity of services. It refers to the engagement of citizen groups and civil society organizations in tracking the flow of public resources for the provision of public goods or services from origin to destination, in order to determine how much of the originally allocated resources reach each level and how long they take to get there. It can help to detect bottlenecks, inefficiencies or corruption.

Experience of Social Accountability in South Asia

Over the past years there have been a number of initiatives aimed at strengthening citizencentric accountability mechanisms in countries across South Asia. These experiences reveal certain cross-cutting aspects that carry the potential of acting as enabler in future social accountability endeavors:

- **Voice and responsiveness.** Compared with other regions, social accountability initiatives across South Asia have a much greater element of community involvement and participation. Often the collaboration between civil society groups and governments in a few of these initiatives is striking and demonstrates the potency of blending community voices with state responsiveness. Instead of taking adversarial positions, these examples illustrate refreshing instances of state and community partnerships and pro-active engagement.
- **Power of information**. Most of the initiatives demonstrate the empowering potential of appropriate and actionable information to usher in accountability. But information alone is rarely sufficient; it often needs to be accompanied by capacity-building efforts to use the disclosed information for collective action in order to make a difference.
- **Political and institutional buy-in**. Many institutional innovations and radical popular movements often piggyback onto charismatic politicians and higher-level bureaucrats serving as institutional entrepreneurs of change. Ability to identify the intangible incentives for these change agents could influence, and on many occasions shape, the outcome of a social accountability endeavor. Social accountability mechanisms become extremely effective when linked to institutionalized mandates and structures of governance and public service delivery.

The following discussion presents several important social accountability efforts in four South Asian countries: Bangladesh, India, Nepal and Pakistan.

Bangladesh

Citizen Action for Results, Transparency and Accountability (CARTA) The CARTA Program was a unique initiative designed 'to enhance the development impact, sustainability and client ownership of pro-poor projects financed by the World Bank (WB), by promoting civil society organizations' engagement, experience and capacity to demand better governance.' What made it unique was that, to improve project responsiveness and results, the Government of Bangladesh and the World Bank agreed to complement the projects' internal monitoring

and evaluation systems with independent third-party monitoring by communities with the assistance of civil society organizations (CSOs). In Bangladesh, CARTA supported five social accountability sub-projects toward monitoring expenditures and results in the following World Bank-financed development projects:

- Bangladesh Rural Water Supply & Sanitation Project (BRWSSP)
- Rural Electrical Renewable Energy Project 2 (REREP)
- Local Government Support Project II (LGSP)
- Reaching Out of School Children II (ROSC)
- Social Investment Program Project II (SIPP)

Each of these sub-projects was a small-scale social accountability pilot for local CSOs to independently carry out awareness-raising, monitoring, capacity-building and empowerment activities. Promotion of access to project information and building of citizens' capacity to act on that information was central to project activities. The sub-projects were not designed to be policing actions, but were intended to help mitigate risks and improve the implementation performance of the projects that were being monitored.

There are specific outcomes in each of these sub-projects. For example, an improvement in service delivery was noted in the World Bank-funded BRWSSP and REREP projects. As a result of CARTA intervention, these projects' service user committees improved the levels of user feedback to the service providers. This change led to adjustments in service providers' operations and higher user satisfaction levels. In LGSP, members of the project oversight committees were more engaged in local decisions about the use of funds for initiatives of Union Parishad[2]; and citizens' perceptions of corruption diminished because the processes were more transparent. At the aggregated level CARTA managed to accomplish increased awareness of beneficiaries about World Bank-funded project objectives, services and benefits; and citizens were motivated and empowered to demand greater transparency and accountability in resource use, delivery of services and grievance resolution.

Journey for Advancement in Transparency, Representation and Accountability (JATRA) JATRA is designed to focus on accountability and transparency in the Union Parishad (UP) budget cycle. CARE Bangladesh is implementing the project with Global Partnership for Social

Accountability (GPSA) support to strengthen the UPs' public finance management systems so that they are more transparent and aligned with the Local Government Act 2009. JATRA endeavors to ensure active participation of the community leaders, especially women, in key decision-making spaces and bodies, and strives to allow the wider community to play an active role in social accountability mechanisms to ensure access to information at all levels of UP, participatory budgeting and equal access to quality services toward deepening of inclusive democratic processes. The project design is built on CARE International's Governance Programming Framework involving participatory power and poverty analysis, and CARE's good governance and social accountability models in Bangladesh.

The project is expected to generate gains in citizen participation and result in increase in UP's own source revenues from 10% to 80%, owing to enhanced citizen trust. The project is also expected to raise the share of UP budget allocations on services that target the poor from around 30% to 70% and enhance availability of key public budget documents from 10% to 80%.

Social Engagement for Budgetary Accountability (SEBA) Manusher Jonno Foundation (MJF), a leading non-governmental organization (NGO) in Bangladesh working in governance and human rights, received a grant from GPSA to increase transparency and accountability in 45 UPs, representing diverse geographic areas, and to enhance participatory channels for women and the poor in public budgeting processes. The SEBA project has four components: (1) train community groups in social accountability tools and ways to disseminate budget data; (2) build the capacity of CSOs to implement social accountability tools; (3) harness tools introduced in UPs, such as citizen report cards, to develop policy notes and advocate for changes at local and national levels; and (4) develop and share knowledge materials and lessons with broader social accountability practitioners.

The project is expected to lead gains in citizen participation in terms of expanding the channels of UPs' budgetary information disclosure, resulting in significant increase of people's awareness about UPs' budget processes. The project will also enable establishment of supervision committees to monitor UP budgets and the involvement of 2500 people in community pressure groups to advocate for their interests.

Affiliated Network for Social Accountability (ANSA) Supported Social Accountability Efforts The two projects supported by ANSA from 2010 to 2012 in Bangladesh, the "Citizen Engagement for Quality Services", implemented by PRIP Trust, and the "Social Safety-Net and Quality Primary Education, implemented by the Manusher Jonno Foundation (MJF), have made an important contribution to the promotion of social accountability in the country. The projects demonstrated the effectiveness of the Community Score Card (CSC) for measuring and improving performance in the delivery of basic services in rural communities (in particular, primary education, health and social safety net), community empowerment and building trust between service providers and service users. These are key preconditions for constructive citizens' engagement and influence on service provision at a local level.

Factors that are favoring community engagement in holding service provision to account include prior experience of social mobilization and collective action, availability of motivated volunteers, people's awareness of their right to information and complementary use of the Citizen Charter tool. Aspects hindering community involvement include reluctance of service providers and local governments to cede power and control, limited ability of service providers and local governments to substantively improve services due to a shortage of human and financial resources, and underdeveloped regulatory framework. Deepening of existing CSC models would imply a need to link them to the general local budgeting/resources allocation process, and building synergies between other initiatives for promoting citizen involvement in budgeting and for application of right to information (RTI).

India

Social Audits by Mazdoor Kisan Shakti Sangathan (MKSS) Reviewing official records and tracking public expenditure with communities to determine whether the reported expenditures reflect the actual resources spent on the ground are at the core of the social audit process initiated by MKSS. The idea was born out of a wider struggle of ensuring the provision of wages in drought relief works and the supply of essential commodities through a public distribution system (PDS), where MKSS encountered widespread corruption. Official records were never shared with citizens, and as a result they were unable to demand answerability from officials.

The right of people to know how government funds are being spent thus became the central point of MKSS's effort. Through activism, MKSS began to demand access to official records and information related to local development works; and this effort became relatively easier with the enactment of the Right to Information Act in 2005. Once the official records are procured, the information available there are analyzed, demystified and made accessible to the general public. Findings are then shared with citizens and local officials through a 'JanSunwai' or public hearing. MKSS members control the flow of discussions so as to enable residents and public officials to systematically provide their opinions on the project/program under discussion. While this process has its limitations, it represents a radical change in the institutional space provided to citizens in order to audit public funds. Often, discussions in the public hearings bring out issues of poor planning and instances of corruption and inefficiency in the utilization of public funds

With the social audit process, MKSS has successfully demonstrated the power of information as an effective tool for tracking public expenditure with communities, and enabling citizens to participate in governance process. The success of MKSS social audits had influenced the state government of Rajasthan to introduce aspects of social auditing within local governance processes. With the enactment of the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), the concept of the social audit has taken root. Section 17 of the Act mandates the regular conduct of social audits on all aspects of the scheme as an instrument of accountability in the implementation of MGNREGA.

Institutionalizing Social Audit in Andhra Pradesh The Government of Andhra Pradesh has set up an independent society, Society for Social Audit, Accountability and Transparency (SSAAT), to conduct social audits of MGNREGA. The vision is to uphold the concept of vigilance by people. SSAAT's resource personnel act as facilitators and train village social auditors (VSAs) to conduct social audits in conjunction with the state government officials.

The process of social audits also includes public vigilance and verification of the various stages of implementation. This is followed by Social Audit Public Hearings, where information gathered is read out publicly, and people are given an opportunity to question officials, seek and obtain information, verify financial expenditure, examine the provision of entitlements and critically evaluate the quality of works as well as the

functioning of the program staff. The process often goes beyond the realm of financial auditing and covers issues of equity and quality in program implementation.

In addition to MGNREGA, in recent years SSAAT has been entrusted with the mandate to conduct social audits of welfare schemes of other departments within the Government of Andhra Pradesh. This includes the Social Security Pension (SSP), Integrated Watershed Management Program (IWMP) and the Aam Admi Bima Yojana (AABY), the insurance scheme for the common people.

ANSA Supported Social Accountability Efforts The Affiliated Network for Social Accountability (ANSA) was an initiative of the World Bank to promote, strengthen and sustain the concepts and practices of social accountability. ANSA-supported social accountability projects in India have focused on citizens' rights and entitlements with the state as the provider of these entitlements; and these initiatives are spread across key public programs on education and healthcare delivery, rural infrastructure, and social safety efforts such as public distribution of grains to below poverty line families and MGNREGA.

The Public Affairs Center (PAC) with ANSA support experimented with social accountability innovation by enhancing citizen voices in environmental governance for communities vulnerable to climate change. This was piloted in the Gulf of Mannar in Tamil Nadu, and has resulted in the emergence of a tool called Climate Change Score Card (CCSC) that aims to allow communities to actively engage with governance structures in local environmental governance and management decisions.

In another ANSA-supported initiative in Bolangir in Odisha, a mix of a CSC exercise with RTI was used to develop accountability and institutional responsiveness in the implementation of MGNREGA and a public distribution system (PDS) of grain for poor people. These efforts ensured the issuance of an acknowledgment slip for job demand request, a key stipulation that was not practiced earlier, and helped to address the deficiency in provisioning of stipulated facilities such as shelter, first aid and a crèche for use by MGNREGA workers. Likewise in PDS, the CSC exercise eventually enabled timely delivery of good quality grain as per citizens' entitlements. Youth for Social Development (YSD), another ANSA partner in Odisha, has concentrated on community monitoring of rural roads in one of the districts.

The pilot innovation by Jan Sahas in Dewas in Madhya Pradesh used a mix of public expenditure tracking, social audit and CSC to highlight the discrimination that impedes members of the Dalit community[3] to efficiently access their entitlements under national missions for basic education and healthcare: Sarva Siksha Abhiyan (SSA) and National Rural Health Mission (NRHM). Consistent advocacy with local officials has subsequently helped in eliminating these caste-based differences around service access: school infrastructures were gradually built; and members of Dalit communities had access to Auxiliary Nurse Midwife (ANM) services, vaccinations and free medicines.

Nepal

Program for Accountability in Nepal (PRAN) The Program for Accountability in Nepal (PRAN) is a World Bank program designed to provide practical training, action learning and networking opportunities aimed at developing the capacity of civil society and government actors to promote social accountability. PRAN seeks to contribute toward addressing enormous development and governance challenges with the support of social accountability activities in three focal areas: public financial management, municipal governance and public service delivery.

Public financial management	Municipal governance	Public service delivery
Independent budget analysis Dissemination and demystification of budget information Budget literacy and participatory budgeting Participatory expenditure tracking	Civic unions for interface with municipal authorities Social contracts and mechanisms for regular dialogue between citizens and municipal authorities Enhanced transparency and 'downwards accountability' of municipal authorities Participatory municipal planning	Use of community scorecards and social audits to monitor services Citizen report card surveys Community management and oversight committees Proactive disclosure by public service providers

Pakistan

Punjab Citizen Feedback Monitoring Program (CFMP) The provincial government of Punjab in Pakistan had initiated the CFMP to elicit citizens' experience of accessing basic public services. Under the program, the providers of 16 basic public services, ranging from property registration to urban management and primary health care services, record citizens' mobile numbers at the point of service delivery. A government call center sends SMS messages and voice calls to each public service user to make targeted inquiries on the quality of service delivery and whether they faced any potential incidents of corruption. The user responses are logged and tracked on dashboards.

This system has been deployed on a very large scale, with more than seven million citizens contacted since 2012, and about one million having provided feedback from across the province. The government has taken more than 6000 administrative actions against officials based on this feedback from citizens; but most of these are warnings and formal apologies from the concerned official to the citizen. The developmental and governance reform impact of CFMP is therefore still unclear.

Conclusion

The initiatives cited above demonstrate the common thread that social accountability is often promoted as the deployment of a technical tool. However, it must be recognized that the design of an effective accountability initiative that is grounded in civic engagement is much more of an art than a science. There is no single recipe that can be applied mechanically at all times and in all places. Processes of enacting social accountability relationships are primarily political, and depend upon the broader state-led reform efforts as well as more proximate factors of context in which the social accountability endeavor is attempted. Successful outcome of accountability endeavors therefore require political thinking and adoption of strategic approaches that take into account the relationship between pro-change actors within the state and the citizens. The pro-accountability entrepreneur needs to have a highly developed sensitivity to the country's history, culture and politics; and a keen eye for windows of opportunity to foresee the underlying motivations and incentives among state and non-state actors to build accountability initiatives.

Notes

1. Power-holders refers to those who hold political, administrative, financial or other forms of authority, control or influence; and usually include functionaries of the state, international financial institutions, large private corporations and even civil society actors.
2. Union Parishads are the lowest tier of rural local government units in Bangladesh.
3. Dalit refers to members of those oppressed castes who are born with the stigma of 'untouchability' because of the extreme impurity and pollution connected with their traditional menial occupations. Dalits were 'outcastes' falling outside the traditional fourfold caste system; and were physically and socially excluded and isolated from the rest of society. Dalits constitute around 17% of India's population.

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Public Hearing for Social Accountability: Examining the Rationale and Realities in Bangladesh

Kazi Maruful Islam, Amir M. Nasrullah, and Sheela Tasneem Haq

Bangladesh, writes David Lewis (2011), 'is a [classic] example of "illiberal" democracy.' Although various democratic institutions like constitution, political parties, parliament, and election commission have existed for a long time, deficits in democratic governance are still widely evident. Bangladesh has consistently been ranked as one of the most corrupt countries of the world. Among the key reasons for deficits in democratic governance, the following tend to be important: poor accountability of the public officials; corruption and abuse of power by the elected and non-elected public officials; poor oversight of the legislature over the executive, lack of confidence in public institutions like police, public service

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commission, election commission; and low efficiency and effectiveness in public service delivery. Bangladesh also lags behind different South Asian countries in promoting important 'democratic' values—accountability of the executive; access of civil society to public, including fiscal information; and integrity in public resource management (World Bank 2016).

However, notwithstanding deficits in democratic governance, Bangladesh has had considerable successes in economic and social fields. For example, the GDP per capita has almost tripled over the last three decades, while the rate of economic growth has never gone below 6% in the last ten years. Life expectancy has risen to 71 years from 50 in 1975. Bangladesh's success in economic and social fields has envied many of its neighbors. What is, however, observed here is that the achievement could have been even more if the state of governance were better (Mahmud et al. 2008). One way of making governance better is to make it inclusive and accountable. In fact, accountability provides perhaps the most important building block of inclusive governance.

Experience, however, shows that the conventional hierarchy-based accountability mechanisms have increasingly become 'futile' to hold the public institutions and officials accountable in general and the government duty bearers in particular in Bangladesh. The gap between the citizen and the government in general has increased and there is a risk that unless corrected, this gap may pose a major threat to democratic consolidation in the country. In order to overcome the governance gap resulting from ineffectiveness of the traditional hierarchy-based accountability mechanisms, various forms of social accountability have been developed and practiced over the past decades. The emergence of different social accountability mechanisms has brought about lights of hope for the common citizen in many countries, especially in the global south.

One of the important mechanisms of social accountability is public hearing. Public hearings are formal meetings at the community level where citizens express their grievances on matters of public interest to public officials and service providers try to address their grievances (Ahmed 2017). These enable citizens, among other things, to hold their service providing government agencies accountable for their actions. Anecdotal evidence suggests that the presence of a large number of citizens in the public hearing creates collective pressure on public officials who respond to the complaints raised by the citizens and try to address their grievances (Ahmed 2017).

