

S ALAM ARBITRATION CLAIM

When treaty shields collide with an asset recovery crusade



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The S Alam Group owner, Mohammad Saiful Alam, has recently taken Bangladesh to the arbitration arm of the World Bank under the 2004 Bangladesh-Singapore bilateral investment treaty (BIT). The arbitration request lodged by his lawyers alleges that Bangladesh's asset recovery drive has cost his family business "hundreds of millions" of dollars following what he calls a "targeted campaign" of asset freezes, confiscations, and investigations by the interim government. This development cannot be taken lightly. It directly tests how an anti-corruption drive meets the hard law of investor protection, and the outcome may send powerful signals to investors.

The 2004 Bangladesh-Singapore treaty defines an investor as a citizen of a contracting state and offers guarantees including fair and equitable treatment, full protection and security, free transfer of capital, and compensation for expropriation. It also allows an investor to start a case at the World Bank's International Centre for Settlement of Investment Disputes (ICSID) after a six-month cooling-off period.

However, the ICSID Convention is quite strict about jurisdiction: it only hears a dispute between a state and a national of another state. A dual national of the respondent state (which is Bangladesh in this case) is barred if that nationality existed on the day the parties consented to arbitration or on the day ICSID registered the request. Article 25(2)(a) requires that a claimant be a national of the other contracting state on both dates and not also be a national of the respondent state on either.

That rule shuts the door on a dual national of the respondent at both key moments.

Can claimants invoke the Bangladesh-Singapore BIT? Possibly yes on paper, but only if they truly were Singapore citizens and not Bangladeshi nationals on the legally relevant dates, and only if the assets in Bangladesh qualify as protected investments. Reports state that members of the S Alam family became Singaporean and renounced Bangladeshi nationality. If that holds, they would clear the nationality bar, provided the dates align with the Convention. When a claimant is or has been a national of the host state (Bangladesh in this case), ICSID lacks jurisdiction. The tribunal will test nationality with careful attention to timing, continuity, and evidence.

The next fight sits inside the investment treaty itself. The BIT protects investments in Bangladesh made by investors of Singapore. If most group assets were put in place when controllers were Bangladeshi nationals, Bangladesh can argue that those assets were not made by investors of Singapore and fall outside protection. So, expect a trench war over when assets were created, how they were funded, and who controlled them. Tribunals look past formalities to real ownership and timing. Bangladesh may also argue abuse of process. In the past, claims have been dismissed where an investor restructured their assets to gain treaty protection once a dispute was anticipated. The rejection of the Philip Morris Asia v. Australia claim—after the company restructured on paper to invoke a treaty while the plain packaging dispute was already underway—is a classic example. So,

motive and timing are crucial.

On the merits, the S Alam family may argue that sweeping freezes and investigations, paired with public accusations and travel limits, amount to indirect expropriation and unfair and inequitable treatment. Bangladesh may reply that a clean-up drive to recover looted assets is a public purpose measure, pursued under law with judicial oversight, and that no expropriation exists where ownership

once a breach is found. The 2019 Tethyan Copper award against Pakistan—about \$5.9 billion under an old treaty and almost equal to the IMF loan package approved weeks earlier—shows how broad provisions can expose fiscally weak states to heavy risk. Equally alarming is the \$1.2 billion award against South Sudan in 2024, despite it being the poorest African nation. The lesson is plain: treaty language that provides extensive protection for investors can

public international law and investor-state arbitration. Expertise in domestic law is also a necessity. Build a layered jurisdictional defence based on (i) the definition of investments made by (supposed) investors of Singapore, (ii) the nationality rule under the ICSID Convention, and (iii) a detailed timeline of the claimant's citizenship transfers, asset ownership, and control. Build a clean, factual record for each freeze and search with court documents, notices, and logs to demonstrate due process. Keep advisers and regulators off the microphone. Consider a without-prejudice dialogue that preserves investigations while reducing immediate business disruption. This is how states win hard cases.

There is also a policy task ahead. Bangladesh's early investment treaties largely resemble investor wish lists. The UNCTAD database reveals a broad and ageing network with partners such as Singapore, the United States, and the United Kingdom, offering extensive investor protections but lacking contemporary safeguards for public interest, environmental regulation, and anti-corruption measures. Reform, therefore, is long overdue. Bangladesh should consider drafting a model treaty with clear definitions, narrowed most-favoured-nation and fair and equitable treatment clauses, and an express right to regulate on matters of public importance. India moved in this direction with its 2016 Model BIT. Bangladesh can do the same while staying open to quality investment.

