



VISUAL: TEENI AND TUNI

# What will it take for our next election to be credible and acceptable to all?



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Under pressure from many directions, both national and international, the government has been promising that the 12th parliamentary election will be free and fair. Our constitutional scheme also mandates fair elections. International laws and covenants, such as The Universal Declaration of Human Rights and International Covenant on Civil and Political Rights, too, obligate us to hold such elections. Thus, if we are to abide by our Constitution as well as international laws, the government will have to ensure that the next election is free and fair.

It must be noted that free and fair election necessarily means competitive election, where not only will the major political parties participate, but each of them will also have an equal opportunity to win. Now the question is: what will it take for our next election to be credible and acceptable to all?

An important requirement of a free and fair election is that the electoral process is transparent, and credible. It must be recognised that the election is not a one-day phenomenon – it is a process involving multiple interrelated steps. They include the conditions that: (1) All eligible citizens can become voters; (2) All aspiring contestants can become candidates; (3) Voters have credible alternative candidates to choose from; (4) Scrutiny of the eligibility of candidates is fair; (5) Constituencies are delimited on the basis of a set of fair criteria; (6) Political parties and candidates can carry out their campaigns freely; (7) Antecedents of candidates are available for voters to make an informed choice in polling booths; (8) Candidates can field their agents in polling booths; (9) Voters are able to cast their vote without pressure or fear; (10) Influence of money and muscle on the election are effectively controlled; (11) Vote counting is transparent and accurate; (12) Election is monitored by credible election observers; and (13) Election disputes are settled speedily and impartially.

The above steps, it must be noted, are laid out in the body of election laws, such as the Representation of the People Order, 1972 and The National Voter Registration Act, 1993, which

govern elections as a means of fulfilling Article 119 of our Constitution. Proper and impartial execution of these steps is an important prerequisite for preventing rigged elections.

Another important requirement for free and fair elections is the neutrality of certain critical institutions responsible for carrying out the above steps. Most important of these institutions are: the Election Commission (EC), the bureaucracy, law enforcement agencies, and the higher judiciary. The EC plays the most pivotal role and is constitutionally mandated to ensure credible elections.

Considering its importance, Article 118 of our Constitution mandates the creation of an independent EC. The Constitution also gives its members necessary protection so that they can act independently and impartially. Thus, the formation of an independent EC with people of impeccable integrity and courage is an important prerequisite for a credible election. Unfortunately, there have been serious concerns raised about the manner in which the present Commission was constituted over a year ago, and a case is now pending in the High Court questioning the issue of its transparency. The credibility of the EC has also been under serious question because of all the actions and utterances of its members.

Although the Awami League-led Grand Alliance came to power in 2009 with a commitment to depoliticise the bureaucracy and law enforcement agencies, these institutions have been made subservient in many respects to the interest of the ruling party over the past decade. In fact, the partisan behaviour of these two institutions was instrumental in the questionable election of 2018. There are also allegations from the opposition of the court's undue interference in the scrutiny of candidates in the last election. Furthermore, not a single election petition filed after the 11th parliamentary election, to our knowledge, has so far reached its finality, creating the prospect of them ultimately becoming infructuous.

Another, and perhaps the most important, requirement of credible elections is the constitutional

framework, which must be conducive to free, fair, and competitive election.

Our original Constitution provided for holding elections under the party in power and none of the parliamentary elections held under that constitutional framework was fair and credible. To remedy that situation, the 13th amendment of the Constitution was enacted by the BNP in response to a vigorous movement by an AL-led alliance, to create a neutral caretaker government (NCG), representing a consensus among major political parties. The seventh, eighth, and ninth parliamentary elections, held under the NCG, were considered to be credible by all neutral observers. In fact, the NCG was a settled matter and the Special Parliament Committee (formed to amend the Constitution by the ninth parliament), on May 29, 2011, unanimously recommended to amend the Constitution retaining the NCG, which unfortunately was changed after they met the Prime Minister the next day.

Subsequently, the AL-led Grand Alliance, in a *majoritarian* manner, unilaterally passed the 15th amendment to abolish the NCG and hold future elections under the party in power. The amendment was passed by taking advantage of the Supreme Court's short order of May 10, 2011, and also, according to experts, an unconstitutional constitutional amendment ("The Constitutionality of 15th Amendment" *The Daily Star*, February 8, 2023).

The amendment essentially tilted the electoral field in favour of the ruling party, which will prevent the EC from meeting its constitutional mandate to hold credible elections. Thus, unless a new political settlement is reached to amend the Constitution to create a neutral election-time government, the hope for a free, fair, and competitive next election would clearly be a mere pipe dream.

For the 12th parliament election to be free, fair, and credible to meet the demands of all concerned, the electoral process not only needs to be fair but all relevant institutions must also act neutrally. More importantly, the prevailing constitutional scheme must create a level playing field and provide equal opportunity to all political parties. In fact, our Constitution, according to constitutional expert Mahmudul Islam, "does not envisage anything else than free and fair election and any law which stifles the hands of the Commission in ensuring free and fair election will not pass the test of constitutionality" (*Constitutional Law of Bangladesh*, 3rd Edition, p. 973).

# Challenges in US-Bangladesh relations



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On March 26, 2023, US President Joe Biden greeted Prime Minister Sheikh Hasina on the occasion of Bangladesh's Independence Day. Biden also reminded Hasina to hold free and fair elections in December 2023. "As Bangladesh approaches its next election, I am reminded of the deep value both of our nations' people place on democracy, equality, respect for human rights, and free and fair elections," he said.

