

From Post- to Pre-Elections:

Are new polls the way forward in Bangladesh?

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About the Author

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Bangladesh is in limbo. If one believes the observers and recognizes international statements, the country currently finds itself in between a post and a pre-election scenario. However, one thing is for sure, the deep political crisis that emerged in past months will continue in 2014. The enforced general elections on 5 January did not bring about a solution or any improvement at all. Instead of free and fair polls and a smooth transfer of power, which was hoped to calm down the situation, the country and its people have been confronted with a flawed electoral process, political standoff, and endemic violence. The fact that the late acting 'interim government' under the leadership of Sheikh Hasina, head of the ruling Awami League (AL), resisted or ignored all calls from the rival Bangladesh Nationalist Party (BNP) and other oppositional forces to step done to path the way for the establishment of a 'neutral caretaker government'. This was aggravating the already much tensed volatile political situation. The claim of re-establishing the institution of a 'neutral caretaker government' to carry out elections emerged already in mid-2011, when the very same body was abandoned by the AL government through the passing of the 15th constitutional amendment. This act was interpreted by the opposition as an unfortunate and unnecessary step, and as a

further erosion of the weak institutional framework for political gains. Furthermore, any move of the AL government in organising elections outside the known framework of the caretaker government was seen as a way of truncating the electoral process. In consequence the abolition of the caretaker government, the formation of an alternative interim government by the ruling party, and the subsequent conduct of polls provoked the opposition and aroused protests.

To understand the significance of a neutral caretaker government one not only has to take the concrete concept into account but also its role in Bangladesh's political development. The concept of holding general elections under a caretaker government was a peculiarity of the Constitution of Bangladesh. According to this constitution, the term 'caretaker government' refers to a neutral, non-partisan and non-party interim government that is responsible for ensuring free, fair and impartial general elections after a parliament's term has come to an end. In order to provide the caretaker government with the necessary legitimacy, the 13th amendment to the constitution was passed on 26 March 1996. According to this provision, such a government must take office within 15 days of the dissolution of

parliament and it must organize general elections within 90 days of the dissolution as well as giving the Bangladesh Election Commission (BEC) all the support necessary for holding free and fair parliamentary elections. A caretaker government consists of a Chief Adviser and not more than 10 other advisers, all appointed by the incumbent President to whom it is also collectively responsible. The Chief Adviser was supposed to be the most recently retired Chief Justice, and assumes the functions of the Prime Minister. The temporary government exercises executive powers until a new Prime Minister has been appointed and his regular cabinet is formed. However, it is not designed to be fully empowered interim government. Besides organizing a democratic transfer of power it is not allowed to make any policy decisions that lie beyond the electoral remit or which may influence the electoral results. It is restricted to run the necessary day-to-day administration and ordinary routine procedures of governance. Under this abrogated constitutional framework two caretaker governments have been installed so far in 1996 as well as in 2001 and subsequent general elections were carried out.

However, in 2006 the political reality turned out to be different. Here, one has to

recognize that since the introduction of the constitutional amendment that provided for the institution of a caretaker government, political parties have recurrently been in conflict with each other over the formation of these forms of interim administrations. In 2006 this led to an extremely violent confrontation between supporters of the AL and BNP which paralysed the political system. In consequence, under the directives of the military, the first caretaker government in 2006 of Iajuddin Ahmed, which faced harsh political resistance, was forced to resign, the scheduled elections were postponed indefinitely, and a second caretaker government under Chief Adviser Fakhruddin Ahmed was installed. The establishment of Ahmed's caretaker government, which was facilitated and orchestrated by the Bangladesh armed forces, stayed in power for the following two years. Even though there was no direct military takeover, between 11 January 2006 and 6 January 2009, with the help of the armed forces Bangladesh was governed by an unconstitutional and undemocratic government. There is no question that the negative experiences of many members and sympathisers of the AL served as a justification to get rid of the institution of the caretaker government. However, the abolished institution proofed in the past that it can work -when there is political will

among the leadership of the two rival camps- and produce functioning governments on the basis of more or less free and fair elections (1996 and 2001).

Therefore it does not come as a surprise that the latest round of elections did not end the traditional political stalemate between the major political forces. In fact, the situation turned from bad to worse and the country experienced its most violent and bloodiest election in its history. The oppositional forces largely boycotted the vote. Despite the tight security measures, with some 50,000 troops deployed in the whole country, on many polling stations the situation got out of control and more than 600 were attacked and 100 of them were destroyed. Additionally, around 20 people died during the election day. This marks a dramatic peak in a period of violence which early last year which left thousands of people injured and claimed hundreds of lives. The consequences for the country's economy and the trust among the general public with the political and administrative system of the country are disastrous. Furthermore, this truncated electoral process will further deepen the divide in Bangladesh's already extraordinarily polarized society, paralyzing the state and its institutions. This is a recurring trend which has hampered the consolidation of

democracy since the country came into existence.

