

Enact NRCC law, empower river commission

Take this crucial step to protect our rivers

IT is most unfortunate that the National River Conservation Commission (NRCC) Act has still not been enacted, although the draft law was prepared around two years ago. While the parliament has passed many bills during these two years, this draft law remains immobilised. We would like to ask the government why. Though we are all aware of the need to enact the law to make the NRCC a stronger and independent entity capable of protecting our rivers, the issue does not seem to get the importance it deserves from our lawmakers as well as the river governing bodies—the ministries dealing with the rivers.

The issue of our lawmakers' apathy in enacting the new law was recently raised by Mujibur Rahman Hawlader, former chairman of the NRCC. He made a shocking revelation that the ministries dealing with the rivers did not even want the commission to be formed in the first place. He also said that it was the river activists and the media who created public opinion in favour of forming a commission, and that it was formed finally at the intervention of the High Court.

We wonder why the ministries concerned would be against a commission that has been declared the legal guardian of the rivers by the High Court in a landmark judgment. Is it because, oftentimes, it is the government officials or people close to the government who are the real river encroachers? We think the ministries concerned must clarify their positions regarding this.

In 2019, the High Court gave a 17-point directive to protect our rivers, declaring river-grabbing and polluting criminal offences and suggesting stricter punishment for the grabbers and polluters. The court at that time ordered the government to empower the NRCC and amend the NRCC law to incorporate stringent provisions for imprisonment and hefty fines for the offences made against the rivers.

Following the court order, the NRCC prepared the draft National River Conservation Commission Act, 2020, incorporating provisions to address the increasing concerns of river encroachment and pollution. This draft act is supposed to replace the National River Conservation Commission Act, 2013, which does not give the commission any power to take action against the offenders. The commission can just make recommendations under the existing law. That is why we need the new legislation.

We think the government should act promptly to enact the new NRCC law if it is really sincere about saving our rivers. Any delay in passing the legislation will only make the situation of our rivers worse, as one by one, all our rivers are facing slow deaths due to unabated grabbing and pollution.

Hold zila parishad elections urgently

Decision to put administrators at the helm is unconstitutional

THE dissolution of almost all zila parishads in Bangladesh has brought a renewed focus on the moribund state of this vital local government body. The Local Government Division of the LGRD ministry announced the dissolution of the zila parishads of 61 districts on April 17, following the passage of the Zila Parishad (Amendment) Act, 2022 in parliament, which allows for appointing "administrators" at these councils. The five-year tenure of the councils, except the three in Chittagong Hill Tracts (CHT), expired in January this year without any election held to choose their successors. But instead of fast-tracking the polls or allowing the expired councils to function until the next batch takes their place—thereby ensuring the continuity of the rule of elected public representatives—the government has decided to bring in unelected individuals.

The vacuum that has been created in the process and the unconstitutional manner in which the government chose to respond to this cast serious doubt on the government's intention. Although it has urged the Election Commission (EC) to take necessary steps to hold the elections as soon as possible, there is no saying when that will happen. It can be any number of months. The question is: Why could the EC not hold the zila parishad polls on time? The argument that polls couldn't be held due to the pandemic, as offered by relevant officials, is totally unconvincing, given the eagerness with which the previous EC organised union parishad elections even at the height of the pandemic. And why would the government even think of a solution that directly contradicts the constitution and even its own legacy of fighting against such unelected bodies at the helm?

Although the councils formed after the first-ever zila parishad elections in 2016 couldn't bring the desired change in public services, they at least had the stamp of public approval and therefore some obligation to their constituents. Unelected individuals—whether in the form of administrators or chief executive officers—will be free from any such obligation and totally subservient to the government. This is the opposite of what the people expect from this 130-year-old local government body.

We hope the government will explain its behaviour and acknowledge its failure to follow due process. The EC, meanwhile, must ensure that the zila parishad elections are held without any delay. Elected public representatives must be in charge of these vital institutions, and at the same time, these institutions must be made accountable to the public so that they can deliver as expected.



Can we really have a free and fair election?

Well, it all depends on the government



THE THIRD VIEW
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RECENTLY, the chief election commissioner (CEC) urged all political parties to participate in the national election so that "democracy can flourish." He was basically addressing the BNP without naming it, which has declared its intention not to participate in any national election under the present set-up. The party wants a special election-time government to oversee the polls.

It is our view that BNP's boycott of the last election was a seminal blunder, leading to their present state of near oblivion. What lesson, if any, they may learn from this experience is something we will have to wait to see.

While we do not agree with any political party boycotting a national election, there is no denying the fact that serious anomalies did occur in the last two, and credible circumstantial evidence later surfaced about ballot-stuffing, intimidation, use of money and muscle, voting the night before, and the involvement of government machinery in the election process.

For political parties, election is in their DNA, and without participating in the polls, they lose their relevance and in time their existence. A political party waits eagerly for elections as they know that it is only through participating in elections that they have some chances of coming to power or at least making their mark in the hearts and minds of the people. So when a political party decides not to participate in an election—as the BNP is contemplating to do again—we need to examine as to why, and whether there is a need for some fundamental reforms.