There are, however, certain preconditions to make public hearings useful and effective. This chapter aims to critically examine the relevance and potentials of public hearing as a form of social accountability in Bangladesh. It also aims to explore the factors that can make the public hearing an effective tool for achieving inclusive governance in Bangladesh. The chapter has mostly drawn on data and evidences from a recently concluded empirical study, conducted by the authors, on public hearing in Bangladesh. Four FGDs with public hearing participants and 15 in-depth interviews (include government officials, public hearing organizers, civil society leaders and political leaders) were conducted to explore perspectives of the key actors who were involved in one way or other in conducting public hearings of varied nature in the last five years in Bangladesh. The authors have also used extensively data published in mainstream newspapers and news portal in recent years.

Public Hearings: Conceptual Clarification

Despite its growing popularity, especially among politicians and civil society organizations across the world, the concept of public hearing lacks any universally accepted definition. People often have different ideas about what is meant by it. It can be thought of as a way of removing asymmetric information and thereby empowering citizens with information, so that they can be expected to be in a better bargaining position than before (Ahmed 2017). A quick survey of the literature (Heberlein 1976; Cole and Caputo 1983; Ebdon 2002; Lando 2003; Parkinson 2004; Topal 2009; Conrad et al. 2011) shows that the notion of public hearing has been conceptualized from two distinct perspectives—state-centric and society-centric. The state-centric perspective offers a legislative meaning of public hearing, while the society-centric perspective focuses mostly on civic rights. The following discussion explores both dimensions.

State-Centric Perspective: Legislative Meaning

From the state-centric perspective, public hearing can be referred to as a public meeting of a legislative committee on a particular issue/subject at which any citizen may speak and offer his or her views on that subject. From this point of view, public hearing is considered to be a legislative action seeking citizens' input on a policy issue or action to be taken by a government. Usually, a public hearing is a formal

meeting for receiving testimony from the public at large on a local issue or a proposed government action (Community Tool Box 2016). Formal public hearings are sometime mandated by law. For example, the Energy Regulatory Commission (ERC) in Bangladesh has the legal obligation to conduct public hearings before proposing any change in energy prices. In some other cases, government officials use public hearings as a tool to gather information in order to make an 'informed' decision or to draft legislation.

Public hearings also may be held by local governments, government agencies and statutory bodies. It has been observed in recent years that different autonomous agencies such as the Anti-Corruption Commission (ACC) and Bangladesh Telecom Regulation Commission (BTRC) often conduct hearings on various issues. Many standing committees of the ninth parliament (2009–2013) had also organized several public hearings, with some committees holding more meetings than the others.

However, an agency organizing a public hearing is not always required to frame its decision based on the different views and issues raised and discussed at the hearing. The hearing mostly offers the citizens a chance to share their opinions with decision-makers. Yet many organizations routinely hold such hearings for, as Parkinson (2004) has argued, 'public input is said to lead to greater effectiveness in public policymaking and implementation.' Another important argument is that it improves the democratic character of public decision-making and generates greater legitimacy by involving citizens directly (Harrison and Mort 1998; Stewart et al. 1994).

Society-Centric Perspective: Civic Meaning

In contrast to the state-centric approach, a public hearing can also be viewed as a form of collective action to hold duty bearers accountable for their actions. From a society-centric perspective, a public hearing can be considered as 'an open gathering of officials and citizens, a space for public deliberation in which citizens are organized and permitted to offer comments, and ask questions to both elected and appointed officials. The officials, however, are not obliged to act on them or, typically, even to respond publicly' (Williamson and Fung 2004, p. 8). The main purpose of a public hearing of this kind is to allow citizens the chance to voice opinions and concerns over a decision facing a legislature, an agency or an organization.

There are some basic differences between these two types of public hearing. The state-centric hearing is mainly organized to create support and legitimacy for the decisions or actions a state agency has already taken or is planning to take in the near future. On the other hand, the society-centric hearing is mainly intended to allow citizens to voice opinions in order to attract the attention of different state agencies. Another difference is that while state-centric hearings are organized by different government offices or agencies, society-centric public hearings are mostly organized by civil society organizations (CSOs). Usually, the scope for participation in the first category of hearings is restricted as issues to be discussed are mostly predetermined (by government officers), while in the case of society-centric hearings, there is more scope for participation.

Social Accountability

Social accountability is a civic response to a situation where the traditional accountability mechanism fails to produce substantive results in terms of holding public officials and politicians accountable for their actions. To be precise, social accountability is a process of engagement between citizens and the government to check the performance of government officials, politicians and service providers as they are mandated to deliver services to a country's citizens. It is a form of accountability that emerges through actions by citizens and civil society organizations (CSOs) aimed at holding the state agencies to account. Unlike other forms of vertical accountability such as elections, 'social accountability can often be exercised on a continuous basis, through the media, the judiciary, public hearings, citizen juries, campaigns, demonstrations, and so on' (UNDP 2010, p. 10). However, social accountability is not an alternative to formal government accountability mechanisms; rather, it puts additional checks on state officials through citizen actions. Social accountability offers an additional avenue to the citizens for meaningful participation in decision-making that affects the community. It can therefore be argued that social accountability contributes to advancing citizens' welfare.

One should bear in mind that social accountability may take different forms in different contexts. But the key to such accountability is citizen participation or engagement in government activities. Such participation is, however, not always forthcoming. Generally, it is not an easy task to see citizens becoming self-mobilized and self-motivated for the common cause of the community. Thus, social accountability requires a group of

citizens who will be motivated and willing to take part in community/ governmental activities. Similarly, government also needs to be attentive to what citizens want to say. The government must provide the space for citizens to have their concerns and voices expressed and brought to the notice of public officials. In other words, there must be an enabling environment for social accountability to succeed.

Four conditions are needed to create this enabling environment: organized and capable citizen groups; government champions who are willing to engage; context and cultural appropriateness; and access to information (ANSA-EAP 2017). Among different conditions, the capacity of the citizens to raise demands and the willingness of the government to respond to such demands are crucially important. Thus, where the citizens' capacity is limited because of a lack of adequate access to information, articulation of the problem and mobilization of the community, social accountability may not produce the expected results. Similarly, if the government does not care about citizens' opinions and/or adopts a hostile attitude toward CSOs encouraging public engagement, citizens might not be willing to take social accountability initiatives seriously. Nevertheless, it is observed that social accountability can strengthen the relations between government and citizen, and in the long run can contribute to improving the process of delivering public services, encouraging government officials on the ground to be attentive to the needs of vulnerable groups, and demanding transparency and exposing government failure and corruption (UNDP 2010).

There are several tools of social accountability, of which the following are considered to be important: community score card, social audit, public budget tracking system, citizen report card, public hearing and town hall meeting (CBGA 2012). Some of these tools are used by CSOs, others by state organizations, while some are used by both the state and CSOs. Public hearing is one of the few social accountability tools that is used by both state and non-state actors, although objectives underlying such hearings may vary.

PUBLIC HEARING FOR SOCIAL ACCOUNTABILITY: THE LINKAGE

The relation between public hearing and social accountability is not as straightforward as it initially appears to be. The main spirit underlying social accountability is to create a space for non-state actors in order to be able to initiate a process of dialogue, negotiation and engagement with

the state. However, a public hearing cannot automatically ensure public officials' accountability. The World Bank (2011) observes that in order to hold the public officials accountable, four conditions are critical: citizen–state bridging mechanisms, ability and willingness of citizens and their representatives as well as CSOs to engage in activities aimed at promoting government and service provider accountability, willingness of state politicians/bureaucrats and service providers to be accountable and responsive to issues/demands raised by the public and civil society, and the presence of a broader enabling environment. It clearly indicates that there has to be a formal system in place for negotiation and interaction between citizens and the state, a system which allows access to information and encourages responsiveness. An enabling environment include the legal and regulatory environment for civic activism, the type of political system in terms of its tolerance of political freedom and open public debate, and the economic and financial cost for the civil society organization in holding a public hearing (World Bank 2011).

While assessing the relationship between public hearing and social accountability, for example in Bangladesh, one must take into account characteristics of the dominant political culture. In Bangladesh, the state agencies do not appear to be keen to listen to citizens. Nor can effective formal processes and institutions be found in place to initiate dialogue and exchange between state and citizen. Comparatively, CSOs are relatively better prepared, especially in terms of their technical capacity, to engage in accountability-promotion activities. What they need is support from political authorities to undertake the task of bringing government officials and complaining citizens to the same table. Moreover, most of the CSOs in Bangladesh live on donors' funds; therefore, they are not inclined to take any initiative that is not supported by donors. The media in Bangladesh is, however, emerging as an important source, supporting and promoting various social accountability initiatives, including public hearings that are held by different CSOs.

Public Hearing in Bangladesh: Review of Contemporary Experiences

The concept of a public hearing is not very new in Bangladesh. The Bengali word *ganoshunani* (public hearing in English) has been in the political discourse since the 1960s. However, it has gained renewed attention in recent years, especially since the restoration of democracy in 1991. The popular format of *ganoshunani* is a kind of 'citizen gathering' where an

issue or a government action is explained by some experts or activists and citizens' opinion is sought. In the past, in general this kind of meeting was organized by cultural wings of political parties, mostly orientated to 'left' politics. Political education was one of the key objectives. However, in the past the practice was not as widespread as it is now, mostly because of the lack of democratic space for this kind of activity. The country remained under (quasi-)military rule for a long time, and any activity which required public involvement was looked upon with suspicion.

TRENDS IN PUBLIC HEARING

A review of the experience of the last few years shows that several types of initiatives are often referred to as public hearings, mostly by the local media, some of which may not actually qualify to be labeled so. There are different types of public hearings. Initiatives for such events mostly come from four sources: civil society organizations (CSOs), state institutions (e.g. statutory commissions and parliamentary standing committees), government offices (e.g. Office of the Deputy Commissioner) and state institutions and civil society joint initiatives. Among the four different sources, CSOs tend to be more active in organizing public hearings for different purposes.

CSOs AND PUBLIC HEARING

A quick scan of the influential English-language daily the *Daily Star* reveals that between 2008 and 2016 a total of 26 public hearings were organized by various CSOs, notably by Bangladesh Paribesh Andolon (BAPA), Bangladesh Environmental Lawyers Association (BELA), Consumers Associations of Bangladesh CAB) and Shamannay. These hearings differed from one another in several ways. For example, BAPA and BELA organized a hearing on July 13, 2009, seeking ways in which to save the environment and rivers in Dhaka; this was supported by two influential media outlets: Channel I (electronic media) and the *Daily Star*. The hearing took place at the parliament building where a group of Members of Parliament (MPs), including one from the Parliamentary Standing Committee on the Ministry of Environment and Forest, were present. The MPs committed to take the recommendations forward to the standing committee for further action. On the other hand, Bangladesh Passengers' Welfare Association, a voluntary organization working to establish passengers' rights, organized

a hearing on October 10, 2015. This hearing took place to protest the 'uncontrolled' increase of public transport fares, and was held in front of the national press club. No government officials or MPs attended to listen to citizens' complaints.

Statutory Bodies and Public Hearing

Different state institutions or statutory bodies such as the ACC and Bangladesh Energy Regulatory Commission (BERC) organize public hearings more often nowadays than before. By state institutions, we refer to those agencies which do not operate directly under the executive branch; their autonomy is somewhat guaranteed by constitutional or legal provisions. For instance, BERC, a statutory body, is responsible for determining tariff on gas, electricity and different petroleum products. The Commission, as stated earlier, is required to conduct public hearings prior to proposing any increase in energy prices (GoB 2005). Between 2008 and 2016, BERC conducted 48 public hearings on tariff increases for gas, electricity, compressed natural gas and petroleum products. The ACC has also started to hold public hearings on different public services and organizations across the country; it conducted 30 in 2016 and 28 in 2015. BTRC organized six hearings in 2016.

Government and Public Hearing

Another type of public hearing has begun to be held in recent years. It is initiated and organized by different government offices, particularly by the Office of the Deputy Commissioner (DC). Historically, the Office of the DC has remained the most influential government office at field level in Bangladesh. The DC office manages and controls almost all types of activity related to general administration in the district. According to the *Charter of Duties of the Deputy Commissioners* (GoB 1983), one of the key functions of the DC is to 'receive complaints from the public and to organize public hearings to probe into complaints made by members of the public.' In practice, most of the DCs do not consider this provision to be mandatory. Experience shows that of 64 DC offices across the country, only a few have so far organized regular public hearing sessions. For instance, the DC of Gopalganj organizes a public hearing every Wednesday, the day the government has fixed for this purpose, to have a first hand idea about the complaints, concerns and opinions of common

people regarding different government services in the district (GoB 2017a). Likewise, the office of the Deputy Commissioner of Natore, with support from offices of seven Upazila Nirbahi Officers(UNOs),[1] conducted 110 public hearings in 2016 on different local issues (GoB 2017b). These sessions were convened to probe into complaints made against various government offices responsible for service delivery at district and sub-district levels. DCs and UNOs took prompt action to implement decisions taken in public hearing sessions.

Parliament and Public Hearing

Despite the fact that public hearing has been widely used as a legislative exercise in democratic societies across the world, it was not practiced effectively in the Bangladesh parliament until very recently. Only four public hearings involving parliamentary standing committee members were held before 2009. This number, however, has increased significantly since the election of the ninth parliament (2009–2013). Part of the reason for this was the interest shown by donors in parliament development and their willingness to extend support to strengthen parliamentary practices including public hearings.[2] According to one estimate, 47 public hearings were held involving the members of different standing committees during the tenure of the ninth parliament, of which 28 were exclusively supported by the Promoting Democratic Institutions and Practices (PRODIP) project, which was funded by USAID (2015).

Public hearings organized by parliamentary committees may be considered to be one of the 'classic' models of public hearing. However, in Bangladesh we find large variations in terms of purposes and processes of hearings and the number of participants. For example, with the backdrop of the Rana Plaza garment factory collapse,[3] the Parliamentary Standing Committee on Ministry of Labor and Employment (MoLE) of the ninth parliament held a hearing in May 2013. This day-long hearing was the first of its kind in Bangladesh and was chaired by the Chairman Md. Israfil Alam, MP, who said: 'The purpose of the hearing is to recommend actions the government should take to prevent further incidents and ensure worker safety at their work stations.' He explained that the MPs in attendance would share their findings with the full committee and seek to formulate precise and comprehensive recommendations for submission to the respective government agencies (*Daily Star*, May 25, 2013).

The hearing heard evidence from 75 witnesses, including survivors, labor unions, international organizations and foreign ambassadors. Appreciating the efforts of the Committee, the US Ambassador Dan Mozena commented:

> A public hearing is an important part of democracy; it's called oversight. This is the role of the legislative branch – to oversee what exactly is happening in the country. I know this process very well. I have on many occasions sat in a very hot seat at the Congress of United States, with people like you asking very hard questions which are very uncomfortable. This is a sign of a true democracy. (*Daily Star*, May 25, 2013)

Witnesses raised important issues and made recommendations for reforms, such as:

- Establishment of trade unions in garment factories as collective bargaining agents.
- Strengthening the office of the chief inspector for factories and increasing its budget allocation.
- Development of a joint monitoring committee comprising trade unions, government officials and owners of the factories.
- Naming of an independent body to draft and implement a national fire and building code.
- Amendment of the Labor Law approved by the Cabinet Division to meet standards to ensure workers' safety in the factories.
- Require that buying agencies should extend their technical and financial support to maintaining occupational and health safety for the workers (*Daily Star*, May 25, 2013).

A follow-on hearing which lasted for three days was held in June 2013. The Committee heard evidence from 150 witnesses; this was unique in Bangladesh's parliamentary history. These hearings were supported by the Promoting Democratic Institutions and Practices project (USAID 2015) and were intended to set the scene for a new labor law and/or a review of the existing ones. The Chairman took the lead in organizing the event.

Another important category of public hearing, which is hybrid in nature, has also been noticed in recent years. Initiatives for such hearings are often taken by CSOs with support from and/or in collaboration with local MPs. CSOs usually do the paperwork, such as printing and distributing invitation cards, preparing background (research) papers/notes, taking care of documentation, providing (partial) logistics

and mobilizing local citizens to attend. The presence of the local MP is vitally important, especially to ensure that local government officers attend the hearing. The MP may also provide partial logistic support such as arranging the venue. As an example, reference can be made to public hearings organized by Bangladesh Nari Pragati Sangha (BNPS), a CSO specializing in girls' education and reproductive health, in different parts of the country. BNPS organized hearings entitled 'Improving Adolescent Girl's and Women's Access to Public Health Services and Retention of Girls in School: People's Expectation and Support from MP's and National Institutions' in at least four upazilas. In each case, besides the local MP, officials of different upazilas, public representatives and locals were present. In these public hearings, local citizens asked questions on different issues related to maternal health and problems with girls dropping out of education in the locality. The government officials gave answers and made explanations, and made commitments to undertake measures to immediately address the issues raised (BNPS 2012).

