

**AN ANALYSIS ON THE 10TH PARLIAMENTARY ELECTION IN BANGLADESH:
CHALLENGES AND POSSIBLE SUGGESTIONS**

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Abstract: *10th Parliament election in Bangladesh is one of the controversial subject matter in both the political and legal arena. Still now a debate is going on its character and effectiveness. Objectives of the study are; to identify the nature of 10th parliamentary election, to find out the extent to which this election was participatory, competitive, democratic, free and fair or not, to scrutinize the acceptability of the result of the election both in national and international arena, to highlight the role of election commission during 10th parliamentary election, to provide suggestions on concerned issues, if necessary. It is a qualitative research and only secondary sources have been used during the time of the study. It is revealed from the study that 10th parliamentary election was not participatory in nature, though it was not illegal in Constitutional perspective but there is a big question mark on its acceptability among the political parties regarding ethical standard, clashes and violence was it's another common feature, the role of election commission was not up to the standard etc. However, this study has suggested for unanimous unity with regard to establishing a unique and fruitful election process and comprehensive efforts from legislative, executive and judiciary for a free, fair, credible and participatory election in Bangladesh.*

Keywords: Election, Election Commission, Caretaker Government, 10th Parliamentary Election, Violence in Election

Research Area: Political Science

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1. INTRODUCTION

Peoples Participation in an election is an integral element of Democracy where the Government is based on the consent of the governed. The reliability of Election method determines the establishment of good Governance for state and human rights of its citizens. In an election, every eligible citizen has certain basic rights that the state cannot take away from them. In the political history of Bangladesh, the 10th Parliamentary (sangsad) election of January 05, 2014 is one of the most crucial and stigma tied. The first parliamentary election in 1973 was criticized earlier. In this election, the ruling party was engaged in electoral corruption. The Elections of 1979, 1986 and 1988 took place under the Military rule and were manipulated by the military rulers. The 6th Parliamentary Election in 1996 was full of violence. The rate of the voter was low in that Election. That election was also rigged and manipulating. The 6th Parliamentary election was not free and fair too. These Elections were held under the party Government. It can be stated that Elections under the Party Government in Bangladesh have the records not to be free, fair and Neutral. Grand alliance the center left secular led by the Awami League and it's leader Sheikh Hasina came to power after winning the 9th Parliamentary Election with an overwhelming victory. Therefore, The AL-led Grand Alliance government repealed 13th amendment which enshrined the provision of the Non-party Caretaker Government system for holding general elections using the pretext of a court verdict issued by Justice Khairul Haque. The 15th Constitutional amendment made the provision of holding an election under the party government despite the facts that court preferred at least two more general elections is held under the Non-Party Caretaker

Government (NPCG). Also most people whom the constitution amendment committee talked to advised for the retention of NPCG for the time being. Opposition Parties did not accept this amendment and tried to launch a movement Election under the NPCG. The ruling party had no concentration about the movement of opposition. The ruling Grand Alliance government had no interest in accommodating the demand of the opposition and was determined to hold the 10th Parliamentary elections.¹

1.1 Objectives of the Study

Following are the objectives of the study;

1. To identify the nature of the 10th parliamentary election in this study.
2. To find out the extent to which this election was participatory, competitive, democratic, free and fair or not.
3. To examine the kind of problem that may arise if the major political parties do not participate in the election.
4. To scrutinize the acceptability of the result of the election both in the national and international arena.
5. To highlight the role of election commission during the 10th parliamentary election.
6. To provide suggestions on concerned issues, if necessary.

1.2 Methodology

The topic of the research is ‘10th Parliamentary election: Democracy and participation’. It is a qualitative research and only secondary sources have been used during the time of the study. The research is done on the basis of published books, Newspapers, Journals, articles and other related writings about the 10th parliamentary elections and other works relating to Election, Democracy, Participation and others.

1.3 Democracy

The term democracy is known to all but no one can define democracy in a sentence or two. The very simple and easy definition of democracy is given by Abraham Lincoln. According to him, “Democracy is the government of the people, by the people, and for the people”. Merriam points out the importance of people’s welfare in explaining democracy. F.D. Roosevelt enlarges the idea of democracy a government in which everyone has a share”²

1.4 Election

An election is almost taken for granted to choose members of parliaments. A rather more academic definition by Harrop and Miller is that a competitive election is the formal expression of preferences by the governed which are then aggregated and transformed into a collective decision about why will govern who should stay in office, who should replace those who have been thrown out of power/office/government. Elections are thus important not only for choosing representatives but also to enable the voters to choose among different sets of policy programs, which are reflective of different ideological perspectives. They also have a much deeper effect on the conduct of politics in the medium term since the outcome of elections determines the composition of the government. Elections also confer legitimacy on government and provide it with a mandate to govern. Failure to compromise between the differences of different parties in parties is also a factor deterring voters from participating in the election as the voters supporting the opposition parties feel disenfranchised in the sense that their votes do not matter. This may be because their views on important particular issues are perceived as having been ignored or that government is corrupt. In either case, the

outcome is going to be the lack of trust and the conclusion would be that voting is a waste of time.³

