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ARTICLE 70 OF THE CONSTITUTION OF BANGLADESH: IMPLICATIONS FOR THE PROCESS OF DEMOCRATISATION

Abstract

This article examines the implications of the Article 70 of the Bangladesh Constitution for the process of democratisation. Drawing historical experiences on defections in party politics during Pakistan period both at the central and provincial levels of government, arguments were made in the article in favour of the continuation of the Article 70 in the Constitution. However, along with the continuity, it further argues for changes in the said Article striking a right balance between individual liberty and majority rule.

1. Introduction

Political scientists, public intellectuals, journalists and civil rights activists have been vocal against the Article 70 of the Bangladesh Constitution. In their view, the existence of this article in the Bangladesh Constitution is an anathema to the spirit of Parliamentary democracy which was restored in the country after 15 years of military rule in 1990. The country reverted to Parliamentary government through the 5th *Jatiya Sangsad* elections in 1991. Since then, Bangladesh has been undergoing a process of democratization *albeit* with mixed success. Parliamentary democracy began with the 12th amendment to the Constitution, making the Parliament an epicentre of all political decision-making. Despite this promising start, the Parliament continues to lack adequate effectiveness due to legal barriers and the prevalence of confrontational political culture. The presence of Article 70 which bans floor crossing of Member of Parliaments (MPs) is considered by many as one of the reasons for the dysfunctional parliament. However, the inclusion of the article into the Constitution has its own rationale, namely, to avoid frequent floor crossing motivated by personal gain and resulting in the severe political instability as

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prevailed during the 1950s. In the changing scenario of democratization in Bangladesh, one group demands reform of this article, another group argues for its complete elimination. There is also strong support in favour of Article 70. In the circumstances, Article 70 of the Constitution remains an issue of scholarly debate and political polemics.

It is in this backdrop that an attempt would be made to analyse the Article 70 of the Constitution and its implications for the ongoing process of democratisation in the country. For the convenience of our analysis, the article is divided into four sections. The First Section places floor crossing in comparative perspective. The Second Section explores the historical origin of Article 70 in Bangladesh Constitution. This Section also analyses the growth of this article during the subsequent regimes/governments. The Third Section analyses how this article affects the working of parliamentary democracy in Bangladesh. The Fourth Section critically examines the rationale for amending the Article 70. On the basis of foregoing analyses some observations would be made in the Concluding Section.

2. Floor Crossing in Comparative Perspective

Understanding the floor crossing in comparative perspective would enable us to comprehend the magnitude of the problem of floor crossing in Bangladesh. In developed countries like Britain, USA, Canada, France, there exists unfettered voting right for members of the legislature. To stop floor-crossing is an inconceivable matter in those countries. Thanks to the lack of well-disciplined and well-organized parties in the 'new' democracies, such provisions are found in the constitutions of Bangladesh, India, Pakistan and others. Following is an attempt to discuss floor crossing in these three countries. It may be mentioned that there was no provision for floor crossing in the constitutions of India and Pakistan. Hence, to understand the Bangladesh context, we would discuss India and Pakistan first.

Floor Crossing in India

In the 1970's, the problem of defection in India reached alarming proportion. In local Hindi parlance, the defecting legislators were called 'Ayaram' and 'Gayaram' – persons who cross the floor – again and again.¹ Between the fourth and fifth general elections in 1967 and 1972 from among 4,000 odd members of the Lok Sabha and the Legislative Assemblies in the States and the Union Territories, there were nearly 2,000 cases of defection and counter-defection. By the end of March, 1971, approximately 50 percent of the legislators had changed

¹ Anil Diwan, "Anti-Defection Law in India", in Graham Hassall and Cheryl Saunders (eds.), *The Peoples' Representative: Electoral System in the Asia Pacific Region*, (Australia: Allen & Unwin, 1997), p.163, cited in Halim 2009: 182-83).

their party affiliations and several of them did so more than once. Some of them did it as many as five times. One MLA was found to have defected five times to be a minister for only five days. For a considerable period in India, one state government had been failing almost every month due to floor-crossing. In the case of state assemblies alone, as much as 50.5 percent of the total number of legislators changed their political affiliations at least once. The percentage would be even more alarming if such states were left out where government happened to be more stable and change of political affiliations or defections from parties remained very infrequent. The lure of office played a dominant part in this 'political horse trading'. It was obvious from the fact that out of 210 defecting legislators of the various states during the first year of 'defection politics', 116 were included in the Council of Ministers in the governments which they helped to form."²

Thus, the evil of political defection has been a matter of national concern in many developing countries. To stop this widespread floor crossing many countries have incorporated anti-defection laws in their constitutions. India has made this law through the 52nd Amendment to the Constitution which still remains effective.

