



LOCAL GOVERNANCE CLUSTER MONTHLY UPDATE

MAY 2008

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FAREWELL TO LOCAL GOVERNANCE CLUSTER COORDINATOR

Cathrine Lutro, the Cluster Coordinator of Local Governance is leaving Bangladesh on June 5, 2008 to go back to her country Norway. It has been a brief but wonderful experience for all of us to work with her. We bade her farewell with a heavy heart. We all wish her happiness, success and good luck for her prosperous future life.

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TWO VICE-CHAIRMAN FOR UPAZILA APPROVED

Proven war criminals disqualified for contesting Upazila elections

The council of advisers of the military-controlled caretaker government on 14 May, 2008 approved in principle the Upazila Parishad Ordinance 2008 to create two seats of vice-chairman in the local government body, one reserved for women.

The ordinance provides that the chairman and two vice-chairmen of the Upazila Parishad will be directly elected by voters. Union Parishad chairmen, municipal mayors and elected women members to the reserved seats of wards under the Upazila concerned would be members of the Upazila Parishad.

A meeting of the council of advisers with the chief adviser, Fakhruddin Ahmed, in the chair sent the draft of the ordinance in the light of some suggestions for vetting by the law ministry and asked for placing it again before the council 'as soon as possible'.

Under the new ordinance, dispute regarding election cannot be filed in any other court except for election tribunal. The election tribunal and election appellate tribunal will have to dispose of the dispute cases within a fixed timeframe.

The complaint will have to be placed with the election tribunal within 30 days of gazette notification and the tribunal has to dispose of the case within 180 days.

The litigant can further appeal against tribunal verdict within 30 days while the appellate tribunal will have to dispose it of in 120 days.

'If Upazila Parishad chairman or vice-chairmen hold any post at any level of any political party, he or she will have to resign before taking oath,' says the new law, being made ahead of election to the revived local body.

The candidates for Upazila Parishad election will have to submit declaration that the person is not disqualified for election in submitting nomination papers. The candidates will have to submit their wealth statement before being sworn in.

Provision has been kept in the ordinance that if the outgoing Upazila Parishad failed to hand over office to the incoming elected Parishad in presence of a first class magistrate, then maximum 3 years imprisonment and maximum Tk 20,000 in fines will be awarded to the delinquents.

'If anyone is accused as war criminal by national or international tribunal, they would be disqualified for contesting the Upazila Parishad election like other local elections,' says the ordinance.

The council of advisers also approved amendment to the National Board of Revenue Order 1972. As a result, the government can appoint secretary or additional secretary to the government as chairman of the NBR.

In the existing rule, the NBR chairman is appointed by the government from the

members of the National Board of Revenue.

Advisers and special assistants to the chief adviser attended the meeting at the Chief Adviser's Office. Cabinet secretary, chief adviser press secretary and secretaries concerned were also present.

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ORDINANCES BAN WAR CRIMINALS FROM LOCAL GOVERNMENT POLLS

The cabinet at a meeting on April 24 approved three ordinances that prescribe a series of provisions, including a ban on convicted war criminals from taking part in the local government polls, a government spokesman said.

Two of the ordinances — similar in nature — also enable the authorities to appoint an administrator to a local government body if there is no election in 180 days from the expiry of its term. Political leaders and private service holders will be able to contest the local government polls.

The Local Government (City Corporation) Ordinance 2008 and Local Government (Municipalities) Ordinance 2008 kept a provision for a ban on the war criminals convicted by any local or international court or tribunal, the chief adviser's press secretary, Syed Fahim Munaim, told reporters after the cabinet meeting.

The council of advisers held the meeting at the Chief Adviser's Office, chaired by the chief adviser, Fakhruddin Ahmed. The ordinances were designed in line with the recommendations of a committee the government formed last year to strengthen local government bodies. Adviser AMM Shawkat Ali led the seven-member committee.

The ordinance related to city corporations will bring all city corporations under the same law. The city corporations had earlier been running on separate laws. According to the ordinances, the term of the elected public representatives at every level will be five years. The ordinances specify election spending at every level of the local government and have a provision to ensure accountability. Bangladeshi nationals of age 25 or over are eligible to contest the local government elections.

A candidate must be on the voters' list and be a permanent resident of the ward from where he wants to participate in the polls. The ordinances listed 20 crimes that disqualify the guilty to contest the polls. A

person who lost Bangladeshi citizenship or was declared insane by any court, or suffered at least two years in jail for criminal offences or was a bank loan defaulter would be barred from the polls. The Local Government Commission Ordinance 2008, a third law approved by the cabinet on Thursday, says the commission's chairman must have expertise in the related field.

Two members, apart from the chairman of the commission, must have administrative and legal expertise. The chairman of the Public Service Commission will be the ex-officio chairman of the commission's search committee. The comptroller and auditor general and the local government secretary would be its members. The

president will appoint the commission's chairman and two members from the panel selected by the search committee.

The Local Government Division will ensure financial allocation to the unions, upazilas, districts, municipalities and city corporations as per the recommendations of the Local Government Commission.

New city corporations, districts, upazilas and municipalities can be set up in line with the commission's recommendations.

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ZILA, UPAZILA PARISHADS TO HAVE 2 VICE-CHAIRMEN EACH

Direct election proposed in draft ordinance

The interim administration has taken a move to create new posts of vice-chairman in upazila and zila parishads to be elected by direct vote. One of the two posts of vice-chairman in both the local government bodies will be held by a female, directly elected.

Zila parishad chairmen from now on will also be elected by people, according to a decision made at an inter-ministry meeting at the Local Government Division on April 23. 'We are going to create two posts of vice-chairman both at Upazila and Zilla Parishads. The Zilla Parishad chairmen in all but the three Chittagong Hill Tracts districts will now be elected by people as is the case in upazila,' the LGRD and cooperatives adviser, Anwarul Iqbal, told reporters at the secretariat after the meeting on the draft Local Government (Union Parishad, Upazila Parishad and Zila Parishad) Ordinance 2008.

