

## Free, Fair and Credible Election and Democratic Governance in Bangladesh: How Far the Dream of Success?

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### Abstract

The paper has evaluated the relation between the free, fair and credible election and democratic governance in Bangladesh. The paper is a descriptive and qualitative in nature and mainly based on secondary literature. For doing this study, conceptual clarification has been done first and identified few elements of free, fair and credible elections. Then, how far these elements have been ensured in Bangladeshi elections has been evaluated by analyzing all the national elections held since independence. Apart from these, major factors and challenges of holding a free, fair and credible election in Bangladesh have been examined. Major findings of this study are: Since the independence of Bangladesh, 10 national elections held in various regimes. 4 out of 10 national elections have been found free, fair and credible which have been conducted by the non-party caretaker government. Rests of the elections are not out of controversy and full of manipulation held under elected government. The present AL government is elected by the 10th parliamentary election under incumbent (AL) government, but a major opposition allies (20 parties) lead by BNP boycotted this election and 154 of the total 300 seats being uncontested. As a result, AL again came to the power without a competitive election and most of the national and International election observers including media world consider this election as unfair and the government is suffering from lack of legitimacy which creates political pressure for another interim election and need a permanent solution.

**Keywords:** Democracy; Governance; Free; Fair; Credible elections; Bangladesh

### Introduction

The free, fair and credible election is one of the prerequisites of democratic governance. The study focused on the democratic practice of Bangladesh since independence. Bangladesh emerged as an independent state in 1971 from the colonial rule of British and Pakistani rulers over two centuries. Though, the state had started its journey as a parliamentary system of government under the Prime Minister of Sheikh Mujibur Rahman (the Father of Bangladesh), however, within four years, it had altered as a presidential government. All the political parties were banned and formed a political party named BAKSAL under the leadership of Sheik Mujib. Perhaps, it was a great political mistake in the life of Mujib because most of the political parties (especially leftist political parties) were dissatisfied. The next year, Sheikh Mujib with his family members was brutally killed by a group of mid-level military officers in 1975 and the power shifted to the Military rulers and continued till 1990. The second phase of democracy has started from 1991, however, still, questions about real democracy are mounting from various corners of the world including Bangladeshi scholars and politicians for its nature and practice of election and democratic government.

Though, more than 100 political parties exist in Bangladesh now. However, two major political allies (14 parties' allies lead by Awami League-Hasina and 20 parties' allies lead by Bangladesh Nationalist Party-Khaleda) dominate the politics of Bangladesh. The present AL government is elected by the 10th parliamentary election under incumbent (AL) government, but a major opposition allies (20 parties) lead by BNP boycotted this election and 154 of the total 300 seats being

uncontested. As a result, AL again came to the power without a competitive election and most of the national and International election observers including media world consider this election as unfair and the government is suffering from lack of legitimacy. Before and after this election, BNP lead alliance called several devastating programs like- strike, road bloke, rally and like these which cause a lot of incidence of violation of human rights, destroying houses of minorities, and ruined the economic growth and business sectors of Bangladesh. Therefore, the governance of present Bangladesh is not democratic at all and it is to be considered as one party (14 parties' allies lead by AL) authoritarian governance in the shade of parliamentary governance. Both the position and opposition of the parliament is belonging to 14 parties alliances lead by AL. The following sections deal with both theory and practice of democracy in Bangladesh.

### Theoretical Underpinning

There is no concrete model or theory relating to holding a free, fair and credible election. However, some literature and scholars views have been mentioned for theoretical and conceptual clarification. A number of scholars [1-14] use rational choice and public choice theory to analyze voting behavior. These are basically economic theories originated as a distinctive field of specialization a half century ago for democratic decision-making processes. The key assumption of public choice is a comprehensive view of rationality. According to Stigler:

A rational man must be guided by the incentive system within which he operates. No matter what his own personal desires, he must be discouraged from certain activities if they carry penalties and attracted toward others if they carry large rewards. The carrot and the stick guide scientists and politicians as well as donkeys.

Therefore, voters, politicians, policymakers, and public officials are supposed to work for their own interest. According to Downs [1], voters will concentrate more where votes are costly so that the result will reflect their interest. Riker and Ordeshook elaborated Downs's idea by using a model of the decision to vote that starts with a rational premise that individuals will vote if their expected utility from voting is higher than their expected utility from abstaining voting. On the other hand, Norris Pippa [10] in her "The Electoral Integrity Project", develops an agenda-setting model which identified that electoral malpractices and flawed elections fail to meet international standards of electoral integrity, undermines feelings of political legitimacy, dampens voter turnout, and encourages protest politics. In this study, we particularly found that the last election held in Bangladesh on 5th January 2014 was like flawed, unfair and not competitive. As a result, before and after the election a lot of devastating incidences have been taken place which caused lost a lot of valuable lives with billion dollars economic cost and encourage protest politics.