Floor Crossing: Pakistan Period

The past experiences of the parliamentary system in Pakistan, both at the centre and in the provinces, showed that members once elected tended to cross the floor for their selfish ends, occasionally, rendering the parliamentary system unworkable. They would defy party decisions and ignore party commitments made to the electorate. As a consequence, floor crossing undermines the cohesion and unity of the political parties. Ultimately, this could result in the splitting of political parties/coalitions. Thus, floor crossing encourages factionalism and ultimately disrupt the stability of the government and smooth functioning of the entire system. The fall of parliamentary government in Pakistan was mainly caused by political defection (Halim 2009: 188-89).

The scenario in the then East Pakistan was equally frustrating. In the provincial elections of 1954, the United Front had an unprecedented victory which affected the Muslim League administration at the centre and created a kind of panic in the minds of ruling elite. Winning the landslide victory, the United Front formed government in East Bengal under the leadership of Sher-e-Bangla A. K. Fazlul Huq.

The impact of the election also had a direct bearing on the members of the Constituent Assembly, particularly those who were representing East Pakistan on behalf of Muslim League. But the United Front could not remain united due to political defections. It broke as each constituent party was jockeying for the test

² Quoted in, *Ibid.*, p.164.

of power. The Awami League (AL), the main component of United Front, came out of the Front for power sharing in the centre.

Coming out of the United Front, AL became the Opposition, and Abu Hossain Sarkar of United Front formed the government in 1955 under the leadership of Sher-e-Bangla A. K. Fazlul Haq, the leader of the rest of the United Front. But this cabinet, supported by some minor parties like, Congress Party, United Progressive Party, legislators from the scheduled castes and others, was very weak. A coalition such as this could not have a common policy. Each group of this coalition had different ideas to incorporate into the Constitution of 1956. Major disagreements on both local and national issues caused four of the minor parties to withdraw their support from Abu Hossain Sarkar and government had to resign on 6th September 1956. After the fall of the Abu Hossain Sarkar government, Aatur Rahman Khan, the leader of the opposition AL, formed the new government. A week later, H. S. Suhrawardy became the Prime Minister of Pakistan. So, AL came to power both at the centre and the province. However, due to disagreement with Suhrawardy's foreign policy, Moulana Abdul Hamid Khan Bhashani came out of the AL and formed a new party, the National Awami Party (NAP). About 28 members of AL joined the NAP, and decided to withdraw their support from the provincial government. As a result, Aatur Rahman Khan's cabinet was dismissed on March 31, 1958 (*ibid*: 189-90).

The AL ministry was reinstated by the intervention of the centre. But on June 18, 1958 the ministry was defeated on the floor of the House on a cut-motion, when all on a sudden the NAP and some Hindu members withdrew their support. After the fall of AL government, Abu Hossain Sarkar was commissioned to form a new ministry on June 18, 1958. But the Sarkar Ministry was again defeated on the floor by AL with the support of NAP on June 22, 1958.

In view of such a chaotic political situation in the then East Pakistan, the government was taken over by the Centre. After the withdrawal of the central government's rule on 25th August, 1958, Aatur Rahman Khan was again invited to form the government. The East Pakistan Provincial Assembly was called into session on September 20, 1958. The Speaker was Abdul Hakim. Government members moved a no-confidence motion against the Speaker. In this regard, Parliamentary debate transformed into scuffling between the members of government and opposition parties. Ultimately, the Speaker was removed from his office. On September 23, the government was determined to carry on with the business of the House with Deputy Speaker Shahed Ali in the chair. But the opposition (KSP) did not accept him as acting Speaker. The House became virtually an unruly chamber resulted in scuffling and rioting between the members of government and opposition parties and, in the process, the Deputy Speaker of the House was killed (*ibid*: 190-91). Thus, the law-makers of the then East Pakistan Provincial Assembly became law-breakers, and the blackest chapter in the history of parliamentary politics was created. This disgraceful state

of affairs was used as one of the main pretexts for declaring martial law on October 7, 1958.

