

Vital tasks ahead for the search committee

It should nominate persons of integrity who can withstand undue pressure

WE commend the search committee formed to nominate candidates for the next Election Commission (EC) for publishing the names that were submitted to them. The names of 322 individuals were published on the website of the Cabinet Division, although details of their endorsers were left out. Some major political parties have refrained from making any recommendations. Despite that, we have to acknowledge that this departure from the tradition of not disclosing names is the first step to what we hope would be a fruitful endeavour in finding the most suitable candidates to form the next EC.

The task for the committee now is to sift through the submissions, assess if the names of the best candidates came up, and finally propose 10 names to the president, who will pick five for the EC posts. We hope the identities of the 10 will be published too, with justifications provided for their nominations. However, there's no getting around the fact that in order for this process to be successful and accepted, it should be as representative as possible. That some opposition parties have boycotted this process of EC formation is, thus, troubling. If this is a sign of things to come, we may soon see a repeat of the acrimonious circumstances under which the last two highly controversial parliamentary elections were held.

It will be unwise to overestimate the power of a search committee in such a state of affairs. It has no control over whether all political parties will agree on the formation of the EC or an election-time government. But it has the vital task to roll the first dice and build confidence in the subsequent process, which it can do by ensuring that concerns raised by the boycotting parties are properly addressed.

A primary analysis of the names published shows that almost one-third of them are former bureaucrats. There are also former judges and military officials, academics, lawyers, and representatives of various other professions. While evaluating their eligibility, the committee should let us know what it is going to do to uphold the principles of integrity and neutrality. It should set, and subsequently publish, a clear guideline dictating the terms of acceptance and rejection. One criterion that we feel must be included is that no one with a past history of political allegiance, gainful engagement with the ruling party, or allegations of corruption and irregularity will be considered. The committee should also come clean about the endorsements of all political parties, so that the public can scrutinise them. Finally, it should hold public inquiries of the individuals being considered for the sake of transparency and confidence building.

All these are vital for making the nomination process a success, and for the search committee to avoid a credibility crisis.

No respite from illegal brick kilns

Illegal brick kilns in Brahmanbaria must be shut down

IT is alarming to know that at least 99 brick kilns in Brahmanbaria are operating illegally, posing serious threats to the environment and public health. A report by this daily states how these brick kilns have been set up beside bazaars, croplands, educational institutions and fruit gardens, and how their emissions are damaging seasonal crops. While the Department of Environment (DoE) claims that there are 181 brick kilns—some of them currently closed—in the nine upazilas of the district, the actual number is believed to be much higher.

Unfortunately, illegal operation of brick kilns is prevalent across many other districts in the country as well. For instance, two illegal brick kilns in Lalmonirhat, demolished by the DoE in February last year after protests from the local farmers, were found to have resumed their operations last month. The same happened in Barguna, where five demolished brick kilns began their operations again. Obviously, the Brick Making and Kiln Establishment (Control) Act, 2013 is not being enforced properly. Otherwise, so many brick kilns would not be able to operate without a licence, often flouting the rule of keeping a three-kilometre distance from residential or agricultural areas.

With Dhaka frequently being one of the cities with the worst air quality, are we pushing the rest of our country in the same direction?

Earlier this month, a team of experts presented pioneering research on the air quality of all 64 districts in the country (Brahmanbaria and Dhaka being among the 18 most polluted), citing brick kilns as a major polluter. They suggested shutting down the brick kilns as a short-term solution. But even before this study, it was a known fact how badly brick kilns were polluting our environment, with little intervention from the DoE.

We urge the government to take the threat posed by these brick kilns seriously. The DoE must recognise its crucial role in bringing down their number, and ensure that even those with a licence operate strictly within the bounds of the law. We can't continue to allow them to harm our environment, agricultural prospects and, most importantly, the health of our citizens.

Three legacies of the Election Commission



BLACK, WHITE AND GREY

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THE 12th Election Commission (EC) of Bangladesh, headed by KM Nurul Huda, completed its tenure on February 14, 2022. With its term coming to an end, some obvious questions arise: What legacy are the commission and the chief election commissioner (CEC) leaving behind? What are the lessons learnt from the past five years of this commission's activities? Assessment of the past is not only a matter of introspection, but can also help identify what impacts the past has on the future, and how it will shape

Notwithstanding the importance of the details of how a daytime election became a nocturnal exercise, we must understand that this reflected a larger issue. Ballot stuffing as a tactic of election manipulation is not new in Bangladesh and many other parts of the world; authoritarian regimes are adept in this regard, so are the hybrid regimes, which combine authoritarian and democratic traits. Hybrid regimes are of two categories: competitive electoral authoritarianism, and hegemonic electoral authoritarianism. Both require elections of some kind, because elections are the key to their legitimisation process. However, a major difference between these two categories is how the election is conducted. In competitive electoral authoritarianism, while the entire political process is highly repressive and the media are muzzled, the election does engender some form of uncertainty. Steven

and authoritarian regime survival," published in 2019, provides evidence in this regard.)

