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**Whither Bangladesh: Accomplishments,  
Opportunities, Challenges and the Future**

**Guest Editors**

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# BANGLADESH: MUTATION AND RESILIENCE OF A HYBRID REGIME

*Ali Riaz*

## INTRODUCTION

Since the controversial non-inclusive 2014 Bangladesh General Election, many observers have been wondering whether democracy in Bangladesh was on backslide (Millam, 2014; see also, Riaz, 2014a). Almost four and a half years later with another impending election at the end of 2018 or early 2019 and given ruling party's fondness for exclusion and not inclusion as its governing principle one can respond with certainty that the worry has come to pass. Bangladesh's current state of governance is described as 'authoritarian', where the government is "hounding of the opposition" and 'a pervasive feeling that the ruling AL government has assiduously subverted democratic norms and institutions" (Chakravarty, 2018). Therefore, 2018 may be the most consequential about the future trajectory of democracy. The transformation of the governance of Bangladesh, from a hybrid to an authoritarian regime, is palpable as the incumbent has established its firm grip over the executive, legislative, and judicial branches. The space for dissent has shrunk remarkably. Except for few individual dissenting voices civil society as a group has either been coopted or intimidated to play any meaningful role in governance. Media is either restrained through covert coercive means or have adopted a high degree of self-censorship.<sup>1</sup> The main opposition political party is almost decimated through judicial and extrajudicial measures.<sup>2</sup> The handmade parliamentary opposition, has distinguished itself as being both a partner in the cabinet and in the opposition at the same time, something that is unique in the parliamentary history around the world, making Bangladesh's 'democracy' and its 'opposition' objects of much ridicule (Dhaka Tribune, 27 February 2018).

The mutation of the governance in Bangladesh, particularly since 2008, is important both at the empirical and theoretical levels. At the practical level, the question is: where will the country go from here? At the theoretical level, it shows that institutional arrangements within hybrid regimes are not immutable but can move further away from their democratic pretense.

In the past years, Bangladesh had been an example of having both democratic and authoritarian elements of governance concurrently. Bangladesh was not an outlier but part of a global trend. The Janus-faced political system, i.e., concurrently having democratic and authoritarian elements of governance is not new,<sup>3</sup> but they used to be an aberration

rather than a norm. In the past decades, this kind of system has become pervasive<sup>4</sup> and continued to grow. This system of governance - described as hybrid regime - has received considerable attention from political scientists since the 1990s. The question which received little attention, however, is how the hybrid regime sustains.

### **WHAT IS THE HYBRID REGIME?**

The central thrust of Samuel Huntington's (1991) argument of a third wave of democracy was born out by a number of countries that had abandoned autocratic systems of governance and moved towards some form of electoral system between the mid-1970s and mid-2000s,<sup>5</sup> but by then it also became evident that, in some instances, the transition process from an autocratic regime to a democratic regime was stalled before consolidation. In many instances, the stagnation was by choice.

Extant definitions of various forms of government were inadequate in capturing the nature of these new varieties of governance. This prompted describing the emerging forms with various adjectives; for example, 'semidemocracy', 'virtual democracy', 'electoral democracy', 'pseudodemocracy', 'illiberal democracy', 'semi-authoritarianism', 'soft authoritarianism', and 'electoral authoritarianism' (Levitsky and Way, 2002). Larry Diamond (2002) described them as 'hybrid regimes'. The essential characteristic of a hybrid regime is that it is a mixture of institutional features of democracy with features of an autocracy. This system of governance is described as a regime because it represents a "more permanent form of political organization"<sup>6</sup> than a government and both formalized and informal government institutions and norms are important in understanding this new system of governance.<sup>7</sup> Hybrid regime is neither a subtype of autocracy nor of democracy but a regime type on its own; these regimes are not to be confused with regimes in transition (Diamond, 2002). In the discussions of hybrid regimes, transition was presupposed as transition to democracy, thanks to the teleological bias of the democratization literature, ignoring the possibility that that it could rather be the reverse: descending into authoritarianism. There is no single archetypical institutional arrangement within hybrid regimes, instead they are often *sui generis* to each country (Robertson, 2010, pp. 4-6).

### **BANGLADESH: FROM ELECTORAL DEMOCRACY TO AUTHORITARIANISM**

The system of governance that emerged in 1991 at the beginning of democratic transition after almost two decades of civilian and military authoritarianism in Bangladesh had all the hallmarks of electoral democracy.<sup>8</sup> Drawing on an agreement reached during the pro-democracy movement (1982-1990) among political parties of all persuasions – from right-wing Islamists to left-wing Socialists and all parties in-between - a system of fair election was established ; a competitive multi-party system

with almost equal opportunities for all parties came into existence, and an independent judiciary was promised. The most significant step was reintroduction of the parliamentary system in 1991. It stripped the President of unrestrained power, but also created the opportunity for amassing power in the hands of the Prime Minister.

