RECALLING JANUARY 5 ELECTION

Essential reforms must for credible elections

MD. ABDUL ALIM

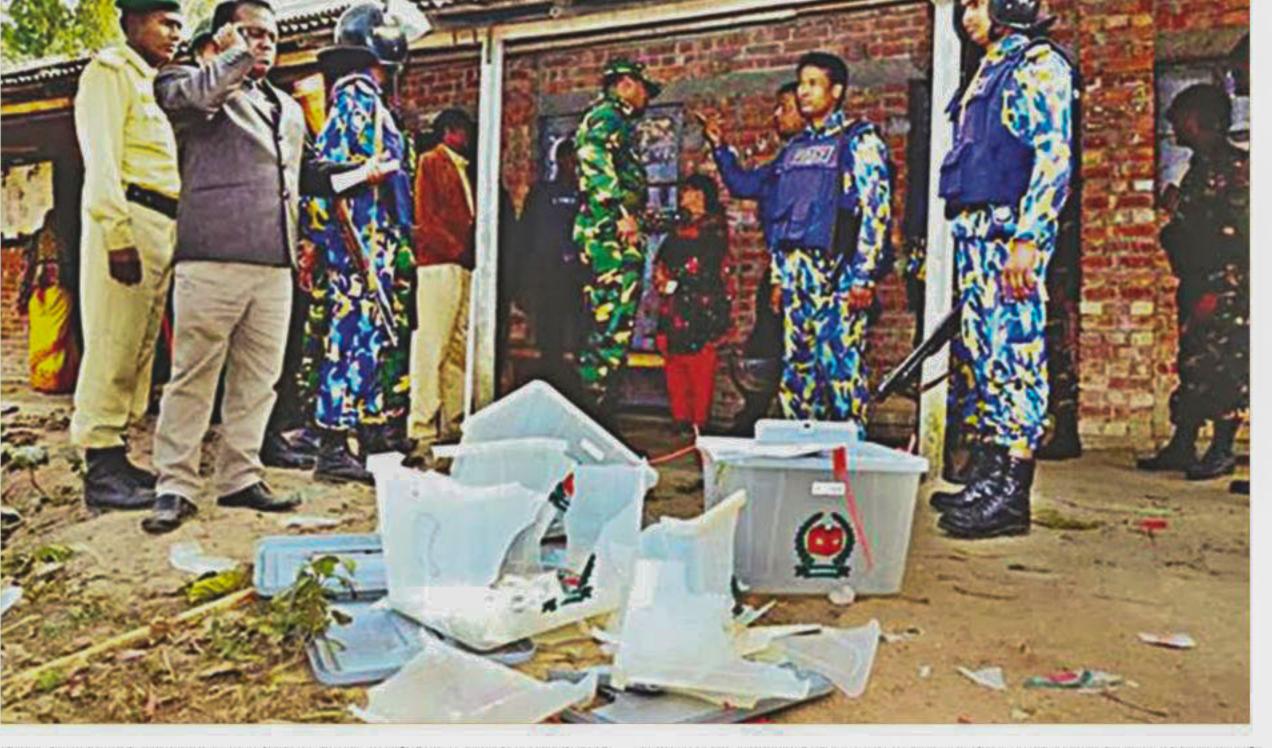
ZESTERDAY was the first anniversary of the 10th Parliamentary election. AL celebrated the day as 'Victory Day for Democracy' as this party had 'saved the country from anarchy' as well as 'upheld the constitution' through this election. BNP, on the other hand, observed the day as 'Democracy Killing Day' as AL came to power through 'illegal and 'unconstitutional election' which is also 'undemocratic.'

Except AL and BNP, there are arguments from various communities in favour of and against this election; but the most important arguments were and are still being made mainly by the two international communities. One of them is India. Before the election, Indian Foreign Secretary Sujata Singh said that "India wants to see stability and continuation of democracy" in Bangladesh. After the election, the former Indian High Commissioner to Bangladesh Veena Sikri said that "it is clear that if the elections were not held, there would have been a serious constitutional crisis and violence in Bangladesh."