Collaboration between parliamentary committees and CSOs in organizing public hearings is also not very uncommon. For example, BNPS once facilitated a dialogue session between Public Policy Forum (PPF) and members of parliamentary standing committees. PPF is a collective of community members that initiates local-level fact finding exercises regarding the quality of maternal and reproductive health services and barriers to girls' education, bringing the issues raised to respective authorities, local MPs and policymakers for local and policy-level solutions. Eight MPs belonging to three parliamentary standing committees, for the Ministry of Health and Family Welfare, Ministry of Primary Education and Ministry of Women and Children Affairs, were briefed by the PPF members on the cause and consequence of poor maternal and reproductive health services and socio-economic and infrastructural obstructions to girls' education in their constituencies.

Available evidence shows that several other CSOs such as Democracy Watch and Wave Foundation organized a series of public hearings with support from MPs and donors during the tenure of the ninth parliament.

But such hearings have become an exception in the tenth parliament, for reasons to be explored in a subsequent section. The next section focuses on identifying the outcome of such initiatives.

Assessing the Trend

The public hearing, as a tool of accountability, still remains at its formative stage. Available evidence shows that most hearings can be seen as state-centric; CSO-centric initiatives are few in number. Reasons are many and varied; these will be explored later. Table 11.1 shows the trend in public hearings in Bangladesh.

Table 11.1 demonstrates that three positive outcomes can be expected to follow public hearings on a particular issue. Public hearings that were initiated and supported by MPs led to the initiation of long-term policy reforms. For example, the Labor (Amendment) Bill, 2013 underwent considerable changes at committee stage, and such changes were influenced to a large measure by hearings that took place earlier. Many proposals put forward by and discussed in public hearings were subsequently incorporated in the bill. More than 80 amendments were made by the committee, including nine entirely new sections, most of which were accepted by the government (in the House). Public hearings conducted by administrative offices, such as the offices of the DC and the UNO, are followed by redress of petty complaints. However, in all cases, awareness among those attending hearings increased. Through public hearings citizens' concerns are communicated to government agencies, some grievances are addressed and confidence in government agencies increases. Therefore it can be observed that public hearings have been successful, at least to a certain extent, in creating an additional mechanism to hold government officials accountable and responsive to the citizens.

Table 11.1 shows variations in the nature of effectiveness of public hearings organized by different types of organization, especially in terms of the scope of public participation and outcome. One thing to be noted here is that a successful public hearing requires adequate preparation, paperwork and support of a civil society group that has the capacity to mobilize key actors. There are, however, differences between public hearings organized by state or statutory institutions and by CSOs or parliament in terms of purpose, process and participants. Evidence shows that more initiatives are nowadays taken by state agencies than

Table 11.1 Structure, function and features of public hearings in recent Bangladesh

Lead in organizing the hearing	Nature of participation of common citizens	Presence of the key decision-makers	Target agency / actor	Outcome
Parliamentary Committee (e.g. Standing Committee on MoLE)	Selected participants with partial representation; deliberation was free	Yes	Private sector and government agencies	Legislative reform proposal initiated and accepted by Parliament
Statutory Institutions (e.g. Anti-Corruption Commission)	Selected participants with partial representation; active and free deliberation	Yes	Government agencies (e.g. RAJUK, BRTA)[a]	Few actions taken promptly but firm commitment generated
Government Offices (e.g. DC Office)	Open participation with victims representation; active and free deliberation	No	Government service providing offices at the local level	Public awareness enhanced
Civil Society	Open participation, with full representation; active and free deliberation	Not sure	Government service providing and regulatory agencies	Public awareness enhanced
State Institutions and CSO jointly organized	Selected participants with partial representation; deliberation was free	Yes	Government service providing offices at the local level	Public awareness and government commitment generated

[a]RAJUK is the abbreviated form of Rajdhani Unnayan Kortipokkha, which means Capital Development Authority; BRTA is the abbreviated form of Bangladesh Road Transport Authority. There were a huge number of corruption and irregularity allegations against these two agencies

by parliamentary committees and CSOs. The main problem with the former is that access to such hearings is not always open; mostly, those who are invited by the organizers can take part. On the other hand, the main strength of public hearings initiated by committees/CSOs is that anyone can participate, raise questions and ask for answers or for clarification. These events usually take place at constituency or upazila level and mostly address local issues and concerns.

CHALLENGES TO INSTITUTIONALIZING PUBLIC HEARINGS

That public hearings are useful is now widely recognized. In particular, the change in attitude of the government, to allow public hearings, can be seen as a serious break with the past when government rarely consulted the public. Yet the overenthusiasm shown by the government can be seen as a source of concern for CSOs and others who are keen and better able than state agencies to undertake these activities. Two problems discourage CSOs and parliamentary committees when it comes to organizing hearings. In particular, the latter, which appeared to be very active in the ninth parliament, have now apparently forgotten that there is anything called a public hearing. Only one committee in the tenth parliament has so far organized a hearing. In contrast, nearly half of the standing committees on the ministries in the ninth parliament actively promoted the idea. Several factors account for the decrease in the level of parliamentary committees' activism, of which the risk of party backlash is very important.

The Chairman of the Committee on Labor who made newspaper headlines for his 'over-activism' in the ninth parliament has been demoted to the backbenches in the tenth parliament. He was also summoned and admonished by the Prime Minister for his 'heroic activity' in making substantial changes to a Cabinet-approved bill. This has sent a clear message to those who want to contest government policy or play a proactive role. What matters is loyalty, not dissent. To survive in politics one has to toe the party line and abide by what the supreme leader decides. In other words, there is no major political incentive to undertake such 'innovative' activity; instead, those who want to do something that the party or government does not approve of risk political backlash.

More important than the hostile attitude of the party and government is the absence of any donor support for parliament and committees. Unlike in the past when donors competed with each other to support parliament, the tenth parliament remains an exception. Donors have declined to support any program that will strengthen the parliament mostly because they apparently do not consider it to be legitimate. The most important point to be made here is that the parliament itself does not want to encourage committees to undertake functions like this. No initiative has yet been taken to change the Rules of Procedure of Parliament, which do not allow public hearings. Committees need the approval of the Speaker to hold a hearing. Nor is there any provision for individual committee budgets to

pay the cost of public hearings. In the absence of any scope for holding public hearings, those committee staff who were trained in the art of organizing hearings by donors in the last parliament will probably forget much of what they learnt. They lack the opportunity to utilize their training in a positive manner.

The experience of public hearings in the ninth parliament demonstrated significant potential for these activities to become an integral part of Bangladeshi committee activities and to increase the role of committees in legislation and oversight. But in the context of the reluctance of committees to do anything similar in the tenth parliament, there is no prospect of institutionalizing public hearings. An evaluation team thus observes:

> There is no incentive for a committee chair in the tenth Parliament to hold a hearing that might embarrass a minister from the same party or to recommend changes to legislation that represents government policy, and there is no true opposition to ask the difficult questions that could hold government to account. Committee chairs have been denied reappointment or been pressured to resign as a consequence of amending legislation or asking tough questions. Regardless of the quality of PRODIP training and support, the political environment is proving insurmountable for public hearings to become routine in Bangladesh. (USAID 2015)

Lack of availability of donors' funds has not only affected the ability of parliamentary committees to undertake many important activities including organizing hearings; it has also discouraged many CSOs from undertaking any program for parliamentary development. As stated earlier, a large percentage of CSOs/NGOs live on donors' money; in the context of the lack of availability of external funds, many such organizations risk their survival. The Foreign Donations (Voluntary Activities) Regulation Act, passed by parliament in 2016, is, as Human Rights Watch (2016) has observed, "a shocking new initiative by a repressive government to make civil society toe the government line, or risk being arbitrarily shut down … The government claims it is committed to freedom of expression and pluralism, but then passes a law that would make an authoritarian regime proud.'

The law provides for stringent punishment, including cancelation of registration for different kinds of offenses by CSOs/NGOs. In practice, this makes any criticism of government, parliament or constitution an offense and subject to punishment. Most of the CSOs/NGOs will now be careful before proposing anything, including public hearing. Any critical

evaluation of government policies is thus unlikely. Amnesty International said in a statement that '[t]he law would not only hinder the ability of human rights defenders and civil society organizations to seek and secure resources but it would also expand the government's ability to unlawfully interfere with their work and arbitrarily cancel their registrations' (BDNEWS24, October 18, 2016).

Overall, there exist serious restrictions to the holding of civil society-centric public hearings. The increase in state-centric hearings is unlikely to compensate for the loss that is likely to arise because of the weaknesses of civil society-centric initiatives. Moreover, many such state-centric hearings are intended to seek support for government initiatives/policies rather than being used as accountability tools. In other words, many such initiatives, especially those organized by BERC, are intended to legitimize government actions rather than allowing the public to provide input to the framing of a new policy/program or resolution of a problem.

The experience of ACC may be somewhat different. ACC has already conducted 42 public hearings in collaboration with Transparency International Bangladesh, Japan International Cooperation Agency and the World Bank in 37 upazilas of 36 districts. The focus of public hearings is on land management (land registration, settlement and administration), health and rural electrification. The reason for selecting these organizations is that these services are essential for larger numbers of households and, further, the ripple effect is even greater. Based on the feedback received from public hearings, ACC is holding dialogue with government organizations to improve service delivery through business process reengineering (Ahmed 2017).

Parliamentary public hearings, however, have greater implications than the other types of hearing. They are not only needed to encourage parliament–public engagement; but more importantly they can be seen as an important mechanism of balancing the role of the executive and the legislature, which is needed for the consolidation of the democratic process. However, as stated earlier, committees in the tenth parliament remain extremely inert in holding public hearings. MPs are unlikely to demand any change in the Rules of Procedure, allowing formal public hearings by committees. Public hearings by officials, which are increasingly becoming institutionalized in Bangladesh, can be seen as an intrusion into public representatives' ombudsman function. Yet the latter are unlikely to raise any objection for the main reason that the government depends more on the bureaucrats for survival than the bureaucrats do on them.

Conclusion

Accountability of public officials is a prerequisite for inclusive governance. The question of social accountability becomes pertinent when the existing accountability institutions and mechanisms fall short of their mandated performance. Public hearings can actually contribute to strengthen state institutions through making them transparent and responsive to citizens. Thus, in a broad sense, public hearings lead us to look at the dynamic relations between civil society and the state that set the basic conditions of governance. Despite the inherent contesting dimension of this relationship, it could be complementary and crucial to achieving inclusive governance (Reuben 2003). Notwithstanding numerous limitations, public hearings have started to make some positive impact in state–civil society relations in Bangladesh. It is creating a negotiation space for citizens which, in turn, may lead to a redefinition of state–society relations. More specifically, public hearings may provide opportunities for better relations between MPs and their constituencies, and between service providers and their clients. These events have opened parliamentary proceedings to a wider audience and enabled ordinary Bangladeshis to have their voices heard by their representatives.

However, one should be aware of the fact that public hearings may be used to legitimize state policies and projects, instead of creating opportunities for deliberation, exchange and negotiation between the state and citizens on important issues that confront the latter. Thus, the success of the public hearing depends on the political, social and legal environments of society. Two things are very important: political support and the capacity of civil organizations to mobilize both the citizens and key state actors. In Bangladesh, unfortunately, both are now weak. However, for public hearings to have a long-term effect on promoting accountability, a few things need to be done. These include: provision of public hearings needs to be institutionalized by legislation at all levels of government and local government offices so that the offices, especially those which are involved in delivering public services, do organize public hearings regularly; proper guidelines for allocating adequate resources for the standing committees to hold public hearings during the tenure of a parliament should be incorporated in the Rules of Procedure of Parliament; and capacity-building initiatives could be taken up for both civil society organizations and government officials to show how to hold public hearings.

Notes

1. Upazila is the Bengali term for the word 'sub-district'. A district is usually composed of 6–7 upazilas. Each of the upazila administration is led by a permanent member of Bangladesh Civil Service, who is known as UNO – *Upazila Nirbahi Officer* (Sub-district Executive Officer). DC is the supervising authority of the UNO.

2. During the tenure of the ninth parliament (2009–2013), four donor-funded projects worked with the parliament to help it improve its operational capacity. The projects were: Improving Democracy through Parliamentary Development (IPD) funded by UNDP; Promoting Democratic Institutions and Practices (PRODIP) funded by USAID; The World Bank-funded Strengthening Parliamentary Oversight (DPO); and Strengthening Parliament's Capacity in Integrating Population Issues in Development supported by UNFP.

3. Rana Plaza, a building situated in a town about 20 km away from Dhaka city in which three garment factories were located, collapsed on the morning on April 24, 2012, killing more than 1100 workers and injuring more than 2500. Different sources reported that there were violations of the building code during the construction of the building. Lack of compliance with the labor rules in the garment factories located in that building was also an important factor in causing such a huge loss of lives.

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Decentralized Planning and Budgeting as Social Accountability Tools: A Study of Social Accountability in Local Government in Bangladesh

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There have been two "waves" in the evolution of decentralization reform (Cheema and Rondinelli n.d., p. 2; Olsen 2007). The first wave, or the first generation of decentralization, was initiated in many developing countries during the late 1960s and it continued until the mid-1970s. Researchers found that the first generation of decentralization had little impact in terms of administrative change; it failed in many parts of Asia and Africa (Crook and Manor 1998, p. 1). By the beginning of the 1990s, a second wave, or the second generation of decentralization was observed in an increasing number of developing countries as "decentralization in the variant of devolution", that is, transfer of powers to elected local governments (Olsen 2007; Rondinelli and Cheema n.d.). One of the key objectives of decentralization is to allow public participation in planning and budgetary processes in local government. In fact, participatory planning (PP) and participatory budgeting (PB) provide two important

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hallmarks of decentralization. Discussions in the literature on the importance of PP and PB in local government institutions (LGIs) justify them on several grounds, such as democratization of local government, achievement of better policy outcomes and, most importantly, enhancing social accountability in local government.

Local government is regarded as "a highly viable mechanism through which democratic processes and practices can be established and participatory development ensured" (Rahman 2005, p. 17). As devolution techniques, PP and PB can both be regarded as processes of political decentralization, which involve people's participation and people's representatives' accountability (Olsen 2007). The processes of PP and PB outline the political and fiscal decision-making process of local people (Wampler 2007). Wampler (2007, p. 21) defines participatory budgeting as "a decision-making process through which citizens deliberate and negotiate over the distribution of public resources." PP and PB in the LGIs can be seen as a bottom-up approach to planning in which people's needs are articulated to government agencies for political consideration.

PP and PB are seen as important tools of social accountability which, according to the United Nations Development Program (UNDP), "is a form of accountability that emerges, through actions by citizens and civil society organization (CSOs) aimed at holding the state to account, as well as efforts by government and other actors (media, private sector, donors) to support these actions" (2010, p. 10). Social Accountability Mechanisms (SAMs) are about direct citizen engagement in making public representatives and officials responsible to citizens' demands (Yilmaz et al. 2008). SAMs are emerging mostly owing to imperfections in the political accountability mechanisms (UNDP 2010; Sarker and Dutta 2011). Olsen (2007, pp. 2–3) defines political accountability as "a process whereby citizens hold their elected officials to account for their behavior and performance." However, the primary instrument of political accountability, elections, is now seen as imperfect. While conceding the importance of election processes, Devas and Delay (2006, p. 684) state:

> It is widely recognized that local elections need to be supplemented by opportunities for more direct citizen participation in decision-making, and by greater information about the availability and use of resources. This can also help to build accountability, since those who have participated in discussions about the local issues are more likely to demand accountability.

In this connection, it has been argued by scholars that participatory budgeting serves as "a citizenship school" as it empowers citizens with knowledge regarding their rights and duties. Furthermore, it provides opportunities to change citizens' political and social consciousness (Wampler 2007, p. 22). In addition, it confronts social and political barriers to getting government services: social exclusion and corruption. These are less possible, as the transparent process enables citizens to discuss all decisions at budget meetings: no decisions can be made behind closed doors (Wampler 2007, p. 22).

This chapter explores the scope and limits of mechanisms used to encourage social accountability in local government in Bangladesh, particularly at the Union Parishad (UP)—the lowest unit of rural local government. Different tools such as PP and PB, public expenditure tracking, citizen monitoring, use of performance report cards and evaluation of public service delivery have been developed over the years to ensure social accountability. People can negotiate and network with government officials and challenge power structure with their collective voice by using various mechanisms of social accountability (Sarker and Dutta 2011, p. xii). This chapter will specifically focus on two primary mechanisms, PP and PB, which provide the foundation of social accountability at local level. Each UP is divided into nine wards, with each electing a member every five years. In addition, three women members are elected from the reserved seats. The chairman, who heads the UP, is elected at large, i.e. by those who are eligible to vote. Section 47 of the Union Parishad Act of 2009 prescribes four types of UP responsibilities: administrative and establishment-related; maintenance of public order; service-related public welfare; and formulation and implementation of local economic and social development plans. Each UP has the authority to impose tax, fines and fees. But the main source of income of the UP comes from outside—grants from central government including donor-supported projects.

