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CIVILIAN CONTROL OF THE MILITARY IN BANGLADESH : MOVING TOWARDS A DEMOCRATIC TRADITION

Abstract

Civilian control of the military is a *sine qua non* of a modern democratic state. The central objective of the paper is to examine how best to exercise civilian control of the military in Bangladesh to ensure democratic continuity coupled with high military professionalism . In this order, a careful study of the US experience on civilian control of the military provides basic principles for the ex-ante equilibrium of power sharing between the relevant actors and ensures that no single person or authority exercises overwhelming power. Civilian control over the military is shared between three organs of the state: executive, legislature and the military. Military, like other government agencies, provide advice, but the onus of the decision making is on the civilian government. In case of Bangladesh, although the military is constitutionally under the control of the elected representatives, but the effective control of the parliament had been only marginal except for the recent years. Unlike the American Supreme Court, the Judiciary in Bangladesh cannot oversee the military, including safeguarding the rights of the armed forces from executive excesses. The paper calls for institutional reform measures within a coherent and participatory national security and strategic policy in order to initiate the evolution process of civil control over the military in Bangladesh. Also, a vibrant interaction between the military and the civil society is sought in this order.

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INTRODUCTION

Civilian control of the military is a *sine qua non* of a modern democratic state. It ensures that the military is subordinate to its civilian political authorities. This is particularly true in countries of Western Europe and North America where democratic traditions have taken firm roots. An eminent western political scientist writes in this context, "Civilian control not only guards against military subversion, it recognises that military strategy is a servant of national political goals established by the civilian government."¹ The accepted principle of civil-military relations in a democratic state is that while the military is largely autonomous in the functioning of its military tasks, the government exercises control over the military in the matters of strategic policy, organisation, size, budget, weapons procurement, rules and regulations, etc. The civilian chief executive stands at the apex of the military chain of command. In a democratic society the members of the armed forces, while retaining their individual right to hold political opinion and a right to vote, takes no active part in domestic politics. The military remains strictly apolitical.

Within South Asia, in countries such as India and Sri Lanka, the military has remained apolitical despite political upheavals, insurgencies and war. On the other hand, Bangladesh's experience of the civilian control of the military during the first two decades was not a happy one. Although Bangladesh emerged as a democratic state in 1971, Bangladesh's democratic experience initially was a short-lived one. Democracy in Bangladesh came to a violent halt on 15 August 1975. A coup staged by a small group of officers, led to the assassination of President Bangabandhu Sheikh Mujibur Rahman.

1. David F. Trusk, *Democracy and Defense: Civilian Control of the Military in the United States*, (United States Information Agency, Washington D.C. 1993), p. 9

Over the next fifteen years the military remained involved, either directly or indirectly, in domestic politics. The result, as is well-known, was a series of violent coups and counter-coups, loss of innocent lives and destruction of democratic institutions. Although only a handful of officers were involved in the political power-game, the blame for such involvement fell on the organisation as a whole. Bangladesh suffered a loss of stature as a nation in the eyes of the world. It was particularly painful for those who took pride in military professionalism and values, to see sharp erosion of those standards. Since the restoration of democracy in 1990, the authority of the elected civilian executive and legislature over the military has been restored. However, there are grey areas that need to be addressed so that democratic gains would be nurtured and consolidated.

The aim of this paper is to examine how best to exercise civilian control of the military in Bangladesh to ensure democratic continuity and high military professionalism.

In order to set the scene for Bangladesh, I shall present a case study of the civilian control exercised on the US military. There are a number of reasons why I picked up the USA for the case study. The USA is the leader of the democratic world. She is also the only Super Power left in the world – economically and militarily. American democratic institutions are often emulated by the emerging democracies. Although Bangladesh adopted parliamentary form of government, there are many ingredients in the American model that can be worth emulating. Notwithstanding wide differences in the socio-political and cultural experiences of the two nations and vast economic differences that exist, we could derive important lessons from the American experiences. In this paper I shall first examine how civilian control over the military is exercised in the USA. I shall then examine the control mechanisms available in Bangladesh and compare those with the American ones. Finally, I shall suggest

certain steps, in line with the US, that would strengthen civilian control of the military and improve civil-military relations.

