ShahjalalUniversityofScienceand Technology, Sylhet

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# SeminarOn

**TheChallengesOfFreeAndFairElectionInBangladesh**

## Course Code. PSS 600 Department:PoliticalStudies

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## Introduction:

Bangladesh is heading into a tumultuous election season. Bangladesh, a nation rich in history and culture, has embarked on a journey towards democratic consolidation. Since War of independence, the people of the country elect their rulers to rule the country through the election process. The Election Commission is responsible for conducting election to create democratic environment in the country.While it has made significant strides in establishing institutions and conducting elections, the path to free and fair elections remains fraught with challenges. To create an environment for free and fair election the Election Commission had to face various challenges in the field level. These challenges stem from a complex interplay of political, social, and administrative factors. Besides this, compare with the other countries of South Asia, Bangladesh spends a turmoil situation among the season of election of Last decades. In the analysis of last two election the election commission not out of question to arrangeafairelection.Becausepoliticalpartiesnotexpresssatisfactiontothecommissionand theyallegedthatinpresenttheelectioncommissionisbiasedandinfluencebypoliticalParties. Inthispaper,wetrytoexplorethechallengesofarrangeafreeandfairelectioninBangladesh. Andalsoidentifiedthekeychallengeswhichkeepmoreimpactontheelectioncommissionas aneutralandconstitutionalinstitution‘Whyitsmorebiasedandsubservientbyparties.Finally, we gives some recommendation to arrange a peoples participate and fair election which more accountable for the election commission.

## ObjectiveOfthePaper:

Theelectionprocessshouldbefreeandfairforparticipationofthecitizensfundamentalrights. Theelectioncommissionresponsibleforconductingthistypeofelection.Butjourneytowards free and fair election of Bangladesh hasbeenmarkedbynumerous challenges depends onthe last 11th national election.

Themain Objectiveofthepaper is

1. ToexploretheroleofElectioncommission
2. Identifiedthemajor challengestoarrangeafreeandfair election
3. Findoutthepathwayforfairandimpartialelection.

## ElectionCommission:

The Election Commission plays a pivotal role in ensuring the democratic functioning of a proce by overseeing the electoral process. Its primary responsibility is to organize and conduct free and fair elections, upholding the principles of democracy. This institution is critical for the integrity of the electoral system and the legitimacy of elected representatives.

According to Merriam Webster Dictionary, ‘Election commission is the agency independent agency responsible for administering and enforcing laws that cover federal election campaigns.Election commission is an autonomous and Commission is financially and administratively independent.

Duringelections,theElectionCommissionoverseesthenominationofcandidates,thescrutinyoftheir qualifications, and the allotment of symbols. The allocation of symbols is crucial for minimizing confusion among voters and maintaining the transparency of the electoral process. The Commission also supervises the conduct of political parties, monitoring their adherence to the code of conduct and addressingviolations.Thisinvolvescoordinatingwithvariousstakeholders,includinglawenforcement agencies, to maintain law and order during elections.

Post-election, the Election Commission plays a critical role in the counting of votes and declaring the results.Thetransparencyandaccuracyofthisprocessareessentialforestablishingthecredibilityofthe electoral outcome. In case of disputes or allegations of malpractice, the Commission is empowered to investigate and take corrective measures, such as ordering re-polls or recounting.

The Constitution of India provides for an Election Co In India, elections are conducted by an independent and very powerful Election Commission (EC). It enjoys the same kind of independence that thejudiciaryenjoys. Commission ofIndia,whichisresponsible for superintendencedirection and control of all elections.

UnderArticle118oftheConstitutionofBangladesh,provisionhasbeenmadefortheestablishmentof BangladeshElectionCommission.TheworkoftheElectionCommissionistosetupanelectiontribunal to announce the election schedule, determine the electoral area, prepare the voter list, supervise the polling,announcetheelectionresultsandsettletheelectioncomplaints-litigation.Thestructure,powers and responsibilities of the Election Commission are defined in the seventh part of the Constitution of the People's Republic of Bangladesh.