On the other hand, before the election, United States and some other western countries advocated for 'political dialogue' for 'strong and inclusive democracy.' After the election, these countries have been criticising it, saying that it was 'undeniably flawed' 'non-inclusive' and one which 'failed to express the will of the people.' European Parliament (EP) termed the election as "lack of inclusiveness, transparency and credibility." The EP, in a recent press conference, urged political parties to find a better solution for the next elections.

As one year has already been passed, I don't want to do any more analysis of that election; but I strongly believe it has left some crucial lessons and based on these we need to do lots of reforms to conduct free, fair and credible elections, for which the following are a must.

Firstly, a neutral election-time government is vital to ensure impartiality of the Election Management Body (EMB) as well as to conduct free, fair and credible elections. If we analyse the election-time government of different countries, we mainly find 2 types: (i) the Westminster form of parliamentary government, in which the incumbent government continues in office, but doesn't take any political initiatives (e.g. UK, India). Under this system, during the electoral process all governance is subject to a civic electoral type of governance and its mandate, strictly limiting the ability of government to initiate new public process until



the election has expressed the desire of the people; and (ii) non-partisan caretaker government which is basically an ad-hoc arrangement due to the result of a political settlement or peace agreement (e.g. Tunisia in 2011, Bangladesh in 1991). Caretaker governments are also often established to pave the way for transitional elections from a military to a civilian administration -- as happened in some African countries. In a few countries credible elections are arranged under military rule (elections during 1974 and 1980 in Uruguay). Whatever government is there, the most important issue is that once an election has been declared the government in effect becomes a caretaker government and must not undertake far-reaching policy or administrative decisions. Constitutional and legal provisions should create an environment which allows EMB to work operationally and behaviourally independently. Thus, in all established democracies, the election-time government becomes 'caretaker government.'

Secondly, it is imperative to establish authority of the EMB over the administration during election; i.e. the government

must not control the EMB, instead EMB has to be in charge of all issues related to elections. In India, once the election schedule is declared, the electoral process is subject to the administrative supervision of Election Commission India (ECI) and no court and administration can stop the process. ECI exercises total control over the entire machinery. In Germany, although the EMB is a department of a ministry, the government cannot interfere in the electoral process.

Thirdly, one of the fundamental ingredients of a credible election is the participation of citizens as well as political parties qualified to take part in elections. An election which fails to ensure the will of the people, free atmosphere characterised by absence of intimidation and the presence of a wide range of fundamental human rights and falls short in ensuring real choice of the voters cannot be termed as a genuine democratic election. The UN in its principles declared that "political contestants (parties, candidates and supporters of positions on referenda) have vested interests in the electoral process through their rights to be elected and to participate directly in government." Although, boycotting election is not normal in a democracy, but in a situation where the legal framework or the context of the election is such that a fair competition is impossible, election boycott is considered as a legitimate tool. Hence, the electoral legal framework, including the Constitution, must have provisions to create such an environment so that all political parties participate in the election.

Fourthly, the Constitution of Bangladesh confers power on the people as Article 7(1) says that "all powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of this Constitution." Additionally, Article 7(2) ensures that "this Constitution is, as the solemn expression of the will of the people, the supreme law of the Republic, and if any other law is inconsistent with this Constitution that other laws shall, to the extent of inconsistency, be void." So, although our Constitution guarantees ensuring of the 'will of the people' it was not ensured in the January 5 election due to the shortcomings of the RPO, which declared the unopposed elections legal. Hence, the provision of unopposed election should be cancelled.

Fifthly, during the 10th Parliamentary election, the parliament was not dissolved, which created inequality among the contestants and a scope for the MPs to interfere in the electoral process. Parliament is dissolved in the countries where elections are held under outgoing political government (e.g. India, UK).

The holding of free and fair elections is at the heart of the democratic process and such kind of elections can only be arranged through the development of credible election administration institutions. There is now broad international consensus among election experts that genuine democratic elections are essential for establishing the legitimate authority of governments. Additionally, only open and legitimate elections are the indispensable foundation for sustainable development and an effective democracy, and actions supporting the right to participate in genuine elections can play a major role in sustaining peace, security and conflict prevention. Hence, it is hoped that the government, after discussion with all political parties and other stakeholders, will initiate reforms to arrange a genuine democratic election.