The provisions for the creation of 1,086 posts of vice-president in the local government bodies, a half of which will be held by females, and direct election to the post of Zilla Parishad chairman will be incorporated in the ordinance prepared by a the high-powered committee on strengthening the local government bodies. Elections to all the 482 Upazila Parishads have been overdue as the previous governments were not interested in holding the polls to the local government bodies, according to officials.

'The draft will be sent to the law ministry for vetting before it is placed at the meeting of the council of advisers,' Anwarul said.

In line with the recommendations of the committee, the cabinet has approved the Local Government [Municipality] Ordinance 2008 and the Local Government

[City Corporation] Ordinance 2008 with some changes in the proposed laws.

We have finally scrapped the proposal for 40, 30 and 30 per cent seats for women at every tier — zila, upazila, and union — for three consecutive terms by rotation on a High Court verdict against it. So the existing 30 per cent reserved seats for women in the local government bodies will be in force with equal opportunities for all representatives,' Iqbal said, adding that fresh rules would be framed to this effect soon. He said the officials and employees at union parishads would be brought under the revenue budget as is the case with other local government bodies.

As for elections to the local government bodies, including upazila parishad, Anwarul said it was now a compulsion of the Election Commission to conduct all the elections. 'The Election Commission has already been invested with the power to conduct the upazila parishad elections,' he

said.

Anwarul said the government had again appealed to the High Court for an extension to the timeframe for the Upazila Parishad elections by six more months. Such extensions were made for at least 10 to 12 times as the previous governments were not interested in holding the Upazilla polls.

The Bangladesh Nationalist Party, after assuming office in 1991, dissolved the upazila parishad system which was introduced in 1982 by HM Ershad. The first elections to upazila parishads were held in 1984, followed by the second in 1988.

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TEACHERS AND LOAN DEFAULTERS ARE DECLARED NON-ELIGIBLE IN THE MUNICIPALITY & CITY CORPORATION ELECTIONS

Loan defaulters and defendants, teachers working in schools, colleges and madrassas that receive grants from the government will not be able to contest in the City Corporation and Municipality elections. A unified Act for all City Corporations and Local Government (Municipality) Ordinance is given effect where the aforementioned are declared non-eligible for candidacy in the elections. These ordinances were declared in the form of ordinances and were given effect from 14 May. One-third of the seats in the City Corporation and Municipality will be reserved for the women.

- ◆ Unified City Corporation and Municipality Act is in effect
- ◆ The Municipality Chairman will be designated as 'Mayor' and the commissioners as 'counselors'
- ◆ If any candidate provides false information in the affidavit of the candidacy, her/his candidacy will be declared void.

The Election Commission will prepare the draft to set rules and regulations regarding the elections of the City Corporation and

Municipality within the next week. Confirming this information the Election Commissioner Bridg (Rtd) Sakhawat Hossain informed the press that the Election Commission was now preparing to conduct elections in four City Corporations and nine Municipalities.

Four City Corporation Elections in July

Last Monday after the regular meeting of the Election Commission Sakhawat Hossain informed the journalists that they have already received the ordinance which defined various instructions regarding the elections of the local government institutions. The Commission at present was busy to coordinate among the various chapters of the ordinance. The Commissioner also informed that the Commission was willing to conduct elections of four City Corporations and of expired nine Municipalities in July. And the Commission was fully prepared to perform this duty. It was not possible for the Commission in the past to take such steps in absence of such acts. The Commission was determined to finalize the draft within a week to send it to the Ministry of Law. The Commissioner has expressed his expectation saying that the government would be sincere enough to finalize the draft soon and quickly.

The Election Commissioner Sakhawat Hossain said that the Commission was very much willing to conduct the Dhaka City Corporation election. However since the schedule of the election collides with the month of Ramadan it was not yet decided whether the election would be after the Ramadan or before.

Registration for the Political Parties is Mandatory Amendment of the 1972 Representation Ordinance is almost completed. The Ministry of Law at present is busy vetting this ordinance in line with the recommendations of the Election Commission. It might be placed before the Advisory Council within a week. The most important feature of this amended

ordinance is to make registration of political parties mandatory.

According to two new effective ordinances, there will be some strict rules and regulations regarding limiting participation of the officials in the elections who work in NGOs that receive grants from the foreign donors. Any officials from such NGOs will be considered as non-eligible unless a year passes since his/her resignation or dismissal.

Prominent Features of the New Ordinances

In the new ordinance the Local Government Commission is given the power to recommend the dismissal of a Municipality if it is not formed abiding the necessary rules and regulations. The Local Government Division will take required steps in accordance with the recommendations of the Local Government Commission.

In case of the loan defaulters and defendants, if the accused does not repay the loans before a year of applying for the candidacy s/he will be considered as non-eligible. Previously the loan defaulters had the opportunity to repay their debts just before applying for candidacy in the elections. However, this condition is not applicable for debtors of micro-finance or house building loans.

The Chairman of Trusty Board of Transparency International Bangladesh (TIB) Prof. Muzzaffar Ahmed said in this regard that it was the demand of the civil society not to allow loan defaulters participate as candidates in the elections. The Election Commission probably has determined a year of time for the loan defaulters in order to keep the suggestions of the political parties. Yet he is observing this provision as a progressive trend for the future.

According to the new laws, anyone working in the educational institutions receiving government grants or convicted

as war criminal by national or international tribunal will not be allowed to apply as candidates.

Each candidate has to submit an affidavit with her/his nomination paper declaring that all information provided are accurate and present her/him as a legitimate candidate. If anyone provides false or fabricated information in the nomination paper, not only the candidacy will be canceled s/he will be subject to fine and imprisonment.

Disputes regarding election cannot be filed in any other court except for election tribunal. And other than the candidate, none can register complains or objections.