### **Conceal Clarification: What is a Free, Fair and Credible Election?**

The election is one of the key components in ensuring democracy because they "enhance citizens' participation in governance, ensure government accountability and encourage political competition" [15,16]. The free, fair and credible election is one of the basic and crucial prerequisites and elements of democratic government and governance [17,18]. The election would be credible, when rules, regulations and laws governing the electoral process will be followed by and ultimately, the credible candidate will be freely and fairly elected to represent the electorate [19]. According to Diamond [20], free and fair elections have major four components. These are: (i) Independent political parties will compete in electoral process in freely and fairly; (ii) Individual must be free to participate in politics and election process based on their own choice; (iii) Election process would be free and fair so that every adult franchise can apply their voting right equally with equal weight; and (iv) Finally, outcome of the election or counting vote would be accurate and legitimate.

Thus, when all the four variables mentioned above will be available in the process, conduct and outcome of an election, that election could be considered to be free, fair and credible.

Therefore, free, fair and credible election means most of the political parties will have the opportunity to participate in all the national and local elections without any fear and hindrance. This type of election offers absolute peoples' participation without fear and domination of any parties to elect their chosen candidates. To ensure transparency and credibility, both national and international press, media, and election observers have the access to observe and evaluate the election process.

Rajasingham [21], have mentioned three elements of free, fair and credible election: 1) An enabling legislative framework, 2) The impartial and neutral administration including election commission, and 3) Competitive electoral process accepted to all the political parties.

Hence, free and fair elections mean universal and equal access to the electoral process and to ballots which are secret and free. This requires an absence of fraud and threats and that the votes are applied fairly into elections in a transparent manner and in accordance with the law.

From the above discussion the following general features of free and fair election have been identified:

- An effective legal framework;
- To ensure equal voting rights of universal adult franchise;
- Direct and secret voting system;
- Election commission would be independent;
- Security of voters must be ensured before and after election;
- The fair play of election administration;
- Competitive election among all parties;
- Access to media and election observers in election process;
- Free speech and association;
- Counting votes accurately;
- Impartiality of acting government.

In this study, how far these features have been ensured in conducting elections in Bangladesh has been examined.

### **Legal Framework of Electoral Process in Bangladesh**

Election commission of Bangladesh is a constitutional body. The structure and functions of the election commission (EC) are enumerated in part vii (Articles 118-126) of the constitution of Bangladesh and some other laws. The key legal instruments for the conduct of the elections are [22]:

- Constitution of Bangladesh (COB, 1972 up to 15th amendment 2011) [23];
- Representation of people order (RPO, 1972, amended up to 2008) [24];
- Code of conduct for political parties and candidates (2008);
- Delimitation of constituencies ordinance (1976);
- Election roll ordinance (2007);
- Election roll rules (2008).

### **Composition and functions of election commission**

Article 118 of the constitution provides for the establishment of an EC in Bangladesh [23]. The EC consists of a chief election commissioner and not more than four election commissioners. The appointment of the chief election commissioner and other election commissioners is conducted by the president [Art. 118(1)]. Under the constitution, the term of office of any election commissioner is five years from the date on which he enters upon office. A person who has held office as chief election commissioner and other election commissioners are not eligible for appointment in the other service of the republic [Art. 118(3)]. A commissioner shall not be removed from office except on the ground of gross misconduct like judges of Supreme Court as per Art. 118(5) of Bangladesh constitution [23].

According to Article 118 (4) and 126 of the constitution and Article 4 and 5 of the representation of the people's order [24], the EC is an independent constitutional body that exercises its functions relating to elections. The EC is authorized any of its members to exercise and perform or any of its powers and functions under the election law [24]. Thus, the EC has the power to perform such functions for the purpose of election. As per section 5(2) of RPO [24] and Article 126 of cob, "all executive authorities of the government shall assist the commission in the performance of its functions, and for this purpose, the president may, after consultation with the commission, issue such directions as he may consider necessary".

Electoral process for local government institutions, the parliament, and the president are constitutionally guaranteed by the constitution of Bangladesh (Art. 119). In addition, the president will provide necessary staffs as deem to assist the election commission (Art. 120). For the preparation of electoral roll Article 121 of cob, provides-

"There shall be one electoral roll for each constituency for the purposes of elections to parliament, and no special electoral roll shall be prepared so as to classify electors according to religion, race caste or sex".

The EC has a permanent secretariat as per the election commission secretariat act, 2009, headed by a secretary to administer the electoral process and is represented across Bangladesh [25]. The secretariat is in Dhaka and has an electoral training institute, field offices at the regional, district and Thana level [26]. There are 10 regional election offices and 83 district election offices in the 64 districts each headed by a district election officer and 481 Upazila election offices [22]. To deal the nominations, election administration and results in the process each constituency has a returning officer (RO). The RPO provides that ROS are appointed by the EC. There are also assistant returning officers (ARO) to support the process.