(Disclaimer: The views and opinions expressed in this article are those of the author's and do not necessarily reflect the official policy or position of Election Working Group.)

THE JIHAD TRACEDY

Highhandedness of the incompetent

C.R. ABRAR

sent my brother to the police station but they refused to release my husband. Police told my brother that we had hidden the boy somewhere and they would not release my husband until the kid was found."

This was narrated by Khadija Begum wife of Nazir Fakir, a guard of a school in Shahjahanpur. Their son Jihad fell into a deep borehole earlier in the day. Fakir was detained as the official efforts to rescue Jihad were unsuccessful. No one knows why the police detained the grieving father, who did not know whether his four-year son was dead or alive. The police action came soon after the state minister for home affairs cast doubt on whether the child had fallen into the shaft at all. Khadija Begum alleged that the rescuers did not carry out the operation wholeheartedly, thinking that it was just a rumour. The imprudent statement of the state minister contributed to such doubt, undermining the rescue efforts, she asserted.

The skepticism of the rescuers was validated by the director general of the Fire Service Department when he declared suspension of the rescue operation "as the child's location could not be identified." The fire chief referred to the opinions of experts of various intelligence agencies who examined the photos and video footages "but didn't find sign of any human body there." The joint director of National Intelligence also said that Jihad's falling into the shaft could be a "hoax." The DMP commissioner echoed the same tune.

'The boss is always right' mentality of the police subsequently brought untold sufferings to Nazir Fakir in such trying times. He was repeatedly subjected to questioning in custody. Where he did he hide his son and what was his motive for hiding him, were the questions put to him by the police. Fakir later stated that the nature of the interrogation

convinced him that the police did not believe that Jihad had actually fallen into the abandoned shaft. It was at that intense moment of ordeal of the Fakir family

that providence struck. Jihad was rescued by some indomitable youth of the locality fifteen minutes after the official rescue efforts were called-off. Inspired by the innate human impulse to save life these youths did not have an iota of doubt that Jihad had fallen into the shaft. They neither had any fancy equipment nor any state-of-the-art gear. Their unfettered commitment to save the innocent child and ingenuity to confront an adverse situation (by designing a metal cage 'catcher') led to the successful rescue within the shortest possible time. To the joy of millions of Bangladeshis at home and abroad, Jihad was rescued; unfortunately only to be pronounced dead on reaching the hospital.

The Jihad tragedy not only laid bare the inefficiency, incompetence, indifference and lack of oversight mechanism of the state agencies such as Dhaka Wasa and the Bangladesh Railways, it also revealed how ill-equipped, illtrained and clueless the disaster management units including the Fire Service Department are in dealing with challenging situations. It also demonstrated once again how off the mark the state intelligence agencies are in advising the authorities at times of crisis. However, the most startling element in the Jihad saga was the insensitivity shown by the political bigwigs led by the state minister and highhandedness of the members of the law enforcement agencies with Jihad's parents and playmates.

Fakir reported to the media that he was forced into a police van to meet the officer in charge of the concerned police station. When he insisted on remaining at the site he was reassured that he would be allowed to return after he made a statement that would take 10-15 minutes. Little did he know that he would have to spend almost 12 hours in

police custody against his will, passing each moment in anguish without the company of his loved ones. It was around 9 am that a sub-inspector of police demanded to know where he had hidden his son and if he had enmity with anyone. When he repeatedly replied in the negative to both the queries the concerned police personnel threatened that he (Fakir) would be handed over to the Rapid Action Battalion. Khadija alleged that Fakir was beaten up in custody and was denied food. The police denied the charges and claimed that Fakir was taken to custody for his "own safety" and "to secure some information." The distraught father was finally released after Jihad was rescued. One wonders what Fakir would have to endure if his son was

The police brutality was not restricted to Fakir alone. The denial syndrome led the agency to unlawfully detain Jihad's playmates, who claimed to have heard Jihad screaming for help as they went near the shaft to pick up a shuttlecock. The enforcement agencies could become. The chair of the four child detainees were Mohammad Nahid (5) Mohammad Tauhid (4), Jahida Yasmin Pushpita (8) and Mosammat Fatema Jahan (14). Press reports say that in Fatema's case her parents were not even informed when she was brought to the police station. The latter claimed that when they enquired if their daughter was in their custody,

All these were in violation of the law. More so, despite

hours, without being provided any food. The detained children told the media that during interrogation the police personnel accused them of lying when they said they had heard Jihad crying for help. They were released soon after the news of Jihad's rescue reached the police station.