The Local Government (Union Parishad) Act of 2009 now requires the UP to organize Ward Sabhas (WSs) in each of its nine wards to be composed of all adult members and headed by the ward member (WM). Each WS is required to hold at least two meetings a year, at which all important decisions including planning for ward development, selection of projects and other decisions relating to the development of the ward are taken. Organizing WS meetings is considered as a prerequisite of receiving different grants, including World Bank-funded local government support programs. The UP prepares a Union development plan based on proposals received from different wards. The responsibility for implementation of

projects rests with a Ward Committee (WC) which is composed of five to seven members and headed by the WM, while a Scheme Supervision Committee (SSC) monitors implementation. No one can simultaneously be a member of both committees. The law requires each committee to include representatives of different professions as members.

The 2009 Act also requires the UP to organize a budget session in an open place every May to get its budget approved by the people. The Open Budget Meeting (OBM) offers an opportunity to the people to make their views known, approve budget and make the councilors accountable for their work. The priorities which have been identified at ward level are part of the consideration of a UP yearly budget. The Act of 2009 specifies that the UP will inform concerned WMs about the selection or rejection of any WS development project. Several objectives underlie the provision for involving the public with the local governing process; these range from encouraging public input to the decision-making process and involvement in the local governing process, to ensure that those responsible for governing remain accountable to the people.

WSs and OBMs provide the foundation of participatory planning and social accountability at grassroots level. Theoretically, both mechanisms have strong potential to allow people to participate in the decision-making process of UP, particularly in its two core functions, and to make the local leadership accountable to its electors. The process of social accountability through people's access to the resource allocation decision at the local level started in Sirajganj. Sirajganj Local Governance Development Fund Project (SLGDFP) was implemented in 82 UPs of Sirajganj district from 2000 to 2005 (Vijayalakshmi 2002). The Sirajgonj experiment found that the direct transfer of funds to the UP was feasible. It was also found that this transfer enhanced the functional efficiency of the UP functionaries. The voters at ward level were given the chance to participate in the planning and budgeting process of UP. The UP functionaries presented a yearly budget (income and expenditure) to the voters. Based on the success and good practices of SLGDP, the Government of Bangladesh (GoB) initiated the Local Governance Support Program (LGSP) from 2007 to 2011. At present, the GoB is implementing LGSP-III programs (2016–2021) with the financial assistance of the World Bank. The Local Governance Act of 2009 formalized the experiments carried out in Sirajgonj, and decisions were taken to replicate the Sirajgonj model throughout the country.

This chapter explores the extent to which a gap exists between what has been prescribed in the statute and the way role actors behave, and examines

the reasons that explain the divergence between rules and roles, if any. Data for this study were collected from six UPs of three Northern districts—Rajshahi, Sirajganj and Lalmonirhat—using purposive sampling techniques. Sirajgonj UPs have had long experience of organizing participatory planning and budgeting. The original social accountability model, as stated earlier, was developed in Sirajgonj and later replicated throughout the country. The Rajshahi UPs were being supported by various donor-driven programs which were working to ensure that different provisions of the UP Act, including participatory planning and budgeting, were practiced appropriately. The UPs of Lalmonirhat District lagged behind the others; these did not get much support from the outside, including from non-governmental organizations (NGOs).

Several methods were used to collect data. These included: review of documents including minutes of UP and WS meetings; UP resolutions and proposals of ward budgets by voters at WSs: formation of standing committees (SCs), a Ward Committee (hereafter WC), Planning Committee (PC) and Union Development and Coordination (UDCC) and their activities; yearly budget sheets; real income and expenditure statements of UPs; and resolutions of the UDCC, interviews with people who participated in WS meetings and attended the OBM (79), officers working at UP level (47) and key informants at *upazila* and district levels. Six focus group discussions (FGDs) were held in each Union (Total: 6 × 6 = 36); those who did not participate in WS or OBM were mostly invited to FGDs. A total of 323 respondents participated in those FGD sessions.

PB and PP: The Formal Framework

Effective working of WS and OBM through direct civic engagement is essential for establishing social accountability. The intention of involving people in the planning process is to ensure social accountability of UP's working process. It is expected that people will get themselves involved in the process of UP-related plans and financial matters through the WS and OBM processes. PP and PB at the local level create a social audit system where transparent income and expenditure flows ensure people's access and empower people with knowledge. It is suggested to link government's policy process, planning and decision-making since all are inter-connected and inter-dependent (World Bank 1998, pp. 31–2).

The processes of WS and OBM are linked together to provide important information to the people, for instance, which schemes were placed

Stages in planning and Budget Cycle	Social Accountability Mechanisms (SAM) and Tools
First Stage: Social Mapping and Ward Shava	Participatory planning/ budget formulation
Second Stage: Union Development Plan Preparation	Independent Policy/Budget Analysis
Third Stage: Policy / Budget Implementation	Participatory public expenditure/ input Tracking
Forth Stage: Monitoring and Evaluation in Open Budget Meeting	Participatory performance monitoring
	Participatory impact evaluation

Fig. 12.1 Application of participatory budget cycle (Source: Developed by author from the Local Government (Union Parishad) Act (2009) and Malena et al. (2004, p. 11))

at the WS by the people and which schemes were approved at the OBM by the UP functionaries. Moreover, OBM is a platform where people get information about income and expenditure statements of the UP and the state of the implementation of schemes that were initiated in the previous year. The UP Act of 2009 has produced a cyclical process of local planning and budgeting in the UPs. The Act outlines people's legitimized access to each stage of the financial and planning decision-making process. In Bangladesh, the local planning process of a UP has four stages (Fig. 12.1):

The first step in the participatory budget formulation is to undertake social mapping and hold WS. The members of the WC are required to do preparatory tasks for WS. They are responsible for providing detailed information to people about policies and spending priorities of local government. They identify problems and resources, determine preferences, select strategies and distribute responsibilities (cited in Zahid and Rahman 1994, p. 10). Moreover, the UP is responsible for directing the

members of the WC to publish the date and agenda of the WS at least seven days before the meeting: by distributing leaflets, invitation letters and notices (Fig. 12.2).

Political participation of the local residents is legitimized by the fact that the Act of 2009 states that a WS must be constituted in each ward and shall include all the voters enlisted in the voter lists. It is the duty of the WC members to divide the lay participants into small groups. These participants along with the WC members are required to identify their development needs, on the basis of resource classification, at the WS meeting.

The second stage, of independent budget analysis, is designed for analysis and scrutiny. Sector- wise plans and projects are prepared by the experts. Individual citizens are involved in preparing the Union Development Plan (UDP). The UP is responsible for collecting proposals from all wards and classifying them into various development sectors. The members of the PC are responsible for sending sector-wise plans to the respective SC including infrastructural, finance, social welfare, agriculture and education. The SCs are to prioritize those demands on the basis of availability of resources. From this process, they prepare a five-year plan. This parallels the national five-year plan, as the local plans are part of the national planning process. The decisions of SCs, on the basis of the priorities of WSs, are to be considered in the UP's yearly budget. This estimated budget is then sent to the UDCC and the UP for final approval (UP Operational Manual 2012, p. 40).

However, in the third stage of public expenditure tracking/project implementation, approved projects are implemented under the supervision of an SSC. For each UP, an OBM is to be held at least twice each year by the UP functionaries. The final budget of the UPs is sent to the Upazila Nirbahi Officer (Chief Local Government Administrative Officer, UNO), and the Upazila Parishad (UZP) for approval. The UNO of each UZP compiles all approved plans of the UP. He sends a copy of the compilation to the local offices of different ministries and to the Deputy Commissioner (DC), who is the administrative head of the district. Approved plans for the budget year and information about implemented projects of the previous year are required to be displayed in public places.

This fourth stage—monitoring and evaluation of planning and budgeting—offers citizens the opportunity to come together, to discuss how the budgeted activities are going on, check their results and finally to demand accountability from their representatives.
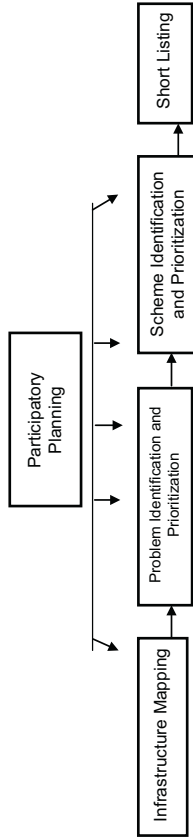
Fig. 12.2 Steps in participatory planning process of UP in Bangladesh (Source: Adapted and modified from UP operational manual (2012) and Rahman (2004 cited in Rahman n.d.))

Working of Social Accountability Mechanisms: Identifying the Trend

This section delineates the real scenario of people's participation in the UPs through analysis of both primary and secondary data. It depicts the process of WS and OBM of UP and illustrates the outcome, that is the state of people's participation in the planning and budgeting process. Evidence from the field, however, shows that there remains a serious gap at every stage between what the law prescribes and the way different actors behave.

Ward Committees Data from the field reveal that the formation of WCs was essentially defective. Although WCs were formed in each sample UP, these existed mostly on paper. WCs were formed mostly to qualify for LGSP funds. All of the WC members interviewed (nine) for the purpose of this study expressed the view that they were aware that their names were included as WC members even though they had never performed their role of organizing WSs. Nor did they have any understanding of the functions of the committee. Secondly, in most of the UPs, those selected as WC members were either ruling party supporters or relatives of the WM who headed the WC. It was observed in two UPs (Gogram and Ghurka) that political activists of the governing party were chosen as members of the WCs; while in other UPs sons, daughters-in-law, younger brothers, wives and sisters-in-law of WMs were selected as members (of the WCs) in the category of "social worker or general people." The evidence indicates that power politics seriously hinders the process of common people's participation in the formation of WCs. Owing to the influence of ruling party members, opinions of elected chairs of the UPs belonging to the opposition political parties, the BNP and others, have been ignored in some cases. This research has found that the ruling party's political activists also decide the beneficiaries of Food For Work (FFW), Test Reliefe (TR) and so on.

Social Mapping The objective of identifying local problems through dividing citizens into various groups, that is, social mapping, is supposed to allow citizens to have access to information regarding a UP's capacity for making decisions, through the planning process and its implementation, as well as by direct monitoring. Local people's needs assessment and identification of local problems are very important because feasible planning will then bring greater socio-economic development. It is argued

that a comprehensive survey of villages is necessary so that the problems will be identified and resource allocation to those specific problems will be ensured (Zahid and Rahman 1994, pp. 9–32). Evidence shows that social mapping was not done in most of the study areas; wherever done, it was far from satisfactory.

Interview with the general people and with UP functionaries revealed that there was no arrangement on the part of the UP functionaries for assessing the needs of the people in the UP. This social mapping is a separate part of the planning process which should be implemented before the planning process of WS. In practice, it was observed and confirmed in interviews that this process was being implemented simultaneously with the meeting of WS, where people found very little time to observe their ward's problems, social mapping, resource classification and discussion. Lack of coordination between NGOs, which have experience in social mapping, and the UP also discouraged the performance of this important function.

Meetings of WS The law requires, as stated earlier, that each ward hold two *sabhas* (meetings) every year. A long list of activities has been prescribed for ward *sabhas*. In most of the cases, *sabhas* were held regularly, but fake names were entered into the WS resolution book as attendees. It was found that half of the respondents did not participate even though their names were included in the WS resolution book. Most of those who attended meetings were either neighbors/supporters of ward members. Invitations to meetings were issued in a defective manner, and many voters did not have any information regarding the meeting. Data from survey areas further show that the participation of the people was very limited in the preparatory prebudget discussion at WS; many *sabhas* even lacked quorum.

Perhaps the worst thing that happened was that many ward members used a fraudulent tactic—making fake entries of names and signatures of voters in the WS resolution book—to show that meetings were held in accordance with the law, which requires the presence of one-fifth of the total voters for a meeting to be valid. Half of the ward members (18 out of 36) of various UPs collected signatures of the voters for ensuring quorum in the WS, although they were not physically present at the WS; it was needed to fulfill audit requirements in order to get LGSP project funds released. Most of the UP functionaries observed that several problems such as professional obligation, lack of personal interest, lack of awareness,

political reasons and "inappropriate" meeting times discouraged people's presence at the WS. FGD data, however, reveals that most people did not get an invitation to attend the WS. It was evident from FGD data that, if they were informed, people did not avoid attending the WS.

In addition, several other problems could be noticed. For example, UP officers were not yet fully capable of carrying out their enhanced responsibilities in the preparation of UDP. Neither were the formation of the PC, SC and UDCC fully worked out; nor was any attempt made for further budget analysis. The UP officers were unable to do it. They were also unable to arrange meetings with the members of SC and UDCC (Chowdhury 2015, pp. 140–144). As a consequence, participation of the people, members of CSOs and government officers and so on in the third stage of PP and PB could not be ensured. In such cases, UP chairs and their nominees in effect monitored themselves, and there was no objective study of project feasibility. Many of the plans that were selected at WS and finalized at OBM remained unimplemented. The intended linkage of policy, planning and budgeting, envisioned in the mid-term budgetary framework (MTBF), often did not happen. Too often, the bottom stayed at the bottom and there was no "up." Therefore, funding was insufficient to carry out the local plans. The budget copies of UPs that were sent to UPZ were not prioritized by the local offices of ministries for implementation.

Explaining the Trend

It has been observed that there PP and PB—two key elements of social accountability—do not work the way the UP Act prescribes. Many reasons, political, administrative, and social, account for the hiatus between law and reality. Party politics has substantive (negative) effect on making SAMs work. For example, data from different UPs show that the elected political leaders had shown their loyalty to the MP and UPZ chair by inviting them to the OBM. They did so because their nomination as a candidate for UP election was dependent on those senior leaders. As a consequence, it was found that the scope for participation by most people had decreased, while the entire budget session had become mechanistic thanks to the political oratory of the national and district/upazila level political leaders. In addition, this study has substantiated the finding of Panday and Asaduzzaman (2011) that the members of two major political parties still negotiated to control the UP service delivery. Dalal Chokra (a circle of mediators/brokers), who use their positions as ruling party members, and

the relatives of and campaign workers for, the Members of Parliament (MPs) or UP chair, have more influence in the day-to-day decision-making of the UP.

There was a lack of understanding among the village people regarding the planning and budgeting process. The WMs were found organizing WSs and OBMs; they utilized various techniques including invitation letters, announcements (by traveling microphone), personal contact, mobile telephone calls, message delivered by *Chowkiders* (village guards) and so on to encourage voters to attend the meeting. Despite this "mass marketing" of opportunities for participation, most of those who did not participate said that they did not get invitations and were not aware of WS and OBM. Arguments arise from the perspective of women's restricted mobility and the *purdha* system (hiding of women), which impedes their participation in the political process. The UP officers insisted that they had taken every possible step to ensure the participation of as many people as possible. They observed that the shortfall of participants at the WS was mostly due to lack of personal interest, lack of awareness, political reasons and time conflicts.

This study substantiated the finding of Faruki (2011) that the local leaders did not take any initiative to mobilize people or other local resources but always pursued grants from government, semi government, non-government and donor agencies. PB and PP brought the opportunity for securing additional resources from government and donors; but this then becomes a game for local officials to play. The following interview with one WM explained why there were some fake WSs:

> We have organized WS but we did not invite all the voters. Since there is no fund for the implementation for the projects what is the utility of having such plans? We don't get our UP's own allocations properly. Usually we, along with the UP Chair, allocate the funds of the UP. We did not even think to take big proposals from people.

The UPs which receive more grants from the treasury are less careful to mobilize funds from within their own boundaries. Several UP secretaries and a senior district level officer of LGSP project observed:

> The formation of WC is obligatory for organizing a WS. But WS is not specifically required to get LGSP-II funds. It offers an opportunity for villagers to express their overall demands relating to their benefits. The LGSP funds have specific utilization sectors, whereas planning at WS is supposed to

accumulate overall development plans of a Ward. I have found that most of the UPs are preparing their plans narrowly for getting LGSP funds. But along with willingness of UP officers, awareness of general people is necessary for people's participation at WS.

Moreover, the capacity for revenue generation by the UPs from their own sources was very limited. Khan (2011, p. 49) found that no government had taken action to encourage the UPs to utilize their own sources of income: instead the prescribed sources of UP income have gradually declined over time. In some UPs, incomes were not generated from house tax, *Izara* (lease) of local *hat* (market place), *Jalmahal* (water bodies), trade licenses and so on. The UP officers have a lack of capacity to identify and develop a valid database of the sources of tax.