In conclusion, the Election Commission is a cornerstone of democratic governance, ensuring that the voice of the people is heard through free, fair, and transparent elections. The continuous effects of the Election Commission contribute to building public trust in the electoral system, reinforcing the foundations of democratic governance.

## FreeandFairElection:

Free and fair elections are the bedrock of a democratic society, embodying principles that ensure the legitimacy and representation of the people's will.

Theconceptof"free"inthecontextofelectionsreferstotheabsenceofcoercionorundueinfluenceon voters. It signifies an environment where individuals can exercise their right to vote without fear of intimidation, harassment, or manipulation. In a free election, citizens have the liberty to express their political preferences openly, allowing for a diverse range of opinions to be considered in the electoral process.

Key elements of free and fair elections include an unbiased electoral administration, transparent electorallaws,andanimpartialjudiciarytoaddressdisputes.Additionally,thepresenceofindependent election observers plays a crucial role in verifying the integrity of the electoral process and instilling public confidence. Fair elections promote inclusivity, allowing diverse voices to be heard and preventing the concentration of power in the hands of a select few.

In summary, free and fair elections are a cornerstone of democracy, embodying the principles of freedom, equality, and representation. They provide citizens with the means to participate actively in shaping the destiny of their nation, fostering a democratic ethos where the government derives its legitimacyfromtheconsentofthegoverned.Thecommitmenttoconductingelectionsthatarebothfree andfairreflectsasociety'sdedicationtodemocraticvaluesandtheprotectionofindividualrightswithin the electoral arena.

## TheElectionSysteminBangladesh:

Bangladesh is a Democratic Country. As a democratic countryBangladesh has a multi-party parliamentary system of government, with the President as the head of state and the Prime Minister as the head of government. The President is elected by the Parliament members for a five-year term, and the Prime Minister is appointed from the majority party in the Parliament. The Parliament is the unicamerallegislatureofBangladesh,consistingof350members,ofwhich300areelectedfromsingle- member constituencies through a first-past-the-post system, and 50 are reserved for women and are filled through a system of proportional representation.

The Election Commission of Bangladesh (EC) is an independent constitutional body responsible for conducting all free and fair elections in the country. The EC is headed by a Chief Election Commissioner, who is appointed by the President on the recommendation of the Prime Minister. The EChasaregionalofficeineachofthe64districtsofBangladesh,andanumberofupazila(sub-district) and union parishad (village council) offices.

The voting age in Bangladesh is 18 years. Voting is not compulsory, but all citizens aged 18 or above areeligibletovote.Toregistertovote,citizensmustbeacitizenofBangladesh,musthavebeenresident in Bangladesh for at least 90 days immediately preceding the qualification date, and must be of sound mind.

TheelectionprocessinBangladeshisas follows:

1. Nomination:Candidates must submit their nomination papers to the EC within a specified period of time. The EC will then scrutinize the nomination papers and publish a list of valid candidates.
2. Campaigning:Candidatesareallowedtocampaignfora period of14daysbeforethe election. During this time, candidates can hold rallies, distribute leaflets, and appear on television and radio.
3. Polling:Polling takes place on a single day. Voters must bring a valid voter ID card to the pollingstation.Atthepolling station,voterswill begiven aballot paper andwillbeinstructed on how to vote.
4. Counting: After polling has closed, the votes are counted at the polling station. The results of the count are then sent to the EC, which will declare the winner of the election.

The election system in Bangladesh is generally considered to be fair and transparent. However, there have been some concerns about voter intimidation and violence during elections. The EC has taken steps to address these concerns, but they remain a problem.