The media officer of DMP explained that the children were brought in for "discussions" only, while the above protocols are followed during "interrogation" of children. As the children in question "were not accused," the provisions of the protocol were not applicable to them, he contended. Rights activists, however, disagreed with this and blamed police for gross breach of the code pertaining to children in custody.

The deplorable behaviour of the police personnel drew sharp criticism from the media. A leading daily editorially noted that this incident demonstrated how "inefficient, useless, irresponsible and inhumane" members of law National Human Rights Commission was saddened by the "insensitivity of the law enforcement agency." When the state minister's attention was drawn to the alleged misconduct of the police with Fakir he is reported to have observed that "this should not have happened" and promised to take up the matter with the police commissioner. More than a week has passed, the people are yet to be informed if the minister had taken any action at all against the perpetrators.

Fatema, the teenage playmate of Jihad detained by the police, posed a pertinent question to the authorities: "If we lied (as the police claimed during interrogation) then where has the child come back from?" Surely, the state minister for

by Mort Walker





A mind needs sword needs a keep its edge.

books as a whetstone, if it is to

George

R.R. Martin

CROSSWORD BY THOMAS JOSEPH

ACROSS 1 Sweet liqueur

- 6 Cooking mint 10 Take it easy
- 13 "West Side Story" role 5 Track bets 14 Duo quadrupled

11 Emulates a raptor

- 15 Wager
- 16 Dove call
- 18 Greek vowel
- 19 Fragrant forage crop
- 22 Sewer rodent
- 23 Bird abode
- 24 Regions 27 Dollar divisions
- 28 Workout makeup 29 Chicken -- king
- 30 Expert at cajoling
- 35 Make mistakes 36 Guitar blaster
- 37 Broad st. 38 Colorings

45 Cars' scars

- 40 Louvre setting 42 Unadorned
- 43 Put in office 44 Yale students

- **DOWN**
- 1 Beach crawlers 2 Make fresh 3 Select group
- 4 Small rug
- 6 Thread holder 7 Circle segment
- 8 Avenge a wrong 9 Optometrist's exam 12 Begins
- 17 Halloween mo. 20 Make blank 21 Ryan of "Paper
- Moon" 24 Desirable qualities 25 Editor's request
- 26 Everlasting 27 Applauded 29 Money machine
- 31 Chores 32 Singer Carpenter
- 33 Kick out 34 Takes it easy

39 Numerical prefix

41 Pub pint

XSI JSR'V MCSSPN XSIG EULQKX. VCNX UGN ASJ'P AQEV VS XSI, UP XSI UGN VS VCNL. -- JNPLSRJ VIVI

CRYPTOQUOTE

Yesterday's CRYPTOQUOTE:

IF YOU'RE GOING TO DO SOMETHING TONIGHT THAT YOU'LL BE SORRY FOR TOMORROW MORNING, SLEEP LATE. -- HENNY YOUNGMAN

never recovered.

the police initially denied her presence at the station.

clear stipulation that children are to be questioned by trained officers in child-friendly environment in presence of juvenile officer in charge of the police station, the protocol was not followed. The sub-inspector responsible, Masud Alam of the concerned police station, admitted to the press that he was not aware that those children were brought to the station. Their relatives stated that two of them were kept for a couple hours and the other two for as many as four

by Don Tranchte

MORES

ABOVE

ELSE

ERA

LUSTERS

ROMCOM

A XYDLBAAXR is

One letter stands for

another. In this sample,

A is used for the three

L's, X for the two 0's, etc.

Single letters,

apostrophes, the length

and formation of the

words are all hints. Each

day the code letters are

different.

LONGFELLOW

MUZZLES

LINEUPS

TUNED ROSES

S P A T E I R E N E S P A R L E S T

SPUR

11-7

home affairs is obliged to post a reply.

The writer teaches International Relations at the University of Dhaka. He researches and writes on migration and rights issues.

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