Defections and Factionalism within the Awami League

Awami League itself suffered from perennial intra-party conflicts during this time. Bitter memories of this period are one of the causes that led AL to emerge as a strong supporter of anti-defection laws in the subsequent periods. The AL suffered a split, for the first time, in February 1955, over the issue of A. K. Fazlul Huq's leadership. A group of AL lawmakers (about 32 members) led by Abdus Salam Khan and Hasimuddin Ahmed disobeyed the party mandate to vote for no-confidence motion against A. K. Fazlul Huq at the United Front parliamentary party meeting.

The second split which seriously affected the party and also weakened its strength in the legislature, was the formation of NAP. NAP was formed by Moulana Bhashani due to his disagreement with Suhrawardy on the question of foreign policy. These differences within the party were a source of embarrassment to the AL in power in the centre, as well as in the province. For the AL, the implications of the formation of NAP were two-fold. In the organizational field, the EPAL lost the control over several district branches and the Dhaka City AL. In the Assembly, the AL lost the support of about 25 of its members. Its position in the government was further weakened by the loss of a coalition partner – the Ganatantri Dal. The official Ganatantri Dal merged with the NAP, while a rump body continue its separate existence in the legislature. In 1957, before the Autumn Session of the Assembly, the NAP parliamentary party was formed and a distinct political force emerged in the Assembly. NAP played a disruptive role of making and unmaking of governments. At first, the AL government had to resign, for it no more commanded the majority in the House (31st March, 1958). NAPs withdrawal of support led to the fall of AL Ministry on 19th June, 1958 and the United Front Ministry succeeded it. The same day, the NAP switched support to the AL and brought down the United Front Ministry.

Besides the loss of members in two solid blocks (NAP and Salam-Hashem group) damaging seriously the party cohesion and organization, AL also suffered several minor individual defections in the legislature. The real picture of these individual defections has not been worked out by any academic research or investigation. But some idea may be gleaned from Ataur Rahman Khan's reminiscences of his two years as Chief Minister. He wrote that individuals and groups of members of his party (at both legislative and organizational levels) threatened to sever links with the party and withdraw support for ordinary matters in the nature of personal favours.

Several individual members for their personal interest did not attend party meetings, did not follow party decisions and, in the House, they whimsically crossed floor. Even for some highly subjective reasons such as lack of adequate

courtesy shown by the Chief Minister, loss of prestige etc., party members defected or voted against the party.

One member did not get the intervention of the Chief Minister in his personal case and, as a result, he defected. Another member did not get the intervention of the Chief Minister in reinstating a police officer who had been dismissed for indecency towards a girl and, as a result, he defected. Being accused of black-marketing, one member sought intervention of the Chief Minister and failing to get this, he defected. Another member's name was not included in the local relief committee, and in protest he defected. Money for flood affected people was sent in the name of a school secretary and not in the name of the member of the locality. The member in protest defected. A woman member failed in lobbying for husband's service and absented herself from the sitting of the House.³

It appears from the above discussion that splits and individual defections in the AL happened not for any clash of ideology or principle. It was for self-interest, personal liking or disliking and so on. Sometimes in the hope of rewards like cabinet posts, parliamentary appointments, permits, incenses etc. members changed their loyalty.⁴ Party indiscipline and lack of solidarity within the parties were manifested in the free use of threats and pressures. Members crossed the floor and changed parties freely and frequently.⁵

It is to be noted that though AL suffered several minor individual defections as mentioned above in the legislature, none of these was the cause of the fall of government in the province. But these, specially the role of NAP, left a bitter lesson that politics in our society is based not on principle and ideology, but on selfish needs. Politicians after being elected think that power is the ultimate goal of politics and for that end, they can easily defy party mandate and change making the parliamentary process unworkable.

Thus, the bitter experiences of 1950s with regard to floor crossing let the AL to strongly commit itself to an anti-floor crossing position. Even in 1969 when a Constitution Amendment Bill was drafted for the National Assembly amending the 1962 Constitution, the AL incorporated such a provision. It provided that:

4(a) if any person, having been elected to a legislature as a candidate or nominee of political party-

- i) withdraws himself from it; or

³ Ataur Rahman Khan, *Two Years of Chief Ministership*, (in Bengali), (Nawroze Kitabistan, Dhaka, 2000), pp.176-203.

⁴ Najma Chowdhury, *The Legislative Process in Bangladesh: Politics and Functioning of then East Bengal Legislature 1947-58*, (Dhaka University, Dhaka, 1980), p.216.

⁵ Mohammed Ayub Khan, *Friends not Masters*, (Oxford University Press, Dhaka, 1967), p.55.