# ElectionsystemsinSouthAsianCountries:

ElectionsystemsinSouthAsiavaryfromcountrytocountry,buttheyallsharesomecommonfeatures. MostSouthAsiancountriesholdregularelectionsfortheirnationallegislatures,andtheseelectionsare typically based on the principle of universal suffrage. In addition, most South Asian countries have a multi-party system, and elections are often contested by a number of different political parties.

Thetypeofelectoralsystemusedinacountrycanhaveasignificantimpactontheoutcomeofelections. For example, a first-past-the-post system, which is used in India, Bangladesh, and Pakistan, tends to favor larger parties and can lead to two-party systems. A proportional representation system, which is used in Nepal and Sri Lanka, is more likely to result in a multi-party parliament.

In recent years, there has been a growing trend towards electronic voting in South Asia. Electronic voting machines (EVMs) are used in India, Bangladesh, and Pakistan, and they have been praised for theirefficiencyandaccuracy.However,therehavealsobeenconcernsaboutthesecurityofEVMs,and some critics have argued that they are susceptible to fraud.

## Here is a table summarizing the election systems of the eight South Asian countries:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Country | Typeofgovernment | Electoralsystem | Head of state | Head of government |
| Afghanistan | Presidentialsystem | First-past-the-post | President | President |
| Bangladesh | Parliamentarysystem | Proportionalrepresentation | President | Prime minister |
| Bhutan | Constitutionalmonarchy | Multi-memberdistrict | King | Prime minister |
| India | Parliamentaryrepublic | First-past-the-post | President | Prime minister |
| Maldives | Presidentialrepublic | Two-roundsystem | President | President |
| Nepal | Federal democratic republic | Mixed-memberproportional representation | President | Prime minister |
| Pakistan | Parliamentaryrepublic | First-past-the-post | President | Prime minister |
| Sri Lanka | Semi-presidentialsystem | Mixed-memberproportional representation | President | Prime minister |

Asyoucansee,thereisalotofvariationintheelectionsystemsofSouthAsiancountries.Thisvariation is due to a number of factors, including the country's history, culture, and political development.

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**ElectionSystemInSouthAsianCountries:**

### India:

Indiahasaparliamentarysystemofgovernmentwithademocraticallyelectedlegislature.ThePresident is the head of state, but the power lies with the Prime Minister, who is the head of government. The Parliament of Indiais bicameral,withtwo houses: theLokSabha(Houseofthe People)andthe Rajya Sabha (Council of States).

1. **The Lok Sabha:** The Lok Sabha has 545 members, of which 543 are elected by direct vote from single-member territorial constituencies according to the first-past-the-post electoral system. The remaining two members are nominated by the President from theAnglo-Indian community.
2. **The Rajya Sabha:** The Rajya Sabha has 245members, of which 238 are elected by the state legislatures and the remaining seven are nominated by the President.

At the question of free and fair election in India the Election Commission of India (ECI) is an independent and respected body responsible for conducting elections. Challenges include the use of money power and social media for misinformation. ECI's measures to address challenges include spending limits, funding disclosure, and monitoring social media. Factors contributing to success includeelectronicvotingmachines,increasedparticipationofwomenandyouth,andtechnologyuse.

### Pakistan:

Pakistan has a parliamentary system of government, with a bicameral legislature consisting of the National Assembly (lower house) and the Senate (upper house). The President of Pakistan is the head of state, but the power lies with the Prime Minister, who is the head of government.

1. **National Assembly:** The National Assembly has 342 seats, of which 266 are general seats elected by direct vote through the first-past-the-post system in single-member constituencies. The remaining 60 seats are reserved for women and 10 seats for non-Muslims.
2. **Senate:**TheSenatehas104seats,ofwhich72areelectedbytheprovincialassembliesthrough an electoral college system, 14 are elected by representatives of local governments, and 8 are appointed by the Prime Minister on the advice of the President.