CIVILIAN CONTROL OF THE MILITARY IN THE USA: A CASE STUDY

Role of the US Military in National Affairs

The United States of America possesses the most powerful military force in the world. The military always backed up diplomatic efforts to further national interest. When diplomacy failed, the governments did not hesitate to use military force. American military forces were major players in both the World Wars. Millions of men and women went overseas to fight and hundreds of thousands died in the two wars. Since the end of the World War II, the American forces fought in Korea and Vietnam and lastly in the Gulf in 1991-92. In addition, the American military forces were deployed around the world during the Cold War and saw numerous actions. Despite sustained military commitments around the globe and important role played by the military in achieving the national objective, the civilian control of the military was never relaxed in the USA. During the two hundred years since independence, the military never threatened democracy at home.

The US Constitution and the Military

The root of the military subordination to the elected representatives lies in the US Constitution. James Madison, known as the "Father of the Constitution" wrote, "A standing military force, with an overgrown executive, will not long be safe companion to liberty. The means of defence (against) foreign danger, have been always the instruments of tyranny at home.... Throughout all Europe, the armies kept up under the pretext of defending, have enslaved the

people.”² Framers of the constitution believed that a powerful standing army would become a threat to democracy. Explaining the sentiment of the framers of the US Constitution, Richard H. Kohn writes:

Few political principles were more widely known or more universally accepted in America during the 1780s than the danger of standing armies in peacetime. Because of its arms, its isolation from society, its discipline, and its loyalty and obedience to its commander, an army could not necessarily be controlled by law or constitution. An army represented the ultimate in power, capable, even when it did not attempt a coup on its own, of becoming the instrument by which others could terrorize a population, seize power or perpetuate tyranny.³

The US Constitution, therefore, provided for citizen soldiers or state militias who could be mobilised during national emergency rather than a large standing army. This trend continues even today. Since the end of the Cold War there has been a large reduction of standing armed forces and greater reliance on the National Guards and reserve forces to meet contingencies. The US Constitution provides for checks and balances to ensure that the elected representatives always “call the final shots” in military matters. The controlling authority is divided between the three branches of the government: executive, legislative and judiciary.

2. *Ibid*, p. 9

3. Richard H. Kohn, *The Constitution and the National Security: The Intent of the Framers*, in Richard H. Kohn (ed.), *The United States Military under the Constitution of the United States, 1789-1989*, (New York University Press, New York, 1991), pp.81-82

Executive Authority and the Military

The US President, as the Commander-in-Chief, exercises executive control of the military. He appoints, promotes, transfers, retires or dismisses officers of the armed forces. The President heads the National Security Council (NSC), the highest strategic policy making body. Other NSC members are the vice-president, secretary of state and secretary of defence (foreign and defence ministers in our parlance). The Chairman of the Joint Chief of Staff (JCS), the senior most military officer in the USA, is the military adviser to the President, but is *not* a member of the NSC. The strategic policy making is thus an exclusive civilian affair.

Role of the Legislature

US Congress is responsible for raising and maintaining the armed forces and making laws that govern the military. It controls the purse, and by controlling the budget, it could control the size and shape of the military forces and the weapons they acquire. The armed forces committees in both houses of Congress are powerful bodies that go in-depth into the defence budget, call senior military commanders to justify request for defence spending and investigate into mismanagement or misappropriation. The President could deploy forces abroad, but would need Congressional approval if the deployment exceeds 60 days. In fact, the President's military power is checked by the need for congressional approval.

Role of the Judiciary

The Supreme Court ensures that the military operates at all times within the bounds of law and that basic human rights are never violated, including those of the members of the US military. Uniform Code of Military Justice (UCMJ), adopted in 1951 and amended a number of times since then, "civilianized and liberalized the military criminal laws and procedures, and extended certain rights of

citizenship to service personnel." Thus the right of the accused to remain silent throughout the period of interrogation was accepted in the military court martial 15 years before it was introduced in the civilian court.⁴ The military law provides in some cases a three-judge civilian Court of Military Appeal to review court martial convictions.

