

## The election commissioner should have his say

The EC must function democratically

WE are dismayed that one of the election commissioners was forced to walk out of an election preparatory meeting because he was not allowed to voice his proposals regarding how to hold a free, fair and inclusive election. It is unfortunate that the election commissioner's proposals were not included in the agenda. Moreover, why was the commissioner not allowed to speak? What does this kind of non-cooperation within the EC do to public confidence? The recommendations that did not see the light of day were quite pertinent to the ground realities of our electoral environment. They included holding talks with all the political parties, finding ways to ensure impartiality, increasing the EC's ability to exercise its power, having a dialogue with the government regarding recommendations put forward by the political parties and the role of the army during elections. These proposals seem perfectly reasonable and logical for an election commissioner to put forward.

We believe that while election is not the be-all and end-all of a healthy democracy, it is definitely the single most important exercise for voters to elect their representatives to the government. And the Election Commission is the main actor responsible for making this happen through a free and fair election. This responsibility, moreover, is not confined to just Election Day but for all the days leading up to it. So it is all the more disappointing to see such an undemocratic move within the EC. Unfortunately, the track record of the past ECs has not been particularly commendable, with problems of credibility and image constantly plaguing it.

By not allowing a democratic culture to thrive within the EC, it is making itself weak and ineffective. We hope this trend will be reversed and the EC is allowed to exercise its power without any interference.

## Healthcare and education very expensive

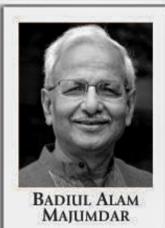
Enforce regulatory measures to stop fleecing

AS per a report published in a leading Bangla daily, we find that the financial burden of education and healthcare is increasingly becoming unsustainable. According to Bangladesh Bureau of Statistics (BBS) Income-Expenditure Survey of 2016, individuals taking loans to pay for education and healthcare comprised 6.3 percent (of total loans taken) in 2010. In 2016, that percentage had increased to 10.16 percent, an increase of about 61 percent. Interestingly, these loans were taken out as business, agriculture and industrial loans. This phenomenon has resulted in an increase of loan-taking nationally by 35 percent over the 2010-2016 period and as pointed out by the World Health Organisation (WHO), it is the individual, and not the state, who bears 67 percent of healthcare costs.

Obviously things cannot go on as they are for much longer. The government is spending millions of taka in its attempt to provide primary healthcare. While huge sums are being spent on building infrastructure and medical equipment, we have seen and repeatedly reported in this paper that much less is expended on medical staff, which forces the general populace to resort to private medical treatment. In the field of education, we have public universities with a limited number of seats available. The demand for education has been on the rise over the decades but public educational institutions have not kept up with growing demand. It has given rise to a private sector in higher education which is many times more expensive than their public counterpart.

The government needs to rethink its investments in public health and education. It also needs to work on policy measures that would control the price of medication, penalise the culture of doctors prescribing too much medication and multiple tests at private diagnostic centres and put a stop to the unjustified fee structure in private universities.

# Relevant laws for candidates running for Parliament



BADIUL ALAM MAJUMDAR

THE 11th Parliamentary election is at our doorstep. The election schedule is expected to be declared at the beginning of November and the election to be held at the end of December. Even though formal electioneering will start in a few weeks, many potential candidates appear to be unaware of the relevant laws relating to candidatures for Parliament.

A potential candidate must be a voter in any constituency in Bangladesh, although the proposer and the seconder of a nomination must be voters of the relevant constituency. The candidate, his/her proposer or seconder must submit his/her nomination papers to the Returning Officer (RO) or Assistant Returning Officer, who will acknowledge their receipt, specifying the date and time. Candidates cannot submit nomination papers online, even though the Election Commission (EC) is reported to have recommended the amendment of the Representation of People Order, 1972 (RPO) for this purpose.

A candidate must submit with the nomination paper an affidavit highlighting his/her antecedents, potential sources of his/her election expenses and a copy of his/her last tax return. Submission of only the certificate from the NBR acknowledging the filing of his/her tax return is a violation of the law. The candidate must also include with his/her nomination paper an amount of Tk 20,000 as deposit. During the submission of the nomination paper, it is illegal to hold a procession or showdown.

Nomination papers that are incomplete or contain errors will be rejected, although not for errors that can be instantaneously remedied. However, the information contained in the affidavits cannot be altered or corrected.

In the past, there were isolated incidents where candidates were prevented from submitting their nomination papers. However, this was blatantly done during the last Paurashava/Union Parishad elections in Feni. For example, in Paurashava elections in Feni, Daganbhuiya and Parshuram Upazilas, 47 out of 51 seats, including for two Mayors, were elected unopposed because candidates belonging to opposition parties were prevented from submitting their nomination papers. Thus, one cannot rule out the possibility of this happening again in the coming Parliament election.

