

Why is BNP reneging on its own commitments to judicial independence?



Dr Sharif Bhuiyan
is a senior advocate at the Supreme Court of Bangladesh, who acted as amicus curiae in the Article 116 case.

SHARIF BHUYAN

In discussions on legal and constitutional reforms in Bangladesh, the independence of the judiciary has long been a central issue. Indeed, the BNP, now in government after a long period in opposition, has itself consistently called for ensuring full judicial independence over the past two decades or so.

There were political factors behind these demands. As BNP itself has repeatedly alleged, the judiciary was used to harass its leaders and activists. The conviction of the party's top leader, Begum Khaleda Zia, in controversial cases, her imprisonment, and the restrictions on her movement abroad for medical treatment as well as defaming her using the judiciary—all of these were indicators of a lack of judicial independence in the country. Similarly, the current prime minister also faced politically motivated cases. He had to stay outside the country for a long period due to such cases and convictions against him.

BNP has at various times stated that if the judiciary were truly independent and impartial, its leaders and activists would not have faced judicial harassment. However, following BNP's formation of the government in February 2026, a sharp contradiction seems to have emerged in its position.

While in opposition, on July 13, 2023, BNP announced a 31-point outline for structural reforms in Bangladesh. Point 10 reads: "The effective independence of the Judiciary will be ensured in line with the Constitution and the Masdar Hossain Case verdict... Control and discipline of subordinate courts shall vest with the Supreme Court. A separate secretariat for the Judiciary will be established to function under the Supreme Court... Legislation specifying qualifications and standards for Supreme Court Judges will be enacted..."

During discussions at the National Consensus Commission last year, BNP supported all of the above. These are also fully reflected in the July National Charter, and BNP has not expressed any note of dissent in regard to any of these. BNP does not have any stated reservations whatsoever about



VISUAL: SALMAN SAKIB SHAHRYAR

the July charter's commitments to vesting control of the subordinate courts with the Supreme Court, establishing a separate secretariat for the judiciary, or enacting a law for the appointment of SC judges. BNP also supported the referendum on the July charter, requesting citizens to vote "yes" and thereby endorsing the charter's mandate on control of the subordinate courts, establishment of a judicial secretariat, and the appointment process of judges under a law. Finally, in its manifesto for the February 12 election, BNP stated that control of the subordinate courts will be placed under the SC, a law for the appointment of judges will be enacted, and the separate secretariat for the judiciary established in 2025 will be strengthened.

Regrettably, the parliament formed after the election, in which BNP holds a two-thirds majority, repealed on April 9 the ordinances on the separate secretariat for the judiciary

and the appointment of judges to the SC.

It is interesting that BNP's 31-point outline refers to the famous Masdar Hossain Case, a landmark ruling on judicial independence. This case was decided within the framework of the then version of Article 116 of the constitution, which provided that "the control (including the power of posting, promotion and grant of leave) and discipline of persons employed in the judicial service and

consultation with the SC. Within this framework, the Appellate Division of the SC sought, through legal interpretation, to assert a degree of judicial independence. However, the Appellate Division was fully cognisant of the limits of such interpretive efforts, not only in the Masdar Hossain case but also on other occasions. For instance, in the case of the 16th Amendment, the Appellate Division observed that so long as the control and

and the establishment of a judicial secretariat.

Following this judgment, the ordinance establishing a separate judicial secretariat was issued on November 30, 2025. Considerable progress in this regard was also made during the tenure of the interim government. A secretary has been appointed to the secretariat and, pursuant to the ordinance, a committee was constituted to develop the human resources organogram. The committee has held multiple meetings, finalised the organogram, and a significant number of personnel have already been appointed. In addition, budget allocations for the secretariat have been made up to June of the current fiscal year, and work is ongoing based on these allocations. Preparations are also underway to release the budget for the next fiscal year.

In other words, significant progress has been made under the ordinance since its issuance. Both formal and practical measures have been taken to establish the secretariat, which is already operational.

But now that parliament has repealed the ordinance, the secretariat's status has become uncertain, potentially creating a vacuum and administrative complications. Since the court ruling imposes a legal obligation to establish a separate secretariat, a question arises as to how the law ministry would fulfil this obligation. Failure by the ministry to comply could constitute contempt of court, thereby giving rise to various difficulties.