2. CARETAKER GOVERNMENT AND POLITICS OF BANGLADESH

Non-Party Care Taker Government (NPCG) is a new type of government. A caretaker government is a temporary ad hoc government that performs some governmental duties and functions in a country until a regular government is elected or formed. NPCG is an unelected and non-democratic, non-representative government. It was introduced into the Bangladesh politics to hold free, fair, inclusive, and participatory elections. It was also an outcome of the lack of credibility of the parties of Bangladesh in holding free and fair elections. The political parties do not trust each other on the issue that a party government would hold free and fair elections. On that basis, NPCG treated as an option for all the political parties. So, the Non-Party Caretaker Government is acted as an interim government to execute free, fair and credible election.

2.1 Nature and Types of Caretaker Governments

The concept of the caretaker government is used in various ways in different countries. In true sense, the term caretaker government is a non-party government & obtain itself from contesting the election & is pointed particularly for conducting a free & fair diction. When the Parliament has expired its duration or is dissolved the existing government continues in office till the new government enters into office. This continuing government undertakes to take care of the affairs of the state without making any serious and bold policy decision. This presumed caretaker government is recognized either by a constitutional convention or express constitutional provision. In some other instances, the caretaker government is a government which has lost the confidence of the Parliament but has been asked by the President to continue till an alternative government enjoying the confidence of the parliament is formed. It is only a temporary arrangement to ensure that the day to day' functioning of the state machinery is not held up due to the absence of a government. It is a practice that the interim government does not make any important decisions or large financial commitments. This government seeks reelection and so cannot be called Caretaker Government in the proper sense of the term. But in Bangladesh, the caretaker government we mean and see today is a suit generic one. Here a government headed by a retired Chief Justice of the Supreme Court is formed to assist the Election Commission in holding the parliamentary election. The outgoing the Prime Minister and the cabinet go out of the office totally.⁴

The concept of 'Caretaker Government' as it has been and is being used in politics and constitutions of various countries, may be used in three senses: Presumed Caretaker Government; Caretaker Government in Special sense-, and Caretaker in proper sense or Non-Party Caretaker Government.

2.2 Presumed Caretaker Government

When parliament stands dissolved because its duration has expired or is dissolved because the government has been defeated in the floor and it has advised for its dissolution or because of any other reason, the existing Government continues in office till the new government is formed after the election. This sitting government after dissolution of parliament and before its reconstitution transforms automatically into a caretaker government in the sense that this Government though a sitting one undertakes to take care of the affairs of the government for pre-election interim period during which it does not initiate any important policies or commitments of a broad and sweeping nature, the Prime Minister in office at the-lime of the dissolution of the legislature or The termination of its constitutional lie, carries on

the administration of the country as head of the caretaker government. This transformation is recognised in all democratic countries. In Britain, Canada, New Zealand it is a conventional practice and in countries with written constitutions, it is specifically mentioned that when parliament is dissolved the sitting government continues in office till its successor has entered upon office.

To be noted that this transformed nature of the sitting government during the election period is not universally recognised as caretaker government as such and it cannot be said to be ‘caretaker government’ in true sense of the term, for this government tackling care of the administration itself contests in the election while it is in power. But as it does not initiate any important policies or make a commitment of broad and Sweeping nature and it holds office just to take care of the day to day administration, only in this sense it may be presumed to be a kind of caretaker government. This type of caretaker government is automatic and natural in countries where constitutionalism is practised.

2.3 Caretaker Government in Special Sense

In some cases, to a particular special situation, a caretaker government is formed on the basis of national consensus. Again, in some written constitutions specific provisions are kept for a caretaker government to conduct a general election.

For example, in Britain in 1945 the cabinet formed by Churchill following the Second World War has been termed by Sir Ivor Jennings as, Caretaker government As this government was formed particularly for conducting the post-war election in Britain and this 16 member cabinet was participated by Conservative Party, National Liberation Party and also some non-party members. This government was different from a presumed caretaker government as I have mentioned above. Sir Ivor Jennings categorically says that ‘it should be explained that it is not British practice to appoint a ‘caretaker government’ for the duration of the general election. It was done in 1945 because the wartime coalition had broken up. The electors had to decide whether they wanted a Conservative Government or a Labour Government, and meanwhile, the King’s service had to be carried on. This was quite exceptional. The government which advises the dissolution remains in office throughout the election and continues to do so after the election unless it is defeated.

Again, in, Article 48(5) of the Pakistan Constitution specifically provides for ‘caretaker Government’. It stipulates that.