In the affidavit, eight types of information are required including: candidate's educational qualification; list of present and past cases against him/her; his/her sources of income; his/her dependents' assets and liabilities; and description of the extent of the implementation of commitments to voters which he/she made during past elections, if he/she was an MP. If false information is included or information is concealed in the affidavit, the candidate's nomination paper is liable to be rejected, and if elected, his/her election is to be declared void. Thus, due diligence must be shown in preparing the affidavits, as the EC may, in the future, decide to scrutinise the affidavits. Such diligence is also needed as giving false information in sworn affidavits is a criminal offence under section



181 of CrPc. Any person can file a counter affidavit challenging the affidavit of a candidate.

Loan and bill defaulters are disqualified from running for Parliament. Executives of foreign funded-NGOs are also disqualified, unless three years have elapsed since his/her resignation or retirement. Similar disqualification is applicable to civil and military bureaucrats. In addition, any person convicted of a criminal offence involving moral turpitude for a minimum of two years is disqualified from contesting for five years following his/her release.

However, there is some confusion about when the period of disqualification for a person convicted of such crimes would begin—from the time of first conviction by the trial court or the after exhaustion of the appeal process? This question has not been yet settled by our higher judiciary. In the judgment on *Hussain Muhammad Ershad vs Abdul Muqtadir Chowdhury* [53DLR(2001)], Justice Md Joydul Abedin and Justice ABM Khairul Haque gave conflicting judgments. Justice Abedin held that the convicted person would be qualified to contest until his/her appeal is exhausted. Justice Haque, on the other hand, pronounced that the convicted person would be disqualified from the day of his/her first conviction. The Appellate Division also did not settle the matter. Even in the case of *Dr Mohiuddin Khan Alamgir v. Bangladesh* [62DLR(AD)2010], the Court did not address this issue. However, from the judgments of *Hussain Muhammad Ershad vs Abdul Muqtadir Chowdhury*, *Dr Mohiuddin Khan Alamgir vs Bangladesh*, and *Md Mamun @ Walid Hasan vs State* (Criminal Miscellaneous Case, 1000/2007), it is clear that the convicted person is qualified to contest the Parliament election if the Higher Court stays his/her sentence and conviction.

A candidate can run for Parliament in two ways: either as an independent candidate or as a candidate nominated by a registered political party. In the case of an independent candidate, he must submit with his/her

nomination papers a list of signatures of one percent electors of the concerned constituency. This provision is not applicable to a candidate who was previously an MP. A potential independent candidate must be careful about this list as the claim of a single forged signature from a signatory could invalidate the candidate's nomination papers.

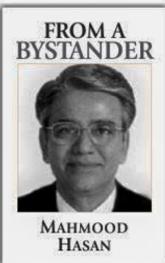
In case of nomination by a registered party, the nomination papers of all such candidates must include a certificate from the party Secretary, Chairperson or a person of similar rank confirming his/her nomination by the party. Initially, a party can nominate more than one person in each constituency.

According to the RPO, local party leaders and activists of each constituency are required to prepare a panel of candidates, which the Parliamentary Board of the party will take into consideration in finalising the nomination for the constituency. It may be noted that the RPO, amended through promulgating an Ordinance in 2008, required the Parliamentary Board to nominate from the panel prepared at the grassroots. This was later changed by the new Parliament in 2009 while approving the Ordinance.

The provision regarding the withdrawal of nomination is very important for candidates, especially those nominated by political parties. Independent candidates can withdraw by notifying the RO in writing on or before the date of the withdrawal. However, in cases of nomination of multiple candidates in a constituency by a party, the party Secretary, Chairperson or a person of similar rank must notify in writing the name of their final nominee, as a result of which all other nomination papers would stand withdrawn. Thus, it would be suicidal for candidates interested to become rebel candidates to seek party nominations, as denial of party nomination will invalidate their candidacy.

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## Afghan elections in the backdrop of fear and violence



MAHMOOD HASAN

FROM A BYSTANDER  
WAR-weary Afghani-  
stan is scheduled to go to polls on October 20, 2018 to elect a new parliament after almost three years' delay. The last parliament was elected in 2010 for a period of five

years. The following election was scheduled for October 15, 2016 but was postponed to July 7, 2018 and then again to October 20, 2018.

There are two reasons why elections were deferred: reforming Afghanistan's electoral laws and ensuring security to voters. The parliament (Shura) has two houses: 249-seat Wolesi Jirga (House of the People) and the 102-seat Meshrano Jirga (House of Elders). There are 2,565 candidates, including 417 women, running for the lower house. The Independent Election Commission of Afghanistan (IEC) has already disqualified 35 candidates as they have links with armed groups.

Preparations for the elections are going on against a backdrop of rapidly deteriorating security due to the frequent deadly bombings by the reinvigorated Taliban. According to recent US government data, "56 percent of the country are under the Afghan government, 30 percent are contested and 14 percent are under insurgent control." Then there is the militant group Islamic State (IS) which emerged as a dangerous force in Afghanistan in 2014.