- ii) is expelled by his political party for violation of the party's mandate in respect of any matter relating to his activities as a member of the legislature;
- iii) votes, or abstains from voting against the direction of such political party upon any legislative measure or any motion put to vote in the legislature, he shall cease to be a member of the legislature for the unexpired period of his term unless such member is re-elected at a by-election occasioned by the vacancy created by such cessation of membership (Halim 2009:194).

It is evident from the above discussion that the inclusion of Article 70 in Bangladesh Constitution was not a whimsical decision on the part of AL. It grew out of the bitter experiences of political defections during the 1950s.

3. Parliamentary Democracy in Bangladesh: Article 70 of the Constitution in Perspective

Article 70 in the Constitution: Background

An exploration of the background of the inclusion of Article 70 into the Constitution would enable us also to understand the essence of the Article and its implication for parliamentary democracy in the country. This article was inserted into the original constitution of 1972 that was drafted under the stewardship of Awami League. One of the great achievements of the Awami League regime in its first twelve months in power since 16 December 1971 was the successful completion of the task of constitution making. In his first press conference in Dhaka, Father of the Nation Bangabandhu Sheikh Mujibur Rahman promised the people an early constitution. On March 23, 1972, the Constitution Assembly order was promulgated. On April 10, 1972, the Constituent Assembly met for two days and created a thirty-four member special committee headed by Law Minister Dr. Kamal Hossain and entrusted him with the task of drafting a constitution. The committee made it obvious that it would draft the constitution quickly. One of the reasons for this urgency was that the regime wanted to avoid the tragic experiences of the Pakistan period when a delay in constitution making led to the loss of legitimacy of the Muslim League regime. The other reason behind this urgency was that the Awami League regime wanted to provide a basic political framework according to its own preferences before serious controversies could arise over the fundamentals of the constitution (Jahan 2005:106-7). The Constitution was drafted within six-months and it was passed by the Constituent Assembly – where the Awami League had an overwhelming majority – in record time. The Constituent Assembly met on October 12, and it passed the Constitution bill on November 4. The Constitution became effective on December 15 – exactly a year after the liberation of Bangladesh.

The original Constitution incorporated a number of provisions with an eye to ensure the stability of the system. Thus, it stipulated that a Member of Parliament would lose his parliamentary seat when he lost his party membership either because of resignation or expulsion from the party (Jahan 2005:107). This has become Article 70 in the original Constitution of Bangladesh effective from 1972. It appears from the above statement that this Article came into existence as stability became the prime concern of the post-independent Bangladesh leadership. As already elaborated, the fear of political instability emanated from the historical experiences during the Pakistani rule.

Article 70 in the Constitution: An Evolution

Article 70 is one of the grounds of vacation of seats of members of parliament. It exists in the Constitution as an anti-defection law or in other sense all the conditions of Article 70 have been designed to prevent floor-crossing of the members of the parliament. In the original Constitution of 1972 only two conditions were imposed against defection:

- i) if a member resigns from his party; or
- ii) if he votes in parliament against his party.

By the 4th Amendment, another two conditions were added by inserting an explanation of the words ‘votes in Parliament against his party’. They are:

- i) if a member, being present in the parliament, abstains from voting; or
- ii) if he, ignoring the direction of his party, absents himself from any sitting of parliament.

“70. (1) A person elected as a member of Parliament at an election at which he was nominated as candidate by a political party shall vacate his seat if he resigns from that party or votes in Parliament against that party.

Explanation.-If a member of Parliament-

- (a) being present in Parliament abstains from voting; or
- (b) absents himself from any sitting of Parliament ignoring the direction of the party which nominated him at the election as a candidate not to do so, he shall be deemed to have voted against that party.

(2) If, at any time, any question as to the leadership of the Parliamentary party of a political party arises, the Speaker shall, within seven days of being informed of it in writing by a person claiming the leadership of the majority of the members of that party in parliament, convene a meeting of all members of parliament of that party in accordance with the rules of votes of the majority through division and if, in the matter of voting in Parliament, any member does not comply with the direction of the

leadership so determined, he shall be deemed to have voted against that party under clause (1) and shall vacate his seat in the Parliament.

(3) if a person, after being elected as a Member of Parliament as an independent candidate, joins any political party, he shall, for the purpose of this article, be deemed to have been elected as a nominee of that party.

Again, by the 12th Amendment, another two conditions have been inserted. The effects of these two conditions are:

- i) forming a group within the parliamentary party of a political party has been quite impossible due to provisions in Article 70(2).
- ii) If an independent elected member of parliament joins any political party, he will come under the purview of anti-defection provisions (Halim 2009:184).

