

PARLIAMENTS DURING THE PANDEMIC: A “DUAL STATE” EXPLANATION OF BANGLADESH *JATIYA SANGSAD*

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ABSTRACT

This article seeks to theorise the Parliament of Bangladesh (Jatiya Sangsad)’s response to the Covid-19 pandemic in light of the normative traits of global parliamentary responses to the public health emergency. It is argued that while the pandemic has contributed to the executive aggrandizement in established and unstable democracies alike, it has irreversibly marginalised the legislatures in countries with “pre-existing conditions” like democratic decay, elected authoritarianism etc. This article adopts the “Dual State” thesis expounded by Csaba Györy and Nyasha Weinberg in relation to Hungary and uses it as a theoretical lens to look through the Bangladesh Parliament’s performance during the pandemic. It concludes that Bangladesh’s total neglect of parliament as an institution of relevance during the pandemic is relatable to the Hungarian or Georgian style “Dual State” approach to the crisis and this might end up normalising a perpetual marginalisation of the Jatiya Sangad as an institution of accountability.

I. INTRODUCTION

During the nineteenth century, parliaments were central in pressing public demands, and in democratizing the autocratic monarchies. However, in the last few decades, the parliaments themselves have been substantially marginalized.¹ Some argue that parliaments have become law-influencing bodies rather than law-makers.² They see the parliament as an assembly that appoints and controls the executive branch, rather than as a body directly engaging in decision-making. According to Elena Griglio, this trend results from several factors such as the decline of legislatures’ involvement in law-making, overarching role of the

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¹ Loughlin, M., “The Contemporary Crisis of Constitutional Democracy”, 39 (2019) *Oxford Journal of Legal Studies*, pp 435-454, at p. 442.

² Polsby, N. W., “Legislatures”, in Greenstein, F. I., and Nelson W. Polsby, N. W. (eds), *Handbook of Political Science*, Addison-Wesley, 1975, pp. 257-319; Norton, P., “Parliaments: A Framework for Analysis”, 13(3) (1990) *West European Politics*, at pp. 1-9.

executives coupled with the increased technical complexity of decision-making, collapse of the traditional architecture of the separation of powers, etc.³ The increase in executive power associated with the administrative state has led some to argue that legislatures are anachronistic, hidebound bodies, especially unable to respond to situations of crisis.⁴ All these combined have contributed to leave rather limited scope for legislatures to intervene in the management of Covid-19 like crisis. At the same time, the lingering sense that crisis governance is executive governance makes it especially important to focus on the challenges and achievements of legislatures during this Covid-19 pandemic.⁵

This article intends to theorise Bangladesh Parliament (*Jatiya Sangsad*)’s response to the Covid-19 pandemic in light of the normative traits of global parliamentary responses to the public health emergency. It is argued that while the pandemic has contributed to the executive aggrandizement in established and unstable democracies alike, it has irreversibly marginalised the legislatures in countries with “pre-existing conditions” like democratic decay, elected authoritarianism etc. This paper adopts the “Dual State” thesis expounded by Csaba Győry and Nyasha Weinberg in relation to Hungary’s “hybrid regime” as the theoretical lens to look through the Bangladesh parliament’s pandemic time performance. It concludes that Bangladesh’s total ignorance of parliament as an institution of relevance during the pandemic is relatable to a Hungarian or Georgian style “Dual State” approach to the crisis. It has might end up normalising the perpetual marginalisation of the parliament as an institution of accountability.

Next two parts of the article paper (Parts 2 and 3) builds up the theoretical framework for understanding the normal and emergency time parliaments within the established democracies and the so-called “Dual States”. Part 4 then examines the operational and accountability approaches taken by the pandemic hit parliaments around the world. Part 5 takes upon the pandemic performance of Bangladesh House of the Nation or *Jatiya Sangsad* to compare it with the global trends. Analysis in this part shows how Bangladesh parliament’s (non)response to the pandemic fits it within a “Dual State” framework. Part 6 concludes the paper.