“Where the President dissolves the National Assembly, he shall, in his discretion appoint a date not later than 90 days from the date of the dissolution, for hold’ng of a general election to the Assembly; and appoint a Caretaker Government”.

But there is no provision for appointing a non-party caretaker government; neither is there any mandatory provision that the caretaker government will not take part, in the election. As a result, the provision for ‘caretaker government’ as provided in the Pakistan Constitution cannot be said to be a caretaker government in the true sense of the term.

2.4 Caretaker Government in True Sense

In true sense, the term ‘caretaker government’ means an interim government and “abstains itself from contesting the election and is appointed particularly for conducting a free and fair election. For example, the provision for the caretaker government as provided by the 13th Amendment of the Constitution of Bangladesh ensures a caretaker government in true sense, for none of the government

Law has the right to contest the general election. The caretaker government of Pakistan of 1993 and of 1997 were caretaker governments in a proper sense. The interim government to conduct an election in South Africa in 1994 was also a caretaker government in true sense. The interim government of Justice Sahabuddin Ahmed which was formed, after the fall of military dictator Ershad regime in 1990 In Bangladesh was a riot, from a constitutional point of view, any caretaker government because there was no provision for the caretaker government as such in the Constitution of Bangladesh. Under the provisions of the Constitution Justice Sahabuddin Ahmed — as appointed as the Vice-President and when Ershad resigned Sahabuddin Ahmed acted as the Acting President and until lie came out of his office he acted as the Acting President. But if we examine his government from factual, political and philosophical point view, we find that his government was essentially though not constitutionally a caretaker government in true sense. Because all of his government were non-political persons and none of them, took part in the election.

2.5 History of the Caretaker Government in Bangladesh

The caretaker government of Bangladesh is a form of government system in which the country is ruled by a selected government for an interim period during the transition from one government to another, after the completion of the tenure of the former. As the outgoing government hands over their power, the caretaker government comes into place. The main objective of the caretaker government is to create an environment in which an election can be held in a free and fair manner without any political influence of the outgoing government. The head of the Caretaker government is called the Chief Adviser and is selected by the President, and the Chief Adviser selects the other advisers. The administration is generally distributed between the advisers. The Chief Adviser and the other advisers are committed for their activities to the President. A caretaker government was first introduced in 1990 when three party alliances jointly made a demand for it. It was constitutionalized in 1996 by the Parliament dominated by Bangladesh Nationalist Party. A Caretaker government is headed by a Chief Adviser who enjoys the same power as the regular prime minister of the country except for defence matters. The Advisors function as Ministers. Since 1996, the Caretaker government has held the elections of 1996, 2001 and 2008. Caretaker Government In the parlance of the institutional government, a caretaker government is one which normally takes care of state administration for an interim period until the regular new government is formed. In an established parliamentary system, there is a convention of the transformation of the outgoing government into a caretaker government for the time being before the holding of a general election. Such temporary government exists only to perform day to day administrative jobs, and is not supposed to deal with policy initiating functions which may influence the election results. During the period the caretaker government maintains neutral status for ensuring free and fair general elections. In the parliamentary framework, after the dissolution of one ministry, the practice of establishing a caretaker government for organizing general polls has been observed in all democratic countries.⁵

2.6 Functions of Caretaker Government

Caretaker Government was adopted in the Bangladesh Constitution for holding free and fair elections. According to our constitution, the Caretaker Government was supposed to limit its works in two areas. One is to do the routine work. The other was helping the Election Commission to hold a free and fair election. According to the Constitution, the Caretaker Government was designed to work as an interim government and they will not take any policy decision. The Chief Adviser of Caretaker Government will play the same role as Prime Minister.

The main articles of the 13th amendment to the Constitution that guided the functions of the NPCG were :

58B. (1) There shall be a Non-party Caretaker Government during the period from the date on which the Chief Adviser (CA) of such government enters upon office offer.

Parliament is dissolved or stands dissolved by reason of expiration of its term till the date on which a new Prime Minister enters upon his office after the constitution of Parliament.

(2) The Non-Party Caretaker Government shall be collectively responsible to the president.

58c. (1) The Non-Party Caretaker Government shall consist of the chief Adviser as its head and not more than ten other advisers, all of whom shall be appointed by the president.

(3) The President shall appoint as Chief Adviser the person who among the retired chief Justices of Bangladesh retired last and who is qualified to be appointed as an adviser under this Article.

58D (1) The Non-Party Caretaker Government shall discharge its functions as an interim government and shall carry on the routine functions of such government with the aid and assistance of persons of the services of the Republic; and except in the case of necessity for the discharge of such functions, it shall not make any policy decision.

(2) The Non-Party Caretaker Government shall give the Election Commission all possible aid and assistance that may be required for holding the general election of members of Parliament peacefully, fairly and impartially.