It is essential to consider whether, at this early stage of the current government's tenure, this could trigger an unnecessary, entirely avoidable conflict between the judiciary and the executive over a matter of significant importance. Since an independent, impartial judiciary free from executive influence is one of the key prerequisites for good governance, we, as citizens, would expect that the High Court's verdict in the Article 116 case will be upheld by the Appellate Division as well, and that the judgment will be fully implemented. This would mean that control over the subordinate courts would be vested in the Supreme Court, and a separate secretariat under the SC would be made operational to ensure effective implementation of this control.

However, by outright repealing the relevant ordinances, BNP has cast serious doubt on its own commitment to implementing the July charter word for word. While BNP remains insistent on implementing the charter along with its notes of dissent, it is telling that none of these dissents relate to judicial independence. Hence, citizens are left perplexed by its actions so far.

The Bank Resolution Act and a troubling shift in direction



Dr Birupaksha Paul
is professor of economics at the State University of New York in Cortland, U.S.

BIRUPAKSHA PAUL

One of the main reasons why the Awami League government was dethroned is the mishandling of the banking sector. After plundering the capital market, all the oligarchs eventually ambushed various banks and converted them into family-owned businesses, a degradation that helped the tycoons loot the banks at their whim. The interim government, despite failing in real major economic scores such as investment, employment, inflation control, and growth, made at least one correct decision.

The interim government's appointment of Dr Ahsan H. Mansur was a respectable step. Governor Mansur, being a veteran monetarist, initiated a series of reforms aimed at reshaping the banking and financial industry. His step for the merger of nearly half a dozen Shariah-based banks was a welcome move to correct three things: i) lack of confidence of depositors; ii) poor capital base of the banks, and finally, iii) erosion of trust for Islamic Shariah-based banking because of the irregularities that took place. The former governor's move also

supported textbook corrective measures, such as mergers, acquisitions, or takeovers for the limping banks that neared bankruptcy or capital dehydration.

This move, however, deeply troubled the former owners of the banks, who believed in using these institutions as a vehicle to syphon off domestic funds into foreign asset markets. They failed to take the governor on their side. However, later, the governor, who remained resolute in his direction, was abruptly replaced by a businessman within days after BNP took office. The financial hooligans appear to have won the game somehow under the current regime, although the finance minister is giving some lullaby explanations for passing the contentious Banking Resolution Act 2026, enabling wrongdoers to repurchase their lost banks at a discount. Not only is it a bad precedent, but it sends an unethical message to the financial industry as well.

That is how the country's private banking industry has been developing in a defective way—bagging banking licenses by managing

people in power. But the sector does not know how to close the deal professionally in case of probable bankruptcy. By this compromise, the BNP government is allowing the old bank owners to stage the same drama they orchestrated under the Awami regime, with no recovery of the banking sector in sight.

Under the Act, the former directors or owners of the troubled banks can pay 7.5 percent upfront of the amount already injected by Bangladesh Bank on behalf of the interim government to reclaim the banks. The remaining 92.5 percent will be repaid within two years at 10 percent simple interest. During the pandemic, I witnessed many clearance sales in American shopping malls. Bangladesh's government is holding a similar discount sale for nonperforming banks. This is an indirect incentive for wrongdoers who will gain more goodies in the days ahead. It is a discount sale paired with lottery tickets that are destined to win prizes. How?

Here's the answer: it will be difficult for the government to recover the remaining 92.5 percent of the bailout fund because these banks are already in shambles. The government is also likely to waive the interest, a practice often exercised during the Awami regime. Next, the government will extend the time from two years to, maybe, another three to five years, making the receivables largely impossible. This compromise is akin to the style of loan restructuring where defaulters were allowed to regularise their loans by adjusting as low as even five percent of their defaulted amount. These are accommodating

tactics for the financial delinquents devised by politicians in power, and people did not expect their repetition by the BNP government, which came to power after a mass uprising.