The bottom line is simple. The S Alam arbitration claim is about law and politics. If the family clears the jurisdiction hurdles, the state will be judged on process, not passion. If the response stays precise and disciplined, Bangladesh can defend its corruption cleanup with credibility and may even prevail. If it grandstands, it risks turning a domestic drive into an international own goal. Markets are watching, as are other treaty holders who can see that a text from 2004 still shapes risks in 2025. The smart play here is to litigate like an institution and reform like a state that wants to stay open to investment but closed to impunity.



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remains and due process is available. The treaty language on expropriation in the 2004 text is outdated, and does not grant automatic cover for anti-corruption work or other public-interest measures. Process and proportionality will decide this round.

Past experience offers sharp lessons. In Saipem v. Bangladesh, the ICSID found it had jurisdiction and later ruled that Bangladesh had breached the BIT after its courts invalidated an ICC award—a warning about judicial interference. In the Niko saga over gas blowouts, multiple rulings followed, and a later committee upheld an award against two state entities over gas deliveries. ICSID tribunals have often granted massive awards

expose fragile states to serious fiscal danger.

The stakes are high here, both legally and politically. The interim government promised a reckoning after the ouster of the Awami League regime, and now a prominent target, closely linked with that regime, says the reckoning breaches a treaty and seeks neutral adjudication in Washington. That framing can chill investor sentiment if the response looks populist rather than lawful. It can also backfire at home if people conclude that a global tribunal is being used to sidestep accountability.

So, what should Dhaka do now? Treat the matter as a governance audit, not a media contest. Engage top-tier counsel in

The Mamdani effect: Rekindling hope in a cynical city



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Today is the big day.

Analysts are pretty much unanimous that residents of the Big Apple are set to create history by electing the first Muslim mayor in the financial capital of the United States.

Thirty-three-year-old Zohran Mamdani's meteoric political rise in the New York mayoral race caught the imagination of the entire world. Initially, appearing to be armed with just a winsome smile and a savvy political mien, especially in tune with today's social media communications, few gave him a second thought as he took on a former governor. In fact, Mamdani's run for the Democratic nomination for the mayor's race appeared almost Quixotic.

It had all the hallmarks of a classic David-versus-Goliath battle.

Former New York Governor Andrew Cuomo had everything going for him. He was backed by Democratic heavyweights like former US President Bill Clinton. As the city's 56th governor, he had universal name recognition. Wallowing in millions of dollars in campaign cash, he had roped in union endorsements and the local Democratic machine.

Mamdani, on the other hand, was a first-term New York assemblyman and an unabashed democratic socialist who polled an abysmal two percent as late as January. He is a passionate supporter of Palestine and fiercely critical of Israel in a city with the largest Jewish population of any city in the world, where Jewish New Yorkers are shy about using their political clout.

So, what was Mamdani's secret sauce? Observers say that he touched a chord with voters with his passionate attention to bread-and-butter issues, full of plans to freeze rent, offer free bus service and start city-run groceries. While critics pooh-poohed these plans as pie-in-the-sky, voters sensed a genuine engagement, an easy accessibility which, coupled with his savvy new-generation social media splash, sparked electric enthusiasm in a jaded public, especially young people.

Cuomo's listless, cold and aloof campaign had the obsolescent feeling of yesteryear. Mamdani seemed to be everywhere. He put out that message several times on social media to ensure it reached everyone. As he walked all the way down Manhattan, talking to voters of different ethnicities, Cuomo took a chauffeur driven SUV. Mamdani even did a brief tongue-in-cheek election video in Bangla

with Bangladeshi American Shahana Hanif, the first Muslim member of the New York City council.

A wrinkle in the Democratic primaries, which the savvy Mamdani exploited, helped him seal the deal. Instead of the usual first-past-the-post system, New York Democrats chose their candidate on a ranked choice system, where they could list their preferences. Mamdani and fellow primary candidate New York City comptroller Brad Lander cross-endorsed each other. This added a fillip to his support. In that, Mamdani won the Democratic primary handily in June, beating Cuomo by 12 points.

In a heavily Democratic city like New York, winning the Democratic primary is virtually getting anointed as mayor. Yet, Mamdani's ascend could not be that easy, as some Democratic establishment figures in the state were not at ease about his win. They began to hem and haw. This flew in the face of the pronouncements by the very same establishment Democrats who were always urging recalcitrant progressives to "vote blue no matter who." When it was their turn, it seemed too bitter a pill to swallow. Critics cried foul, suggesting that Democratic establishment types were deep in bed with real estate tycoons and the pro-Israeli lobbying group AIPAC, the American Israel Public Affairs Committee.