### Code of conduct for political parties and candidates

Under the authority of Article 91b of the RPO [24] the EC promulgated a code of conduct for political parties and candidates for the parliamentary elections 2008. The code had the status of a law, and persons could be punished and/or disqualified for violating it.

The code provided for a more restricted, managed, framework for the campaign. Basic rights and freedoms were provided for, but various limitations were also evident as compared to previous elections. It was argued that these were designed to address problems experienced during past campaigns-particularly "money and muscle" of the parties-and generally there was positive feedback in terms of what many characterized as a more orderly and acceptable election campaign.

The code of conduct was a laudable attempt to establish the dos and don'ts for the campaign and create a level playing field. However, it seemed from reports that the election commission lacked the capacity or time to fully enforce the code, preferring instead to issue warnings on occasions. Many aspects of it were respected and it appeared it was well understood by parties and candidates.

### Complaints and appeals

Procedures and systems for complaints and appeals varied depending upon the stage of the electoral process. For instance:

- Appeals during the voter registration phase were to be made directly to the registration officer;
- Appeals against candidate nomination were to be made to the RO with a further appeal to the EC;
- The EC's decision was final according to the RPO;
- Complaints regarding campaign violations were determined by an election enquiry committee (EEC), which is appointed by the EC and which comprised district judges;
- Appeals against a decision of an EEC were made to the EC, which had final authority;
- A petition against the result of an election was to be made to the high court;

- For the Election Day, EEC's were active as were mobile teams of judicial magistrates, which could hear and/or investigate complaints and could conduct summary trials. In addition, mobile teams of executive magistrates for law and order issues were also provided for;
- For a complaint against the process in a polling booth to be valid, it had to be made to the relevant presiding officer in the first instance.

### Analysis of past elections in Bangladesh

The election is the first and foremost prerequisite for a democratic government. The electoral process of Bangladesh has a long history, which may be traced back to 1885 conducted by the colonial rulers [26]. Though, Bangladesh achieved independence in 1971 and conducted several elections before and after colonial rule, however, Khan [26] mentioned nine major democratic elections held at national level in Bangladesh (1919, 1935, 1946, 1954, 1970, 1991, 1996, 2001, and 2008) during the last 138 years and rest of the elections (1958-71, 1975-81, 1982-90, and 2007-08) [27] were nondemocratic conducted by military rulers ran political parties and these elections were controversial and full of manipulation.

After the independence of Bangladesh in 1971, though, the state started its journey as a parliamentary form of government under Sheikh Mujibur Rahman (the father of Bangladesh) like the west minister model, where the prime minister was the chief executive and president was the state head but titular in power exercise. However, this journey of democracy was ended in 1974 and continued till 1991. The second phase of the democratic journey was started from 1991 after a mass movement collapsed 15 years of military rule in December 1990. From then, six national elections have been conducted in 1991, 1996 (15th February), 1996 (12th June), 2001, 2008 and 2014 [28,29] by the election commission of Bangladesh. However, four out of these six elections (1991, 1996 (June), 2001 and 2008 conducted under nonpolitical caretaker government) were comparatively free and fair, which has been certified by the national and international election observers including electronic and print media [26,28]. It has been claimed by the scholars during this time; media, election observers, and electoral process were comparatively free from the control of the government [26,28,30].

Presently, multiparty (around 100 political parties) political system is involved in the governance of Bangladesh. The major political parties are awami league (al-hasina), Bangladesh nationalist party (BNP-Khaleda), Jatio party (Ershad) and Jamaate Islami Bangladesh. But the present trends of Bangladesh politics are dominated by two major alliances. 14 parties' alliance lead by Hasina with Ershad and other lefties' parties and 20 parties' alliance lead by Khaleda Zia with Jamaat and other rightist parties.

### Brief analysis of Elections held in Independent Bangladesh (1971-2014)

Since independence, 10 national elections held in Bangladesh under various regimes. These are March 1973, February 1979, may 1986, march 1988, January 1991, February 1996, June 1996, October 2001, December 2008 and January 2014.

1. The first national election was held on 7th march 1973 under the Prime Minister Sheikh Mujibur Rahman. In this election, Awami league (Aheikh Mujib) won with an absolute majority (293 out of 300

seats, 73.2% of casting the vote) and formed the representative parliamentary form of government. This time, Awami league (lead by Sheikh Mujib) had the immense popularity and no other strong political parties were to compete in the election [31]. Therefore, the election was free and fair, but not competitive and it was satisfactorily accepted by Bangladeshi people and international communities. On the other hand, the most regrettable incidence happened within two years of elections. The government amended the constitution in January 1975 (4th amendment) and changed the parliamentary system of government into the presidential form of government [32]. The multiparty system was replaced by a single party- the Bangladesh Krishok Sromik Awami league (baksal). As a result, the power of parliament was curtailed and the judiciary lost much of its independence through this amendment of the constitution [26].