Prior to taken the oath, the elected members of the City Corporation or Municipality will have to resign from their respective position (if they hold any position at any level) of the political party. The chairman of a municipality would be called "mayor" or "Poura Mayor" and the commissioners as "counselors".

The government has the power to dismiss any mayor or counselor through a prescribed procedure. And if the outgoing mayor or counselor fails to hand over office to the incoming elected members, then maximum 3 years imprisonment and maximum Tk 20,000 in fines will be awarded to the delinquent.

The City Corporations and Municipalities will prepare the citizen charter that will explain in detail the services and the timeframe within which these services will be provided.

According to the new ordinance the law and enforcement agencies are bound to provide services to the City Corporations and Municipalities. At the same time the Municipalities can form Municipality police force if they intended.

It is mandatory from now for any candidate to be registered voter in his/her constituency. At the same time it is prohibited for any person to apply for more than one position.

The City Corporation and Municipalities are provided with the opportunity to have a three-member mayor panel. One of the members must be an elected women member from the reserved seats.

According to the new ordinances the government will have the authority to dismiss the activities of any department of City Corporation and Municipalities through a precibed procedure identifying the reasons.

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EC TO ANNOUNCE LOCAL GOVERNMENT POLLS SCHEDULE IN EARLY JUNE

The Election Commission is set to announce the schedule for elections to some local government bodies in early June, a senior election official said on May 24.

‘Specific dates for the polls to the four city corporations and nine municipalities will be announced early June. Before that, we

will formally ask the government to create an atmosphere congenial to campaigning and other election related activities, either by withdrawing the state of emergency or relaxing it,’ election commissioner Muhammed Sohul Hussain told the news agency. Polls to the four city corporations and nine municipalities are expected to be held in mid July, Sohul said.

The four city corporations are Rajshahi, Sylhet, Barisal and Khulna, and the nine municipalities are Shariatpur, Sitakunda (Chittagong), Cox's Bazar, Golapganj (Sylhet), Sripur (Gazipur), Phulbaria (Mymensingh), Manikganj, Nachole (Chapainawabganj) and Naohata (Rajshahi). Sohul said voter lists of the areas were ready and polling centres had been finalised. Preparatory work like preparing voting forms and manuals would be completed before announcing the election schedule.

The Election Commission will have a meeting with deputy election commissioners on Monday to discuss overall preparation for the local polls. 'The meeting is meant to listen to opinions from field-level officials and to give them guidance,' Sohul said. He said that the schedule would be announced as soon as the preparation was complete.

Fellow election commissioner Sakhawat Hussain said the EC was planning to hold the elections to the above mentioned city corporations and municipalities on the

same day. Polls to the Dhaka City Corporation would be held later, Sakhawat said. The schedule will be announced up to 45 days before the election in consideration of the campaign for polls, Sakhawat said.

Another senior official of the Election Commission secretariat said preparation to hold polls to the local government bodies was almost complete. Returning officers and assistant returning officers had been appointed. But the forms could not be printed as election codes of conduct had not been finalised yet.

On the matter, Sohul said the local government ordinance related to city corporations and municipalities had been gazetted. The election rules and codes of conducts will be sent to the law ministry today. They may be published by gazette in the first week of June.

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DIRECT VOTING FOR ZILLA PARISHAD CHAIRMAN

Government seeks six more months for Upazila polls

The government has decided to introduce direct elections to the post of Zilla Parishad chairman and create two new posts of vice-chairman in the Zilla and Upazila Parishads.

The LGRD ministry on April 27 finalised the drafts of the new ordinances on three local government bodies -- Union Parishad (UP), Upazila Parishad and Zilla Parishad - with provision of equal share of the vice-chairman posts by man and woman.

The vice-chairmen will also be elected through direct voting.

In another development, the government has sought six-month extension for holding the upazila elections.

The new laws will be enacted after final approval by the Council of Advisers following vetting by the law ministry. Before sending them to the law ministry, the ordinances will be forwarded to the cabinet within next few days for approval in principle.

The three ordinances will be published in a book styled "Local Government (Union

Parishad, Upazila and Zilla) Ordinance 2008”.

The government has decided to create the posts of vice-chairman to the Zilla and Upazila Parishads to assist the chairman in carrying out his duties better, LGRD Adviser Anwarul Iqbal said while briefing reporters at his ministry yesterday on the content of the proposed laws.

“Of the two, one will be a woman. We've taken the decision to help development of the women,” he said.

As per the proposed drafts, two vice-chairmen will be elected in each of the 61 districts (apart from hill districts of Rangamati, Bandarban and Khagrachhari, which are administered by a hill tracts council) and in each of 482 upazilas.

“This means 543 new posts will be created for women once the ordinances come into being,” the adviser said.

“Once the ordinance is promulgated, the Zilla Parishad will be comprised of an elected chairman and two vice-chairmen, all elected upazila chairmen and vice-chairmen of the district and municipality chairmen,” Mizanur Rahman, joint secretary of the ministry, told The Daily Star.

The Upazila Parishad will consist of an elected chairman and two vice-chairmen, municipality chairmen (if there is any municipality in the upazila) and UP chairmen.

The new ordinances will specify the duties, responsibilities and facilities of those to be elected in the reserved seats.

“Those who will be elected in the reserved seats will have equal duties and facilities; they'll have to be treated equally,” Anwarul Iqbal said.

Since there is no mention of educational qualification for the members of parliament, the new laws also do not also put any such requirement for the local government candidates.

Upazila polls

“We've sought another six-month extension this month [for upazila polls],” Anwarul Iqbal said, adding that they are yet to receive any decision in this regard.

Though the Supreme Court had earlier asked the government to hold upazila elections in six months, the past governments had dillydallied over it by seeking repeated time extensions.