Review of Civil-Military Relations in the USA

Consolidation of Civilian Control: The civil-military relations in the USA did have its ups and downs during the last two centuries. There was an attempted mutiny by a group of officers in 1783, known as the Newburg Conspiracy. The officers, troubled by inadequate and irregular pay by the government, were planning to surround the congress to force their demands. George Washington, then the Commander-in-Chief, restrained the officers and quickly restored order. Another incident happened towards the end of the First World War. In late October 1918, Gen John J. Pershing, the Commander-in-Chief of the American forces in Europe, wrote an unauthorised letter to the Supreme Allied War Council advocating an unconditional surrender, contrary to President Wilson's view of an armistice with Germany. Wilson was considering stiff reprimand, but Pershing's quick withdrawal of the letter, and the end of war soon thereafter, forestalled any disciplinary action. The most celebrated crisis in civil-military relations occurred during the Korean War (1950-1953). Gen Douglas MacArthur, Commander-in-Chief in Korea, openly differed with President Truman's doctrine of limited war. MacArthur made no secret of his desire to cross the Yalu River and attack China, who had been helping the North Koreans with men and materiel. MacArthur even discussed using atomic weapons to bring about a decisive conclusion of the war. The irreconcilable and public differences of opinion forced Truman to remove MacArthur from command. Gen MacArthur was the highest decorated and

4. David F. Trusk, *op cit*, p.24

longest serving general of the US Army and a hero of World War II. His removal created tides of emotion, but once again reasserted civilian control in the higher direction of the military policy. David F. Trusk writes:

Although the American People continued to honor McArthur as a great military hero, they did not follow his lead in rejecting the president's policy. The dispute between Truman and McArthur is of great interest because it is unique in the national experience. It posed a direct challenge to civilian control of the military, and ended with a strong reaffirmation of civilian control.⁵

Over-control during the Vietnam War: The Vietnam War in the late 1960s and early 1970s put great strain in the American civil-military relations. It was for the first time that the American forces were fighting a war that was unpopular at home. The forces in the field lacked clear strategic directives. In the name of civilian control, Robert McNamara, the Secretary of Defence, was "micro-managing" the defence department from Pentagon. McNamara and his "chair-borne strategists" were taking away initiative from the field commanders even on tactical level. Many in the US military opine that the Vietnam War was lost not in the rice fields of SE Asia, but in the corridors of the Pentagon.

Civilian Control in the Post-Cold War Era: As the Cold War ended, the US military entered into a period of profound changes. The civilian control of the military became more institutionalised than ever before. The Gulf War in 1990-1991 was an example of civilian control and military freedom of action. The military deployment and the action thereafter had the full congressional approval. Whereas President George Bush and the NSC drew out the

5. *Ibid.*, p.38

overall strategy, Gen Norman Schwarzkopf, the Commander of the Coalition Forces, was given complete freedom of action in the theatre. Chairman of JCS Gen Collin Powell and his team provided the military advice to the NSC. The civilian political leaders and the military advisers were operating in concert. Even here, there were few gaffes. One may recall that Gen Dugan, Chief of the USAF, was prematurely retired for talking to the press on matters that were politically sensitive, and after the cease-fire was announced, Gen Schwarzkopf had to quickly retrench one of his statements that appeared to contradict the official position. In spite of these, the Gulf War was an example of balanced civil-military relations.

Position of the Military in the Society: The military is considered an honourable profession in the American society. Serving in the military is considered a great patriotic duty and a profession of honour. The image of the military was further lifted after the victory in the Gulf. The military continues to attract bright, young men and women in its rank. Senior military leaders wield considerable influence in shaping the national policy. Organisations such as the Veterans' Association, USAF Associations, etc. are recognised pressure groups that seek to foster the interest of the military services. Members of the military enjoy civic rights, give votes and can contribute to party funds. They can correspond with their Congressmen seeking redress of grievances. Retired military officers often joined politics and many had been successful, including a number of them elected as the president. Commenting on this aspect of the American politics David F Trusk writes, "Significantly, the American people have politically rewarded only those military heroes, whether or not professionals, who left their military baggage behind and lent strong support to the civilian control."⁶

6. *Ibid.*, p.10

To sum up, the US Constitution provides for numerous checks and balances that ensure that no single person or authority exercises overwhelming power. Civilian control over the military is shared between three organs of the state: executive, legislature and the military. Civilian-military relationship in the USA is a constantly evolving process. Through the stresses and strains of wars and conflicts, a stable relationship has evolved between political and military leaders – each recognising other's domain. Thus while the military issues are left to the military leaders, the politicians decide the larger strategic issues. Military, like other government agencies, provide the advice, but the onus of decision-making is on the civilian leadership. The result is that while democracy thrives, the military enjoys a place of honour and dignity in the society. In the light of the American experience, we may now examine the situation in Bangladesh.