The nation lost its majority rules system within four years of freedom and in August 1975, Mujib was brutally killed by mid-level armed force officers, and another government was framed headed by Khandakar Moshtaque Ahmed [33]. Two succeeding military overthrows have occurred on November 3 and 7 that drive the highly sensitive situation proclaimed by army chief of staff general Ziaur Rahman (ZIA), yet later ZIA reintroduced a multiparty political framework [32].

2. The second national election was held on 18th February in 1979 under President Zia who also constituted a new political party named Bangladesh nationalist party (BNP lead by ZIA). In this election, BNP got majority seats (207 out of 300/seats and secured 41.16% votes) and Awami league got 41 seats (27% votes) [31]. In this election, total participants were 29 political parties and 422 were independent candidates outside of any political parties [31]. Though, this election was competitive, however, questions of fairness and credibility articulated from the various corners as it was manipulated by the administration under military ruler president ZIA.

Additionally, subsequent to executing of Sheikh Mujib the Awami league as a political party was extremely feeble. Anyway, the state again came back to the multiparty presidential type of government; however within two years (in 1981) ZIA was likewise killed by protester components of the military [33]. In this manner, the popular government again wrecked by a military overthrow and at last the state power moved to the hand of another military ruler general H.M. Ershad in on March 24, 1982 [26]. Following a couple of years, H.M. Ershad additionally shaped another political party like ZIA which hosts perceived as Jatio party.

3. The third and fourth national election were held under H.M. Ershad government in 1986 and 1988 also, got a lion's share in both elections (251 seats and 68.44% votes) by his party (jatio party) however it was definitely not focused as all the significant restriction parties declined to take part in these elections. In spite of the fact that al takes part in the third election and got just 26.15% votes yet in 4 the competition both al and BNP decline to join in the election. In spite of the restriction by opposition, the administration continued [30]. The entire time of Ershad (1982-1991) was represented like a despotic ruler and perceived as the oppressive government of Bangladesh [26]. Nonetheless, resistance to Ershad's rule started to recapture force, raising by the end of 1990 in continuous general strikes, expanded grounds challenges, open revives, and a general disorder of peace and harmony.

4. The fifth national election was held on 13 January 1991 under an interim caretaker government. An ad-hoc appointed interim

government was shaped by the weight of as three political association (AL, BNP, and Jamaat) to travel from tyranny to majority rule government by directing a reasonable decision under a nonparty caretaker government headed by the then chief justice Shahabuddin ahmed [28]. In this election, the BNP got 140, al got 88, Jatio party got 35 and Jamaat got 18 and whatever remains of the seats went into packs of a couple of different parties [31]. The vast majority of the major political parties take an interest in this election also; it was perceived by worldwide eyewitnesses as a free, fair and reliable election. BNP formed the government in coalition with Jamaat. In any case, the significant resistance al asserted that the race was not reasonable and free and the vast majority of the parliamentary sessions were boycotted by them.

5. The sixth national election was held under the BNP government in February 1996; however, the major opposition al and Jatio party boycotted this election because of the absence of trust in the BNP ruling party and interest for a non-party caretaker government [26,32]. As a result, the provision of caretaker government (CTG) was adopted by the 13th amendment of Bangladesh constitution by the sixth parliament of BNP government in March 1996 through pressure of opposition (AL and others) [33,34]. The CTG will frame inside 15 days of the disintegration of the parliament and will comprise of the chief counsel as its head with ten different counselors selected by the president to direct a free, reasonable and trustworthy general election inside 90 days and will frame a recently chose government for a long time [34,35]. Later, three parliamentary elections were held in June 1996 (seven), October 2001 (eight) and December 2008 rather than 2006 (nine) under this CTG.

6. The seventh national election was held on 12 June in 1996, CTG headed by immediate retired chief justice Habibur Rahman as per constitution of Bangladesh inserted by 13th amendment. In this election, out of 300 seats, al got 146 (37.4% casting votes), BNP got 116 (33.6%), Jatio party got 32(16.6% casting votes), Jamaat got 3(8.6) and others got 3 seats. This election was very competitive, free, fair and credible according to national and international election observers. This election was exceptionally focused, free, reasonable and trustworthy as per national and worldwide election spectators. In this election, the voter turnout was uncommonly high, where 75 percent of qualified voters cast their ballots [30]. In this election, al leads alliance including Jatio party, got a majority and formed a government and party leader Sheikh Hasina became the prime minister. However, the loser party BNP claimed that it was not free and fair.

7. The eighth national election was held in October 2001 under the CTG of Justice Latifur Rahman. However, BNP griped that the prompt past government, the al had posted divided authorities. Nonetheless, the eighth parliamentary election was held on 1 October 2001. In this race, voter turnout was 75.5 percent [29]. In the eighth parliament, BNP lead organization together won and formed the government, however, al lead cooperation asserted against the decision to come about that it was built and BNP favored by the CTG and organization. As far as the free and reasonable election, it was acknowledged and increased in value by the national and global election observers and medias [28].