On why the government has sought time extension as it has handed over the power to the EC to hold the upazila polls, he said, “Since the court earlier directed the government to hold the election, we've continued seeking time, but the Election Commission can also do this now.”

Consecutive governments have so far sought extensions for 10-12 times, he said.

In 2001, the government was given the power to hold Upazila election but the present caretaker government amended the law and handed over the power to the EC through a gazette notification on April 7.

Asked whether the Upazila elections would be held before the parliamentary elections, the LGRD adviser said that it would depend on the EC.

It becomes a routine work for the EC to arrange elections to the union Parishad, municipality and City Corporation, once the tenure of these bodies ends, he added.

Following a High Court judgement on a writ filed by some ward commissioners of Khulna, the ministry has backtracked from its previous decision of electing women candidates to all wards of local government bodies by rotation in three

terms, and is sticking to existing provision of electing them to 30 percent reserved seats.

“We cannot do it as it will conflict with the court verdict,” Anwarul Iqbal said.

As per the previous decision, 40 percent seats were to be reserved in the first term while 30 percent in next two.

The High Court has also said the provision of reserved seats should not be a permanent system, the adviser said, adding: “We'll continue it until a number of women candidates can be elected normally.”

The cabinet on on April 24 approved the Local Government (Municipality) Ordinance, 2008 and the Local Government (City Corporation) Ordinance, 2008.

The law ministry will issue a gazette notification on it after the president approves it.

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EC FOR SELECTION OF ZILLA PARISHAD CHAIRMAN OPPOSES GOVERNMENT MOVE FOR ELECTION

The Election Commission (EC) has strongly opposed the caretaker government's move to introduce direct elections to the post of Zilla Parishad chairman.

Citing a number of difficulties in introducing the new system, the commission suggested that the Zilla Parishad chairman should be selected by the government.

Regarding creation of two posts of vice-chairman in Zilla and Upazila Parishads, the EC has only agreed with the government move to create a post of vice-chairman exclusively for women in each of the two local government bodies, sources in the EC said.

The EC on May 9, 2008 sent its opinion on draft ordinance on formation and functions

of Zilla, Upazila and union Parishad to the LGRD ministry, asking it to empower the commission with the authorities to formulate rules for conducting polls to these bodies.

Opposing the LGRD ministry's move to introduce direct polls to the post of Zilla chairman, the EC said Zilla Parishad chairman had never been elected on universal franchise in the past. Problems will occur if the chairman is elected on universal franchise, it added.

“If two vice-chairmen are elected along with a chairman to Zilla Parishad on adult franchise, additional offices, establishments and manpower would be required for them. Besides, there will be difficulty in fixing their jurisdictions,” a source said quoting the EC's remarks on the matter.

As per the existing laws, the Zilla Parishad chairman is elected by the electoral college comprising the mayor and commissioners of a city corporation, chairmen of Upazila Parishads, chairmen and commissioners of municipalities and chairmen and members of union Parishads.

Showing similar reasons, the EC also opposed creating two posts of vice-chairman in Upazila Parishad. But it favoured creation of a post of vice-chairman in each Zilla and Upazila Parishad for the empowerment of women.

In Zilla Parishad, the government will appoint a female vice-chairman while in

Upazila Parishad, a female vice-chairman along with the Upazila chairman will be elected on adult franchise, said the EC.

In an effort to curtail absolute power of Zilla and Upazila Parishad chairmen, the LGRD ministry in its draft law proposed to create the posts of vice-chairman in 61 district (excepting the three hill districts) and 482 Upazilas.

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WOMEN'S RESERVED SEATS IN LOCAL GOVT GOVERNMENT RETREATS FROM PLEDGE

In a surprise move the caretaker government has retreated from its earlier pledge of reserving 40 percent seats for women at all tiers of the local government system for three consecutive terms.

It is widely believed that the government has buckled in the wake of violent protests by hardliner Islamist groups against the National Women's Development Policy 2008.

The pledge however was made to effectively empower women at all levels of the local government system.

On March 23, the council of advisers approved in principle two ordinances regarding formations and functions of city corporations and municipalities with the provision for reserving 40 percent seats exclusively for women.

The government also had a plan to incorporate the same provision in other upcoming laws regarding formations and functions of union, Upazila and Zilla Parishads, the sources added.

But an Ulema Committee formed by the government to review the women's development policy, on April 17 in its recommendations to the government, strongly opposed the policy and asked the government to scrap the provision for increasing the number of reserved seats for women in the local government system, representatives to which would be elected through direct elections according to the earlier proposal.

Following the recommendations of the ulemas, the council of advisers at a special meeting on April 24 finalized the two ordinances regarding city corporations and municipalities scrapping the provision for reserving 40 percent seats for women.

The finalized ordinances however propose to continue the current provision for reserving one-third seats for women in city corporations and municipalities, which is expected to be promulgated as a law by the president soon, handing over a whopping victory to the Islamist hardliners in the country.

According to the existing provision, Dhaka City Corporation (DCC) has 90 wards headed by as many commissioners. In addition, there are provisions for 30 women commissioners. Each woman commissioner is in charge of three wards. So in reality each ward has two commissioners -- one generally elected commissioner and the other a woman commissioner who is also elected by voters of three wards. This system leads to conflicts in sharing responsibilities as generally elected commissioners are often found to be non-cooperating with the specially elected women commissioners. Similar power sharing systems exist for other city corporations, municipalities and union Parishads.

But the proposed law suggested 40 percent of the total 90 wards of DCC be reserved for women. So, there would be no dual commissionership in any ward. Such reserved seats for women were supposed to be in place for three terms totalling in 15 years. After that the government was to make a fresh decision on whether the reserved women's seats would exist or not.

Defending the government's back flip, LGRD Adviser Anwarul Iqbal on April 27 claimed to the media that the provision for reserving 40 percent seats for women had to be scrapped, since it would come into conflict with a court verdict.