The election has to be held within ninety days after the dissolution of parliament. The age of the advisers of the Caretaker Government should not be more than seventy-two years.⁶ After the study of the Constitution of Bangladesh, we can say that the Non-Party Caretaker Government was assigned to do four types of works. First, NPCG worked as an interim Government. Second, it was supposed to do routine work. Third, it would perform its functions with the help of the administration and the Law enforcing agencies. Fourth, it has refrained from taking policy decisions which were not for performing routine functions of an interim government as linked to holding free and fair elections. The most important function of the NPCG was to provide all possible aid and assistance to the EC for holding the general election peacefully, fairly and impartially. The NPCG comprehends the Chief Adviser and not more than ten advisers. There is no hard working in the method for choosing the chief adviser. The last retired Chief Justice is suitable for the position of Chief Adviser. If the last retired Chief Justice is unwilling or unavailable, the Chief Justice who retired before the last retired Chief Justice is eligible for appointment as Chief Adviser. If no retired Chief Justice is available and willing, the Judge of the Appellate division who retired last is eligible for appointment as Chief Adviser. In the case he is unwilling or unavailable, the Appellate Division Judge who retired before the last retired Appellate division Judge is eligible for appointment as Chief Adviser. If no retired Judge of the Appellate Division is available or willing, the President shall appoint a citizen as Chief Adviser after consulting with the political parties. If none of the above options is available, the President shall take the power of Chief Adviser as an additional responsibility. The eligibility criteria of the advisers are significant. They should be fit for election to parliament but cannot contest in the elections. They should not be a member of any political party or organizations accompanied with or affiliated with political parties. During the interim period, the President can proclaim the Emergency on his own. Thirteenth Amendment of Constitution gave this power to the president. The Chief Adviser may constitute a public committee of 3-5 members after consulting with the major political parties to assess the performance of the Caretaker Government.

2.7 Arguments for and Against the Caretaker Government

According to the Constitution when the ruling party started the process of holding the 10th parliamentary election, the BNP led 18 party alliance rejected it. A long term debate was going on among the leaders, activists, civil society and all others concerned as whole supporters of Government and opposition parties on this matter. Opposition parties apprehended that under the docile party government-controlled EC could not hold a credible election. The political culture of Bangladesh did not change. There were parties lacked mutual understanding, lack of trust and there was the fear of revenge by one ruling party, incase if loses in the free and fair election. Moreover, none has the mind to accept defeat in the elections as there are so many things are at stake.

In this case, it is impossible to make an election under the party government free and fair. Opposition parties argued that under the NPCG, the Election Commission can play a more neutral role than the party government. Under the party, government Elections Commission could not work independently.

After the abolition of NPCG from the Constitution through the fifteenth amendment, the importance of Election Commission increased. But this amendment did not take any help to empower the election commission other than appointing two more Election Commissioners.

The ruling AL, However, regarded the Caretaker Government as shame for democracy. This government is unelected and contradictory to the constitution. The NPCG proved that after running the country for five years an elected government cannot hold a credible parliamentary election and this is a shameful matter for democracy. That's why like the other democracies we should hold an election under the party government. Moreover, the controversial role of the 2007-08 NPCG crisis also convinced the ruling AL that the NPCG should go. But it was not possible to manage opposition parties by this logic. They argued that since our political culture was such that upon AL's insistence we had introduced the NPCG for holding credible elections. We were yet to get out of that culture of distrust. Still, we have the revenge vacillation in our national politics. In such a situation, a free and fair election was not possible under the party government.

To argue in favour of election under the party government, the ruling AL claimed that the 5000 elections at various levels under them were free and fair. Government side claimed that in these elections many candidates of the opposition won. Therefore, the unelected government is not necessary for holding credible elections. But the Opposition side commented that there cannot be any comparison between parliamentary elections and local government elections, Local government election is not related to the change of government. But, parliamentary elections are related to the change of government. Though the local government election had completed perfectly, therefore, we cannot predict that the parliamentary election will be free and fair under the party government. For this reason, opposition parties were not convinced by the argument of the ruling AL. The ruling AL also argued that the NPCG did a lot of misdeeds and the elections had to be held and have been under the party government. They referred to the misdeeds of Fakhruddin-Moinuddin's emergency regime. But the opposition parties did not accept this argument saying that the Fakhruddin-Moinuddin government was an Army backed government. This government came to power for three months to hold an election but they stayed in power for two years. The ruling AL also said that they had to repeal the provision of the NPCG from the constitution to abide by the verdict of the High Court. It has no chance to violate the decision of the court. Government just implemented the decision of the court. But the government did not maintain that they had no obligation to implement the decision. Beside the High Court

suggested that the next two elections might be held under the NPCG. But the government did not give any consideration to this suggestion.