Three successive elections, January 1991, June 1996 and October 2001, were held under the non-party ctg. Nonetheless, the CTG framework itself got to be dubious after the 2001 race; the decision BNP-drove coalition government took a few activities to act the CTG for them like the expansion of retirement time of chief justice to guarantee an appointive result [27,26]. The ruling government (BNP)

on 26 October 2006, a caretaker government (CTG) was introduced headed by chief justice K. M. Hasan in advance of the 9th parliamentary elections scheduled for 22 January 2007 [36]. Selected candidates for appointment in the EC and the leadership of the CTG who were unacceptable to the al-led 14 party opposition alliances and alleged that these candidates were not neutral and non-partisan [37]. But the BNP-led government refused to enter into any dialogue with the opposition to overcome these differences [28,30].

8. The ninth national election held under Fakhruddin Ahmed in December 2008. However, the calendar of the ninth parliamentary election was 22 January 2007, yet the clashing environment and difference between significant two political alliances BNP and al proceeded for more than two years.

The BNP drove coalition government ventured down on 27 October 2006, nonetheless, its named head of CTG resigned chief justice K. M. Hasan, declined to assume liability of CTG office [28,30]. At that point, the BNP-drove government introduced President Iajuddin Ahmed as the CTG head without considering another resigned boss equity which was an unmistakable infringement of the procurement of Bangladesh constitution [28].

It was very controversial and compromised with the neutrality of CTG and no political party except BNP lead alliance did accept this [37]. In addition, on 11 December 2006, four different counselors of CTG additionally surrendered distinctly alluding to President Iajuddin one-sided activities and factional conduct [28]. Thus, the CTG was contaminated and controversial by the then government, which was an innovative system of holding a free, fair and credible election in Bangladesh.

Most of the political parties except BNP lead alliances denied to participate the election under this CTG. Throughout this situation, the 9th national election did not take place in scheduled time on 22 January 2007 [27,28,36]. The country was fast heading towards a civil war.

The head of the army, navy and air-force on 11 January 2007 (that is 11 days before the booked general race on 22 January 2007) constrained the president to leave from the position of the chief adviser, to pronounce a highly sensitive situation, and to defer the general race [35]. The following day, a second "caretaker" government, under the administration of Dr. Fakhruddin Ahmed, a previous world bank official and a previous governor of the Bangladesh bank, who was picked by the military initiative, was drafted into the workplace of chief advisor [28,30,37].

However, it is called itself a "caretaker government" the military-supported Fakhruddin Ahmed government soon started to work as an "interim government" tackling a two-dimensional motivation of sorting out a free and reasonable race, which is the essential part of a guardian government, and additionally presenting major managerial and political changes that fall past the order of a guardian government [27,28]. The government has given itself a two-year time span promising a national race before December 2008. It has delegated new election commissioners who have all the earmarks of being non-divided and in this way more worthy to political and common society [26-28,36].

In the 9th parliamentary election, al leads alliance won and formed the government and it was again appreciated by the media and international observers as the election was competitive, free fair and credible. However, BNP alliance claimed that the administration and

CTG work in favor of al alliance. It is to be mentioned that four general elections held under CTG were comparatively competitive, fair and credible in Bangladesh, according to national and international election observers though the loser party always claims of fairness [27,28].

The AL formed the government in January 2009 with an absolute majority, but the provision of CTG has been abolished by the 15th amendment of the constitution in 2011 instead of serious disagreement and remonstrance of opposition political parties. The al government argued that ctg took two years' time instead of 90 days to hold the 9th national election that was a violation of the constitutional provision. Besides, the high court of Bangladesh gave a verdict in 2011 in response to the writ petition of m Salimullah against CTG in January 2000 [38]. The court delivered a judgment declaring the caretaker system as unconstitutional.

However, the court refused to declare the past caretaker governments as illegal. In the summary judgment, the court held that an appropriately modified caretaker system may continue for next two elections [27,38]. In the detailed judgment, "All unelected governments were declared illegal making it difficult to reintroduce a non-party caretaker government" [27].

However, on the ground of implementing the verdict of Supreme Court, the government unilaterally abolished the caretaker government without consulting the opposition parties. The major arguments in favor of abolishing the caretaker government are as follows:

- Caretaker system is illegal and legally, there is no opportunity for returning to caretaker government;
- If other Westminster democracies can be run without a caretaker government, there is no reason why the caretaker system should be essential for Bangladesh.
- What is needed for the strengthening of the election commission?

To avoid future legal difficulties, such amendments may be finalized after consultation with the Supreme Court under Article 106 of the constitution of Bangladesh. However, the opposition of parliament did not accept and disagree and protest against government decision of 15th amendment of the constitution to abolish ctg. Eventually, the opposition of parliament boycotted most of the sessions of parliament (233 sitting in the first three years) and makes violence and called strikes demanding the re-establishment of non-party CTG for holding a free and fair election in future.

