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# Elections in Bangladesh: Political Conflict and the Problem of Credibility

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JASMIN LORCH, FEB 2 2014

On the 5<sup>th</sup> of January 2014, the Awami League (AL), which has ruled Bangladesh since early 2009, won a three-quarters majority in a parliamentary election that has widely been condemned, both at home and abroad, as lacking democratic credibility. Out of the 300 elected seats in the Bangladesh parliament, only 147 were up for contest on Election Day with the AL bagging 105 of these seats. Since the main opposition party, the Bangladesh Nationalist Party (BNP), had chosen to boycott the vote, the remaining seats had been filled by uncontested candidates well before the voting was even held; the AL won 127 of these 153 seats. Citing the non-inclusive nature of the polls, both the US and the EU refused to send election observers. According to the Bangladesh Election Commission, voter turnout was a mere 40 percent compared to well over 80 percent in the previous elections held in late December 2008. Diplomatic sources in Dhaka have estimated the turnout to have been much lower still, amounting to only around 20 percent.

The flawed conduct of the polls and the subsequent lack of democratic credibility of the election results can be traced back to two separate yet interrelated and mutually reinforcing political conflicts, both of which escalated in the run-up to the elections: firstly, the conflict between Bangladesh's two major political parties, the AL and the BNP; and, secondly, the conflict over the trial of Islamist war criminals and contestations over the question of whether political Islam should be granted a legal space in the country's democratic system. Both of these conflicts are inextricably linked to the weakness of the Bangladeshi state and the ongoing struggle of the Muslim-majority country to come to terms with its War of Independence from Pakistan.

### Escalating Political Party Conflict in the Context of a Weak State

Fierce conflict between the AL and the BNP over the mechanism for conducting the 2014 elections started more than two and a half years before the polls. In June 2011, the ruling AL used its parliamentary majority to push through an amendment to the constitution that abolished the so-called "caretaker system", which had provided for the conduct of national elections under a non-party and non-partisan interim government. Ever since then, the BNP and its smaller coalition parties have pressed the government to re-introduce the system, sometimes by staging massive and often violent demonstrations and general strikes (called *hartals*). For a large part of the AL's tenure, parliament remained blocked due to opposition boycotts.

In 2013, public protests and street battles involving party activists and government security forces escalated and by the time elections were held, political violence had caused more than 300 deaths. In the run-up to the polls, security forces arrested several high-ranking BNP leaders on charges of instigating violence during the party's anti-government rallies. Several other opposition activists went into hiding in order to avoid harassment and detention, and Khaleda Zia, chairwoman of the BNP, was put under de facto house arrest. Foreign diplomats supported various dialogue initiatives between the AL and the BNP, including a mediation effort led by UN Assistant Secretary General Oscar Fernandez-Taranco, but to no avail. The AL continued to reject the BNP's demand for the (re)installment of a non-party caretaker government, proposing instead that the polls be held under an all-party government. Arguing that an election organised with the participation of the ruling AL could never be impartial and fair, the BNP and the 18-party coalition it leads decided to boycott the polls in early December 2013. During the elections, activists of the

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BNP and particularly of its main coalition partner, the Islamist Jamaat-e-Islami (JI), resorted to massive violence, including the torching of dozens of polling centres. Aside from the lack of opposition participation in the elections, political violence and physical insecurity appear to have been important reasons for the low voter turnout.

Political deadlock and violent conflict between the AL and the BNP have characterised national elections since the country's return to democratic rule in 1990. Given that Bangladesh's democratic institutions are weak and lack independence, neither of the two major political parties believes that it would have fair chances of winning an election organised by its rival. Indeed, this is why the caretaker system was originally introduced in 1996, following a one-sided election that was conducted by the then BNP government and boycotted by the AL. In January 2007, the military used the constitutional provision for the caretaker government to intervene in the political process amid deteriorating public security and fierce street battles between AL and BNP supporters. The armed forces subsequently ruled the country from behind the scenes for nearly two years. In the run-up to the 2014 elections, the AL used this military interregnum as an argument to brush aside the BNP's demand for holding the polls under a non-political interim administration.

The fierce and entrenched conflict between the two major political parties and the weakness of the Bangladeshi state are essentially two sides of the same coin. Successive party governments have staffed the administration, the judicial system and even various security agencies with their own supporters. When in office, both parties have marginalised and harassed the opposition, whose ability to seek legal redress has usually been limited due to the lack of autonomy of the feeble judiciary. For example, while both the AL and the BNP are known to be highly corrupt, in practice, it has mostly been politicians from the respective opposition party who have had to stand trial on grounds of corruption while offences by members of the ruling party went unpunished. Former opposition parties were therefore quick to take revenge on their outgoing rivals virtually every time party governments changed through elections, often in the form of violent attacks committed by their "front" organisations, such as student or youth groups. Material benefits and scarce welfare services have often been distributed through the patron-client networks of the parties, especially those of the ruling party, rather than through the institutions of the state. All of this has created perverse incentives for the ruling party to hold on to power by all means.