Then things got even more curious. Notwithstanding his defeat, Cuomo decided to run mayoral race as an independent. Current Mayor Eric Adams, widely loathed by Democrats for allegedly cutting a deal with President Donald Trump, is also running as an independent, having the good sense not to risk ignominy by running in the Democratic primary. There's also Republican candidate Curtis Sliwa, polling in the low double digits. That's where matters stand as New Yorkers vote to elect their next mayor.

Win or lose, Mamdani's place in US political history is assured for upending conventional wisdom. He never dithered over issues supposed to kill a US political campaign. His support for Palestine, his advocacy for government-backed programmes are often politically taboo. Trump refers to him as "Mamdani the Commie."

But, Mamdani's electorate admires this article of authenticity in him. Like former President Barack Obama, he has been able to

create that special connection of trust not only with those who support his policies, but also with those who don't, because the latter group too trusts him as a person.

At a time of deepening political malaise, Mamdani has been able to do that rarest of things: he has managed to rekindle in a cynical electorate a belief that positive change is possible through politics. He reminds me of another politician of yesteryear: Senator Eugene McCarthy. The former Minnesota US senator decided to take on incumbent President Lyndon B Johnson in the 1968 Democratic primary campaign in the thick of the Vietnam War. Although he didn't win the nomination, his anti-war stand drew huge support, and as in the case of Mamdani, it attracted a huge number of students.

Mamdani's policies, cast by critics as "socialist"—a thoroughly pejorative moniker in the US—have won widespread support. This should not come as a surprise.

Times have changed. Robust claims of the superiority of markets ring hollow to a younger generation buffeted by economic challenge and the dismal fate of quite likely never doing as well as their parents. For them, socialism is not necessarily taboo, nor is capitalism beyond reproach.

Americans, contrary to politicians who like to bad mouth government-supported public programmes as "socialism," can be enthusiastically supportive when the programmes actually deliver.

Fiorella La Guardia, one of New York City's most celebrated mayors, was a lifelong Republican who allied with socialists on progressive causes like labour rights, social welfare and housing reform.

Socialist Party leader Norman Thomas advocated social welfare programmes which formed the basis of social security, a key component of President Franklin D Roosevelt's New Deal and the foundation of today's social safety net. It is one of America's most beloved and popular programmes.

Or take Medicare, the healthcare programme for seniors introduced by Johnson in the 1960s. President Ronald Reagan lambasted the programme as a Trojan horse that would lead Americans to lose their freedom. Medicare today is a vital and universally lauded programme—it's fair to say that Reagan's observation hasn't aged very well.

One of Mamdani's signal achievements is his success in triumphing over ethnic and religious divides. He drew support from all ethnicities, particularly from Jewish New Yorkers.

His charm, optimism and impeccability manners are the strongest possible antidote to Islamophobic stereotypes. Like London Mayor Sadiq Khan and former Scotland First Minister Humza Yousaf, Mamdani represents a template for political success for Muslims

in the West, which will have a salubrious spillover effect on popular perception of Muslims. I confess to a parochial pride in his success—not just because he is Muslim but also because he is of South Asian descent. Credit is also due to the broadminded New Yorkers who have been able to transcend ethnic ghettos—with particular credit going to Jewish New Yorkers, especially younger voters, whose support is informed by their own disgust at the slaughter in Gaza.

If Mamdani wins, the path forward will be anything but easy. However, there are reasons to be cautiously optimistic. Ever since he won the primary, Mamdani has reached out to all kinds of people, including many who are his sworn enemies.

Partnership for New York City, a consortium of 350 members representing banks, law firms and corporations, is

a case in point. It is hard to think of a group more anathema to Mamdani's campaign. Yet according to The New York Times, two partnership members—Sally Susman, a longtime corporate executive, and Robert Wolf—have met Mamdani and liked what they've seen. She later helped set up intimate meetings with Mamdani and business leaders and tech investors. "There's something about him that makes people want to help him," she told The New York Times.

Time alone will tell how much success Mamdani will achieve. Today, he has already endeared himself to millions by proving that genuine engagement, passion and a dash of optimism can bestow the most precious gift of democratic governance: a polity stirred out of apathy that rediscovers its faith in civic engagement. This is no mean achievement.

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02	1161068	Procurement of Office Equipment		
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05	1161042	Procurement of Other Stationery		
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