9. After ending the tenure of AL the government (2009-13), the 10th national election was held under al government on 5th January 2014 in accordance with constitutional requirements. However, BNP leads allies totally boycotted this election and 153 of the total 300 seats being uncontested al lead allies won with more than an absolute majority and formed a government for next five years. Before the election, many national and international leaders and diplomats, including Hilary Clinton, us foreign minister, and Mr. Oskar Fernandez Taranto special ambassador to un took initiatives to make dialogue between al and BNP reach a consensus to conduct a free, fair and credible election but failed. Before and after election BNP lead allies took a lot of devastating political programs like strikes after the strikes abrade and many other programs like this against the 10th parliamentary election. As a result, many common people injured and died from collisions between armed force agencies and picketers of the revolutionary political alliance. Besides, many buildings, vehicles, shopping malls and business were destroyed that time as a result, foreign investors

abstain from investing and the overall economy lost a billion dollars for political instability and violence.

Though, AL pronounced and vowed before the election that the 10th parliamentary election will be only for the continuation of the constitutional provision and later another election may take through consensus of all parties. However, the present government (AL) has passed around two years but did not show any intention to rearrange another election. On the other hand, BNP lead allies still demanding for establishing CTG again through amending the constitution and calls several political programs but not so devastating like previous.

Though the state is now stable enough and international recognition and supports with their business investors positively appears to the new government, however, they always advise and emphasis for another participative election by all major parties. Therefore, the present government is constituted by mandate of less than 10% [27] few civil society organizations argue not more than 25% voters. The parliament is run by one party though Jatio party (Ershad) now acts as the opposition of the parliament who is part of al lead allies and currently two MPs of Jatio party (Ershad) act as cabinet members of the current government. That's why the question of acceptability and legitimacy is still questioning from various corners of politics, civil society and academic scholars of national and overseas domains. That means the policy and works of the government are suffering from lack of legitimacy.

Hence, the politics and governance of Bangladesh are practicing a culture of one party lead authoritarian government instead of real parliamentary democracy. Since, independence of Bangladesh seven parliamentary, three presidents, and three referendum elections was held. However, most of the elections were neither free nor fair and competitive [27]. Therefore, the first and foremost element for democracy has incomplete in Bangladesh since independence. The game of blame and claim is another feature of our political culture, as a result, confrontational politics exists which draws chaotic and unstable situation in Bangladesh that causes the threat to life, liberty, security, economy and violation of human rights.

### **How Far the Elements of the Free, Fair and Credible Election have been Ensured in Bangladesh?**

In the theoretical part, we have mentioned some elements of free, fair and credible elections and democracy. From review and analysis of past elections in Bangladesh we found that some elements exist but some are absent. One of the elements of free and fair elections is an enabling legislative framework. From the foregoing discussion, we have found several laws and constitutional provisions for holding free, fair and credible elections in Bangladesh. In theory, the legal framework of the electoral process in Bangladesh is very strong and election commission is an independent institution. However, in practice, it has been found that elections held under political government are not sound and credible enough. Most of the elections held under ruling/ political government are manipulated, less competitive and controversial. On the hand, four elections held under nonpolitical and interim caretaker government were more competitive, fair and credible, and accepted by national and international election observers and media.

Universal adult franchise and direct and secret voting system are two other elements of free and fair elections. In Bangladesh, the electoral process followed by the direct and secret voting system. However, equal voting rights are not always ensured especially when

elections held under the political or ruling government as some major political parties were boycotted the elections. Even, many voters were deprived to apply their voting rights as their votes were cast by muscled men before they entered the election booth.

Independence of EC is another criterion of the free and fair election. In theory, the EC of Bangladesh is very independent as constitution and RPO. However, in practice, it has been noticed that the EC is not free and fair enough under the ruling government from the independence of Bangladesh. Even, some local government elections the EC including some political parties demanded army deployment to the government so that election can be held under the sound law and order situation. The deployment of the army also needed to protect and ensure the security of voters. But the government did not supply the army and a lot of incidence of violence and firings happened in the city corporation elections in Bangladesh. The last national election held on 5th January 2014 the EC and government failed to ensure the security of voters and violation of human rights before and after the election. Therefore, another element of free and fair election is the security of voters must be ensured before and after the election has been violated severely.

The impartial and neutral practice of election administration is another important feature of free and fair elections. In Bangladesh, though legal instruments of the electoral process are very strong to deal fairly as an institute but in practice, the EC and election administration is not neutral and independent enough and dominated by the government. Besides these, a competitive election among all parties and impartiality of acting government are not ensured except four elections held under CTG in 1991, 1996, 2001 and 2008.

Access to media and election observers in the election process; and free speech and association are two other very vital components of free, fair and credible elections. In Bangladesh, these two elements visible strongly but when elections held under ruling government, opposition political parties have been claiming for manipulation and election engineering against the government and election administration since independence. Low trust or lack of trust among political parties is one of the vital problems in Bangladesh. As a result, lack of reliability in holding elections under ruling government and claim and blame game is going on from the very beginning of independent Bangladesh.