CIVILIAN CONTROL OF THE MILITARY: BANGLADESH SCENARIO

Post-Liberation Scene

Bangladesh had hardly any administrative, military and economic infrastructure to start with. The devastation caused by the Liberation War left huge voids in every sector. The military leadership at the time was young and inexperienced. Although the commanders were battle-tested, they did not have the training or the experience of higher defence planning and management. Although the war was conducted under the political guidance of the government in-exile, the commanders in the field were almost autonomous. Guerrilla warfare demanded such autonomy. However, some commanders found it hard after the liberation to shed their wartime freedom of action and accept civilian authority. These disgruntled officers were aided and abetted by unscrupulous politicians and bureaucrats. "The military has been discredited for

everything that happened during 1975-90 although a handful of officers initiated and benefited from these adventures. It is often overlooked that the military-led regimes would not have existed without encouragement and collaboration from civilian bureaucrats, politicians, businesses and diplomats.”⁷

The Challenges Ahead

A step back into the dark past is impossible; rather one must go forward to face the challenges of the future. The officer corps today are more matured, experienced, enlightened and have actually reaped the benefits of a democratic environment. Bangladesh military has created a niche in the UN peacekeeping operations. It played a key role in restoring democracy in Haiti. The military uplifted the image of Bangladesh abroad. In the domestic scene, the military has an important role in disaster management. They are increasingly being deployed in many nation-building activities. These non-warlike activities are going to bring the military into greater contact with the society at large. The need for mutual trust and respect is now greater than ever before.

The Constitution of Bangladesh and the Military

Command and Control: Article 61, 62 and 63 of the constitution deals with the defence services. The President, as the head of state is the supreme commander of the armed forces. The Parliament is responsible for raising and maintaining the defence services. War cannot be declared without the assent of the Parliament. It allocates budget, makes rules and regulations for the services. Bangladesh being a parliamentary democracy, the Prime Minister (PM) is the executive head of the government, including the defence services. The President acts on the advice of the PM. The PM administers the

7. Maj Gen A F Mansur Ahmed, *Civil-Military Relations in Bangladesh*, in *Mirpur Papers*, Issue No 5, (Mirpur, Dhaka April 1998) p.16

armed forces, except during the caretaker government when the defence portfolio is vested with the President. The military is, therefore, under the control of the elected representative at all times.

Parliamentary Supervision: Like the US Congress, Bangladesh too has a Parliamentary Committee on defence. They are empowered to go into details of military spending, procurement plans and organisational restructuring. However, for years, defence budget was a taboo subject on the floor of the parliament. (Parliamentary Committee used to discuss only innocuous subjects such as the welfare schemes, rehabilitation projects, etc). However, there has been noticeable change in the present Parliament. The parliamentarians are now taking greater interest in defence matters and the Parliamentary Committee on Defence is going in-depth into the defence budget and spending. However, compared to the US system Bangladesh has some important differences. US Congress's control over the military has steadily increased over the years at the expense of the executive branch. Major appointments made by the US President, including those in the defence services, need Congressional ratification. The Bangladesh Parliament has no such role. Bangladesh has a long way to go in institutionalising various democratic practices, but if the time span is considered one has reasons to feel happy. Whereas the US Congress is more than two hundred years old, Bangladesh Parliament had a rebirth only eight years back.

Judiciary and the Military: An important departure from the American model is that the judiciary has almost no role in the military affairs in Bangladesh. Unlike the American Supreme Court, the judiciary in Bangladesh cannot oversee the military, including safeguarding the rights of the members of the armed forces from executive excesses. In this area too, a wind of change is blowing. The government is considering democratising some of the provisions of military law and seeking expert opinions on this subject.

Bangladesh hosted two seminars on Military Law in 1996 and 1997. Military and civilian legal experts and jurists from Bangladesh and USA participated in these seminars. They discussed ways and means of bringing changes in the military laws to make it more in line with the democratic world.

Increasing the Civil-Military Interaction

In these days of instant and global communications, isolating the military in remote, fortress-like cantonments is no longer an option. There is clearly a need for greater civil-military interaction in the society. At a time when the military is changing to accept democratic control of the civil society, the civil society should also acknowledge the special role that the military plays to ensure the continuation of the civil society. Organisations such as the Bangladesh Institute of International and Strategic Studies (BIISS) are playing a very important role in bringing the two segments of the society closer. In a seminar on "Civil Society and Democracy in Bangladesh," organised by the BIISS in October 1998, eminent scholars and intellectuals opined that the military could be a partner in consolidating democracy and nurturing the growth of civil society in the country. Setting up of the National Defence College (NDC) in Mirpur this year will bring together, for the first time, high civil and military officials under one roof. This will have a far-reaching impact in fostering greater understanding of the defence and security issues of the country.