It was further argued from the government side that the elections not held under the NPCG in many countries and they hold elections under the party government. Thus can do the same. Prime Minister Sheikh Hasina also said that “We will hold the elections as the elections held in all over the world”. But she did not think about the democratic environment of Bangladesh. The Political and electoral culture of Bangladesh is conflicting with lack of trust and with a weak has no independence and neutrality. For this reason, opposition parties could not accept the arguments of the leaders of the ruling party. Former Adviser of the NPCG, Dr. Akbar Ali Khan, said that Caretaker Government is not a legal matter. It is a social contract. It was not wise to repeal NPCG by one side without any consensus.⁷

3. BACKGROUND OF THE 10TH PARLIAMENTARY ELECTION IN BANGLADESH

Throughout most of 2013, Bangladesh Nationalist Party and its alliance of 18 opposition parties led by three-time former Prime Minister and Opposition Leader Khaleda Zia called more than 85 days of nationwide general strikes and blockades that brought the entire country to a grinding halt. The opposition demanded that the ruling Awami League party led by the current Prime Minister Sheikh Hasina amend the constitution, dissolve the parliament after their full five-year term ended on 24 January 2014, and then hand over power to a non-partisan interim government or a caretaker government that would be run by technocrats for 90 days. The job of a Caretaker Government of Bangladesh would then be to work in tandem with the Bangladesh Election Commission by helping them to organise, arrange, and oversee the general election held on 5 January and transfer power to a newly elected government. As most of the demands were not met within the stipulated time frame, all opposition parties boycotted the polls.⁸ Hasina had offered an all-party interim election cabinet government which would include opposition parties till the election but this was rejected by Zia.⁹ Since the ninth parliament's mandate expires on 24 January 2014, according to the constitution of Bangladesh's Article 123(2)(a) requires a general election to be held between the dates of 26 October 2013 and 24 January 2014 or rather within 90 days before the expiration of the Parliament.[8] On 25 November 2013, the Bangladesh Election Commission announced that the 10th general election would be held on 5 January 2014.¹⁰

3.1 Election Day and Violence

On the night of 4 December 2013, Jatiya Party leader H. M. Ershad threatened to kill himself after security forces besieged his home following his decision to boycott the election.¹¹ On 13 December, he was confined to a military hospital following his arrest from his Baridhara residence by security forces. According to the RAB commander, Ershad had been taken there at his own request. Zia was also put under house arrest since 29 December at her Gulshan residence.¹² The Bangladesh Army was deployed throughout the country on 26 December on the request of the election commission to maintain law and order. The army would stay on the streets until 9 January 2014. On 13 December, Jamaat-e-Islami's Abdul Quader Mollah became the first person to be executed for war crimes related to the Bangladesh Independence War resulting in violent protests by the Islamist opposition. Two ruling party activists were hacked to death in Kalaroa, while the Jamaat-e-Islami's activists firebombed train stations and blockaded roads. Another person died in clashes between police and Jamaat-e-Islami supporters in Noakhali, while a driver was killed after the party's activists chased him down. The opposition alliance called for a general strike on Sunday 15 December.¹³

On 29 December 2013, the BNP called for a "March for Democracy" towards Dhaka, in defiance of a police ban, to protest against the election. Zia said: "The government is autocratic and illegal. It should step down immediately". One person was killed by the police in the centre of Dhaka, while a guard was killed in a blast at a train station. Some supporters of the ruling Awami League also clashed with opposition activists outside the Bangladesh Supreme Court.¹⁴ The BNP accused the police of barring Zia's car from leaving in order for her to lead the march.¹⁵ Thousands of security forces, mainly police, were present to prevent the opposition activists from rallying.¹⁶ Outside of the Supreme Court, the police threw hot and coloured water from water cannons to disperse the protesters. Sheikh Hasina, while agreeing with the right of the opposition to protest, said: "You can wage anti-government agitation. But make sure people are not killed by your movement." A train was derailed by opposition activists in Gaibandha leading to three deaths.¹⁷ On 30 December, the 18-party opposition alliance announced a non-stop blockade of roads, railways and waterways across the country from 1 January 2014 in order to resist the scheduled election. The decision came after they were barred from holding national demonstrations the previous day. The protest was termed the "March for Democracy."¹⁸ A general strike was called for 4, 5 and 6 January by the opposition parties. On 3 and 4 January, opposition activists attacked potential polling centres across Bangladesh. They set fire to over 100 centres in Lakshmipur, Rajshahi, Pirojpur, Sylhet, Jhenaidah, Natore, Sirajganj and Brahmanbaria.¹⁹

3.2 Opposition Parties and the Election

It was opposition party's demands to hold parliament election under non-party or Neutral interim Government. But this Demand was not fulfilled. That's why opposition party could not participate in this election. In a video message, Tarique Rahman, the senior Vice-Chairman of the BNP called for boycotting and resists the election saying that "The time has come for all of us to prevent and boycott the January 5 poll. Not for personal interest but for the sake of the country's existence". Jatiya Party (JP) Chairman H.M. Ershad also boycotted this election but due to the main polarize of Ruler, at last, the JP participated in this election under the leadership of Rowshan Ershad (wife of H.M. Ershad).²⁰

3.3 Voter Presence in the Election

As a result of opposition's boycott, 153 MPs (Member of Parliament) won uncontested. The ruling party achieved qualification to form the government before the election was held.