### **Challenges of Free, Fair and Credible Election in Bangladesh**

What are the challenges of free, fair and credible elections in Bangladesh has been evaluated based on the analysis of past elections.

#### **Role of EC**

The role of the election commission (EC) is the most crucial in ensuring free, fair and credible election in a country. However, the role of the EC depends on the extent of independence as an institution. In Bangladesh, the EC is a constitutional body and completely independent. Part VII (Articles 118-126) of the Bangladesh Constitution enumerated all the necessary provisions for EC need to be an independent institute in Bangladesh. Among some laws the representation of peoples order (RPO) 1972 [25] (which has been amended time to time) is the main election law in Bangladesh which provides the details of the electoral system in Bangladesh. Therefore, the EC of Bangladesh is independent in theory but in practice, it has

been facing numerous challenges since the independence of Bangladesh.

To ensure the security of the electoral stakeholders such as voters, candidates, poll workers, media and the election observers and to maintain law and order the EC has to depend on government agencies and security providers. In a study, Momen and Begum mentioned most of the respondents of their study noted that security forces in Bangladesh during the election are seen to be either partisan or corrupt. Regaining citizens' trust and creating a level playing field for all contestants political parties to compete in the electoral process is a big challenge for the EC in Bangladesh [28].

Apart from these, domination of government (caretaker or political) is another problem for EC in Bangladesh. In the Election of 2008 and 2014, it has been noticed that EC was directed by Army- backed CTG from January 2007 to December 2008 [33]. As per constitution, the CTG tenure was only three months but to overcome the violent situation then the Chief Advisor of CTG Fhakruddin declared a state of emergency supported by Chief of Army general Moin Uddin. Though, this period CTG made a transparent and accurate voter list with the cooperation of Armforce and under this CTG the election was very competitive, free and fair.

Similarly, in 2014 10th parliamentary election was held under the ruling government AL and the EC was directed and controlled by the government. As a result, BNP lead 20 parties alliance boycotted the election and MPs of 153 seats elected without contest [27].

Last but not least, the Government in Bangladesh is highly centralized and the executive powers are concentrated in the hands of the prime minister. A partisan prime minister can influence the election very significantly [27]. It was also alleged that the civil administration and the military intelligence services were used to manipulate the election results [29]. Therefore, the role of EC is very weak in conducting a free, fair and credible election in Bangladesh.

### **Role of political parties**

The role of political parties is very crucial to ensure a free, fair and credible election in a country. However, in Bangladesh confrontational politics and lack of trust among political parties are great problems which are great hindrances to ensure free and fair election. Blame and claim to each other are a culture of politics in Bangladesh which creates a chaotic situation and decorates law and order. As a result, level playing field and sound atmosphere for holding free, fair and credible elections are violated in Bangladesh from its journey as an independent state [28]. Besides, the free and fair election is hampered by the political parties by money and muscles. In a study, it has been found that two major political parties (the BNP and the AL) nominate those candidates who are capable of contributing a large amount of money to the party fund, and to spend a huge amount of money during the election campaign [30]. Eventually, business men got the nomination instead of real politicians. Therefore, the role of political parties is also facing challenges to ensure a fair election and democratic consolidation [39]. After the election, the loser political parties never welcome and congratulate the winner parties and articulate their voice against the result whether the result is fair or un-fair. Before and after the election in Bangladesh, many devastating incidences happened especially in minorities areas of Bangladesh in every election in Bangladesh [40].

Besides, boycotting of elections under incumbent government is another characteristic of political parties in Bangladesh. Even,

boycotting of parliament by the opposition is another big problem which also hinders the democratic consolidation and further free and fair elections.

Therefore, the role of political parties is not cooperative to ensure a free and fair election in Bangladesh. This is also a big challenge.

### **Role of government**

In the context Bangladesh, the role of the government is the most influential which has been proved by the previous discussion. Without fair and neutral dealing of government, no election can be free and fair as everything is controlled by the government in Bangladesh. However, the government has many challenges. First, every incumbent government has failed to attract opposition political parties to compete for elections. Therefore, most of the elections held under ruling or elected government were not competitive, fair and out of controversy. Another big challenge of elected government is party loyal leaders and nominated candidates do overwhelming activities before and after elections. Thus, the election atmosphere has hampered and violates the environment of a free, fair and credible election. Apart from these, most of the cases the ruling government controlled everything by the executive branch and law enforcing agencies.

The Election Commission is not the appointing authority for these employees. Legally, only the appointing authority can take action after due inquiry (which may not be completed within a short election period) against delinquent officers on election duty [28]. The public servants will, therefore, always be more amenable to the control of incumbent government than to the Election Commission. Furthermore, if the incumbent government refuses to implement the directive of the Commission, there is no effective remedy [27].