A government formed expert committee on strengthening local government institutions led by incumbent Health Adviser MM Shawkat Ali, which came up with the original proposal, however did so after reviewing the High Court verdict.

The committee found nothing wrong in reserving 40 percent seats for women for the next 15 years, instead it argued that the constitution does not discourage making special provisions for women's development.

Referring to the High Court judgment on a writ filed by some women ward commissioners elected to reserved seats in Khulna City Corporation, the LGRD adviser said the provision for reserving seats for women should not be a permanent system.

The petitioners filed the writ to avoid being marginalized in the name of being assigned with 'special duties'.

In fact according to the High Court's verdict, representatives elected to reserved seats for women cannot be officially assigned with 'special duties' in local governments and they must be treated as equals to other elected representatives.

The High Court verdict actually said nothing about the percentage of seats to be reserved for women.

Draft law for Zilla, Upazila & Union Parishads

Meanwhile, in line with the government's latest reversal of decisions, the LGRD ministry already drafted a law regarding formations, elections and functions of union, Upazila and Zilla Parishads without keeping the provision for reserving 40 percent seats for women, who would be elected through direct votes, sources in the ministry said.

The draft ordinance proposes to continue the current provision for reserving three seats for women in each Union Parishad, having jurisdiction over nine general wards, a source said.

Meaning, each elected woman to reserved seats in a Union Parishad will have to share her authority with three other elected members, running the risk of being marginalized.

At Upazila and Zilla Parishad levels, instead of reserving 40 percent seats for women, the new draft law proposes to keep one-third of total posts reserved for

women, who will be elected through indirect votes.

Women, who are already elected to reserved seats at lower tiers of the local government system will only be able to contest in elections to Upazila and Zilla Parishads, and an electoral college of already elected women to reserved seats at lower tiers will elect from among themselves the representatives to reserved seats for women in Upazila and Zilla Parishads, says the draft law.

The LGRD ministry draft however proposes to create a post of a vice-chairman in each Upazila and Zilla

Parishads, which will be reserved for women elected through direct votes.

Currently there are around 14,500 women representatives elected to reserved seats in over 4,000 union parishads, 6 city corporations, and the municipalities.

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LOCAL GOVERNMENT BODIES LAW DRAFTED FOR ACCESS TO INFORMATION

The caretaker government has moved to ensure that people get information about functioning of local government bodies as part of efforts to establish accountability and transparency in their activities.

The LGRD ministry has drafted laws on different local government bodies incorporating provisions for people's access to information, and punishment for refusal to give information, sources said.

The council of advisers to the caretaker government has already finalised two draft ordinances on city corporations and municipalities which contain provisions allowing citizens to have information on them.

In the proposed ordinances on zila, upazila and union parishads, the LGRD ministry has incorporated a similar chapter titled 'right to information', detailing the procedure to get information, sources in

the ministry said.

The proposed ordinances say any citizen of Bangladesh has the right to get information on any local government units through a prescribed procedure.

But the citizens will not have access to any information contained in notified records or documents, and the authorities can refuse to accept any applications seeking such information.

In such cases, the government through gazette notifications can classify these records and documents as notified ones in the interests of all concerned.

“A local government unit can ignore any demands for getting information contained in notified records or documents,” one source said quoting the relevant provisions.

According to the proposed laws, the government can direct any local government institution to prepare a list of information to be made available to people.

The draft ordinances say, "Officials concerned in city corporations will be bound to give information within the specified time, excepting that contained in classified records or documents."

If a citizen's application for information is not accepted, he or she will be informed of the reasons in writing.

If any officials concerned fail to give information within the specified timeline, they will be fined Tk 50 per day for delay. If an official refuses to give information or willingly gives false information, he or she will be fined at least Tk 1,000, and the money will be deposited as funds for the local government unit concerned.

Government policymakers believe that once people's right to such information is ensured, it would also pave the way for their involvement in the functioning of local government units.

Meanwhile, civil society and professional bodies and non-government organisations have been demanding such laws to effectively combat corruption at various levels. But successive governments ignored this.

Against this backdrop, a high-powered committee on strengthening local governments, headed by Health Adviser Dr AMM Shawkat Ali, in its report to Chief Adviser Fakhruddin Ahmed in November last year proposed allowing citizens to have information on local government bodies.

The caretaker government (CG) is set to form a local government commission in a bid to shore up the local justice system.

Adviser for Local Government Rural Development (LGRD) and Cooperatives Anwarul Iqbal said this while speaking at a two-day workshop on 'Strengthening Local Justice System' jointly organised by BLAST and World Bank (WB) in the city Sunday, bdnews24.com.

"We are going to establish soon a local government commission in pursuance of the popular demand of a wide range of

stakeholders including local government representatives, academia and the development partners", the LGRD adviser said.

The local justice system is aimed at bringing justice to the doorstep of society - far from a complex, long-drawn legal system.

The adviser said the commission ordinance was awaiting the president's approval.

"After publishing the ordinance in the gazette form, we will constitute a three-member commission for the purpose", he also said.

"Through the formation of the commission, the government will be able to improve the prevailing democratic system", he added.

"The grass-roots people will be able to access justice if their leadership is established through this commission. The village courts and arbitration council will see qualitative changes", he mentioned.

The Union Parishad plays an important role in two institutions: Gram Adalat established under the Gram Adalat Act 2006 and the Arbitration Council established under the Muslim Family Law Ordinance 1961.

'Kamal Hossain, chairman of Bangladesh Legal Aid and Services Trust, said: "The grassroots' poor have historically been deprived of justice and fair play all along."

Kamal said the present government was different from the past governments. "We hope the present administration will bring a qualitative change to the local judicial system," he said.

WB Country Director Xian Zhu and BLAST Executive Director Taslimur Rahman also spoke in the workshop.