As a result, 4 core 80 lakh voters could not get chance to cast vote among the 9 core 19 lakh voters in this election. Rest of the 4 core 39 lakh and 38 thousand voters got the chance to cast vote but they also did not have to the voting centres because of insecurity, threat and risk of life. There were 41 voting centres where no voter was seen. The ruling party gave also acknowledged that this election was not very good but needed to hold to maintain constitutional continuity. Information minister Hasanul Hque Inu said that the Turnout did not matter, "What is important is that the people defied violence". Though fewer voters cast their votes, three days after the election, the Election Commission provided that the voter presence was 39.8%. According to non-government observers, however, turnout was very poor. BNP and its alliance demand that voter turnout was between 2% to 5%. According to EWG (Election Working Group), average voter turnout was 30.01% with female voters turnout (31.2%) which is slightly higher than male voters turnout (28.9%).²¹

3.4 Administrative Action

The government deployed huge law enforcing agencies in this controversial election. Commission first decided that they would not deploy army in an election but at last, they did

Army were deployed throughout the country on 26 December on the request of the Election Commission to maintain law and order. The army would stay on the streets until 9 January 2014.²²

3.5 Deployment of Law Enforcing Agency

- Ansar- 2 lakh 18 thousand 500
- Armed forces-52 thousand 100
- BGB-16 thousand 181
- Rab-8 thousand 404
- Coast guard-200
- Security forces-Per centre 15-18²³

3.6 Electoral Corruptions

The electoral corruption of 5th January Polls exceeded other elections. Newspapers showed photos of corrupt practices in the poll. All types of electoral corruption also practised in the election including grabbing of polling centres and casting fake votes. After the lunch, the ruling party aspirant supporters were able to give illegal votes because mentionable obstruction hasn't come from the voting centres. Some aspirants in this regard raised allegation to the Election Commission but their concerns were not addressed. Mr. Afiluddin from Jessore introduced a new formula of chain voting. According to the formula, a little group tried to increase the number of votes in a whole day. They gave their votes repeatedly in many polling centres. In some polling centres, the election officials participated in casting fake votes. In spite of huge irregularities and corruption in the election, the Election Commission claimed that is 97% of centres voting was completed in a free and fair manner.²⁴

3.7 Election Observation by Other Organization

Before the 10th parliamentary election, the circumstances were remained so insecure, troublesome and full of violence that nobody will think that this election will observable without limited observation of some domestic observer.

There are no trustworthy circumstances to hold free, fair and credible elections. That's why, many domestic and international organizations Including European Union, Commonwealth, America, Russia, Japan, International Republican Institute (IRI), National Democratic Institute (NDI) that came to our country to observe elections. They would not agree to send observers. As a result of the boycott, the EC suggested that the Grand Alliance had already secured victory in 154 uncontested seats. The fact is that out of total NGOs enlisted with the EC is 120 but only 35 of them (including 28 EWG NGO's) applied to observe the 10th parliamentary elections. Of these 35, most either abstained from observing election or reduced the number of observers due to voting not taking place in 153 constituencies.²⁵

3.8 Role of Electronic and Print Media:

There was no eagerness in the minds of voters in the 10th parliamentary elections. That's why, in the elections day, almost all of the polling centres were voter less. We saw photos from newspapers that few dogs laid down at the polling centres instead of voters. We saw that kind of scenario in a 10th of voting centres of high densely populated areas of Dhaka city. We saw few voters in different polling centres but their number was comparatively lower than the Numerates journalist. The Daily Star featured an editorial that called the election the deadliest in the country's history and that the Awami League won "a predictable and hollow victory, which gives it neither a mandate nor an ethical standing to govern

effectively.” Similarly, criticizing the opposition, the editorial mentioned that “political parties have the right to boycott elections. They also have the right to motivate people to side with their position. But what is unacceptable is using violence and intimidation to thwart an election.”²⁶

3.9 Election Results

The incumbent Bangladesh Awami League won the election with a safe majority, winning 234 seats. The election was controversial however as the opposition alliance boycotted the election. As a result of the boycott, 153 of the 300 seats were uncontested,²⁷ of which the Awami League won 127 by default, the Jatiya Party (Ershad) led by Rowshan Ershad won 20, the JSD won three, the Workers Party won two and the Jatiya Party (Manju) won one.²⁸ Results of 139 seats, out of remaining 147 seats (which were contested), were released, with the Awami League winning 105, the Jatiya Party (Ershad) winning 13, the Workers Party winning four, the JSD winning two and the Tarikat Federation and BNF winning one each. The remaining 8 constituencies election were suspended due to violence and re-election to be held. The newly elected MPs were sworn in on 9 January. As a result of the boycott and violence, voter turnout was lower than the previous few elections at only 51%, and as low as 22% in the capital, Dhaka.²⁹