Therefore, an impartial role of the government is very essential for holding a free, fair and credible election in Bangladesh.

### **Role of nonparty caretaker government**

In the context of Bangladesh, it has been found in the analysis of previous elections that nonparty caretaker government is very effective to hold election freely and fairly. From 1991 to 2014 four elections were held under the caretaker government in Bangladesh which were more competitive, free, fair and credible and appreciated by the national and International community. However, the loser party or allies did not accept those elections happily and claimed that those elections were manipulated by the Election Administration and CTG in favor of winner party or allies. Therefore, a non-party caretaker government is the best and natural for an independent EC [27].

### **Role of multi-dimensional factors and actors?**

Throughout the discussion, it has been found that democratic governance depends firstly on free, fair and competitive elections but beside these, many other factors related to this. Moreover, a free and fair election also depends on many other auxiliary actors and factors. The neutral and impartial functions of the EC, incumbent government, political parties, media, law enforcing agencies, accurate voter list, before and after the security of electorates to ensure equal voting rights and finally accurate vote counting. Lack of strong monitoring power of EC is also responsible for unfair and nontransparent election in Bangladesh. Besides, there is no independent court of EC in Bangladesh to settle disputes and complaints relating to the election or misconduct. Other countries of the world like South Africa the EC has

an Electoral Court, with the status of the Supreme Court. The electoral court practices huge power to conduct free and fair Elections [41,42]. Therefore, an Electoral court may setup in Bangladesh.

## Conclusion

The foregoing discussion reveals that election has a link between the legitimacy of democratic governance and liberty of human beings [26]. Khan also mentioned that “mere voting is not enough for election. Making them free, fair, independent, ‘virtuous’ and ‘pure’ continues to be a challenge to all democratic societies”. A free and fair election is a basic requirement of democratic governance. However, if the election is not conducted in a competitive and inclusive manner, the government loses the legitimacy and confidence of citizens that lead to the disparity and civil disorder in society. Therefore, a sound democracy needs free, fair and credible elections and active parliament where both position and opposition will play a fair role to reflect the will of the general people. In this study, it has been found that most of the elections held in Bangladesh are defective and not free, fair and credible. Though the elections held under caretaker government were accepted by all and comparatively fair, however, the provision of the caretaker government also abolished by the fifteen amendment of Bangladesh Constitution. The last election held on 5th January 2014 under an incumbent government, but the opposition allies lead by BNP boycotted this election and MPs of 153 constituencies elected without contest. It is considered by the election observers, general people and civil society organizations that more than 50% voters could not exercise their voting rights; therefore, the election has failed to reflect the will of the people. Hence, the current government and governance cannot be considered as democratic by in nature and practice. The current parliament is composed by AL and its allies. That means both the position and opposition of parliament are belonging from ruling allies. Most of the criteria of free, fair and credible election mentioned above have not been fulfilled in the last election in Bangladesh.

In this study, it has also been proved that mere the role of EC is not enough for holding a free, fair and credible election in Bangladesh. Though several provisions of the constitution and election-related laws exist in Bangladesh but in practice the role of incumbent government is above all. Therefore, the neutral role of government and EC for holding free, fair and credible elections is facing a great challenge in Bangladesh from its inception. Voter turnout is a great factor for a credible election, but the 5th January election left a very low (30%) turnout throughout the country. Though, previous two elections held in 2001 and 2008 the turnout were 74.37% and 85.93% respectively. Moreover, the usual enthusiasm and festive mood from voters and other citizens were not found this time.

The role of the political parties has also found very uncooperative and lack of trust among them. No single party trust and rely on other political parties so that a competitive election can be held under them. Distrust and disagreements among political parties create dissatisfaction and low confidence to the citizens. Even the citizens also do not rely on the incumbent government to hold a free and fair election. Because, before and after the last election held in 2014 a lot of incidences has been taken places all over the country, which damaged the national economy and many people lost their lives. These incidences may occur by the boycotted political parties. As a result, political leaders and cadres belong outside the ruling allies are almost restricted for political activities and many have been arrested for postelection incidences.

Though, the current government is governing well now and appreciated by the international organization for governance and policy initiatives, for instance, the Prime Minister Sheikh Hasina recently won “Champions of the Earth” award of the United Nations in the policy leadership category. However, violent activities by unknown militant groups and violation of human rights are still continuing. Recently within a week, two foreigners one Japanese named Kunio Hoshi in Rangpur and an Italian aid worker Tavella Cesare were killed in Dhaka in September 2015. This is very alarming for the rule of law and good governance. It is perceived and assumed by the academicians, civil society members, politicians and general people that all these incidences are happening for the reaction of the illegitimacy of government as it is not based on free, fair and competitive election among all registered political parties. In a study, Alim [43] mentioned that in the 5th January election only 12 political parties out of 41 took part; hence less than 50% registered political parties are taking part [44-50].

Therefore, the dream of free, fair and credible election and democratic governance is still fragile in Bangladesh.

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