The biggest challenge for the Ashraf Ghani government is to ensure complete security in the 5,100 voting centres across 387 districts of the country. Though the Ministry of Interior has dedicated 54,000 troops to secure voting centres, the IEC admitted that polling cannot be held in 900 centres in Taliban-controlled areas and the situation in about 3,000 centres is uncertain because of fear of violence as these centres are located in contested areas.

The formidable challenge for the IEC is to register and issue new biometric identity cards to 14 million voters out of a population of 36.6 million (as of 2018). Since the registration process began in April 2018, only four million

have been registered so far according to the IEC. The process has been repeatedly disrupted due to bloody attacks by the Taliban on registration centres across the country.

Taliban spokesman Zabiullah Mujahid warned the Afghan people not to participate in the elections and in a statement said the elections were a "malicious American conspiracy" against Afghanistan. Warning the candidates, he said, "Your nomination and success directly support the vicious objectives of American invaders by legitimising their bogus procedures and conspiracies... Therefore, you should refrain from participating in this process."



Afghan volunteers transport an injured man on a stretcher to a hospital following a bomb attack on a campaign rally in Afghanistan's northeastern Takhar province, October 13, 2018.

PHOTO: AFP

Taliban shall target the candidates and people trying to make the elections successful, Mujahid warned.

According to UN Assistance Mission in Afghanistan (UNAMA) figures (October 10), there were more than 8,050 civilian casualties (2,798 deaths and 5,252 injured) between January and September 2018. Not a week passes by without some kind of attack on civilian targets. Several parliament candidates have already been killed in different provinces. This only reflects the grim security situation prevailing in the country. An election rally four days ago in the northeastern Afghanistan saw a deadly bomb blast—for which no militant group

immediately claimed responsibility—killing at least 22 people.

All the previous elections in 2004, 2009, 2010 and 2014 were marred by violence and the results bitterly contested. The disagreement over the results of the presidential election in 2014 produced two heads of state—Ashraf Ghani (Pashtun) as the president and Abdullah Abdullah (half Tazik) as the Chief Executive. A strange arrangement that has actually stalled the workings of the government. Both these leaders are frequently at loggerheads over almost every decision of the administration.

Tribal divisions, powerful warlords,

registration cards against 14 million voters. This has raised concerns of fraudulent voting. Clearly, the Ghani government is not fully prepared for a free and fair election that can be conducted securely.

Afghanistan has a large number of political parties but their leaders behave more like tribal chiefs rather than politicians. Strangely, the last election did not produce a majority party in the parliament. The performance of the current parliament, which has 165 independent members, has demoralised voters. It neither has a leader nor any clout over the president or the chief executive. Its only function is to ratify the decrees of the president. However, observers say that it is encouraging that a good number of young educated candidates are running for parliament.

Western-type democracy was never practised in landlocked Afghanistan until 2004. The monarchy ruled the country by obtaining loyalty and allegiance of tribal chieftains. Afghanistan has seven major tribes—the largest being the Pashtuns. The tribes practised healthy democracy within themselves through "loya jirgas" (traditional assembly of tribal leaders that made decisions by consensus) and there was peace amongst tribes. Trouble began with the Soviet invasion in 1979 that ousted the monarchy. The Mujahideen chapter (1989-1996) was a period of fierce civil war. The Taliban seized control of Kabul in 1996 but was driven out of power when US launched Operation Enduring Freedom in October 2001, following the September 11 attacks.

During nearly 40 years of unending war, attempts to establish peace and democracy have remained elusive. One wonders whether a tribal society like Afghanistan's can really be democratic as defined by the West or left alone to find their own solutions of governance.

In many ways, this election is a test-run for the upcoming presidential elections in 2019. Though officials of the Trump administration have been engaging in talks with the Taliban to push forward the Afghan peace process, this election will no doubt be marred by violence.

Mahmood Hasan is former ambassador and secretary of the Bangladesh government.

## LETTERS TO THE EDITOR

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### DU question paper leaked, again!

It's really surprising and frustrating to learn that the question papers of Dhaka University's entrance test were leaked beforehand despite there being stringent measures in place.

In recent years, securing a seat in the prestigious university has almost turned into a dream for many admission-seekers, making the test something akin to a battle amongst students. A question paper leak, therefore, deprives many meritorious students of their deserving place.

Going by the report run by this newspaper, many students obtained leaked question papers through WhatsApp and other instant messaging apps nearly 40 minutes prior to the exam.

While the authorities were successful in curbing question paper leaks for some time, which plagued the education sector for a long time, the repeat of such an incident raises concerns. To our great relief, the police have arrested a number of people allegedly involved in the incident. We hope the authorities will examine what went wrong and take appropriate measures so that such incidents never occur in the future.

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