3.10 Reactions Various Communities

Following the elections, different political leaders, Civil Society and members of the International Community expressed their reaction. Generally speaking, the reactions were adverse and they all urged the Government to hold a new inclusive election within a short time. The International Community was vocal against the elections as the United States of America told that this election was not acceptable. The UK told that they were downhearted and worried. United Nations secretary general Ban Ki Moon anticipated that he was griever on this matter. Commonwealth told that the election was frustrating.

Agence France-Presse (AFP) an international news agency said that the election is a most bloody election and Kolkata Telegraph designated “the election as an empty election.”³⁰

4. ELECTION COMMISSION: A TIGER WITHOUT THE NAIL AND TEETH

The work of the EC was deeply affected by the thirteenth Amendment, though the Commission remains outside its specifications. The EC was responsible for holding an election to parliament and is independent in the exercise of its functions, subject only to the Constitution and Law. The EC is a thin organization, working with a secretariat and a small number of officers in the field. It depends on the administration to conduct the general election Magistrates and collectors are engaged as returning and assistant officers, police and other civil law enforcement agencies maintain order, reinforced by the armed forces. If the government officials act in a partisan manner, the EC cannot ensure a free and fair election. The NPCG was designed to make the Administration neutral.³¹

After the amendment of the Constitution in 2011, the EC of Bangladesh has now five Election Commissioners including the Chief Election Commissioner (CEC). The commissioners are appointed by the president for a five-year term and can only be removed according to the procedures for removal by the Supreme Court. Unlike many countries, there is not a formal process detailing how the president should go about the appointment of the Commissioners.

In this case of appointing Election Commissioner, the president initiated a dialogue with 24 of the 38 registered political parties and sought their suggestions in an attempt to form the EC with a political consensus. Following recommendations by many of the parties,

on 22 January 2012, the president formed a four-member search committee headed by a justice of the Bangladesh Supreme Court, a Justice of High Court, the chairman of the public service commission, and the comptroller and Auditor General of Bangladesh. On February 2012 the search committee recommended two names for each of the five posts including the post of CEC. The following day the president formed the election commission from the list of 10 persons recommended by the search committee.³²

The EC of Bangladesh is the guardian of free and fair elections. Election Commission is to co-ordinate the work relating to the conduct of all types of elections and registration of voters and preparation of electoral rolls including day to day amendment and correction in the list of electoral rolls and other matters. The Election Commission carry out all work relating to registration of political parties, the printing of voters list, management of National and local level elections, training of polling personnel and all logistical arrangements for elections.

It also renders all possible assistance to the returning officer and polling personnel with forms, packets, manuals, instructions and supply of ballot boxes, electoral rolls, and ballot papers and maintains all accounts for expenses incurred for different elections.

5. ROLE OF ELECTION COMMISSION DURING 5TH JANUARY NATIONAL ELECTION

The EC was again a victim of political influence. The electoral process has become corrupt largely because the commission has not been able to play its constitutional role in ensuring free and fair elections. On January 5 polls, the EC had completely failed to maintain a neutral position in conducting it in a free and fair manner.

The mediator from the United Nations, Oscar Fernandez Taranco, Jatiya Party Chairman H.M. Ershad, and some other political parties were requested the EC to defer election schedule to allow negotiation a chance. But the EC didn't heed their suggestions. Ruling party requested the EC to provide 'Boat' as a party symbol for the aspirants of Grand Alliance. The EC accepts this request of Grand Alliance. But when the Chairman of the Jatiya Party, H.M. Ershad announced to boycott the election and requested the EC not to allocate the 'plough' as a party symbol. The EC didn't listen to this request.

The constitution states that the Election Commission shall be independent in the exercise of its functions and subject only to this constitution and any other law. The Election Commission cannot give a special advantage to any political parties. The Election Commission cannot be subjected to the control of any other organs of the government in respect of election. Any law or administrative arrangements which detract from the independent exercise of the functions of the Election Commission will be tantamount to the violation of the constitution. The Election Commission is responsible for preparation of the electoral roll for the general election and conducting the election of the President, and delimitation of the constituencies. The EC needs to be neutral, strong and independent for holding a free and fair election.

6. FINDINGS

Following are the findings of the study;

- In the current system, it is difficult for the election commission to execute a free and fair election in Bangladesh.
- Political parties do not believe each other in Bangladesh. So they want to give undue influence to the election commission.