## BriefAnalysisofElectionHeldinBangladesh(1991-2018):

**The5’thParliamentaryElection(1991):**The5thgeneralelectionwasheldonFebruary27,1991with 2787candidatesrepresenting75partiesandindependentscontestedforthe300seats.Thehighest144 seats were bagged by theBangladesh Nationalist Party (BNP)founded by former president Ziaur Rahman.whichformedthegovernmentwithKhaledaZia,whojoinedpoliticsafterherhusbandZiaur Rahmanwasassassinatedin1981asprimeminister.TheBangladeshAwamiLeaguesecured88seats toemergeasthemainoppositionintheparliament whiletheJatiyaPartyofHMErshadwon35seats. The turnout was approximately 52 percent of the registered voters totaling 62,289,556 inthe 5th elections.

Meaning of the Constitutionon 27 February 1991, theplace.The most success in a parliamentary democracy system lies in a fair election. In 1991 Khaleda Zia won the election by a non-party government under Justice Shahbuddin. It was a general wish that will be continued in the near future. But that dream wasnot fulfilled. Therewasanallegation raisedagainst BNPrelatingtothecastingof vote through misconduct which appeared on 11 September 1991 where a number of violence, insurgence, qand riots had occurred during the election. This election also shows that the election commission had failed to hold a freeand fairelection.

#### The6’thParliamentaryElection:

Thesixthgeneralelectionwasheldon15February1996andthemainoppositionpartyboycottedsuch elections. In such an election at least 49 candidates were elected uncontested where all of them were the ruling. govt. BNP nominated candidate. The casting vote was 26.54 which was the lowest rate at thattime.Manyanomaliesandchaosdoublecrossinghadoccurredinsuchuncontestedelections.This election is not accepted by the national and international community. Foreign Journalists of various countriesobservedthiselectionandtheycommentedthatthiselectionwasonekindofcoercionfraud and they cannot imagine that politicians can do that in the name of politics. Ruling government has failedtoconductafreeandfairelection. Theelectionof15Februaryspoiledthetrustworthinessofthe government of Khaleda Zia and the election commission.

#### The7’thParliamentaryElection:

In the 7th general elections held on June 12, 1996 under a caretaker government, a total of 2574 candidatestookpart.Thecandidatesrepresented81partiesandindependents.TheBangladeshAwami Leagueformedthegovernmentsecuring146seatsintheelectionwhiletheBNPgot116.Accordingto the provision of the 13th amendment of the constitution, the president on 31st March 1996 appointed the former chief justice Md. Habibur Rahman as the chief adviser of the caretaker government. The chief adviser appointed another person as an adviser on 3rd April 1996. The election commission was alsore-structured. Facingthe protestationofthe people the chiefelectioncommissionerresignedfrom his post.In the vacancy of him Md. Abu Hena, the member of the commission of Planningwas appointed on behalf of him as an Chief election commissioner. On 15 April another 2 members of the election commission were appointed. One of them was the former secretariat Abidur Rahman and anotherwasthedistrictjudgeMostakAhmedChowdhury.The7thgeneralelectionwasheldunderthe directionofJusticeHabiburRahman.Thoughtheelectionwasfairandtransparentandwasrecognized in either nation.

#### 8’thParliamentaryElection:

The 8th election was obliged to hold within11 October 2001. Previouslythe entire parliament was dissolvedbeforepassingthetermof5yearsandnogovernmentpassedtheirterminanormalway.The firsttermofparliamentwas32months,thesecondparliamentwasupto36months,thethirdwasupto 17months,thefourthwasupto31months,thefifthwasupto56months,andthesixthparliamentwas up to only 11 days. Former Prime Minister Khaleda Zia by facing the mass protestation of the public was bound to dissolve the parliament in just 11 days after forming the parliament and was also bound to handover the power to the caretaker government.The 8th general election was held on October 1, 2001. A total number of 1935 candidates representing 54 parties and independents contested in the polls.Theelectionwasthesecondtobeheldunderthecaretakergovernmentconcept,introducedinthe Constitution in 1996. The BNP won 193 seats while its key political rival the Awami League got only 62seats.Totalturnoutofvoterswasnearly74.9percent.Atleast54partieswereparticipatedinthe8th parliamentary election.