After the 12th Amendment, a member of parliament can be unseated on six grounds under Article 70. This Article, which had only seven lines in the original Constitution, is now almost a full-page.

Political observers noted the limitations ingrained in the Article 70 of the Bangladesh Constitution. Many of them labelled it as encroachment of the fundamental rights of MPs making their status in the parliament merely a 'number', resulting in the emergence of the creative form of dictatorship (Mazhar 2007: 88-9). The independence and free choice of the members of parliament is severely curtailed by the Article 70 (Choudhury 1995: 146-7). In another view, it is considered as one of the obstacles in the way of ensuring constitutional government. By this article, the Prime Minister's executive authority has become much heavier than before (Hasanuzzaman 1999: 58). The imposition of stringent control over the Members of Parliament through the Article 70 has become the main obstacle to the effective functioning of parliament. According to another view, although this article squeezes the freedom of the MPs, it cannot be discounted as completely undemocratic as, for the sake of governmental stability, a balance between party discipline and freedom of MPs is also required (Hoque 2007: 255-257).

Although freedom of expression has not been muzzled by this Article, yet its exercise gets demoralized due to it. Given the clientalist nature of party politics, no MP dared to criticize his party policy which might endanger his getting of nomination in the next election (Hoque 2007:256). Be that as it may, the Article 70 has sustained over the years in the constitution with the single logic of insulating the government's stability from down-turn, and this has been done at the cost of individual rights of the MPs in the parliament. The loss of freedom to criticize the government and the freedom to debate on any bill greatly curtails the potentials of parliamentary democracy.

Article 70 in the Constitution: Implications for Parliamentary Democracy

In the parliamentary form of government, the executive is directly responsible to the legislature for its performance. Parliament does not govern the country but the government is formed from within the parliament and parliament retains the right to make the government accountable any time it goes beyond the limits expected of it. In parliamentary democracy, the executive can govern as long as it can retain the majority in parliament. As soon as it loses the support of the majority members of parliament, it falls. A parliamentary form of government has to run the country always in fear of being defeated in the House and, therefore, it has to always feel the pulse of the members and, as a result, it is more responsive. But when the government finds itself in a position where it cannot be defeated easily in the parliament, it becomes less responsive and, in cases, it becomes dictatorial. This has been the tendency in parliamentary democracies like Bangladesh, Pakistan and India. In this regard, the ruling elites are aided by constitutional provisions like the Article 70 in the constitution of Bangladesh.

Political defection is a democratic right connected with personal liberty and freedom of thought and of speech. Right to vote against party decision, or to be absent in the house in protest of party's undemocratic decision, or abstain from voting, is connected with the personal liberty of a member. A member of the legislature who is elected directly by the people is always expected to act in a democratic spirit. People's mandate is reposed on him not to act on undemocratic party line but to raise voice against whimsical or undemocratic decisions. But as the provision goes, it is quite impossible for a group of a parliamentary party inside parliament to revolt and form a dissident group. Neither an individual nor a group has the right to dissent. It is compulsory for the MPs to vote on party lines. No MP can dare raise his voice against his party decision. Though Article 70 is not a bar for free deliberation in party-meetings or committee meetings, many MPs have opined that as a result of this provision, they can speak their mind freely neither in the parliament nor in the party-meetings. By losing his free right to vote, or to be present or absent in the parliament, he turns into a puppet of his party. People who elected him cannot expect him to use his conscience on their behalf. Many of the members of the 5th and 7th Parliaments of Bangladesh have expressed their views that Article 70 is repressive. It has been a deterrent to their playing an effective democratic role in legislation and other functioning in the parliament. The Article 70 is, thus, considered as being contradictory to the fundamental rights of MPs namely, personal liberty, freedom of association, freedom of thought and conscience and of speech (Halim 2009:185-186).