- Theoretically, the election commission is independent but in practice they cannot use their power independently in election procedures.
- BNP led alliance said that without a neutral nonparty government there will be lots of difficulties to arrange free, fair and credible election. So they have demanded neutral government in any form during the time of the election.
- Two major political parties have conducted several discussions but unfortunately, they have failed to reach any fruitful decisions.
- USA, India and other foreign countries including the United Nations (UN) have tried to resolve the deadlocks but this mechanism also failed.
- Judiciary repealed NPCG system but these decisions have raised various controversies. Judiciary also said that for the next 2 terms NPCG may be used in their observation. But governments of that time don't have accepted the observation of the Court.
- The government abolished the NPCG system without ensuring the effective power mechanisms of the election commission.
- BNP has demanded for NPCG only but they did not have demanded for independent and powerful election commission strongly.
- Clashes, loss of life, damage of property and other negative activities have been done before and after 10th parliamentary election.
- Major political parties did not take part in the election process that's why there were 153 uncontested winners. This leads to a huge debate not only in Bangladesh but all over the world.
- Due to the lack of security and violence decreased the voter turnout.
- Opposition and government have engaged in violence, one to resist and others to forcibly hold the election. This situation has created a stigma in the history of Bangladesh.

7. RECOMMENDATIONS

- Everyone should take the necessary steps for the creation of a neutral and powerful election commission. In this regard, all political parties should come in under the one umbrella.
- During the time of the election, all executive power should be transferred to the election commission so that they can create the level playing field. In addition, all the returning officers should be appointed from the election commission's internal employees.
- Manpower in election commission should be increased and they should be properly empowered.
- All laws, rules and regulations of election commission should be modified in the light of modern time.
- Chief and other election commissioners should be appointed on the basis of consultation with all political parties.
- All political parties should avoid foreign influences over the election.
- Every political member should enrich their political ethics.
- The election commission should be so strong that no executive organs can use their negative influence on the election commission.
- For a free, fair, credible and participatory election, the existing Constitution can be changed. However, a new mechanism can be introduced which will highlight the concept of neutrality and impartiality.
- Opposition or losing party should not take part in any subversive activities. However, winning party or government party should also refrain themselves from such kind of activities as well.

- Every political party, general people, election commission, civil society and other organs of the government should come in unanimous unity regarding establishing a unique and fruitful election.

8. CONCLUSION

From the strict Constitutional point of view, the 10th parliamentary election was perhaps justifiable. But due to lack of inclusiveness, it lost the credibility. The 5th January election could not enable a majority of the voter to express the choice. Because in the 153 MPs were elected uncontested, there was no voting. 52.5% of voters in the country did not have the chance to exercise their voting rights. In addition, with so many parties have rejected the election results and the voters were not interested in the election as well. This election couldn't save the democracy although it was mandatory to comply with the constitution of Bangladesh. It has hindered our democratic institutions and made them questionable. This election didn't reflect peoples wish, belief and peoples representation. Most of the people think that discussion between two major political parties by sacrificing their personal interest can save the situation by holding an upcoming parliamentary election to accelerate the development of the country and facilitate the journey toward democracy and success. Now, to get rid of the questionable election and to eradicate the problem, all major parties should come forward as soon as possible, so that by ensuring consensus between parties an election can be held that would be acceptable to everyone.

Notes

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² Jayapalan, N. *Political Theory*, (New Delhi: Atlantic Published and Distributors-1999), P: 170.

³ Bara, Judith. *Voters, Parties and Participation Comparative Politics*, (New Delhi: SAGE Publications India Pvt. Ltd. Mathura Road, (2009). P.P: 229-243).

⁴ CARETAKER GOVERNMENT IN BANGLADESH, Downloaded from <https://www.lawyersjurists.com/article/caretaker-government-bangladesh/>

⁵ Caretaker government in Bangladesh and different countries. Downloaded from <https://www.lawyersjurists.com/article/caretaker-government-bangladesh-countries/>

⁶ The Constitution of the People's Republic of Bangladesh, April 2008, P.P: 19-21.

⁷ Akhtar, Muhammad Yeahia, "Obhinobo Nirbachon Osohishnu Sarkar: Doshom Sangsad Nirbachoner Purbapor". Dhaka: Osder Publications, 2015.

⁸ "Bangladesh paralysed by opposition strike". Al Jazeera English. 2011-10-04. Downloaded from <https://www.aljazeera.com/news/asia/2013/05/201352653414218728.html>

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²⁰ Akhtar, Muhammad Yeahia, "Obhinobo Nirbachon Osohishnu Sarkar: Doshom Sangsad Nirbachoner Purbapor". Dhaka: Osder Publications, 2015.

²¹ Ibid

²² Ibid

²³ Ibid

²⁴ Ibid

²⁵ ibid

²⁶ Ibid

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