The Case for PP and PB

That there remain some difficulties with making PP and PB work has been confirmed by some other writers (Razzaque 2016). What is also true is that, as Sarker and Dutta (p. 17) have observed, for the first time ordinary people are engaged in the local level plan and budget preparation in Bangladesh. This change is mostly owing to the implementation of the Local Government (Union Parishad) Act 2009. The number of people taking part in the local planning process is not negligible. Like Ullah and Pongquan (2011), this study has also found that the new system of planning practices in the UP has been facilitating democratization. Participatory budgeting and planning are creating a new pathway for participation of the masses in the decision-making process at local level. The congregational elements introduced by NGOs are found to be a significant factor in the outcomes of the planning process. The impact of NGOs and congregational elements can be explained from two perspectives.

Firstly, NGOs prevented "missing links" in the process of planning and budgeting. It was clear that, in many cases, the UP officers' capacity to undertake social mapping was insufficient owing to their lack of education and training. They often refused to attend social mapping sessions before attending meetings of WSs. In such cases, the first three stages of planning (formulation, analysis and implementation of projects) mostly existed on paper in order to release LGSP funds. Of the UP officers in this study 70.2% lacked training on the operational side of budgeting, such as defining budget cycles, making revenue estimates, classification of expenditure

as recurring or capital and conducting open budget hearings. So when they had to carry out their roles in the budgeting processes, they did not know what to do. However, NGOs filled the gap by providing training and by rendering the assistance of their expert staff.

Secondly, NGOs filled leadership gaps. In some UPs, NGO officers, as members of WCs, along with the UP members, formed the WCs and organized the WSs. The new system of budgeting and planning has induced local officials to make strategic plans, to use their UPs' financial resources and to collect taxes which were not properly assessed or remained uncollected. NGO officers have motivated and trained the many UP officers to collect household taxes, form WCs, and organize WSs and budget meetings. In these cases, the social mapping and decision-making processes took place at the same time, while the NGO officials and WMs facilitated the WS meetings.

This study has found that the general assumption that the rural poor, with limited education, cannot comprehend the significance of budgeting and policy planning is not always true. Data from the sample areas show that the ordinary people, like others, were also capable of identifying the priorities of policies which affect their livelihoods. The way they identified different policies needed for socio-economic development, including infrastructure programs, public welfare services, social activities (such as campaigns against dowry, early marriage, polygamy and drug abuse) and self-employment capacity programs was quite praiseworthy. They insisted that local governments include their names in social safety net programs, in cultural and sports activities and in parent participation in local school meetings. Thus, their input into the budgeting and planning processes was helpful and effective, both for improving policies and for getting the services from which they had been left out.

The formal planning process at WS and OBM challenged the existing power structure in the LGIs. Previously, the UP chairs had made almost all decisions by themselves, consulting whom they wanted to consult, if anyone (Aziz 1991). This study revealed that extensive publicity was undertaken by the UP officers, which encouraged many voters to attend the local WS and OBM. In the project evaluation and monitoring stage, this study found spontaneous budget discussion at OBMs, when the performance report for the previous financial year was laid before the meeting. The UP officers provided information generously, including the ward demand lists, budget documents and statements of income and expenditure, to those attending the meetings. Many of these had been displayed

through multimedia, or on a bulletin board at the UP headquarters, by the UP secretaries during the year; but presenting them in an OBM offered an opportunity for feedback and not merely one-way information. Voters at the meeting took the opportunity to question UP chairs and criticize their decisions. Moreover, written budget copies were distributed among the voters of all those UPs who organized OBMs, to inform those who had not attended WS.

Where, previously, spending decisions were the personal prerogative of the UP chairs, now money was spent according to the voters' priorities, at least up to a certain extent. The pattern of service delivery of UPs has changed slightly. It was evident that funds (including tax revenue of UPs, government allocations, donors' allocations, etc.) were allocated to those projects of the UP which had been selected at WSs. Interview data found that those who participated in WSs have assured that project implementation decisions (e.g. road and culvert construction, beneficiary selection of fishing net for group utilization, deep water wells) have been prioritized in the WS meeting and finalized at the OBM.

The leadership of the UP officers has provided the people scope to access and to raise questions at the OBM. Providing answers to those questions, asked by people at the OBM, has improved the UP officers' performance as well. This OBM, as a technique of SAM, has made the governing process of UP transparent, which could rarely be said in the past. These processes offered a chance, both to the electorate and to the UP representatives, to clarify their roles. UP representatives had to become more careful about their decision-making and assess the likely reaction of voters. Voters had access to the decisions, their costs and their outputs. This process has enhanced people's trust in the UP officers, since a lack of information often causes supposition and mistrust. Many of those who participated at OBM expressed their satisfaction with the process of OBM and confidence in their UP leaders.

Direct fund transfer to UPs was now considered to be feasible, owing to greater accountability and participation in spending such funds. When UPs had been one-man bands, direct transfer was considered unwise and unsafe, so they had been chronically short of assistance. However, large fund transfers to UPs under PB and PP, in the LGSP project, proved it a myth that corruption could be reasonably expected if UPs were given large cash injections (World Bank 2014). UPs have greatly benefited from greater assistance. Direct transfer, on the contrary, enhanced the functional efficiency of the UPs. The law requires that transferring agencies

receive a clean audit report on the transfer. So UPs had to upgrade their fund management to assure that their audits were clean (Chowdhury 2015, pp. 193–194; Aminuzzaman 2011, p. 204). UP secretaries began to maintain financial records of their UPs properly including income reports, expenditure reports, minutes of WS and OBM, budget copies, project beneficiary lists, project implementation lists, participant lists of WS meetings and resolutions of WS and SC meetings, which were required by the auditors. The sixth Five Year Plan has confirmed the benefits of PP and PB in the following way:

> Participatory planning and open budget meetings are held at grassroots level. In participatory planning meetings, the local governments gather information to decide upon policy priorities, revenue collection and expenditure. In open budget meetings, the views of participants are discussed and incorporated in the budget, where possible. (GoB 2012, p. 14)

CONCLUSION

Before the implementation of the UP Act, 2009, people had little scope to enter into the accountability processes of the UP, except at election time. However, only devolving power to the elected officials for decision-making in the planning process without considering the preconditions of implementation of decentralization policy cannot achieve much progress. The preconditions included institutional mechanisms, creation of spaces for participation, political will and civil will, capacity development at local level, careful implementation and democratic governance (Olum 2014, pp. 23–38). Some of these preconditions appear to be absent. Moreover, there are several other factors such as power politics, lack of capacity of the UP functionaries, non-responsive attitude of the UZP-level government officers, lack of access of women and daily laborers, and lack of financial and human resources at UP level that make the outcome of democratic decentralization unpredictable. It is therefore not at the input stage but at the output stage that PP and PB have had their main limitations.

There have been improvements, no doubt. UP officials have been rendered accountable and UP financial management has become more professional. Yet many plans have been laid on the table at the local level without projects or funds to implement them. At times, the process has even been faked, without regard to output, to get funding which requires the process. There has been a revolution in the process but outputs of the process have been limited. For instance, OBM was found to be an effective effort to

publicize public income–expenditure decisions and encourage debates on budgetary issues; it was also intended to make people active citizens (Malenat et al. 2004, p. 10). However, partisan politics appears to be a serious threat to the final outcome of the planning and budgeting process at local level. Panday and Asaduzzaman (2011, p. 165) thus properly cited Caiden's statement regarding problems of reform initiatives in Bangladesh:

> Laws are changed, structure reorganized, people moved around, manuals altered, and instructions revised, but the same behavior patterns are continued. The political and administrative culture, its beliefs, values, priorities, norms are hardly touched.

Many critical issues affecting the rural poor including employment generation programs and gender mainstreaming in the economic sector are often neglected by the local level policy implementers. In addition, specific fund utilization sector determined by donors, interference of MPs in the policy decisions of UP and non-implementation of the plans of UPs conflict with the spirit of democratic values of PP and PB. As a congregational element of local governance, only NGOs in some selected UPs have made significant impact in the participatory spaces. How such projects based on short-term funding can build capacity for the UPs for the long run is a matter of debate. Grindle's statement regarding the importance and challenges of decentralization is thus relevant here:

> Decentralization can contribute to improved performance of local government; it can provide new opportunities for responsiveness to local needs; it can mean that if governance improves citizens may hold public officials and agencies more accountable. Decentralization is not a linear or consistent process, and it can suffer reverses, as often as advances, in terms of how local governments and citizens take up its challenges. (quoted in Khan 2013, p. 77)

Both formal and informal procedures of participatory budgeting have positive and negative impacts, since they vary from country to country (World Bank 2007). The success of participatory budgeting thus depends on the identification of those formal and informal mechanisms which have proven effective, both for participation of people and for production of life-improving outcomes. It is evident that participatory budgeting can spur administrative reform (World Bank 2007).

In Bangladesh, there has been a reform of process but not that much of structure or action. To make PP and PB truly effective and not just efficient,

three major reform initiatives are necessary. First, UP elected officers must be made efficient, committed to carry out the decisions of the PP and PB process, knowledgeable, capable and well trained, and willing to change their traditional, very personal form of decision-making. Second, collaboration with NGOs should be encouraged, especially to improve the process of planning and budgeting in the UP. Third, UP revenue generation sources should be enhanced and their use maximized. This should be used as a precondition for a UP to qualify for central grants or grants coming from international sources. The way these reforms can be made shall be the subject matter of another study.

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Democracy, Inclusive Governance and Social Accountability in South Asia

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The territories of Bangladesh, India, Pakistan and Sri Lanka, which constitute the major part of South Asia, were all British colonies for about 200 years. Bhutan and Nepal were ruled by monarchs. South Asia as a whole is still one of the poorest regions of the world. However, poverty is noticed not only in economic or social terms; perhaps more widespread is what can be called the 'poverty of governance.' The institutions of governance—the executive, the legislature and the judiciary—do not function well and sometimes appear to be dysfunctional. They may need to be refurbished to become cleaner, more responsive, responsible and socially accountable in terms of service delivery. The institutions of democracy in different countries of South Asia need to be revisited, and there are many question marks against the realization of good governance in each of them. This chapter examines the state of democracy, governance and accountability in the South Asian region, focusing particularly on their strengths and weaknesses, and stressing the need for adopting an all-inclusive approach that should ideally make everyone a participant as well as a beneficiary.

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DEMOCRACY

Democracy has been variously defined and has meant different things to different people. Based on the premise of sovereignty vesting in the people, democracy has functioned differently in different socio-political climes and times. In addition, democracy has many variants. What may be generally agreed is that democracy is based on the premise that sovereignty vests in the people, and that in a democratic system people govern themselves either directly or through the representatives they elect under a system they choose. The twentieth century closed with what was considered to be a triumph of the expanding dimensions of democracy throughout the world.

The goal of every democratic government is to do good to the people at large and work for the welfare of all equally, without any discrimination. The nations in South Asia have all accepted democracy, but a growing cynicism toward democratic processes and representative institutions has presented a disturbing scenario. The faith of the people in the quality, integrity and efficiency of governmental institutions has seriously eroded. The legislature, the executive, the judiciary and even the fourth estate (the media) have all suffered an image deficit. In some cases, representative democratic institutions such as parliament have turned out to be dysfunctional. A perceptible decline in the respect of the people for their own elected representatives is widely noticed. The gulf between people and politicians seems to be widening. There is a crisis of character in democratic leadership and a devaluation of values in politics and public administration. Large sections of the media today tend to become arms of big business or are themselves big business—sometimes even clandestinely. Moreover, of the latest entrants—the fifth estate of non-governmental organizations and civil service organizations—some have lost much of their shine, credibility and impact potential when it comes to aiding emerging citizens' movements.

Merely electoral democracy or a liberal framework of democratic institutions, a charter of fundamental human rights or periodic voting may mean little unless they lead to a real participatory role of the citizenry in decision-making processes. There is a need for people-friendly governance and all-inclusive growth, with particular emphasis on the welfare and development of the most deprived sections of the society, as promised in the slogan of the present Prime Minister of India—"*Sabka Sath, Sabka Vikas*"—meaning taking all together and developing all.

The seven countries in South Asia, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka, are all sovereign states wedded to the norms of democratic constitutional polity with elected legislatures and governments in position. Insofar as democracy involves competition for political power between organized groups or political parties, every country in South Asia qualifies to be a democracy. Despite some crises, democracy in Sri Lanka has been strong and stable. Sri Lanka leads others in the human development index, has the highest rate of literacy and life expectancy, and the lowest rate of infant mortality. She also has a high rate of per capita gross national product (GNP). The problems created by the ethnic divide between the Sinhalese and Tamils have since been largely resolved. Bhutan is a unique example of a sovereign nation where a hereditary monarch on his own has taken the initiative to democratize the political system. Moreover, Bhutan has given to the world the great concept of measuring the progress of a nation on the criterion of human happiness. It has accorded the greatest emphasis on securing a better quality life for her citizens in accordance with the Happiness Index. In Nepal, after a long struggle, monarchy was transformed into a multi-party democracy and the second Constituent Assembly has given to the nation its first Constitution, entirely created by the elected representatives of the people. The latest Constitution appears to be very progressive and forward looking. It has the necessary resilience to meet changing societal needs through peaceful conflict resolution mechanisms. Bangladesh has emerged as a stable democracy with a strong party system and two major parties.

On the negative side, none of the countries in South Asia could be said to have any genuine inner party democracy in their principal political parties. In most of them, democratic forces have been adversely affected by ethnic identity politics. Moreover, fundamentalist and terrorist elements indulging in violence have been continuing challenges to democratic institutions and national stability. In many parts of South Asia, further common problems on the negative side have been those around the need to grapple with widespread corruption, party discipline and defections. Perhaps the only countries in the democratic world needing to enact anti-defection laws were India, Pakistan, Sri Lanka and Nepal.

Ideally, four indicators may be flagged as criteria for measuring the state of democracy, particularly the level of citizens' participation in the governance process:

- Free and fair elections of representatives on the basis of equal rights for electors.
- Citizen-centric governance with full transparency, responsiveness and accountability of government functionaries to the people, and government officers functioning as servants and not their masters.
- Active and alert civil society.
- Preservation of rule of law, equality of citizens, dignity of the individual and agenda of all-inclusive growth.

While there are multiple links between democracy and development, to measure them in quantitative terms is difficult. But to be meaningful, both democracy and development must be inclusive of each other. Furthermore, development should not be measured merely in economic, GNP and gross domestic product (GDP), terms and on the anvil of the prosperity of the few. What is important is effective human development, fulfillment of basic civic and social rights and a general improvement in the quality of life for all. Democracy implies attention to the development and well-being of the poorest of the poor. It must provide equality of opportunity and right to live with dignity and in freedom from want and fear for the most marginalized and deprived sections of society. Most of the countries in the South Asian region have not been able to achieve the millennium development goals set by the United Nations General Assembly.

According to an IDEA study (2009), there is a crisis of democracy in South Asia because of corrupt political leaders, inefficient state institutions, absence of transparency and accountability, and the role of money and muscle power. It adds that "the role of religious parochialism in politics has substantially increased in Bangladesh, India, Pakistan and Sri Lanka." During the preceding 20 years, particularly in India, unemployment, corruption and governance deficit have increased. While granaries are full and food grain is rotting in the open, the poor continue to die of starvation or commit suicide in increasing numbers. The assessment made by a Constitution Review Commission (Government of India 2002) still remains valid and relevant:

We find that Justice – social, economic and political – remains an unrealized dream for millions of our fellow citizens. The benefits of our economic

growth are yet to reach them. We have one of the world's largest reservoirs of technical personnel, but also the world's largest number of illiterates, the world's largest middle class, but also the largest number of people below the poverty line, and the largest number of children suffering from malnutrition. Our giant factories rise out of squalor, our satellites shoot up from the midst of the hovels of the poor. Not surprisingly, there is sullen resentment among the masses against their condition erupting often in violent forms in several parts of the country. Tragically, the growth in our economy has not been uniform. It has been accompanied by great regional and social inequalities. Many a social upheavals can be traced to the neglect of the lowest of society, whose discontent moves towards the path of violence.

Unless accompanied by decentralization of power down to the lowest unit levels, sub-national identities—ethnic or otherwise divisive forces—hamper economic development and national unity. Many of the economic liberalization policies directed toward growth in terms of national GDP, GNP, per capita income, foreign exchange reserves and so on are based on the presumption that these will lead to overall economic development and the removal of poverty through a trickle down or left over effect, and that the rich may have to grow richer before the poor can get less poor. The poor do get a little less poor but the rich get very much richer. As a result, the gulf between the rich and the poor widens and the sense of dissatisfaction, deprivation and injustice becomes more acute, leading to consternation and revolt.