The EC of the past years has participated in the process of regime transformation from a competitive authoritarian system to a hegemonic electoral authoritarianism. Of course, the EC alone should not be credited for the transformation—instead a combination of political processes, a de facto one-party legislative body, and judiciary facilitated the process. But the EC's role was pivotal to the process. This was done through shattering public confidence in the electoral process, consequently hollowing out the electoral system altogether. The low voter turnout in subsequent elections demonstrated this phenomenon, while the EC cheerfully claimed that the elections were successful. This will remain the legacy of the Nurul Huda-led Election Commission, because it has shaped the subsequent behaviour of the incumbent



future trajectories. This has become more important in 2022, considering that the nation's politics is standing at a critical juncture. The coming days will determine the trajectory of the nation's politics—particularly its governance.

Undoubtedly, CEC Nurul Huda and his colleagues will join eight other election commissioners of the past 50 years who were derelict in their constitutional duties to ensure a free election, which would have allowed the citizens to exercise their right to vote freely and fairly. But this EC also earned an unprecedented "honour," being asked to be investigated. Forty-two noted citizens asked the president to form a judicial council to investigate this commission's "serious financial corruption and gross election-related misconduct." Although the president didn't heed their call, this will remain a part of the history of the institution.

Under this EC, an array of local elections has taken place, but we will remember very few of them in the coming years—many will be consigned to forgotten history. Success in a few local elections does not determine the legacy of any EC. The Election Commission in Bangladesh is judged by how it has conducted the parliamentary election. What nobody will forget is the *Jatiya Sangsad* (national parliament) election held in December 2018. The events surrounding the 2018 election, the election itself and the role of the EC are well known. Perhaps the best description was provided by the international media, particularly *The Economist*, as it called the election a "transparently fraudulent" process.

One of the defining features of the 2018 election was the ballot stuffing the night before Election Day, which CEC Nurul Huda seemed to have acknowledged in 2019, saying the use of electronic voting machines (EVMs) can prevent stuffing ballot boxes. But now, years later, on his way out, he has either become a victim of selective amnesia or presumes that our collective memory is short-lived. He has questioned the veracity of it by saying he has not seen it and cannot be conclusive about it. Evidence abounds, yet that fact is not what drove the CEC in the past five years.

▲ **Despite pushback from the opposition parties, the Nurul Huda commission introduced EVMs in the local elections of Bangladesh during its tenure, even though the technology has been a matter of concern in many countries.**

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Levitsky and Lucan A Way, in a perceptive essay titled "The Rise of Competitive Authoritarianism" (2002), discussed the characteristics of these regimes and mentioned that in competitive authoritarian systems, "elections may generate considerable uncertainty." On the contrary, in hegemonic electoral authoritarianism elections, manipulation is institutionalised in a manner that competition is rendered useless and removes the uncertainty. The removal of uncertainty is achieved through various measures, including constitutional changes and electoral processes, but it requires the electoral commission to become a tool that works in unison with other state apparatuses in favour of the incumbent.

As such, it was not surprising to see what happened in Bangladesh in 2018. The election revealed how the law enforcement agencies, the ruling party and the local administration became one entity. This entire process was given legitimacy by the Election Commission—not by turning a blind eye or being a silent spectator due to a lack of power to stop it, but by being an active participant. The power vested on the commission under the existing laws was sufficient to stop this on the track, but the Nurul Huda commission deliberately decided to be a party to this endeavour.

One can argue that he was no different from his predecessor Kazi Rakibuddin Ahmed. The 2014 election conducted under the leadership of Kazi Rakibuddin Ahmed had similar characteristics. There is no denying that the 2014 election, held without the participation of the opposition and marred by large-scale irregularities, is also an example of the dereliction of constitutional duties. But the most important difference is the institutionalisation of a system of election which practically ensures a victory to the incumbent. Such institutionalisation is key to the survival of hegemonic electoral authoritarianism. (A study on elections in 262 authoritarian regimes between 1946 and 2010 by Michael Bernhard, Amanda B Edgell, and Staffan I Lindberg, titled "Institutionalising electoral uncertainty

and paved the future trajectory of the nation.

The second legacy of the EC is the introduction of EVMs in elections. This technology was touted by the EC before the parliamentary election in 2018 as a marker of progress and a tool to prevent vote-rigging. It was pushed back by various political parties in 2018, but gradually it has been introduced. The EVM technology has been a matter of concern in many countries, and many have abandoned the technology (Ali Riaz, "A Pointless Debate," *The Daily Star*, September 2, 2018). Additionally, the technology adopted by the EC does not have the Voter-Verifiable Paper Audit Trail (VVPAT) system. As these machines are likely to continue to be used in future elections, the suspicions and controversy will only become louder. There are allegations that these machines are manipulable, and an absence of a paper trail means there is no way to challenge the accuracy of counting. Programming of the EVMs can be manipulated to skew the results in favour of a candidate.

The third legacy of the EC can also be described as an unintended consequence. The behaviour of the Nurul Huda commission has proven that an election commission appointed by a partisan government cannot hold a free and fair election under the same regime. It was proven in the 2014 election, but now it has become the incontrovertible truth. Those who expected after the 2014 election that a change in personnel in the EC would chart a different course acknowledge this—at times begrudgingly. The CEC and his colleagues evidently didn't want to send the message, but their actions have made the message loud and clear. It is neither the laws that guide the EC, nor who is at the helm, but the nature of the government at the time of election that decides whether the EC will be an effective institution or not. As the new EC appointment is now in process, this lesson is well to bear in mind. The incumbent government seems to have learnt the lesson well and is acting accordingly. The question is whether the opposition parties have also learnt it. If so, what will they do?