All democratic countries have elections. But in our case, we have made it into a near impossible task. Why are our elections so full of controversy? Why do we have such acrimony about its results? Our neighbour, which holds the biggest election in the world and over several months, hardly ever has any controversy about the results. No political party, even those who face near extinction as the Congress recently did in state elections, points any accusing finger towards their election commission.

Again, in most democratic countries, elections are held under party governments. So why is it so difficult in our case? Is there any truth to the widespread belief that ruling parties manipulate our elections? Did our experiment with poll-time caretaker government work?

It was the Awami League, then in opposition, that most effectively agitated for and was able to establish a caretaker government system in 1996 on the grounds that free and fair elections were not possible under a party government. We had three elections under the caretaker government system—in 1996, 2001, and 2008 (the 1991 election was held under an "interim government"); the last one was army-backed that

brought the present party to power with a resounding victory. (If the 2008 election had been held under the original caretaker government, headed by then President Iajuddin Ahmed, it is most likely that the Awami League would never have won, as the voters' list needed to be cleansed of 12 million false voters out of 81.1 million of total voters).

The hallmarks of all these elections were high voter turnout, relative absence of muscle power, fewer complaints of ballot-stuffing and false voting, and an overall atmosphere of peace and lack of violence. Notwithstanding the losing parties' initial negative posturing, all participating parties accepted the results and played their respective roles. All these elections were comparatively free and fair, and met global standards and enjoyed international credibility.

Why were the polls held under the caretaker government system delivered well? The main reason behind that is that

ATM Shamsul Huda (2007-2012) that shines like a bright star in the otherwise dark history of the last two commissions. (I chanced upon Navin Chawla, the chief election commissioner of India who conducted the 15th Lok Sabha elections in 2009, at the Jaipur Literature Festival last March. He was there for the launch of his book "Every Vote Counts: The Story of India's Elections." He told me that CEC Shamsul Huda was a star among the CECs in the Saarc countries at that time, and all the other CECs, including Chawla, admired him for his competence and professionalism. My heart filled with pride, and compared him to Nurul Huda, our last CEC who thought it fit to visit Russia to observe elections there. He obviously learnt a lot, as was evident later.) One of Shamsul Huda's team members, Brig Gen Sakhawat Hossain, wrote three valuable books on the EC and elections. The new CEC and his other commissioners could learn a lot from

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the government of the day—namely the caretaker government—was committed to holding free and fair elections, while the political governments were less so. Here, the Awami League's original argument, made during 1994-96 while agitating for the caretaker government system—that elections under political governments cannot be free and fair—proved to be prophetic.

It is after the Awami League government abolishing the provision of caretaker government from our constitution in 2011 following a "short verdict" of the Supreme Court—it did not wait for the long written verdict, which included a suggestion that the caretaker government system may be continued for two more terms—that the authenticity of elections started to be seriously questioned by the public, compared to the earlier occasions when it was questioned only by the losing party.

In the 2014 parliamentary election, 153 MPs were declared elected "unopposed." Given our record of multiple contestants in every constituency in all the elections held so far, the fact that 153 constituencies had only one contestant was not believable. While such a large number of MPs being elected unopposed was "legal," statistically it was almost impossible. That fact did not appear to be a factor for the Election Commission (EC). Its compliant role in this destroyed its reputation.

The 2018 election is known more for the "voting" that took place the night before, than for the voting that occurred on the designated day. And once again, the EC's silence further killed its reputation, or whatever was left of it.

Thus, Kazi Habibur Awal, the new CEC, and his team face an uphill task of rebuilding the reputation of the institution that has near-zero credibility at the moment. But there is also the legacy left behind by the EC headed by

them.

The last we heard, CEC Awal was holding talks with various groups to solicit views on how best to perform his task of holding a free and fair election. While we appreciate his efforts, experience says that all these talks and the plethora of advice and suggestions he is getting will not help him much. What he is hearing, he already knows—or at least he should, as we all do, having lived through the last two elections.

What he should be doing instead is talking to the political power of the day—the government, to be exact—as to how much freedom he will be given to do his work. Will he be given adequate resources, manpower and freedom to choose the people he wants to induct into the EC staff? Will he truly be able to enjoy the power that the relevant laws give him and his commission? Most importantly, will the administrative bodies—district administration, police, etc.—that help out with the election be effectively under the EC authority, or will it be just in name? Obviously, the government will say "yes" to everything he asks. However, the test will be in actual operation on the election day. But, by then, it will be too late for the EC to do anything.

Another equally important question is: Does the CEC and his team have the willingness and the guts—to put it bluntly—to act as per the law that gives him so much power?

There is, however, a more straightforward option. He can just ask the powers that be, "Do you want a free and fair election?" If the answer is a sincere "yes," then the EC has no problem. But if the answer is a "PR yes," then whatever the EC does will not give us the desired result. Hence, soliciting public opinion, while it looks good on paper, is of very little value.