While no democracy in the world seems to have found an answer to the role of big money, in India the phenomena of criminalization of politics and politicization of crime have polluted the effectiveness and legitimacy of state institutions. One of the most fundamental norms of democracy—sovereignty in the hands of the people—was grievously eroded when the people did not become actual participants in processes of governance and did not exercise constant vigilance over the conduct of those elected to public office. To save democracy, ways and means have to be found to restore power to the people where it belongs. Since the majority of the nations in South Asia have suffered from the after effects of a long colonial past, ordinary people in city slums or village huts have yet to feel the glow of the dawn of freedom. With the continuance of the colonial model of administration and the colonial mindset of the ruling classes, the people continue to be treated as the subjects and not as the citizens of a sovereign democratic nation. Policemen still perceive their role as one of assisting the rulers to control the people rather than of being their helpers, friends and servants. It is time for a basic

change in the attitude of politicians and bureaucrats so that they cease to regard themselves as masters and a privileged ruling class and begin to behave as fully accountable servants of the people. There is an urgent need to overhaul the political culture of the colonial model and bring about systemic changes.

The hard fact is that democracy is not a finished product. It is a dynamic process. In the history of democracy the world over, there has never been a fully developed or perfect democracy. It is always developing, ever in the making. On this road there is no journey's end. Furthermore, in every country, democratic institutions have to rise from its own soil, to suit its own environments and societal needs. The criteria for measuring the success of democracy have also to be largely specific to individual countries. As the most preferred form of government, democracy has been repeatedly revisited. According to the most oft-quoted definition, democracy is government of the people, by the people and for the people. Speaking in the Constituent Assembly of India on November 25, 1949, a day before the final adoption of the Constitution, Dr. Ambedkar said:

> "Times are fast changing. People including our own are being moved by new ideologies. They are getting tired of Government by the people. They are prepared to have Government for the people and are indifferent whether it is Government of the people and by the people." (C.A.Deb., Vol.XI, p. 980).

To put it in modern terminology, people-friendly good governance is more important than mere democracy, or perhaps democracy as we have known and practiced is not enough. We may have to rethink the fundamentals of democracy to suit the needs of the twenty-first century. We may have to transcend it and go beyond it to get nearer to the real ethos of democracy. We may have to revisit, reinvent and revitalize it to save and serve the common man, most particularly the most deprived and disregarded. The case for reforming democracy is unassailable. The positive sign in the whole discourse is that every nation in South Asia today swears by democracy. The negative side is that in some countries, particularly those with a colonial past, despite outward trappings of democracy, in actual practice the colonial model continues where the administrators and even elected leaders and legislators behave like rulers and treat the citizens as subjects.

Governance

For some three decades now, the issue of governance has been in the forefront of development discourses and discussions in Political Science and Development Economics. The study of institutions which had been relegated to footnotes is back in the reckoning and inadequacies in the functioning of state institutions and problems of governance have come to occupy an important space. The concept of good governance is still developing, but every nation wants good governance and an improvement in its citizens' quality of life. Good governance affects the lives of the people. It is of special relevance to the marginalized and deprived sections of society. Good governance implies limited government. It must be based on participatory and inclusive democracy and remain responsible to citizens at large, responsive to their urges and aspirations. Those who are called upon to govern on behalf of the people should be motivated with a will to give their best to serve and to do good, to solve problems and make people's lives more livable, satisfying and happier. The obstacles in the way of achieving these objectives are many; the following are particularly important:

- The incapacity of the institutions of the executive, the legislature, the judiciary and bureaucracy to provide better performance regarding service delivery, dysfunctional parliament, expensive and delayed justice delivery and corrupt administration.
- Over-extended role of the state.
- Politicians' only concern in public life being power at any cost.
- Absence of law for political parties.
- Crisis of character and leadership in public life.
- Faulty and divisive electoral system.

Democracy needs good governance and good governance is necessarily constitutional, limited, democratic, inclusive, transparent, accountable to the people and oriented to serve their interests. Democracy and governance cannot be handled separately (IDEA 2009). Good governance and inclusive democracy must walk together. What is of paramount importance is socio-economic development and the quality of life for all citizens. Since representatives in a democratic system of government are supposed to be responsive to public opinion and pressure, the quality of governance

is dependent upon the quality and character of citizens who elect the politicians. If the citizens themselves are looking for undeserved or illegitimate benefits from the state through favors from the elected representatives, good governance can never take shape. This is a stupendous responsibility and calls for education in the values and responsibilities of good governance in every democratic polity. There is a need to restructure both the functions and processes of governance. Violence and democracy do not mix well. Terrorism and other anti-national subversive forces—internal and external—seem anxious to destabilize governments and constitute a separate category of challenges to democracy and governance in South Asia.

The concept of good governance is of relatively recent origin. The World Bank was the first to introduce it in development discourse during 1989–1992. The World Bank and the International Monetary Fund (IMF) both made it obligatory for borrowing nations to agree to adhere to their good governance agenda. According to a 1992 World Bank statement, "good governance is adequate government, caring for human rights, rule of law, participatory changes and voluntary transformations." It is "central to creating and sustaining an environment which fosters strong and equitable development and it is an essential complement to sound economic policies." But it is difficult to accept the highly restrictive and loaded World Bank formulations of the concept of good governance or its indicators. Actually the connotations of the term are much wider and pre-date the World Bank by long years. A plethora of literature has grown round the concept of good governance. It has been interpreted differently and even in contradictory terms. References have been traced to Kautilya (300 BC) and earlier (Kashyap 2003). The Constitution of India (1950) speaks of its Directive Principles of State Policy being "fundamental in the governance of the country" (Kashyap 1997, 2010). That perhaps is the only place in the Constitution of India that the term "governance" has been used.

The model is very different from that of the World Bank in as much as it envisages a social order for the promotion of the welfare of the people with social, economic and political justice for all, minimization of inequalities in status, facilities and opportunities among individuals and groups of people, right to adequate means of livelihood for all citizens—men and women equally, right to work, to education and to public assistance in cases of unemployment, old age, sickness, disablement and so on, just and humane conditions of work and maternity relief, a living wage for workers with

conditions of work ensuring a decent standard of life and full enjoyment of leisure, raising the level of nutrition and the standard of living and improving public health (Articles 38, 39, 41, 42, 43 and 47). The prescription sounded very inclusive and promising of socio-economic justice.

John Darnton wrote in the *New York Times* (June 1994) that the IMF and the World Bank were the "external superpowers" which were founded at the Bretton Woods Conference to serve the needs of the industrialized world." These new "overlords" substituted the "old colonial masters"—Britain, France and others—of the nineteenth century and the cold war period superpowers of the mid-1970s. The modus operandi was that they came out "to bail out a country" that was "bankrupt." They did so by drawing up a "Structural Adjustment Program (SAP) – a tight package of economic prescriptions designed to bring about free market enterprise and minimize government interference." Because the package was tied to millions of dollars in aid from Western donor countries, it became an offer that could not be refused. And so the IMF and the World Bank ended up calling the shots on a broad range of ideas—even political matters such as calling for multi-party elections—that affected the lives of millions. Through their SAP, the IMF and the World Bank came to oversee and supervise the economies of a number of countries. Under the camouflage of the slogan of one world and a global village, ordinary citizens have been increasingly reduced to being mere consumers of goods and services instead of being masters in a democratic polity. The result is a tremendous erosion in democratic rights and freedoms of the individual vis-à-vis the organs of the state.

South Asia, as a whole, had the dubious distinction of being both poor and mis-governed, subjecting the people to a great deal of deprivation, want and misery. Often, the main organs of the state—the executive, the legislature and the judiciary—failed to perform in the respective areas assigned to them while they tried to do what they were not supposed to do. The motivation and rationale behind the governance discourse in South Asia and other developing countries is that of remedying the situation created by failing institutions of the government, stark inequalities, abject poverty, deprivation and widespread corruption. The essential indicators of quality governance in South Asia are that the system should be good and suited to the needs, aspirations, background and ethos of the people concerned. Those selected for operating the system should be endowed with character and competence and motivated with the spirit of public service (Kashyap 1996).

The present trend globally seems to be to push ideology to a back seat in politics. The emphasis is on providing a citizen-friendly administration and a development-oriented government. The people's representatives must realize that supreme sovereign power vests in the collective will of the people. The people are entitled to demand good-quality, responsive, responsible, corruption-free, clean, efficient, effective and all-inclusive government which treats them not as subjects but as masters in a sovereign democracy and accords the highest priority to their needs and interests. Good governance demands limited government or, in the terminology of the new Prime Minister of India, "more governance, less government." While the state concentrates on its essential functions and on strengthening the functioning of its institutions and the highest priority has to be given to economic growth and development, it is important to reiterate and to remember that in South Asia a large number of people lead a life of deprivation, want and misery. Good governance has to take care of the interests of the poorest of the poor. IMF and World Bank models of market-oriented global village and good governance based on maximization of production and consumption and competitive consumerism leading to sustainable development may not be able to do it.

The system of governance cannot be seen as independent of the sociopolitical, economic and cultural environment in which it works. The agenda of economic development and growth cannot be left entirely to market forces: The state has to intervene to ensure equitable distribution and inclusive growth. A purely market-based system of governance is incapable of providing basic amenities to the poor and the disadvantaged. There is need for state intervention to bring justice and equality to the majority of the people (Behera 2011).The basic issues in large parts of South Asia today are how to ensure high economic growth and see that its benefits flow to all citizens without any discrimination. The governmental service delivery system has to be of a high order and the needs of the poor, the deprived and the marginalized, including women, children and minorities, have to be specially addressed.

Inclusiveness and Social Accountability

Democracy and governance both have to be inclusive, transparent and socially accountable. Social justice and inclusive growth have to be ensured through good governance. Ideally, in a democracy, the people themselves

should be involved in the processes of decision-making and the benefits of governance should cover their interests. The Oxford Dictionary defines "inclusive" as "including or covering all the services, facilities, or items normally expected or required," "not excluding any section of society," "to cover both men and women," and so on. The concept of inclusiveness inter alia involves gender equality and equity with more space for women. Gender discrimination is one of the most widespread forms of institution-alized deprivation. Interestingly, in the matter of gender inclusiveness, South Asia's record is full of contradictions. In the matter of occupying high offices of the state, its record is better than that of any other region on the globe. Bangladesh, Nepal, Pakistan, India and Sri Lanka have all had women as Heads of State or of the governments—Prime Ministers or Presidents. In India, a woman was one of the longest serving Prime Ministers. India also had a female President. Women have occupied some of the highest offices in the judiciary and in bureaucracy. At the time of writing the Speaker of Lok Sabha is a woman. The Prime Minister of Bangladesh is a woman. The leaders of two principal parties are also women. In Nepal, the first President under the new Constitution is a woman.

The Gender Development Index (GDI) value is highest for Sri Lanka, at 74.7%. Other South Asian countries including India have not only a low GDI value but also a large gap between GDI and Human Development Index (HDI) indices. South Asian societies are largely male-dominated. Illiteracy among women is generally high. Cases of violence against women are very common. Women continue to suffer discrimination, deprivation, harassment, humiliation and exploitation in and outside the home. In villages particularly, women have to work hard and are usually not well treated. Representation of women in legislatures and in state services is low. Of course, so far as constitutions are concerned, almost every text promises equality between men and women. Besides, some of them such as Bangladesh and India also provide special provisions in the interests of women. The new Constitution of Nepal is uniquely inclusive in the matter of rights of women and children. It guarantees inclusive female representation at various levels. In the federal parliament, 33% seats are earmarked for women. The emphasis is on implementation and accountability.

In countries following the parliamentary model, the executive is, as a rule, accountable to parliament, which in turn is accountable to the people

at large. But legislatures and representatives of the people in the countries of South Asia are rather weak in discharging their accountability to the people role, thereby offending the quality of governance. Since modern national democracies are by nature representative and not direct, mechanisms have to be devised to ensure that the participation of the people in matters of governance is not limited to mere voting at periodic elections and that they are equal beneficiaries of state activities. Decentralization or transfer of power to the grassroots, local self-government, multi-tier federalism and so on are thought of as having the best impact potential for good people-friendly governance, and variants of local self-government and decentralization to the grassroots have been tried in Nepal, Bangladesh, Pakistan and India. In India, 33–50% of seats are reserved for women in all Panchayati Raj Institutions (PRIs) and some 3.5 million elected rulers at the grassroots include close to 1.5 million women. But there has been hardly any substantive devolution, top-down decentralization or bottom-up approaches. Institutional devices of the Gandhian model or of the European subsidiarity principle could not gather the necessary strength or prove to be very effective in South Asia, including India. Moreover, conflicts arose between the established leadership and newly emerging local or village leaders.

The discourse on inclusive governance at national and state levels became more relevant in ensuring that the benefits of development and growth achieved by the nation/state were shared by all and not cornered by the few. Inclusive governance seeks to guarantee that the deprived, disregarded, disadvantaged, marginalized and exploited sections of society are not excluded either from decision-making processes or from the enjoyment of the fruits of development. Equitable development and distribution and reducing the widening gulf between the rich and the poor are possible only under inclusive governance. All development initiatives should ideally be based on the principles of social accountability and social inclusion. Absence or inadequacy of inclusiveness makes it especially necessary that governance is made socially accountable and answerable to the people.

Social accountability leads to social inclusiveness, and vice versa. There is a synergy between the two, and both lead to greater responsiveness of government agencies, improved public services, better governance and reduced corruption. Demands regarding human rights and human development also dictate the need for inclusive and accountable democratic

governance. Inclusiveness presumes equality, nondiscrimination and rule of law. Furthermore, it is necessary to prevent the siphoning off of funds, corruption and bureaucratic delays.

> What is needed is participatory inclusive governance aiming at reducing poverty and social and economic inequalities by increasing ordinary citizen's role in decision making and ensuring social accountability of governance. To better realize social accountability, social audit has been suggested. The key elements of democratic governance may be said to be inclusion and participation, Equality and non-discrimination, and transparency and accountability.

For democracy to flourish and deliver on its promises—including political ones—institutions of government must be inclusive, transparent, accountable and responsive. A UNDP study (2013) remarks that macro studies result in a "tyranny of averages." For inclusive development, analysis must go beyond the macro to the micro and look at the lack of services for the most marginalized. Good governance presumes the existence of a robust and vigilant civil society, demanding closer relationship between the rulers and the ruled, between the policy makers and the citizens, with the organs of the state being responsible and accountable to the people. Social accountability mechanisms can enhance and supplement existing accountability mechanisms such as right to information legislation and make governments accountable and answerable to civil society in countries of South Asia.

CONCLUSION

In the midst of alarming inequalities, abject poverty, a long history of colonial exploitation, deprivation, backwardness and the illiteracy of large sections of people in South Asia, building an inclusive and socially accountable democracy and governance is a formidable task. At least part of the responsibility for the current state of affairs attaches to the international community and the global order. The resources of the earth, which are the common heritage of all humanity, are unevenly and most inequitably distributed. Settler societies have ill treated their lands' original inhabitants, aborigines and tribals, evicting them from their lands, systematically

annihilating them by force and deceit and becoming masters of their rich lands, colonizing vast lands and large countries in Asia, Africa, South America and elsewhere. It is these powers who are now in the forefront of advocating globalization, human rights, inclusive governance and democracy, and social accountability toward the deprived, the marginalized and the like.

In all fairness, it should be for the affluent countries to show the legitimacy of their economic growth. Was it at the cost of the indigenous populations, of the shiploads of slaves brought to work in the fields and factories, or of the colonized peoples? They need to be sensitive to their responsibilities toward the nations of South Asia that were deprived and marginalized by their historic wrongs and injustices. The hard fact is that the natural resources of the earth, the fruits of economic growth brought by the labor of serfs and slaves and riches from the colonies, are cornered by the few developed nations and are not shared by the deprived and marginalized part of the international community, which includes South Asia.

Sometimes it appears that the options before the South Asian countries are either to build an affluent class by throwing open its economy to national and multi-national market forces or to concentrate on removing abject poverty and gross inequities through distributive justice, economic discipline, self-reliance and sacrifice. But perhaps there is no fundamental contradiction between liberal reforms for a free market and inclusive growth with justice for all. Economic growth and equity can be achieved together in South Asia.

A massive churning is under way. Leaders and civil society are aware of the problems and challenges before them. Nations—each in its own way—are on the move. Even where problems of governance appear to be very similar, possible solutions may vary widely and may have to be country-specific. What suits or succeeds in one country may not work in another. Nevertheless, each may learn from the experience, failures and successes of the others in tackling the problems of building institutions of good governance. The common need is achieving the key objectives of democracy and development—inclusive and equitable growth of all sections of society alongside accountable democracy and people-friendly governance. The recipe for success is in agreeing to share in working for growth and enjoying its fruits. In simple language, decision-making processes must be inclusive of all interests and all state functionaries, at all times, must be accountable to the ultimate masters in democracy: the people. Democracy, freedom and governance are tender plants, and unless nursed with meticulous care wither away fast.

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Governance for Inclusive Development in South and East Asia: A Comparison of India and China

Bill Chou and Ahmed Shafiqul Huque

There is an increased in inclusiveness since the early 21st century when the World Bank was convinced that economic growth did not necessarily improve the living standard in the developing countries. While there is apparent support for this trend, the history of developing countries indicates that entrenched power holders are reluctant to encourage participation. Various social and economic groups struggle to gain access to institutions and actors to voice their needs and claims, and face strong resistance. There is no doubt that the process of governance is severely affected in the absence of avenues and facilities of participation, and considerable sections of the population in developing countries remain outside the network of governance and critical institutions.