This phenomenon is the result of two traumatic events: The first one was the partition of British India in 1947 as a consequence of the transfer of power from the colonial ruler to the newly created states of India and Pakistan, the latter of which was geographically separated into a Western and an Eastern part. The second one was the War of Liberation in 1971, in which East-Pakistan successfully fought against the Western wing for succession, in which Bangladesh suffered a genocide in which 3 million Bangladeshis were killed by West Pakistani soldiers and their Islamic fundamentalist collaborators in the former East Pakistan (Bangladesh). Soon after independence, Bangladesh underwent a variety of regime changes, from a multi-party democracy to a one-party system (BAKSAL/Bangladesh Krishak Sramik Awami League). The growing authoritarianism evolved into a praetorian (military dominated) polity with periods of direct and indirect military rule and then reverted several times to a democratic form of government. This persistent regime changes are the major cause and consequence of Bangladesh's political instability.

One can identify several determinants for Bangladesh's turbulent politics. To begin

with, there is the existence of societal cleavages which are (mainly) responsible for a high degree of factionalism and the intensive politicisation in state and society. Basically one can differentiate between two clusters of cleavages. First, there are cleavages related with the war of independence, like confrontation between freedom fighters and returnees, collaboration with West-Pakistan during the armed conflict, and war crimes including the issue of impunity. Second, severe discrepancies appeared regarding fundamental principles of the socio-economic and political structure of independent Bangladesh, especially regarding future relations with Pakistan and India, role of Islam in politics (secularism), relations to Moscow and/or Beijing (leftist cleavage), and the type of economic model Bangladesh should choose.

In consequence, since its independence Bangladeshi politics have been characterised as an unrestricted zero-sum-game over political power. Further features of the political arena were extraordinary hostility, politics of revenge among the country's elites, which is strictly polarised between two camps, represented by the two leading political parties AL and BNP.

It is important to note that this conflict

trickled down into large sections of the society and has affected all spheres of public life. Hence, many political actors see democracy as a destructive tit-for-tat game that helps them to achieve selfish, partisan objectives which take priority over national concerns. Therefore, elections are primarily seen as an instrument to outbid the political enemy. This is gaining significance, since there is also no constructive working relationship, not only between the government and opposition but also between the two leading political parties – the AL and BNP. As a result, the parliament as a platform for political debate to deal with issues concerning the opposition and the people (which are already hampered by low social capital and education/literacy) is paralysed and/or side-lined. Instead, in order to ventilate grievances, politics are moved to the streets, especially by calling hartals (general strikes) with detrimental ramifications for the already deteriorating socio-economic conditions. Another major problem is that the ideological orientations of the political leadership are predominantly radical in nature which leaves not much room for 'tolerant' thinking and action towards the political opposite. Consequently, open and free debate to exchange views, and the idea of compromise is rather identified as an alien, unfeasible, and unthinkable concept. Political controversies

are seen as battles which have to be fought out, mostly on the street and in a bloody way. One of the dramatic consequences is that this dramatically reducing any chance for any kind of consensus between AL and BNP.

Having this in mind, the current violent political turmoil must be seen as a continuation of an historical trajectory and not just as a spontaneous reaction of a single event in the recent development in the political arena of Dhaka. Nevertheless, there is once again the serious threat that this election will leave the country extremely difficult to govern. Some commentators are even convinced that Bangladesh is ungovernable at the moment.

Nevertheless, on 12 January of this year, despite all critics, Sheikh Hasina was sworn in again as Bangladesh's Prime Minister as well as her 29 Cabinet Ministers. Appeals from the international community, foremost the US and the UK, to seek for a consensus with the oppositional forces and to work towards new, free, fair and inclusive elections, have simply been brushed aside. This is not coming by surprise. It was an unfortunate decision by most of the significant actors of the international community, like the EU, not to send electoral observers to Bangladesh. The major