#### The9’thParliamentaryElection:

The term of five years of the eighth parliament was expired on 27 October, 2006 and according to the constitutionthegovernmentofKhaledaZiaresigned.InthemeantimetheBNPwasdesigningthefield insuchawaywhichtheoppositionpartiesthoughtofasthedeathtrap.The9thparliamentaryelection wasscheduledonJanuary22,2007.Thereaftertheelectionwascanceledafteradeclarationofstateof emergencyonJanuary11,2007amidpoliticalturmoil.Theninthparliamentaryelectionsoncetheywere held on 29 December 2008, were a success. International observer's pronounced the process to have beenlargelyconsistentwithinternationalstandards.Thehighestvoterturnoutonrecord,animpressive

86.3percentwastestimonytopublicinterestandconfidenceintheprocess.Theelectionadministration operated efficiently and generally transparently. The overall process was clearly a success and represented the best elections to be held in Bangladesh since independence.

#### The10’thparliamentaryelection:

On the 5th of January 2014, the Awami League (AL), which has ruled Bangladesh since early 2009, wonathree-quartersmajorityinaparliamentaryelectionthathaswidelybeencondemnedbothathome andabroadaslackingdemocraticcredibility.Outofthe300electedseatsintheBangladeshparliament, only 147 were up for contest on Election Day with the AL bagging 105 of these seats. Since the main oppositionparty,theBangladeshNationalistParty(BNP)hadchosentoboycottthevotetheremaining seats had been filled by uncontested candidates well before the voting was even held the AL won 127 ofthese153seats.Citingthenon-inclusivenatureofthepolls,boththeUSandtheEUrefusedtosend election observers.The election held on 5th January 2014 was not an effective participation by the people as envisaged by Article 11 of the constitution.

#### 11’thParliamentaryElection:

The11thParliamentaryelectioninBangladeshwasheldonDecember30,2018.Thiselectionresulted in a victoryfor the Awami League,ledby Sheikh Hasina, who secured athird consecutive term asthe Prime Minister of Bangladesh. The Awami League and its allies won a significant majority of seats in theJatiyaSangsad(NationalParliament),allowingthemtoformthegovernment.However,therewere some reports of controversy and allegations of irregularities surrounding the election. Most of the political parties of Bangladesh boycotted that election including the main opposition party BNP( Election day) . The U.S ,UK, European Union criticized that election due to a large number of irregularities.

**Conclusion:**

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 recentlywon“ChampionsoftheEarth”awardoftheUnitedNationsinthepolicyleadershipcategory. However, violent activities by unknown militant groups and violation of human rights are still continuing. To conclude, it is clear that a true and effective democratic system, which is our constitutionalmandate,requiresfree,fairandmeaningfulelections.Prerequisitesforsuchelectionsare: an appropriate legal framework, an effective Election Commission, a neutral government during elections,cooperationofthepoliticalparties,andactivismofthecivilsociety.Whiletheexistinglegal frameworkhassomepositiveprovisions,itisfarfromsatisfactoryforensuringfree,fairandmeaningful elections.Despitehavinganindependentsecretariat,the neutralityandeffectivenessofthepresent EC ishighlyinquestion.Theaggressiveeffortsofsuccessivegovernmentstopromotepartisanbehaviorof the bureaucracy and law enforcement agencies has also destroyed the neutrality of our functionaries. Ourpoliticalparties,devoidofinternaldemocracy,transparencyandaccountability,havebecomedens of criminal elements and act like syndicates. Civil society has also been weakening and its space has been shrinking over the past few years. Thus, one can hardly conclude from the foregoing that an enabling environment prevails in Bangladesh for the next general elections to be credible and meaningful.

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