The underlying principle of a parliamentary democracy is that the government is directly responsible to the legislature. Parliamentary government

has to pass every step counting the pulse of the majority members of the legislature, for it may at any time be defeated on the floor. It is called a responsible government mainly because of two intrinsic features: individual responsibility of the ministers and collective responsibility of the cabinet. In the Bangladesh Constitution, no provision for individual responsibility has been made; nor does it exist in the political culture. The Article 55, however, provides for collective responsibility to the effect that 'The cabinet shall be collectively responsible to parliament'. But ironically enough, this provision for collective responsibility has become a soundless vessel because of Article 70 as the cabinet is always sure that it is not going to be defeated by motion of no-confidence or confidence, for no member of the majority party has the right to vote against the party. The cabinet does not need to feel the pulse of the majority members. So, obviously it is easier for the Prime Minister to be dictatorial and hence the lofty idealism with which the parliamentary government was accepted has been negated. Undoubtedly, it can, therefore, be said that the Bangladesh polity has parliamentary democracy in form, not in essence or culture. Democracy cannot flourish if members of parliament were to be blackmailed by party hierarchy. It tends to place the party above the interest of the nation. Although in practice, members are to go along with the line of the party to implement its programme, to impose a constitutional bar on the freedom of the members, in case the party deviated from its declared policies and programmes, could have impaired the functioning of the parliament itself. Members are elected for a period of five years making pledges to their respective constituencies on the basis of political programme and, therefore, it was undemocratic to tie them down to the dictates of a political party.⁶

Rule of law as distinguished from rule of man or party, means rule of that law which is passed in a democratically elected parliament after adequate discussion and deliberation. When there is the scope of adequate deliberation and discussion over a bill, it creates environment to remove undemocratic provisions from it. But because of Article 70 no dissenting opinion can be made by the members of the ruling party and as a result every bill, however undemocratic it may be, gets quickly passed or approved. The government always with a view to avoiding debate, makes law by ordinances and later gets them approved under the sweeping power of Article 70. The number of ordinances placed for approval is always far larger than the general bills passed. Sometimes ordinance is made 4 or 5 days before the starts of parliament session and sometimes a parliament session only approves ordinances and no other legislative function is done at all. The second session of the fourth parliament, first, thirteenth and nineteenth session of the fifth parliament are glaring example of it. This tendency of the government as pointed out by a commentator 'shows an attitude of complete

⁶ Ahmed, Moudud, *Bangladesh: Era of Sheikh Mujibur Rahman*, (University Press Limited, Dhaka, 1991), p.108.

disregard for the parliamentary culture and reluctance for building political institutions. This is an attitude that has become ingrained in our society resulting in the deep morass into which politics in this country has sunk'.⁷ For this widespread misuse of ordinance making power bypassing the parliament, it is sometimes typically said that Bangladesh Parliament does not legislate but legitimates. So, Article 70 has turned responsible government into an elected dictatorial government and rule of law into the rule of party.

4. Conclusion

Reviewing the past experiences of the floor crossing, particularly during 1950s in the Pakistan period, one can hardly deny the need for the continuation of the Article 70. Stable and effective government is always important for national interest. The existence of this article is partially justified because the 'selfish, nasty and brutish' nature of human being as expressed in Hobbesian terms cannot be simply dismissed. MPs are human being, so they are not above human follies. But the human nature is not entirely dark. They have more light on one side of their nature. Exploring positive aspects of the MPs cannot be suppressed by Article 70. When the Article 70 discourages freedom of expression, it violates his right. And this right is his power conferred upon him by the legal order (Cited in Habermas 1996: 85; Bernhard Winscheid). In the name of stable government, the whole spirit of responsible government and rule of law cannot be negated. But such has been the outcome of Article 70 when major laws of vital national interests are being made by ordinances and are getting easy approval without any protest or challenge. Therefore, it is necessary to distinguish between freedom and un-freedom contained in the Article 70. Freedom must be promoted as it is the basis of individual autonomy which is central to the essence of liberal democracy.

The Article 70 has become partially anachronistic in parliamentary democracy. Floor crossing is not the only factor that destabilizes the government. There are other factors such as boycotting the parliament by the opposition and confrontational politics have also led to the political instability in the country. However, the continuation of the article rests on the premise of insulating governmental stability from down-turn. MPs insubordination stemming from the politics of conspiracy, self-interest and greed for power legitimizes the continuation of Article 70. In the absence of MP's creative role in the parliament, the executive becomes dictatorial. Instead of the rule of law, rule of the individuals obstruct normal functioning of the parliamentary government.

Except the no-confidence motion, a normal or general bill is not necessarily connected with the stability of the government. The government may fail to pass

⁷ *Legislation by Ordinance*, a paper by Nazim Kamran Chowdhury, p.22, (Published by CAC, 1996.)

a bill, be it a money bill or cut-motion or any other bill. But failure of passing this bill or even defeat in a cut-motion does not mean the fall of the government. Last but not the least, the enactment of any law is presumed to stabilize behaviour. In case of Article 70, such stabilization would remain incomplete without reforming the content of the Article.

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