argument of the international community for 'dropping out', literally that the poll was a 'democratic farce', was short-sighted because of two reasons. First, it clearly sent out the wrong signal towards the oppositional forces. It was obviously in a distorted way interpreted by BNP and its 18-party alliance (including the banned radical Islamic fundamentalist Jamaat-e-Islami party which maintains links with insurgent elements) as a moral support by the international community of their activities of undermining the electoral process and confirming that their point of view on the irregularity of the election is profound and justified. Second, it was alienating the AL which was guiding the interim government and which now formed the new government. In result, the international 'western' actors which refused to send observers put themselves in the backseat regarding talks about the possibility of an early re-election, at least from the current government perspective. In other words, the international community was narrowing down its room to manoeuvre to negotiate with the Awami League. Sheikh Hasina's persistent indifference towards advices regarding a solution of the crisis, for example the prior idea of a postponement of the elections, proposed by the international community can be seen as an indication therefore. Of course, foreign diplomats could put some

pressure on Sheikh Hasina on form of the threat of cutting off aid or trade benefits. But this would most-likely lead to a deterioration of the situation instead of creating an atmosphere of rapprochement that would be necessary to build a consensus.

Nevertheless, there is no doubt about that the 2014 general elections in Bangladesh were 'flawed', as described by the European Union, United States and the Commonwealth as well as several domestic analysts. Most remarkable are the expressed concerns about the legitimacy of the vote. Basically there are several reasons why the last elections must be observed with criticism in terms of legitimacy:

First, there was a tremendous lack of contestation and competition, and subsequent political choice. Due to the boycott of the country's main oppositional forces, the BNP and several other political parties in 154 out of 300 constituencies only AL candidates stood up for elections. In other words, more than half of the parliamentary seats are unopposed.

Second, there were severe hindrances towards the active right to vote. The high level of violent protests and the sharp reaction of the security forces, who did not shy away from using their firearms against the protestors, have deterred a share of the voters from casting their ballots.

Third, the BEC became the butt of mounting criticism. The opposition accused the EC of prejudice because its members were handpicked by Sheikh Hasina.

Fourth, the extraordinarily low voter turnout of 22 per cent (in 2008 it was 83 per cent) hardly matches 'democratic expectations', which must be seen as a consequence of the above mentioned indicators pointing at a gap of legitimacy and much disappointment. The palpable frustration among registered voters reached such a high level that some polling centres hardly saw any voters at all. In result, the AL won 232 out of the 300 seats, including those which were not contested.

Strictly speaking, from a constitutional point of view the elections can be considered legitimate. However, when it comes to normative democratic practices and procedures as well as the common understanding of free and fair elections, one must conclude that the polls and the government that they put in place are characterized by a 'democratic deficit'. Because of the above-mentioned four reasons, the AL is accused of not having the full mandate to represent the general will of the people. This determines a challenge which will gather significance especially when it comes to critical decisions. This will be another heavy burden for the

establishment of a minimum working relationship between government and opposition, which is traditionally either non-existent or deconstructive. As a result, the parliament as place for political debate and finding consensus will apparently continue its 'shadow existence'. Instead, the opposition will continue with their strategy to move the politics out of the parliament into the streets to create disorder and to put pressure on the government.

Having this in mind, it is almost certain that the stalemate and violent protests will continue unless both sides can agree on some kind of consensus. From the perspective of the opposition, such a consensus can only consist of mutual consent of holding new elections under the auspices of a neutral caretaker government as soon as possible. But such an agreement is not in sight. Instead, it seems that Sheikh Hasina is applying a strategy of making fait accompli by taking office as Prime Minister and installing the government immediately after elections. This step can be identified as a clear message that the AL leadership is not willing to accept a second round of polls, which would include the 'boycotters'. As such, the chance to establish a constructive working relationship among the major actors has been further reduced. Consequently, the rift between the AL and BNP will only further

deepen. The violent conflict is already far too entrenched in all spheres of life in Bangladesh to deal with it 'single-handedly' and without the benevolent support of the oppositional forces. The potential consequence of a situation out of control, the proclamation of a state of emergency to keep the basic political and administrative structure of the country functional would only add fuel into the fire. Any such measure must function as a *déjà vu* of authoritarian rule which Bangladesh witnessed in its past, either in military or civilian form. Already Sheikh Hasina's idea of forming all party interim government under the strict AL prefix combined with the abolishment of the caretaker government, appeared to the critics like a re-emergence of Mujibur Rahman's one-party-system BAKSAL (Bangladesh Krishak Sramik Awami League).

Meanwhile, it is obvious that the Bangladesh's armed forces are watching from the sidelines. Until now the army refrained from intervening in the political arena openly, remaining subservient to the civilian government. But this situation should be not taken for granted and might not last forever. The top brass is aware that any direct involvement of the military into the country's politics would not be acceptable to most of the international community.