The personal feud between Sheikh Hasina, the president of the AL, and Khaleda Zia, the chairwoman of the BNP, plays an important role in the party conflict. The "battling begums" are the primary living representatives of Bangladesh's two most powerful political dynasties. Sheikh Hasina is the daughter of the independence leader and founder of Bangladesh, Sheikh Mujibur Rahman (Sheikh Mujib). Khaleda Zia, meanwhile, is the widow of General Ziaur Rahman (Zia), also a freedom fighter in the War of Independence, who ruled the country from 1977 to 1981. Against this backdrop, both women lay claim to the historical legitimacy of the so-called Liberation War in order to justify their claim to power. Sheikh Hasina and the AL promote the concept of Bengali nationalism, which was coined by Sheikh Mujib and makes the Bengali language the central reference point for national identity. Khaleda Zia and the BNP, on the other hand, adhere to the concept of Bangladeshi nationalism formulated by Zia, which puts much greater emphasis on the Islamic identity of the nation. The contention over whether Bengali or Bangladeshi nationalism should form the ideological basis of the state continues to play an important role in the conflict between the AL and the BNP up to the present day, not least because the two concepts imply a very different positioning of the country towards neighbouring India, whose military intervention in late 1971 was crucial for the success of Bangladesh's War of Independence from Pakistan.

The military-backed caretaker government, which ruled the country from 2007 to 2008, engaged in strenuous efforts to forcibly reform the two parties. Above all, it sought to implement a "Minus-Two Strategy" aimed at sidelining Sheikh Hasina and Khaleda Zia and encouraging the emergence of new leaders within the AL and the BNP. Apart from this, it tried hard to weaken the ties between the parties and their affiliated front organisations, and reportedly encouraged the formation of new political parties as a "third force". In the end, however, most of these attempts proved futile and perhaps even counterproductive. By the time of the 2014 polls, five years after the military had handed back power to the parties again, the political conflict between the AL and the BNP had intensified rather than weakened, and Sheikh Hasina's and Khaleda Zia's control over their parties remained unchallenged.

## **War Crime Trials and Contestations over Political Islam**

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In May 2010, the AL government established the International Crimes Tribunal (ICT) to prosecute war crimes, crimes against humanity and acts of genocide committed during Bangladesh's War of Independence, thereby fulfilling one of the main electoral pledges of its 2008 election campaign. The initiation of the trials was met with strong support from the general population. During the War of Independence which led to the emergence of Bangladesh as a secular state from Pakistan in 1971, the Pakistan Army and local Islamist militia from East Pakistan committed massacres against the civilian population in which between one and three million people were killed. The JI, even now the most influential Islamist party of Bangladesh, and its student wing, the Islami Chhatra Shibir (ICS), opposed the independence movement and contributed fighters to the Islamist Al-Badr and Al-Shams militias, who were involved in the massacres.

In 2013, the ICT handed down nine verdicts, including six death and three life sentences. The convicts include some of the most influential leaders of the JI, such as the party's secretary general, Ali Ahsan Mohammad Mujahid, its assistant secretary general, Abdul Quader Mollah, and Ghulam Azam, the JI's main spiritual leader. While there is huge public consensus in Bangladesh that those found guilty in the war crime trials are in fact culpable of massive human rights violations during the War of Independence, the judicial processes were marred with legal flaws and have therefore been criticized by human rights organisations around the world. There are strong indications that political pressure both from the government and from secularly-oriented sections of the national civil society has influenced many of the verdicts. The most evident example of such political influence is that of the conversion of Quader Mollah's sentence from life imprisonment to death. The announcement of the initial sentence was met with huge public protests, which culminated in the formation of the Shahbagh Movement in early 2013. Consisting of bloggers, young activists and other secularly-oriented sections of civil society, the movement pressed the government to go for a more rigorous prosecution of the war crimes and demanded that Quader Mollah and others found guilty of war crimes by the ICT be sentenced to death. The government subsequently amended the act on which the war crime trials were based so as to allow not only the convicts but also the prosecution the right to appeal. In September 2013, the Appellate Division of the Supreme Court sentenced Quader Mollah to death on the basis of this amendment. On 12<sup>th</sup> December 2013, Quader Mollah was executed in what can be seen as an attempt by the ruling AL to increase its support among secular voters ahead of the 2014 polls. The Shahbagh demonstrations triggered counter-demonstrations by the Hefazat-e-Islam, a well-organized Islamist movement with reported links to the JI and with considerable capabilities to mobilize followers for street protests.

Following the verdicts against its leaders and particularly the execution of Quader Mollah, the JI and the ICS staged large-scale protests around the country, marked by extensive violence including the use of crude bombs. Forces connected to the JI were responsible for many of the atrocities committed in order to disrupt polling on 5<sup>th</sup> January as well. Apart from this, the JI and its affiliates reportedly also engaged in massive post-poll violence against the Hindu minority, several members of which are prosecution witnesses in the war crime trials.