II. THE “DECLINED” PARLIAMENTS

Legislative branches in both the Parliamentary and Congressional models are institutionally designed to facilitate, rather than obstruct, the executive government.⁶ It

³ Griglio, E., “Parliamentary oversight under the Covid-19 emergency: Striving against Executive Dominance”, 8 (1-2) (2020) *The Theory and Practice of Legislation*, at pp. 49-70.

⁴ Posner, Eric A., and Vermeule A., *The Executive Unbound: After the Madisonian Republic*, Oxford University Press, 2010.

⁵ Ginsburg T., “Foreword for special issue on Legislatures in the time of Covid-19”, 8(1-2) (2020) *The Theory and Practice of Legislation*, at pp. 1-2.

⁶ P. Norton, P., “General Introduction”, in Norton P. (ed), *Legislatures*, Oxford, 1990, at pp. 1-10.

adds a crucially important representational and deliberative element to the governance process. Parliament, however, is not intended as a mere legitimizer and works for ensuring accountability and transparency of the governance also. During the “golden age of parliamentary revolution”⁷ in the UK, scholars like Walter Bagehot underscored the parliament as the corner stone of democratic governance.⁸ But, by the time the post-World War I rebuilding of the world order approached, countries started seeing rapid institutionalisation of the political party systems. The parties emerged as the all-powerful arbiter of governance, legislation and policy making. At the beginning of 1920s, Lord Bryce famously coined his “Decline of Parliament”⁹ thesis. The view, in gist, is that the parliament has given way to the prime minister’s “elective dictatorship”¹⁰ and partisan whipping. It therefore has become practically incapable of enforcing executive accountability.¹¹ Though the separation-of-power based Congressional systems could have avoided the personalistic mooring of the head of the government, partisan whipping has affected those legislatures as well.¹² Other emergent actors in the governance process were the expertise-based technocracy and administration-based bureaucracy. Hence, the national policy making tasks started falling in non-representative hands.¹³ Also, the mass media and other fourth branch institutions have whisked away a significant chunk of national policy and agenda setting role from parliaments.¹⁴ Interest groups as well as civil society bodies have created an alternative direct link between the citizens and the state, and in the process, diminished the sole representative claim of the parliaments.¹⁵

⁷ Crossman, R., *Introduction: Bagehot’s The English Constitution 1873*, Oxford, 1964.

⁸ Bagehot, W., *The English Constitution*, Oxford: Oxford University Press, 1968.

⁹ Wheare, K.C., “The Decline of Parliament”, 34(3) 1963 *The Political Quarterly*, at pp. 233-239.

¹⁰ Halisham, L., *Elective Dictatorship*, Quintin Hogg, 1976.

¹¹ Wheare, K.C., *Legislatures*, Oxford University Press, 1967; Thomas, G.P., “United Kingdom: The Prime Minister and Parliament”, 10(2-3) (2004) *Journal of Legislative Studies*, at pp. 4 - 37; Baldwin, N. D. J., “Concluding Observations: Legislative Weakness, Scrutinising Strength?”, 10 (2-3) (2004) *Journal of Legislative Studies*, at pp. 295-302.

¹² Goldsworthy, J., “Abdicating and Limiting Parliament’s Sovereignty”, 17(2) (2006) *King’s Law Journal*, at pp. 255-280.

¹³ Elgie, R., and Stapleton, J., “Testing the Decline of Parliament Thesis: Ireland, 1923-2002”, 54 (2006) *Political Studies*, 465-485 at p. 466.

¹⁴ Herman, V., and Lodge, J., “The European parliament and the “Decline of Legislatures” Thesis”, 13(1) (1978) *Politics*, 10-25, at p. 11-12.

¹⁵ Richardson, J., and Jordan, A. G., *Governing Under Pressure: The Policy Process in a Post-Parliamentary Democracy*, Martin Robertson, 1979 at p 122; Macintosh, J. P., ‘Introduction: Attitude to the Representative Role of Parliament’ in Macintosh J. P., *People and Parliament*, Saxon House, 1979, pp. 1-10.