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LOCAL GOVERNMENT COMMISSION TO SHORE UP GRASSROOTS JUSTICE SYSTEM: ADVISER

The caretaker government (CG) is set to form a local government commission in a bid to shore up the local justice system.

Adviser for Local Government Rural Development (LGRD) and Cooperatives Anwarul Iqbal said this while speaking at a two-day workshop on 'Strengthening Local Justice System' jointly organised by BLAST and World Bank (WB) in the city on May 13 .

"We are going to establish soon a local government commission in pursuance of the popular demand of a wide range of stakeholders including local government representatives, academia and the development partners", the LGRD adviser said.

The local justice system is aimed at bringing justice to the doorstep of society - far from a complex, long-drawn legal system.

The adviser said the commission ordinance was awaiting the president's approval.

"After publishing the ordinance in the gazette form, we will constitute a three-member commission for the purpose", he also said.

"Through the formation of the commission, the government will be able to improve the prevailing democratic system", he added.

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LAWS ON LOCAL GOVERNMENT OKAYED

The Council of Advisers on April 26 finally approved the Local Government Commission Ordinance, 2008 to form a three-member commission "for infusing dynamism" in the local-government institutions through participation of

grassroots people in planning and implementation of development projects.

A meeting of the Council of Advisers with Chief Adviser Fakhruddin Ahmed in the chair also gave final approval to the Local Government (Municipality) Ordinance,

2008 and the Local Government (City Corporation) Ordinance, 2008. These ordinances are also aimed at strengthening the local-government institutions and ensuring effective participation of grassroots people in development projects in their areas.

As per provision of the Local Government Commission Ordinance, the president of the country will appoint the chairman and members of the Local Government Commission for three years on recommendation of the selection committee.

Age of the chairman and members of the commission should not exceed 70 years. A joint secretary-level official would act as the secretary to the independent local government commission.

The chairman of the Public Service Commission will be the president and the secretary of Local Government Division and the comptroller and the accountant general would be the members of the selection committee.

The Local Government (City Corporation) Ordinance, 2008 was made by unifying earlier six separate City Corporation Acts. The ward commissioner would be renamed councillors.

Under the new ordinance, chairman of a municipality would be called "mayor" or "Poura Mayor".

Members of the Advisory Council attended the meeting at the Chief Adviser's Office. Cabinet Secretary, chief adviser's press secretary and secretaries concerned were also present.

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GRAM SARKAR AND LOCAL GOVERNMENT ELECTION

Dhiraj Kumar Nath

With the approval of Gram Sarkar (Rescission) Ordinance, 2008, about 40,000 *Gram Sarkars* officially existing so long as the lowest tier of the local government stand abolished. In fact, when the Gram Sarkar Bill, 2003 was placed before the parliament on February 26, 2003, about 11 MPs participating in the debate demanded eliciting of public opinion on the Bill prior to its approval as an Act. There was also demand for a referendum on the formation of such a vital tier of the local government, limiting the authority of the *Union Parishad*.

Even in May, 1980, when *Swanirvar Gram Sarkar* came into being, Capt. Abdul Halim, the then minister in charge of local government, and the people, by and large, were sceptical about the motive behind such a move to reform the grassroots level

representation.

The functions of *Swanirvar Gram Sarkar*, as prescribed, were food production, formation of village based cooperatives, mass literacy, family planning, and maintenance of law and order.

These were found acceptable but overlapped with the *union parishad*, and the confusing charter of rights and obligations generated resentments among the *union parishad* members.

Thus, *Swanirvar Gram Sarkar* could not last long. Even the *Gram Parishad* constituted in September 1997, could not see the light of the days due to many shortcomings detected earlier.

Participatory governance at the grassroots level is usually considered a

means of strengthening the local government with delegation of authority to plan decisions for effective management of public functions. But it is necessary to take extra precautions prior to its implementation.

When the Bengal Village Choukidari Act, 1870 and the Local Self Govt. Act of 1885 were promulgated, the British government examined the implications for a long time although there was nobody to protest and find the lapses.

On many occasions, a simple issue can generate hot debates and discontent that might distort the very spirit of the purpose. A debate is now going on about the timing of local government elections.

At a round table conference held few days back, local government representatives could not agree with politicians on the time of holding local government elections. Politicians expressed their views in favour of holding the local government elections after the parliament election, which local government representatives did not agree with. There was, of course, consensus on the strengthening of the local government system for sustainable development.

Some politicians might be wondering whether parliamentary election will at all be held, since the Election Commission is lagging four months behind the schedule as announced in the roadmap.

Besides, a question has been raised about the authority of the Election Commission to hold the local government elections, since Article 119(1) of Chapter 7 of the Constitution does not permit the EC to organise such elections.

The Election Commission, under this

Article, is empowered to hold the election of president, members of the parliament, demarcation of areas, and preparation of voter list.

Some of the local representatives have drawn the attention to Article 119(2) of the Constitution, which says the Election Commission can exercise the authority to do the same.

Those who were in favour of holding local government election before the parliament election put forward the argument that election of non-political, honest, competent, educated, and dedicated social representatives would be possible provided local government elections were held earlier.

Besides, the probability of false voting, the tendency of debarring the voters, and creating confusion about the result declared will be reduced.

Those who opposed the idea of earlier election of local bodies expressed the view that the election of *union parishads* or *upazila parishads*, if organised after the parliament election, would create opportunities of effective cooperation between parliament members and local level representatives, and reduce the costs.

According to them, the national government, after assuming power, would try to supersede many chairmen and members not found suitable to them and, thus, create total confusion. Another important point raised by them is that many people will not feel comfortable to participate in the election during the time of emergency.

It is common to have difference of opinions on such a vital national issue. But it is necessary to see whether the election of local bodies -- 4498 *union parishads*, 480 *upazilla parishads*, 390 municipal societies, and 6 city

corporations -- could be held in one day, or with the parliament election. No, not at all. Definitely, the elections have to be held in phases for days together, which might take more than a month. So the process should begin early.