The United States has placed a strong emphasis on human rights and democracy in its foreign relations. The promotion of these values has been a key part of US foreign policy, and has been pursued through a variety of means, including diplomatic efforts, economic incentives and sanctions, and military intervention in some cases – even though its relations with some authoritarian states put question marks on its declared policy of upholding democracy and human rights. The US under

and economic growth. The US and Bangladesh also work together to combat terrorism and promote regional stability through joint military exercises and training for Bangladesh's security forces.

The US-Bangladesh relationship has had some tensions due to human rights concerns. The US has criticised Bangladesh's government for cracking down on political opposition, and limiting freedom of speech and assembly. The US has imposed sanctions on the Rapid Action Battalion (Rab) for violating human rights. The US human rights reports of 2021 and 2022 have highlighted issues of enforced disappearances, extrajudicial killings, political marginalisation, and election rigging. As a result, Bangladesh was not invited to the Biden Democracy Summit, signalling a shift in US policy towards Bangladesh.

US' push for democracy and human rights has definitely angered

Pacific Strategy). China responded by warning that Bangladesh's relations with China would be harmed if it joined the Quad, while also offering Bangladesh the chance to join its Global Development Initiative and Global Security Initiative. The US and Russia have also engaged in a war of words over Bangladesh, with the Russian Foreign Ministry accusing the US ambassador in Dhaka of trying to influence the domestic process of the country, and the Russian Embassy in Dhaka criticising countries with "hegemonic ambitions" that interfere in the internal affairs of others under the pretext of protecting democratic values.

The ongoing Ukraine-Russia conflict has resulted in a surge of high-level visits from China and the United States to Bangladesh, highlighting Bangladesh's growing importance in the Indo-Pacific region. This geopolitical reality is crucial for Bangladesh's future trajectory. For the first time, Bangladesh has articulated its distinct objectives in the Indo-Pacific region, aligning with the conceptual framework advocated by India, the US, Japan, and Australia. While Bangladesh has traditionally pursued a non-aligned foreign policy, recent developments suggest a potential shift towards



COLLAGE: TEENI AND TUNI

**While Bangladesh has traditionally pursued a non-aligned foreign policy, recent developments suggest a potential shift towards aligning more closely with the IPS promoted by the United States and its regional allies. However, it remains to be seen how China and Russia will react to this shift and how Bangladesh will navigate its relationships with them.**

The Biden Presidency has also been focusing on these two values to deal with Bangladesh, which was partially absent during the Trump administration.

Since 2014, Bangladesh has been grappling with the challenges of upholding democratic values and human rights, which have been exacerbated in recent times. The two most recent elections, which were held under the Awami League government in 2014 and 2018, were heavily criticised by the international community, with widespread human rights violations occurring during this period. The regime has employed various means to suppress dissent, including the Digital Security Act (DSA).

The United States and Bangladesh have had diplomatic relations since 1972. The US has become one of Bangladesh's largest trading partners, with over \$8 billion in bilateral trade in 2021, and has provided development assistance in areas such as education, health,

aligning more closely with the IPS promoted by the United States and its regional allies. However, it remains to be seen how China and Russia will react to this shift and how Bangladesh will navigate its relationships with them.

It is unclear how successful Bangladesh's "pleasing all" strategy has been. An agreement has been reached between Bangladesh and Russia to use the Chinese yuan to pay for a nuclear power plant, but the United States has raised objections to this arrangement. Amid this situation, Bangladesh is attempting to manage the US through other Quad members like India and Japan. On April 26, 2023, under the agreement for the use of Chittagong and Mongla ports for the transportation of goods to and from India, the National Board of Revenue (NBR) released a standing order pertaining to the transshipment of Indian goods. During her visit to Japan in April 2023, Prime Minister Sheikh Hasina said that, "We are happy that Bangladesh and Japan have successfully elevated the bilateral relations to a 'Strategic Partnership' from the existing 'Comprehensive Partnership'."

It appears that the relationship between the United States and Bangladesh is going through some strain. Bangladesh is endeavouring to handle its relations with the US in the lead-up to the next election. Navigating this dynamic geopolitical situation will require astute diplomatic strategies and judicious decision-making on Bangladesh's part. While attempting to maintain relationships with China, Russia, and the US, Bangladesh will also need to prioritise human rights and democratic principles, particularly in the context of potentially embracing the IPS.

CROSSWORD BY THOMAS JOSEPH

ACROSS

1 Eastern monks

6 Showed interest

11 Overflowing

12 Forsaken

13 Court needs

15 Table scrap

16 "Very funny!" online

17 Young fox

18 Leftover stuff

20 Mamie's mate

21 Army bed

22 Keg contents

23 Low noble

26 Wizards' needs

27 Ready for business

28 Polite address

29 Phone download

30 Avenue in Monopoly

34 Pot brew

35 Conclusion

36 Bullfight call

37 Costume events

40 "— Is Born" online

41 Anticipate

42 High homes

43 Trait carriers

DOWN

1 Toil away

2 In the know

3 Ship poles

4 Inquire

5 "The Big Bang Theory" role

6 Dark fur

7 Imitating

8 Gandalf's creator

9 Not popular

10 Annoys

14 Race tipster

19 File stand-in

22 Homer's son

23 Charon, for one

24 Placate

25 Meals

26 Talkative sort

28 Dispatch

30 Goes off course

31 Pitcher Ryan

32 Skateboarding jump

33 Takes ten

38 "Krazy —"

39 Really impress

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YESTERDAY'S ANSWERS

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