If the economy is akin to a bird, the capital market and the banking sector are the two wings that help it fly. The Dhaka Stock Exchange (DSE) broad index, as Trading Economics reports, fell drastically in the Covid year of 2020. However, the index displayed its resilience by rising from around 3,900 in April 2020 to as high as nearly 7,300 in 2021, which generated abundant hopes that the share market would thrive to pull the economy upwards. But the index has consistently remained in a downtrend since then. It came down to 5,229 on August 4, 2024, just before the Sheikh Hasina government fell. When the interim government took office on August 8, 2024, the index was 5,924.81.

The Yunus government's strategy, which was thought to be the last reviving mantra contributed by a group of experts, soon nosedived. Mobocracy and industrial vandalism reached their historic highs during the Yunus era, while the index remained low—close to 5,200 in early February 2026—when the interim tenure neared its end. The index closed at 5,271 on April 12, 2026, suggesting no "booster ignition" for the market even after the new government took office following a landslide.

Thus, the last resort of hope is the banking sector, which must act prudently by

not only ensuring the resurgence of deposit mobilisation and credit expansion but also enabling the sector's rebirth by observing stricter rules and governance. However, the compromise that allows the old wrongdoers to repurchase their banks has cast a shadow on both the recovery and dynamism of the banking sector. The BNP government has just reverted the process of correction by passing the Bank Resolution Act, 2026, signalling no cure for the cancer of the sector.

More important was the Bangladesh Bank Ordinance (Amendment), 2025, aimed at enhancing the autonomy of the central bank. However, it did not reach the desk of parliament due to the insincerity of the Yunus government. Its finance adviser, who otherwise advocated for Bangladesh Bank's autonomy during the Awami regime, did not let the ordinance pass, although the total number of ordinances by the Yunus government reached as high as 133 in 18 months—a record for any interim/ caretaker government in this country.

One reason the central bank autonomy ordinance did not get approved is probably that it could potentially restrict the government's borrowing from the banking sector. This raises the question whether the BNP government suffers from a similar fear that BB autonomy might restrict the government's desperate borrowings, as well as the rehabilitation of the seasoned bank looters. The government must explain its real intent, so people can have confidence in the banking sector.

CROSSWORD
BY THOMAS JOSEPH

ACROSS

- Dull pain
- Actor Willis
- Was bright
- Admit
- Fill in until the boss gets back
- Squeeze (out)
- In what way
- Golf goal
- Kind of network
- Despicable
- Forgo frugality
- Move slowly
- Put off
- Outside: Prefix
- Command
- Shop tools
- Came down
- Uno plus due
- "... a Wonderful Life"
- Game cube
- Maintain one's position
- "The King"
- Michelangelo work
- Like cattaits

DOWN

- Pale
- Folds under pressure
- Find a place to hide
- Finish
- Was windy
- Field worker
- Perfect place
- Reef materials
- Main course
- Flammable gas
- Talk at length
- Mulligans, e.g.
- "Rigoletto" composer
- Wiped off
- Purim honoree
- Singer King
- Clock topper
- Salad green
- Control
- Actions
- Tiny
- Pulled off
- Trip around the track

43 Corrals

1	2	3	4	5	6	7	8	9
10			11		12			
13					14			
15			16			17		
18			19			20		
	21				22			
			23		24			
25	26	27		28		29	30	
31				32				33
34			35			36		
37			38			39		
40				41				
42					43			

12-5

YESTERDAY'S ANSWERS

L	A	S	T	E	G	R	E	T		
A	C	M	E	G	R	A	P	E	S	
T	H	E	N	G	E	T	S	A	T	
C	O	L	D	O	N	E	I	R	A	
H	O	T	S	H	O	T	L	I	T	
			B	I	G		D	O	N	E
C	A	C	A	O		B	A	N	G	S
O	M	A	R		B	O	W			
M	O	N		C	O	L	D	W	A	R
M	E	T		H	O	T	L	I	N	E
A	B	I	D	E	S		I	D	E	A
S	A	N	E	S	T		N	E	R	D
S	A	L	T	S		G	R	A	Y	

WRITE FOR US. SEND US YOUR OPINION PIECES TO dsopinion@gmail.com