Local level bodies' elections are not new in Bangladesh. After independence, parliament elections were held 8 times, president elections were also held 8 times, and referendums took place three times -- on May 3, 1977, March 21, 1985, September 15, 1991.

Union Parishads elections were held 7 times, city corporation election 5 times, municipal elections 7 times and *upazilla parishad* elections 2 times. The people, by and large, are accustomed to such elections, and they take them in a festive mood. We are unfortunate if we repeatedly fail to uphold our tradition, culture and heritage of being a civilised nation.

The Election Commission might take steps to hold the election of *union parishads*, *upazilla parishads*, municipal and city corporations, before the parliament election; keeping in mind the benefits the nation shall derive from such initiative.

The process could be started in the month of September and be completed before November. Elections of local bodies and the national assembly at the same time shall create confusion and disorganise the whole process, telling upon the image of the government and the Commission itself.

With the abolition of the *Gram Sarkar*, we expect a lot of reforms in the local government system will take place. The process of strengthening the local government institutions and empowerment of local bodies should be

completed as quickly as possible, in accordance with the recommendations of the committee constituted for the purpose.

Once things get rolling toward devolution of authority to the local bodies and ensuring free and fair election, public confidence will be established on the commitment of the government to the transition to a meaningful democracy.

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RESETTING LOCAL GOVERNMENT IN BANGLADESH

Majibar Rahman

The present structure of local government in Bangladesh is an infringement of the constitution. It is guaranteed in the constitution (articles 9, 11, 59 and 60) that people's active participation should be ensured at all levels of administration. However, the local government used to be a tool to collect revenue by the masqueraders during the British rule and an agent of the provincial government during the Pakistan era. Now, it is an extended hand of the central government. The local government has never been by the people, of the people and for the people. It seems that neither are the bureaucrats sincere to strengthen the local government nor do the people's representatives have the courage, interest and genuine capacity to steer it in a proper way.

We say three tiers of local governments, i.e. union, upazila and district councils, are in existence in Bangladesh. The question is: How far is the claim compatible with the ground realities? Except union parishad, which is composed of people's representatives, the other tiers are constituted, administered and led by public officials.

A strong local government system through the devolution of authority and fiscal transfer has been an expectation of the people for long. The local government and decentralisation has also been the centrepiece of debate and discussion among civil societies, local-level government institutions, researchers, policymakers, and donors over the past decade. Moreover, with every change of government, there has been renewed focus on local governance and decentralisation. Still, local governance and decentralisation is yet to transform in the shape envisaged in the constitution. It continues to be

manipulated to serve the sweet will and wishes of the government of the day.

Gram Bangla our identity

The recommendations of the local government policy advocacy body, constituted by the present government, appear very conventional. While the issue of governance has been underscored, extensive participation at the grassroots has not been ensured in the recommended mechanism. In the existing ward system, 40,500 union parishad members belong to an equal number of villages. What about the remaining 25,000-30,000 villages? Even if the number of wards were to be increased from 9 to 12-15, more than 20 per cent of the villages would still not have their representatives on union parishad. Are we not then starting the voyage of democracy by excluding at least 20 per cent of the villages?

The village stands on its own by geographical boundary, family tradition, social custom and values, the village stands and can be clearly defined from sociological, socio-economic, anthropological, historical, political, geographical, revenue and/or administrative points of view. The village has always maintained its own identity by dint of its characteristic features, tradition and separate entity. In other words, below the artificial ward there is a traditional local institution. We make all politics adding and cutting to constitute a ward for election purpose. We should forego the so-called concept of ward and opt for village representative/member as village is our identity, not ward.

One village one member

As regards the size of Union Parishad, it

may vary with the number of villages for true community participation. One village one member instead of one ward one member can be the cardinal principle of composition of local government at the union level. A third of the villages in a union can be represented by women to ensure women's participation in higher numbers. This should, however, not pose any bar to competent women candidates contesting in other constituencies with their male counterparts. Also, if the number of villages in a union is 22, the share could be $7 + 1 = 8$ for women and $7 + 2 = 9$ if the number of villages is 23.

The local government policy advocacy body has recommended that the number of wards in a union be increased from 9 to 12-15. Its implementation is likely to create intricacies in the shape of further bifurcation and reconstitution of wards and may not be possible in a short time to the satisfaction of all segments of the people. Besides, as said before, increasing the number of wards will not ensure representation of all the villages.

On the contrary, the one village one member concept will certainly increase the number of people's representatives, albeit with some cost on the government's part. However, the cost will be compensated by multiple benefits such as better assessment of union tax, better collection, good village development planning, establishment of better linkage between the service providers and recipients which in a way will lead to better governance at the micro level. In the present ward concept, more than 25 per cent of the villages are deprived of their village representatives. All the services mentioned above are very likely not to be accomplished neutrally and timely by a non-villager representative who is very likely to be biased to his own villagers.

At present there is only the provision for a chairman of union parishad. There should be a provision for vice-chairperson. The chairman of union parishad will be elected by direct votes from all the villages in a union. If the elected chairperson is a man, the vice-chairperson may be elected from women members by all the members of the parishad and vice versa.

Good governances at micro level

In addition to union parishad, there should be a union development committee comprising all union parishad members and all union-level field workers and representatives of non-governmental organisations. This committee, headed by the chairperson, should be constituted by a gazette notification by the Cabinet Division. All members of the committee will meet once a month where all service providers will report their achievement during the month and inform their plan of action for the next month. They will also inform about deliverables available at their disposal. There should also be a village development association comprising all eligible voters/head of household of the village. The association will be led by the UP member and meet once a month at a particular place and time decided by the villagers. It will facilitate two-way communications between the service providers and the recipients and thus ensure efficient and effective service delivery.