Development is a holistic process; its benefits should be available to all citizens. This is important in order to ensure that development outcomes do not cause wide income inequalities, benefiting privileged groups at the

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expense of less fortunate ones. Many countries have suffered from this consequence of uneven development; the impacts are noted in increased poverty, intolerance, conflict, and terrorist activities. This is not the desired effect of development; similar ideas are grounded in the United Nations' human development approach that emphasizes the integration of "standards and principles of human rights, participation, non-discrimination and accountability" (United Nations Development Program 2016). This view encompasses the most desired value of inclusive development in the modern world. It is inherently linked with the scope for public participation in making decisions relating to the developmental process. Without public engagement, the benefits of economic development tend to accrue to those who are more affluent, better educated, and more closely connected with the powerful political structure. Based on the experience of developing countries, poverty cannot be reduced without equitable distribution of economic gains. Income inequity will only be increased with the operation of unrestrained market forces, which favor owners of capitals and assets.

This chapter compares the approaches and practices in the two most populous and rapidly developing nations of the world—the People's Republic of China and the Republic of India—in promoting inclusive development. This subject has already attracted considerable attention from scholars (see Wood and Calandrino 2000; Lal 1995; Malenbaum 1982). The chapter attempts a comparative study grounded on the fact that the population of these two countries accounts for more than one-third of the global population; their lessons in promoting inclusiveness could be significant in helping other countries to draw lessons and in improving the well-being of a very large number of people across the world.

It should also be noted that China and India employ diverse approaches to governing. China is the world's most populous authoritarian state, where decisions are made on the basis of a top-down approach, with little space for participatory policymaking. While the autonomy of the provincial governments in matters of economic policies renders China to be de facto economic federalism, the authorities in Beijing centralize extensive authority to discipline provincial leaders who pursue policies that are divergent from the priorities of central government's agenda. India is the most populous democracy where political leaders are held accountable to the electorate. The federal and decentralized political system provides extensive scope for the Indian states (provinces) to adjust developmental policies formulated by the federal government to suit local needs. This

chapter argues that simply adopting democracy and opening up space for participation may not necessarily contribute to inclusive development. At the same time, we would like to emphasize that the economic success of China is not necessarily driven by efforts toward inclusive development. What matters more are the institutions that produce smart social policies targeting development goals.

Inclusive Development and Democracy

Cambodia, Sri Lanka, Bangladesh, Nepal, and Lao People's Democratic Republic have experienced economic growth and rising income inequality since the early 1990s (Lin et al. 2008, p. 2). These developmental problems are connected to the unfair distribution of benefits and costs of economic growth that discriminates against the poor and working class. This remains a problem, and rethinking the aims and means of economic development by practitioners and academics has led to the evolution of the concept of inclusive development (Zafarullah and Huque 2012, pp. 109–12). This concept was proposed in response to the lingering—actually worsening—state of gender inequality, poverty, unemployment, diseases and illnesses, and environmental pollution amidst economic growth. Apparently, wealth generated by economic growth is not necessarily spent on the improvement of people's well-being, such as education, public health, and poverty reduction. Instead, it may be squandered on military hardware and infrastructure built as monuments to particular regimes.

Since 1979, China has experienced not only impressive growth in gross domestic product (GDP) per capita at 8.5% and 7% on household incomes on average for three decades, but also rising income inequalities (Lin et al. 2008, pp. 1–2; Tandon and Zhuang 2007). The growing disparity was attributed to China's economic policies, which ignored the development of labor-intensive industries and small and medium enterprises. These industries would be able to create more jobs and increase the salary level for China's unskilled workers (Lin and Liu 2008).

The limited improvement of human well-being powered by economic growth has drawn the attention of many academics and practitioners in developmental studies. Seers (1979) proposed a multi-dimensional concept of development that included GDP growth, poverty reduction, social equality, elimination of illiteracy, job creation, and political participation. Goulet (1978, pp. 85–95) pointed out that under the concept of inclusive development, economic growth should not only be pursued in order to

raise GDP but also to lift the general public's living conditions, such as improvements in sustenance (met by protection, food, shelter, and medicine), freedom (opportunities for making decisions and self-actualization), and self-esteem (dignity, identity, honor, recognition, and respect).

Owing to its potential to empower the less advantaged citizens, democracy is often assumed to be capable of enhancing inclusive development (Brown and Mobarak 2009; Ghobarah et al. 2004). The experience of Western countries, characterized by the immense influence of such social groups and individuals as unelected business associations, trade unions, professionals, and academics, has demonstrated the limitations of electoral democracy in fulfilling public needs and expectations. To prevent unelected groups and individuals from marginalizing other citizens, public participation at different stages of the policy process through various platforms was advocated (Yang and Callahan 2007; Hira et al. 2005).

However, the correlation between inclusive development and regime type is open to question. Compared with their less democratic counterparts in South Asia, the record of some democracies such as India in promoting inclusive development is unimpressive. Drèze and Sen (2013, pp. 56–7) found that between the early 1990s and 2010s, the rank of India in South Asia declined according to many indicators of inclusive development, such as life expectancy, infant mortality, maternal mortality ratio, mean years of schooling, female literacy rate, and proportion of underweight children. Besides, there is no strong correlation between democracy and welfare spending, with Cuba being the most remarkable example of an equitable society (Chou and Huque 2016). Meanwhile, there have been dramatic improvements in human development in many of the authoritarian countries, represented by the developmental states in East and Southeast Asia before they made the transition to democratic systems in the late 1980s (Wade 1990; Evans 1995). Under authoritarian rule, South Korea was able to achieve the dual objectives of reducing income disparity and promoting economic growth simultaneously between the 1970s and late 1980s. Taiwan achieved similar progress for an even longer period between the 1950s and 1980s through supporting and strengthening small and medium enterprises (Li and Luo 2008).

Furthermore, democratic regimes are not often held accountable in the way democratic theorists have suggested; many less advantaged groups can hardly participate in policy process owing to poverty, disability, and location (Ross 2006; Gauri and Khaleghian 2002). Moreover, inclusive development (measured by infant mortality rates) is affected more by the

stock of democracy (the time span of the democratic regimes established) than the level of democracy (Gerring et al. 2012). Nevertheless, there is no proof that democratic regimes are less effective than non-democratic states in promoting inclusive development. Chou and Huque (2016) disagreed with the idea of completely disregarding the importance of public participation for inclusive development. The value and impact of participation can differ across countries, political boundaries, and administrative cultures.

Western developed countries and international organizations widely promote democracy, accountability, and public participation as the policy tools for improving the quality of governance and human development. Asian Development Bank highlighted the relationship between high quality of governance and inclusive growth and recommends good governance practices across Asia. The World Bank has incorporated the degree of "voice and accountability" into its Worldwide Governance Indicators. All countries (except Hong Kong and Singapore) that ranked high in this category are democratic regimes accountable and responsive to the people. In 2012, the United Nations convened a Conference on Sustainable Development to address the issue of inclusive development, acknowledging the significance of public participation, citizens' voice, and a partnership of governments, civil society, and private sector for achieving the objectives of sustainable development (United Nations 2012). The 2013 Human Development Report of the United Nations Development Programme (UNDP) (2013, p. 5) emphasized the role of enhancing voice and public participation as one of the four major strategies for pursuing inclusive development.[1] The rationale is as follows:

> Unless people can participate meaningfully in the events and processes that shape their lives, national human development paths will be neither desirable nor sustainable…Dissatisfaction is increasingly high in both the North and the South as people call for more opportunities to voice their concerns and influence policy in order to ensure basic social protection and social progress…. Such upheaval can derail human development—as unrest impedes investment and growth and autocratic governments divert resources to maintaining law and order. (UNDP 2013, p. 6)

Various academics have recognized the international efforts. Seers (1979) underlined the central role of public participation in inclusive

development. Goulet (1978) argued that the establishment of an institution to promote public participation is one of the three implementation principles of inclusive development.[2] Sen (1999, p. 53) stated that instead of being passive recipients of development aid and their consequences, citizens should be engaged to influence their own destiny and participate in the formulation and implementation of development programs.

Inclusive Growth in China and India: An Overview

UNDP has designed different indices to measure the results of development across the world.[3] This chapter primarily draws upon the Human Development Index (HDI) as a proxy of inclusive development. The HDI aims to evaluate the progress of various countries on their citizens' living standard, measured by gross national income (GNI) index, hygiene and longevity, measured by life expectancy index, and knowledge, measured by education index (UNDP 2015).

   China's HDI score in 2014 was 0.728, compared to India's of 0.609 and the world's average (see Fig. 14.1). China has recorded impressive economic growth since the end of the 1970s. Market liberalization has led to the growth of the private sector and decline of the state sector. Decentralization of power has provided leeway and flexibility for local innovation in policymaking. The development of export-oriented industries jump-started by foreign investors and later fueled by the accession to the
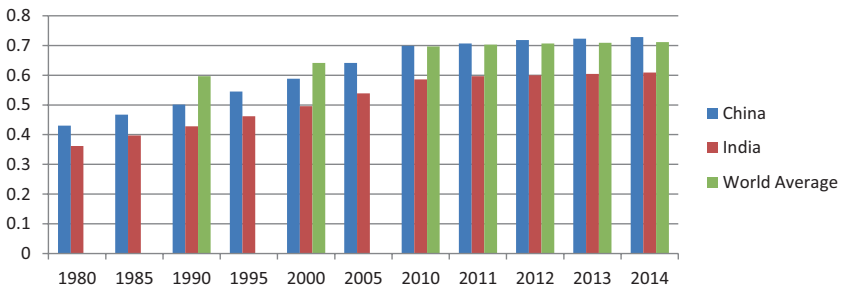
Fig. 14.1 Human development index, China, India, and world average (Source: UNDP (2015), *Human Development Index*, http://hdr.undp.org/en/indicators/137506; UNDP (2015), "Table 2: Trends in the Human Development Index, 1990–2014", *Human Development Reports*, http://hdr.undp.org/en/composite/trends)

World Trade Organization has helped China to amass huge capital (Huang 2008; Blecher and Shue 2001; Oi 1999; Shirk 1993).Under the cadre management system, China's local leaders were keen to promote local economies and social stability(Rothstein 2015; Edin 2003).

India's economy, until recently, was teased for its "Hindu" growth rate, being held back by its fragmented state and weak governance (Chibber 2006). The state-of-the-art airport terminals, highways, high-speed rail, and port facilities that are spotted in many Chinese cities contrast with the much less impressive infrastructure in India. It is easy to conclude that Chinese government is more competent and effective than India's, but this may be misleading. Figure 14.2 compares China and India on their government effectiveness by using the World Bank's World Governance Indicators, and India's position was not much different from China until the early 2010s. Both countries ranked between 55th and 59th throughout the first decade of the 2000s.

In addition, the two countries vary substantially in gender equality. This is both the aim and means to improve other areas of human well-being. For instance, gender equality can be promoted by providing females with equal education opportunities. Higher literacy rates and levels of education can enhance their productivity, and this will benefit the economy. With higher income and education levels, women are more able to participate in making decisions for families, communities, and even at the national level. Their education empowers them to learn how to look after their children, and this helps to reduce the infant mortality rate. This in turn will discourage pregnancies; lower fertility can contribute to an increase in the regions' GDP per capita.
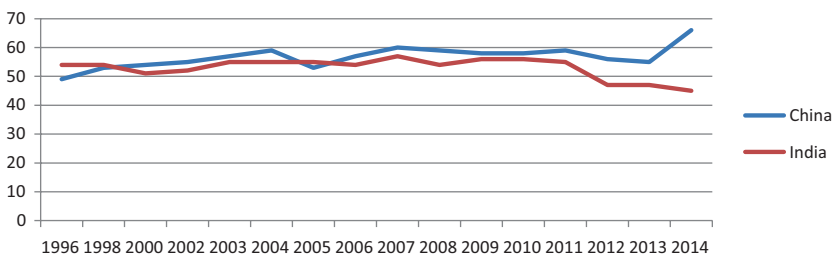
Fig. 14.2 Government effectiveness in China and India (Source: World Bank, *World Governance Indicators*; http://info.worldbank.org/governance/wgi/index.aspx#reports)

There are two indices to measure gender equality:

- The Gender Development Index indicates gender inequalities in education, health, and income. The surveyed countries are categorized into five groups, ranging from Group 1 with the highest level of gender equality to Group 5 with the lowest.
- The Gender Inequality Index measures gender discrimination from three perspectives: reproductive health, empowerment, and the labor market. It is believed that human well-being will be affected if either sex is discriminated against, as this group will suffer a loss in potential. The index ranges from 0 to 1. The closer to 1, the more serious the gender inequality is (UNDP 2015). According to the Gender Inequality Index, China ranks 40th in the world, while India is at 190. The difference in maternal mortality ratio, female education, and female labor force participation are particularly obvious (Table 14.1).

China belongs to the Group 3 countries under the Gender Development Index, indicating a medium level of gender equality. This is significantly better than India, which belongs to the group of countries with the highest level of gender inequality. The Gender Inequality Index also shows China's greater achievement toward gender equality compared with India. In comparison with India, China has achieved

Table 14.1   Gender inequality index and its composition, 2014

Variables	*China*	*India*
Gender development index	Group 3	Group 5
Gender inequality index (value)	0.191	0.563
(Rank)	40	130
Maternal mortality ratio	32	190
Adolescent birth rate	8.6	32.8
Share of seats in parliament	23.6	12.2
Population with at least (female)	58.7	27.0
Some secondary education(male)	71.9	56.6
Labor force (female)	63.9	27.0
Participation rate (male)	78.3	79.9

Source: UNDP (2015), "Table 4 Gender Development Index", "Table 5 Gender Inequality Index", *Human Development Index*, http://hdr.undp.org/en/content/human-development-index-hdi

Table 14.2 Indicators of gender equality, India

	2001	*2007–08 (%)*
Literacy rate of 15–24 years old (male)	76.7%	91%
(Female)	54.9%	80%
Ratio of literate women to men (15–24 years old)	0.8	0.88
Proportion of seats held by women in parliament	9.6[a]	10.96[b]

[a]Data in 1999
[b]Data in 2011
Source: UNDP (2015), *India Millennium Development Goal Indicators Factsheet*, http://www.in.undp. org/content/dam/india/docs/india_millenium_development_goal_indicators_factsheet.pdf

remarkably in preventing maternal mortality, reducing adolescent birth, increasing the female share in parliaments, and providing women with equal opportunity of access to education and jobs.

However, India has made effort at reducing gender inequality. India has raised the female literacy rate from 54.9% to 80% (a 31.4% increase) between 2001 and 2008, compared with the improvement in the male literacy rate from 76.7% to 91% (an 18.6% increase). Meanwhile, the ratio of literate women to men has been improved by 10% from 0.8 to 0.88; so has the share of parliament seats held by women (Table 14.2).

There are several notions concerning the relationship between economic development and gender equality. Neoliberals believe that economic growth encourages investment in human capital, including in women whose potential contribution to the labor force is under-utilized. Technological advancement may relieve women from unpaid housework and allow them to earn an income from the job categories that used to require muscular strength (Richards and Gelleny 2007). Feminist and critical theorists are disappointed with the contribution of economic development to gender equity. They argue that economic development strengthens the patriarchal institutions, forces women into low-paying jobs, and perpetuates gender inequality (Forsythe et al. 2000; Clark 1991). The third group of theorists points out that economic development may or may not lead to gender equality (Eastin and Prakash 2013; Iversen and Rosenbluth 2005).

These explanations overlook the roles of regime types on the prowess of political elites in promoting or discouraging gender equality. Both China and India have a socio-cultural tradition of discriminating against women, perhaps because of the idea that women are less productive in

agricultural societies. After they get married, women's maternal families lose labor power. Therefore, women receive far less investment in the form of nutrition and education from their parents when compared with their male siblings. Citizens in democratic countries have the potential to be more effective in dislodging the traditional socio-cultural traditions that discriminate against women.

In authoritarian regimes such as China, political leaders with strong determination and will may find it easier to override the culture and traditions biased against women, as well as the administrative bottlenecks that delay the implementation of any policies in conflict with bureaucratic interests. Before China started its economic reform in 1979, it had followed the standard policies of communist countries in promoting gender equality by popularizing education among women and increasing their job opportunities. To encourage women to join the workforce, the Chinese government set up nurseries, centers for the elderly, and mass canteens in workplaces in cities and collective farms in villages so that women could be released from domestic responsibilities (Lee 1999; Walder 1989).