Furthermore, the soldiers' effort to expel both during the last military-backed caretaker government, Sheikh Hasina and Khaleda Zia (also known as minus-two-formula), did not go down well with most Bangladeshis and was sharply rejected. Also Sheikh Hasina spent much effort to improve her ambiguous ties with the army by appeasing them with lucrative peacekeeping missions, financial concessions, and promises of new military equipment and advanced weapons systems from China and Russia. But nevertheless, taking Bangladesh's record of army's interventions in the realm of politics into account, it would be negligent to rule out a priori any possibility of a military action into politics. The experience of the above-described military-backed caretaker government shows that there is a 'concrete threat', that the military may stage some kind of coup to restore order if violent confrontations continue or even getting worse.

The major question is what will happen next? It is apparent that the oppositional forces will most likely not accept the result of the election and, as already announced, will continue its protest. Apart from engaging in violent protests which are met with violent suppression, it seems that neither the opposition nor the ruling party have any

political will to work towards a compromise. However, much depends now on the future attitude and actions of Sheikh Hasina and her government. At the moment, it appears that Sheikh Hasina is willing to implement the result of the last elections by all means. If she continues to reject early re-elections and if she might be forced to suppress ongoing violent turmoil in order to keep the system functioning (like through proclaiming emergency or enacting special power acts), things might get out of hand. In order to avoid such a worst case scenario, she must allow the BNP and other oppositional forces the space to express their point of view in a peaceful manner that is in accordance with constitutional and democratic principles. But to be able to return to the country's mainstream politics in a credible way, the BNP must fulfil two minimum conditions. First, it is important that the BNP distances itself from violence and militancy. Second, it has to cut its links with the Islamist fundamentalist Jamaat and their affiliated terrorist network. There is no question that the BNP is in a deep identity crisis which can easily turn into an existential crisis. Her traditional relationship with the army is in flux. Additionally, it is obvious that there is an increasing influence and infiltration of Islamist elements within the BNP to such a degree that several analysts have stated that the party is at risk of being taken over

by the Islamists. The BNP leadership has to finally understand that their support for Islamist fundamentalists and the undermining of secular principles is not well-perceived among the masses of the Bangladeshi people. The overwhelming majority of the Bangladeshis are deeply convinced of the notion of secular democracy and are identifying Islamic fundamentalism as the major threat for Bangladesh today. The widespread indignation over the destructions of houses of Hindus during violence surrounding the elections is one of many examples that Bangladeshis are rejecting Islamist activities. Therefore, the BNP failed to establish itself as a popular movement. Besides this, a BNP acceptance of the latest election results would mean that it will accept another five-year term out of power and no access to the much needed state resources. Without being in power – i.e. having the opportunity to offer concrete material incentives or privileges – it will be difficult for Begum Khaleda Zia to keep the ranks closed within the BNP.

To summarize, in order to gain more legitimacy and stabilise the situation, Sheikh Hasina would be well-advised to call for early re-elections. But this would mean that she will risk losing the opportunity of further weaken the political opponent by keeping

them out of power and away from state resources. This line of argumentation also includes the potential loss of resources to strengthen its own position based on patron-client relationships, a main feature of Bangladesh politics. Still, should Sheikh Hasina be willing to stand up for a second, inclusive round of elections she cannot wait too long otherwise the AL will lose the positive momentum. In other words, it would not be interpreted as a concession towards the opposition but as a last resort to avoid an escalation of the already precarious domestic security situation.

However, the heart of the matter remains. Even if there will be a next round of elections was held that was generally perceived as inclusive, free and fair, would this mark the end of the political deadlock and violence? This question leaves enough room for serious doubt. It will be highly unlikely that followers of the AL will accept a defeat in a potential second round of elections. On the other side, it would also be naïve to think that the violence of the BNP and the Islamists would stop, especially if this self-declared ‘democratic movement’ consisting of the BNP and her allies does not get voted into power. Rather, it appears a realistic scenario that this ‘unholy alliance’ of BNP and Jamaat will continue their anti-systemic activities. For the militant

extremists of the Islamic fundamentalist Jamaat and their associates, elections are only interpreted as a way to gain power and to get access to resources. But democracy, secularism and tolerance as basic foundations of Bangladesh and the premises of any form of national consensus are not in the interests of Islamic fundamentalists. In result, meaningful elections are only possible when a constructive working relationship between Sheikh Hasina/AL and Khaleda Zia/BNP is achieved, and Islamic fundamentalism is getting seriously eradicated.