Higher Defence Organisation

There is a need in the country for a defence and security policy making body in line with the NSC in the USA. The National Committee for Security Affairs (NCSA) was formed in March 1992, but it never met since then. NCSA is headed by the PM. Its members include a number of ministers, secretaries, services chiefs and heads

of a number of security organisations. Too many members make committee unwieldy to function effectively. No wonder, it never met. Maj Gen Jalal writing in the "Mirpur Papers" called for a smaller committee with PM as the head and ministers of defence, home, and foreign affairs, services chiefs and some other security experts as members.⁸ Maj Gen Mansur, on the other hand, suggested a two-tier organisation: the upper one in line with the American NSC, composed of the ministerial political appointees, and a lower advisory body like the JCS, composed of the services chiefs.⁹ I would go with the latter suggestion because that fits more in line with the principle of civilian control of the military.

Civilian Control versus Bureaucratic Control: Civilian control means civilian political control and should be distinguished from the civil bureaucratic control. When civil bureaucracy tries to micro-manage the military, as happened during the Vietnam era in the USA, it will cause erosion of military efficiency and professionalism. Louis W Goodman emphasises this point when he writes, "While it is imperative that the military, like all executive branch agencies in a democracy, respect the rule of law and takes orders from the nation's supreme-elected authority, it is equally important that non-military organs of government not micro-manage the armed forces through civilian control of specific military functions."¹⁰ American example of a Pentagon style Ministry of Defence, where civilian defence officials and military staffs of all three services work under one roof, merit consideration in Bangladesh too.

8. Maj Gen Jalal Uddin Ahmed, *Civil-Military Relation: National Security Perspective*, Issue No 5, (Mirpur, Bangladesh, April 1998), p.38

9. Maj Gen A F Mansur Ahmed, *op. cit.*, p.24

10. Louis W Goodman, "Civil-Military Relation in the Post-Cold War Era", in *Issues of Democracy: Civil-Military Relations in a Democracy: Electronic Journals of the US Information Agency*, Vol 2, No 3, (USA, July 1997), p.20

CONCLUSIONS

It is an accepted principle that the military force is not an end in itself but a means to achieve certain political objectives set by the civil authority. Tactical decisions regarding military operations in the field must serve the political and strategic goals set by the government. Civilian control of the US military could be an interesting case study. The US military has a long history of civilian democratic control. Executive control of the US military is with the President, but the Congress exercises strong legislative and budgetary control. The Supreme Court ensures that the military operates within the bounds of law at all times. Despite occasional stress and strain, the civilian supremacy over the military was never challenged.

The American experience in the exercise of democratic control of a huge and powerful military machine could serve as an example for Bangladesh. It could make its Parliament more active in defence matters. National defence policy and its objectives should be debated on the floor of the parliament and the services should be given specific goals to achieve. The Parliamentary Committee on Defence is more active today than ever before. They are dealing with more substantive issues than those dealt in the past. These are signs of positive gains and the tempo should be maintained. Empowering the Supreme Court to oversee the legality of military actions can also be considered. Seminars and discussion meetings of eminent legal experts could be organised to discuss this matter. The idea of a security policy-making organisation like the American NSC, composed wholly of elected representatives, supported by an advisory body of military chiefs merit consideration. Recent efforts to open up the military to public view are steps in the right direction, but more are needed. Gregory D Foster, while analysing the evolving civil-military relation in the USA, states that the military expects from the civilian leadership *executive competence and clear strategic guidance*, while the military is expected to provide the civilian

leadership with *operational competence and sound military advice*.¹¹ This is true for Bangladesh too. Foster goes on to write, "Ideally, the military would be a useful instrument of national power that facilitates the attainment of the countries strategic goals, as well as a socially, politically and economically responsible institution that contributes to the preservation and functioning of the civil society."¹² While civilian control of the military will ensure that the military serves as an instrument of the state, and not an end in itself, the civilian leadership should appreciate the need for military's freedom of action in performing specific military tasks. As the nation marches forward towards consolidating democratic institutions in the country, greater understanding and mutual trust developing between political leadership and the military, the two most important organs of the government will hopefully be observed.

11. Gregory D Foster, *Combating the Crisis in Civil-Military Relations in Humanist*, Vol: 58, Issue 1, (USA, Jan, 1998), p.8

12. *Ibid*, p.8