Furthermore, the relationship between economic growth and gender equality is not obvious in India. Drèze and Sen (2013, pp. 24–5) pointed out that unlike the communist countries during the cold war committed to the socialist value of extending education opportunities to both boys and girls, India's post-independence political elites were biased against the lower classes and castes and neglected their education. Das Gupta (1987) found that the most affluent state of Punjab faced the most serious problem of gender inequality. Many girls, including those from well-off families, were discriminated against in access to nutrition, education, and health care. Technological advancement and mechanization of agriculture did not create job opportunities for women, but simply squeezed them out of farm work. Females, once married, could hardly generate financial returns or bring benefits to their maternal families. The mortality rate of female infants caused by negligence, especially the second daughters of couples, was very high. The problem of gender inequality is persistent even after several decades of economic growth.

The interpretation of data about gender inequality should, however, be undertaken with extreme caution: Chinese women, for instance, occupy a large proportion of parliamentary seats. China's national parliament (known as the National People's Congress, NPC) and its local counterparts are mostly used by the Chinese Communist Party (CCP) to

rubberstamp its policies. Given that the NPC deputies are handpicked by the CCP, the occasional heated debates in NPC do not lead to the rejection of policies strongly supported by the CCP (Saich 2015, pp. 116–53; O'Brien 1990). Although competitive elections have been introduced for committees in cities and villages, there are many restrictions on the eligibility of candidates in running for elections. Usually only the candidates sponsored by the CCP win the elections (Xia 2008; Manion 2008; Read 2000). China's female deputies should not be viewed as examples of women's empowerment, but showpieces prepared by the CCP to demonstrate success in promoting women's political participation.

On the contrary, women's political participation in India is more substantial than symbolic. A lower percentage of female participation in the parliament (Lok Shava) presents only a partial picture. It conceals the role of those participating in the local democratic system known as Panchayati Raj under which panchayats are set up at the levels of district, block and all the way down to villages. The 73rd constitutional amendment allocated one-third of the seats in panchayats to women. Panchayats are granted funds and the right of self-governance on such local affairs as education, health care, infrastructure construction and maintenance, and industrial development.

Another component of the HDI is the Multidimensional Poverty Index (MPI). This identifies household deprivation in terms of health, education, and standard of living. China's percentage of "population near multidimensional poverty" is higher than that in India (see Table 14.3). However, China has performed better in the area of poverty reduction if measured by "population near multi-dimensional poverty" plus "population in severe multi-dimensional poverty."

China's performance is more remarkable than India in almost all indices. However, it should not be concluded that China, in the reform era, outperformed India in promoting inclusive development. Neither

Table 14.3 Multi-dimensional poverty, China and India

	China (%)	India (%)
Population near multi-dimensional poverty	22.7	18.2
Population in severe multi-dimensional poverty	1.0	27.8
Population living at PPP USD1.25 a day (2002–2012)	6.3	23.6

Source: UNDP (2015), "Table 6: Multidimensional Poverty Index: Developing Countries", *Human Development Index*, http://hdr.undp.org/en/content/human-development-index-hdi

Table 14.4   GNI per Capita rank minus HDI rank

	China	*India*
GNI per capita rank minus HDI rank	−7	−4
GNI per capita (2011 $)	$12,547	$5497

Source: UNDP (2015), "Table 1 Human Development Index and Its Components", *Human Development Index*, http://hdr.undp.org/en/content/human-development-index-hdi

should we attribute China's rapid economic growth to successful inclusive development. The progress in the HDI by India is similar to China. In 2014, India's HDI score was 0.609, or 68% higher than that in 1980. China recorded a slighter higher rate of 69% improvement. Besides, India performed marginally better than China in the category of "GNI per capita rank minus HDI rank" (see Table 14.4).[4] It can be noted that China's HDI score was overtaken by 11 countries with lower GNI per capita than China's (see Table 14.5). Among the 98 countries with an HDI score lower than China, only seven countries achieved higher GNI per capita.

The contribution of China's economic reform to inclusive development should not be overstated. China's lead over India, indicated by Drèze and Sen (2002, pp. 116–24), was achieved before China started economic reforms in 1979. Thanks to the socialist ideal, China was able to establish effective institutions of education and health care (Hung 2015; Unger 1981). On the contrary, the rapid economic growth in the reform era could only slightly improve the infant mortality rate and life expectancy (see Table 14.6). In fact, rural governments were depleted with resources to maintain the health care and education system after the demise of collective agriculture since 1979. Under the restrictions of the household registration system, the rural–urban migrant workers and their children are not protected by state welfare in cities. Many of them who work and live in cities are unable to afford health care. For these people, the quality of health care has deteriorated (*The Economist* 2015; Chan 2009; Wang and Hu 1999).

In addition, a sound and realistic taxation policy is instrumental for income redistribution. It is dependent on the tax rate, government's capacity in imposing taxes and collecting, and the political support for redistributing revenue to socially disadvantaged groups. Taking into consideration tax revenue as a percentage of GDP, the taxation capacities of

Table 14.5 HDI and GNI per Capita, selected countries

Country	HDI	Rank	GNI per capita (2011 ppp $)	GNI per capita—HDI
Serbia	0.711	66	12,190	20
Cuba	0.769	67	7301	47
Sri Lanka	0.757	73	9779	29
Georgia	0.754	76	7164	40
Grenada	0.750	79	10,939	14
Jordan	0.748	80	11,365	11
Macedonia	0.747	81	11,780	9
Ukraine	0.747	81	8178	25
Peru	0.734	84	11,015	8
Albania	0.733	85	9943	14
Armenia	0.733	85	8124	22
Bosnia and Herzegovina	0.733	85	9638	19
Ecuador	0.732	88	10,605	7
St Lucia	0.729	89	9765	14
Fiji	0.727	90	7493	21
Mongolia	0.727	90	10,729	4
China	0.727	90	12,547	−7
Thailand	0.726	93	13,323	−13
Suriname	0.714	103	15,617	−32
Botswana	0.698	106	16,646	−41
Turkmenistan	0.688	109	13,066	−28
Gabon	0.684	110	16,367	−42
Iraq	0.654	121	14,003	−44
Equatorial Guinea	0.589	138	21,056	−84

Source: UNDP (2015), "Table 1 Human Development Index and Its Components", *Human Development Index*, http://hdr.undp.org/en/content/human-development-index-hdi

Table 14.6 Infant mortality and life expectancy, various years

	Infant mortality rate (per 1000 live births)				Life expectancy at birth (years)			
	1960	1981	1991	1999	1960	1981	1991	1999
China	150	37	31	30	47.1	67.7	69.3	70
India	165	110	80	71	44.0	53.9	59.0	63

Source: Drèze and Sen (2002)

China and India are similar. Nevertheless, a much higher proportion of revenue in India is derived from income, profit, and capital gain taxes (see Table 14.7). Under the ideology of liberal economic theory, a low tax regime is business friendly and favorable for business expansion, attraction of foreign investment, job creation, and technological innovation. But it is also true that a low tax rate could weaken the ability of the government in reducing inequality. This is a major challenge faced by China in promoting social equality.

Table 14.8 shows that in the early 1980s China's Gini Index was lower than that of India. It overtook India in the early 1990s and rose quickly afterwards from 32.4% in 1990 to 42.6% in 2002. India's economic reform in the early 1990s has accelerated its economic growth to make it one of the fastest in the world. But India's Gini Index has increased slightly from 30.8% in 1993 to 33.9% in 2009.

Table 14.7   Taxation in China and India, 2005–2013

	China (%)	India (%)
Total tax revenue (% of GDP)	10.6	10.7
Tax on income, profit and capital gain (% of total tax revenue)	24.9	44.8

Source: UNDP (2015), "Table 11: National Income and Composition of Resources", *Human Development Index*, http://hdr.undp.org/en/content/human-development-index-hdi

Table 14.8   Gini index, India and China

Year Country	India	China
1981	/	29.1
1983	31.1	/
1987	31.9	29.9
1990	/	32.4
1993	30.8	35.5
1996	/	35.7
1999	/	39.2
2002	/	42.6
2004	33.4	/
2005	/	42.5
2008	/	42.6
2009	33.9	/
2010	/	42.1

Source: World Bank (2016), *World Development Indicator*, http://databank.worldbank.org/data/reports.aspx?Code=SI.POV.GINI&id=af3ce82b&report_name=Popular_indicators&populartype=series&ispopular=y

Institutions of Public Participation in China and India

Trebilcock and Prado (2011) remarked that institutions mattered for economic and human development. However, it could not be determined which institutions contributed to this end. Drèze and Sen (2013, p. 80, 2002, p. 358) reviewed the successful experiences of the Indian states of Kerala and Tamil Nadu in concurrently promoting economic growth and human development, and concluded that this was achieved by democratic institutions that encouraged effective public participation.

India is ahead of China in the area of public participation (see Table 14.9). The Rule of Law Index compiled by the 2015 World Justice Project gave India the global rank of 59th out of the 102 surveyed countries, while China was placed 71st. The sub-index "Voice and Accountability" in the Worldwide Governance Indicators captures the perceptions of the extent to which a country's citizens can choose their government, as well as freedom of expression and association. China's percentile rank of fifth indicates that her performance is better than only 5% of the surveyed regions. That is obviously lower compared to India's percentile rank of 61st. Freedom House classified China in the category of "not free" countries, but India as "free." Despite the dismal global rank of 133rd, India's record in protecting press freedom is recognized as better than China's.

The Organisation for Economic Co-operation and Development (OECD) (2001, p. 11) suggested that effective public participation

Table 14.9 Political rights and public participation in China and India

Index	Year	China	India
Rule of Law Index	2015	Global rank of 71st	Global rank of 59th
Worldwide Governance Indicators (Voice and Accountability	2014	Percentile rank 5th	Percentile rank 61st
Freedom in the World	2016	16 (not free)	77 (free)
World Press Freedom Index	2016	Global rank of 176th	Global rank of 133rd

Source: World Justice Project (2015), *Rule of Law Index 2015*, http://data.worldjusticeproject.org/; World Bank (2016), *Worldwide Governance Indicators*, http://info.worldbank.org/governance/wgi/index.aspx#reports; Freedom House (2016), *Freedom in the World*, https://freedomhouse.org/report/freedom-world/freedom-world-2016; Reporters without Borders (2016), *2016 World Press Freedom Index*, https://rsf.org/en/ranking

requires the support of legal, policy, and institutional frameworks, such as legislation and decrees on rights of access to information, consultation, and active participation. The state constitutions of China and India outline the vision of representative governments, with elected seats in parliaments and governments. However, China's constitutional guarantees of liberal democracy are symbolic, whereas India's are real. In addition, democratic mechanisms include institutions such as functioning court systems, constitutional protection of human rights, responsive electoral systems, free media, and effective assemblies at national and local levels that facilitate public participation (Drèze and Sen 2002, p. 346).

While democratic institutions provide opportunities for achieving democratic ideals, it is democratic practices that realize these opportunities. Democratic practices are contingent on freedom of information, which raises public awareness and understanding of public policies. The public can also become more knowledgeable in defending their rights in areas such as education, welfare, and access to public health. Moreover, the opposition political parties can be more effective in criticizing the government's wrongdoings (Banisar 2006, pp. 6–8). Sen (2005) contended that famines on the scale of those in China during 1959–1961 did not happen in India. This underscores the significance of freedom of information in providing timely and essential feedback to policymakers on policy failure. Article 19, an international non-governmental organization (NGO) named after Article 19 of the United Nations Universal Declaration of Human Rights and advocating freedom of information, believes that it has the potential to make a society less corrupt, free from hunger, and respectful of the environment and human rights, thereby making the society more secure and democratic.

Consequently, the government will become more efficient and competent. Article 19 used the example of the outbreak of Severe Acute Respiratory Syndrome (SARS) in China in 2003 to illustrate the significance of freedom of information to public health. The spread of SARS from southern China to other parts of the world is attributed to the government's failure to inform the public and relevant authorities in time, which led to the contagious disease spreading out of control (Article 19 2004). The OECD (2001, p. 11) outlined the legal and policy institutions of freedom of information, covering privacy/data protection, administrative procedure, electronic data/signatures, e-government policy, and ombudsman/commissioner. Some sectoral laws such as environmental protection, public health, and consumer rights are included with provisions of protecting the rights of information access.

Building a legal and policy framework for public participation and information access has become a global trend since the 1980s in response to the problem of accountability deficit in Western democracies (Roberts 2006; Bennett 1997). India passed the Freedom of Information Act in 2005 in the wake of a 20-year right to information movement sparked by public outcry against corrupt practices in public administration. By granting citizens the right to access government information, the law was expected to ensure the fundamental right of expression.

China's Freedom of Information Regulation, which came into effect in 2008, deviated from the democratic practice of protecting the right to information. There were neither provisions enshrining the right of everyone to access information, nor the establishment of an independent oversight body. The major incentive for the government in enacting the regulation was to fight corruption at village and town levels. Besides that, it was believed that the regulation might promote economic growth through the better use of information held by various sources in uncoordinated government departments. Without a vibrant civil society, there was no social movement parallel to the right to information movement in India that pressured the government to adopt sweeping reforms, to the extent of undermining its grip on the regime (Xiao 2013).

In fact, China has introduced limited public participation for improving program design and public service delivery. For instance, public hearings were arranged to collect opinions on environmental impact assessment. Phone-in radio and television programs were introduced by state-run television and radio broadcast channels to receive public complaints on community services. Contested elections were held in villages. Appeal offices were opened to receive public complaints on public services. Civil society organizations were employed to provide expert advice and training on such politically insensitive policies as environmental conservation and disease prevention. Government-organized NGOs were charged with the new function of being a conduit for communication between the government and its constituencies (Chou 2009; Perry and Goldman 2007). However, the extent of support for these participatory activities from political leaders in Beijing was not clear to local officials. In addition, they were concerned that the outcome of these participatory activities could eventually be taken from their control. They were inclined to interfere with the participatory activities and to control the outcome. As a result, genuine public opinion could hardly be channeled into the decision-making processes (Yuan 2012, pp. 73–101).

Discussion and Conclusion

The direct correlation between public participation and inclusive development is yet to be clearly established. An examination of the experience of a democratic versus a non-democratic state—India versus China—reveals a useful insight on these critical aspects of modern states. China adopted an undemocratic approach to governing, and has allowed limited public participation since 1949. Interestingly, the trajectory of human development varied substantially before and after the introduction of economic reforms in 1979. India adopted a democratic system since achieving independence in 1947. In general terms, she performed worse in terms of human development than China, but some of the states in India have recorded a substantial improvement. One of the difficulties in comparing the progress of human development between democratic and authoritarian regime is that the authoritarian regime may in some ways affect human well-being in different areas, many of which cannot be quantified in numerical data; and this poses a formidable challenge to researchers.

However, it can be said that democracy and the experience of participation promise intrinsic values for human well-being. An authoritarian regime tends to cut down or obstruct information flow to political elites, particularly those concerning policy failure, and succeeds in delaying policy adjustment. This was one of the factors that help to explain the famine of 1958–1961 that killed tens of millions of people. Meanwhile, China's success in slowing down population growth was sometimes attributed to the coercive one-child family planning policy, which involved forced abortion, heavy fines and punishments, and the restriction of civic liberty. Nevertheless, the states of Kerala and Tamil Nadu were able to achieve a similar fertility rate through a much less coercive approach, underscoring the principle of collaboration and participation based on the active and educated participation of women (Drèze and Sen 2002, pp. 112–42).

It is still pertinent to argue that inclusivity is more closely related to economic growth than public participation, and that the sustainability of economic growth and the impact on inclusivity cannot be ignored. Hung (2015) stated that India's model of economic development was more sustainable than China's. In India, domestic consumption plays a more important role than export and investment in driving economic growth. Despite the problem of under-development of infrastructure, India enjoys lower urban–rural and interregional inequalities. On the contrary, China's higher rate of economic growth is a consequence of rising debt on an

increasingly under-utilized infrastructure, which comes at the expense of domestic consumption. Hung believed that India's model can help to spread the benefits of economic growth more widely, and is therefore more sustainable.

In sum, both public participation and inclusive development are highly desirable. Public participation is encouraged in the rhetoric of leaders and government documents, and limited success has been achieved. It can snowball into a powerful force with state support and the construction of strong institutions to promote meaningful participation to contribute to policy formulation and implementation. However, the structure of modern states and their relationships with actors, institutions and the public is far too complex to allow a single factor to determine the scope of development. It remains to be seen how these forces and factors are combined to create the conditions for meaningful inclusive development.

Notes

1. Three other strategies included enhancing equity, confronting environmental challenges, and managing demographic changes.
2. The other two principles are: changing the mentality of "having more" into "having enough" and pursuing cultural, spiritual, and esthetic maturation.
3. Some examples of these indices include the human development index, gender inequality index, gender development index, and multi-dimensional poverty index.
4. This table, developed by UNDP, is aimed at evaluating the state capacity to translate wealth into human development. The higher the indicator, the more competent the state is in accumulating and translating wealth into human development. The higher the score, the better the region has performed in promoting human development.

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