Nevertheless, the contestations over the war crime trials must not be misconstrued as stemming from broad-based social and political opposition against the secular character of the Bangladeshi state. By the same token, the Shahbagh protests on the one hand and those of the JI, the ICS and the Hefazat-e-Islam on the other should not be interpreted as reflecting a battle of identity which divides the whole society into a secular and an Islamist camp. Secularism has deep roots in Bangladesh. The JI and its affiliated groups are capable of mobilising large-scale street protests mainly because of their organisational strength, which is based on cadre structures; their followers are often highly disciplined and ready to use violence. But in the 2001 and the 2009 national elections, the vote-share of all the Islamist parties combined amounted to only around 5 percent, signalling a very low level of popular support for turning Bangladesh into an Islamic state. On the contrary, the massacres which were conducted by Islamist militia during the War of Independence continue to haunt the population. According to a survey conducted by the Dhaka Tribune, 74 percent of the citizenry continued to support the war crime trials by the end of 2013, despite its serious legal flaws.

The conflict surrounding the war crime trials does, however, reflect intense political contestations over whether or not parties that adhere to political Islam should be allowed a legal place in the political system of Bangladesh. In August 2013, the High Court cancelled the JI's registration with the Election Commission, arguing that the party's charter did not conform to the secular constitution of Bangladesh. But the party has not yet been banned as an organization.

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Secularly-oriented representatives of the public, including the Shahbagh activists, demand that the JI be outlawed completely, and further verdicts against JI leaders handed down by the ICT might in fact contribute to preparing the ground for such a ban. While the BNP generally emphasises the role of Islam as an important part of national identity, it is important to note that the BNP is not a religious party in itself, being run by a woman who has constantly tried to depict herself as modern. Concurrently, the party's electoral coalition with the JI has frequently been criticised by some of the BNP's own members. In fact, rather than being born out primarily of ideological conviction, the BNP's alliance with the Islamist JI is predominantly a question of power politics in the context of the party conflict. In Bangladesh's first-past-the-post electoral system, the JI and other, smaller Islamist parties act as kingmakers, allowing them to exercise political power well beyond their vote-share would signify. In 2001, for instance, the BNP came to power with the help of the JI and subsequently rewarded the Islamist party with important positions in the cabinet. The conflict between the AL and the BNP thus constitutes the most important reason for the influence of political Islam in Bangladesh. In this context, the Shahbagh Movement's call for handing out death penalties to Islamist war criminals can also be traced to the lack of popular trust in the weak and often compromised judicial and penal institutions of the state – many people fear that if the BNP came to power again, convicted war criminals might be released and re-installed in influential political positions.

## What Next?

The conflict between the AL and the BNP as well as the contestations over the war crime trials and the question of whether political Islam is to be allowed a place in the political system of Bangladesh, which led to the non-inclusive elections in January 2014, also characterise Bangladesh's political landscape in the aftermath of the polls. While the AL has patted itself on the back for having conducted a constitutionally necessary election despite violent opposition, the BNP has rejected the poll results and called the new government "illegal". Nevertheless, there are signs of compromise. Prime Minister Sheikh Hasina has signalled her readiness to re-engage in dialogue with the BNP under certain conditions, and leading officials of the AL have hinted that fresh polls may be held well before the new government's term of five years officially ends, although these offers were recently contradicted by other AL leaders. The BNP, for its part, has lately reduced its call for violent rallies and blockades. The role of the JI, however, continues to be a bone of contention in the post-election conflict between the AL and the BNP. Sheikh Hasina has made the cutting of BNP's ties with the JI and other Islamist groups a pre-condition for the occurrence of fresh talks with the opposition, a demand that BNP leader Khaleda Zia has so far rejected.

In order to break the political deadlock, domestic and international actors must support a comprehensive political dialogue between the two major parties, aimed not only at working out a formula for holding fresh elections but also at identifying common ground between the AL and the BNP as far as the conduct of the war crime trials and the question of granting legal space to parties that adhere to political Islam are concerned. In view of the widespread popular support for trying those who committed massive human rights violations during the War of Independence, the critical attitude of several BNP members towards their party's alliance with the JI, and the strong secular foundations of the society, serious political debates between the two major parties over these issues may in fact be more feasible than they appear at first glance. Important questions to be tackled in such talks would include how independent and impartial trials of suspected war criminals could be ensured, whether and in what manner a reformed JI could possibly form part of the national political landscape, and whether completely banning Islamist religious parties might not rather drive such forces underground and radicalize them further.

At the same time, the international community must also send a strong message to the armed forces that military intervention is not welcome. Two years of de facto military rule from 2007 to 2008 contributed to an escalation rather than a weakening of the conflict between the AL and the BNP, and while early new elections are highly desirable and may well be feasible, there is likely to be no quick fix to the party conflict itself. Against this backdrop, domestic and international actors should step up their efforts to build and strengthen independent, impartial state institutions at all levels in order to improve the long-term prospects for transparent and democratic governance in Bangladesh.

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