We have a very strong central government, which may be likened with an ocean, and local governments, which may be likened with ponds. For the welfare of the local people, we need to reconstruct and renovate the derelict ponds first because the common people have better access to ponds rather than the ocean. Fourteen ministries, thirty-five agencies and thousands of NGOs are engaged in rural development and poverty alleviation in Bangladesh. Union-level employees working in different line ministries are

about 263 and including schoolteachers, they are about 800. In the upazila, activities of different agencies are coordinated by the UNO and at the district level by the deputy commissioner. But at the ground level where different ministries, agencies and NGOs are working there is no one, either from the central government or the local government, to coordinate their activities. The service providers, both government and non-government, are not accountable to the service recipients. Union parishad, accountable to the people, has neither the adequate financial resources nor human resources at their disposal to perform the responsibilities entrusted upon them by the government.

We always complain that local government cannot function well without adequate manpower. It is true. But do we have the resources to equip local government with additional manpower? We do not. As we are now looking desperately for alternative renewable energy, similarly we can think of placing the central government staff to work under the leadership of local government at all level as an alternative.

Thana training and development centres have provided one-stop services. Likewise, the union parishad complex concept is moving ahead, albeit slowly and not so objectively. It is a proven better concept and mechanism for effective and efficient delivery of public services. Half of the unions, perhaps well-off, are blessed with UPC offices all over the country. As union is envisaged as the focal point of development, all remaining unions should be covered under this programme without any delay. It does not require construction of a brick built complex everywhere. The concept of UPC can be combined with flood shelter/cyclone shelter and community centre/schools, etc.

Reviving upazila parishad

There has not been any people's body at the upazila level after the departure of the

Ershad regime. Union parishad chairpersons within the upazila and line ministry upazila officials are the members of the upazila development coordination committees which are steered by the UNO, although monthly meetings are chaired by the union parishad chairpersons by rotation. In the present system union parishad chairmen are in the front seat but the steering wheel is in the hand of the UNO, a government servant. UP chairperson are used to addressing the UNO 'sir' or 'UNO shaheb'; it should be the other way round.

The average number of unions per upazila is about 9. The size of the upazila parishad may be 12-20. The upazila parishad will be the representative body of all the union parishad chairmen within the upazila. In addition, equivalent to one-third of elected chairperson will be selected from among the women members of the union parishad within the upazila as the member of the upazila parishad for better representation of women. They will be selected by the women members of the union. If the number is not divisible, the benefit of odd number will go in favour of women as mentioned earlier. The chairperson will be selected by direct votes. The provision of vice-chairperson should be inducted who will be elected from among the members of the upazila parishad by the elected members. If the chairperson is male the vice-chairperson will be female and vice versa. The UNO will act as secretary to the upazila chairperson. All upazila-level staff will be accountable to the parishad.

Birth of Zila Parishad

In order to avoid interferences and interventions of members of parliament at the lower levels, people's representatives are also essential at the district level. Under the existing structure of local government, as we do not have people's representative at upazila and zila, members of parliament get free ground to pursue their political agenda and serve political

purposes through party cadre. People at large and people in opposition particularly are either underserved or not at all considered for public services. Districts are still the planning, allocating and sanctioning focal points of government services. Deprivation starts from top.

The average number of upazila per district is 7-plus. The zila parishad should be the representative body of all the upazila parishad consisting of 15-25 members with one governor and one deputy governor. All the upazila chairpersons should be ex-officio-members of zila parishad. Instead of direct votes all the union parishad members and chairpersons, and upazila parishad chairpersons will elect the zila governor, deputy governor. If the governor is a man the deputy governor will be a woman and vice versa. One member will have one vote. For example union parishad chairperson also being a member of upazila parishad will have one vote. The deputy commissioner may be renamed as district coordinator who will work as secretary to the district governor. All district-level staff will be accountable to zila parishad.

Local government polls before national elections

The government is now in a dilemma whether to hold national elections first or to start with local government elections. No positive change in the local government system will come into force unless it is non-party political in nature and action. How can we expect neutral services from a party political person who is elected by his party people? He is likely to serve first the people who voted for him and may be some others who are deemed to be neutral, but one segment that opposed him will always be sidelined. In our context, majority of the elected chairpersons/members get verdict from not more than half of the voters. It is not enough to say local governments in Bangladesh are non-party political

government; it has to be ensured that local government elections are held in a non-party political manner and environment. It may be possible if the local government elections are held before the parliament election and under a non-party political government.

The role of members of parliament should not go beyond activities which are legislative in nature. They must be away from sanctions and distribution of public goods at all levels. This has to be accomplished by representatives of local government. At best they can monitor when they will be on site and can advice and suggest for better delivery of services.

Local government is shadowed by the central government and the former is always used as extended hands of the central government. The local government minister in the country was always the secretary general or equivalent of the party in power. He along with his party affiliated disciples and cadres manipulated the local bodies' election although local government tends to be non-party political by nature. In ground realities local bodies are now the real focus of the political parties mainly because the local government minister steers the ruling party. After the Ershad regime only to retain and maintain political intervention and influence the local bodies both the Bangladesh Nationalist Party and the Awami League did not continue and re-introduce the Upazila system with people's representative as the head of the Upazila. None of the governments thought about people's representatives at district level. If we really want a non-party political local government, there are no other options but to hold local government election first. Let us start with union Parishad, municipalities and city corporations followed by Upazila and Zilla Parishads. The position of the local government chairperson and the member of parliament is like captain and coach.

Both are important. But captain is more important than the coach.

If there is a will, there is a way. The separation of the judiciary from the executive bench is also embodied in the constitution under Article 22 but it took three decades after our independence for its implementation. What could not be done in 36 years was executed in a few months after assumption of power by the army-backed caretaker government.

Likewise, the Anti-Corruption Commission, Election Commission and Public Service Commission have been reconstituted. A better local government of non-party political nature with full representation from the whole community is possible. It would be idealistic to expect a non-party political local government from a political government.

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