After the first inclusive election, the opposition party was unwilling to play by the rules, which unfortunately continued in the subsequent rounds of elections although the roles of two parties - the Bangladesh Awami League (BAL) and the Bangladesh Nationalist Party (BNP)-reversed every five years (Schaffer, 2002). The trust deficiency among major political parties, especially BAL and the BNP, engendered acrimony, street agitation and violence, and the incessant wrangling among these two parties made the parliament dysfunctional. The incorporation of the caretaker government in the constitution in 1996 to ensure credible elections reflected the trust deficiency but allowed establishing a system of peaceful transition. Nevertheless, the formal democratic institutions began to lose its importance. Regular elections between 1991 and 2001, which allowed alteration of power between the BNP and the BAL, held under caretaker governments remained the only effective democratic institution (Riaz, 2014b).

Instead of consolidating of democracy, building democratic institutions, creating ways for vertical and horizontal accountability, and ensuring space for dissent, an all-powerful 'Prime Ministerial System' was created (Molla, 2000, p. 10), and incumbents practically institutionalized a neopatrimonial system of governance where corruption became endemic. Neopatrimonialism, a system where patrons use state resources to secure the loyalty of clients in the general population, became the defining feature (Islam, 2013). Major political parties, which remained undemocratic and mostly dynastic (Riaz, 2010; Amundsen, 2016), were the vehicle for accruing power and wealth. This vitiated the entire administrative and political structure and 'partyarchy', that is partisan control of all institutions, became the rule of the game (Hassan, 2013).

These tendencies of the political parties, which produced an intolerant political culture, resulted in a gradual tilt towards authoritarianism. In previous decades, along with a de facto two-party system, a vibrant civil society became a prominent actor in the socio-political arena. By the beginning of the fourth decade of independent Bangladesh, what became the defining features of governance were "rhetorical acceptance of liberal democracy, ... (and some) political space for political parties and organizations of civil society to form, for an independent press to function to some extent, and for some political debate to take place", the key features of a semi-authoritarian regime, according to Marina Ottaway (2003). The competition of two parties with each about 40 percent of popular votes<sup>9</sup> as their base, became more vicious and the use of state power to persecute opponents through judicial and extrajudicial manners became the norm. Due to the competitive nature of politics,



Bangladesh's semi-authoritarian system of governance took the shape of competitive authoritarianism. "In competitive authoritarian regimes, formal democratic institutions are widely viewed as the principal means of obtaining and exercising political authority. Incumbents violate those rules so often and to such an extent, however, that the regime fails to meet conventional minimum standards for democracy" (Levitsky and Way, 2002, p. 52). In these kinds of situations elections become a high-stakes event, because "the legitimacy of policies enacted by the ruling party solely comes from its victory in elections—whether the elections are fair or not" (Kilinc, 2017). The BNP's efforts to manipulate the caretaker government system to influence the election results in 2006 and the efforts of the BAL to stop it on the track testify to that.

It is against this background that the 2008 election was held after two years of military-backed caretaker government's rule. Armed with a two-thirds majority in the parliament the Awami League and its allies removed the caretaker proviso from the constitution in 2011 which means that elections will be held under the incumbent party. It turned the country into an electoral authoritarian regime: "Electoral authoritarian regimes play the game of multiparty elections by holding regular elections for the chief executive and a national legislative assembly. Yet they violate the liberal-democratic principles of freedom and fairness so profoundly and systematically as to render elections instruments of authoritarian rule rather than 'instruments of democracy'." (Schedler, 2006). As such, the 15th amendment of the Bangladeshi constitution was neither a response to the abuse of the caretaker system by the previous government or the Supreme Court's verdict as the ruling party claimed, but a way to make the elections ineffective. The controversial 2014 election did exactly that. The decision of the BNP and other parties to boycott the election was expected by the regime. The failed violent movement to halt the election by the BNP, and its alliance with the Islamist party Jaamat-i-Islami,<sup>10</sup> played into the hands of the ruling party. But they should neither undermine the facts that the regime was already mutating and that structurally the election was designed to favor the incumbent. The 2014 election was the most consequential election in the history of the country in this regard (Riaz, 2015). Ironically it had the lowest voter turnout, and more than half of the members of the parliament were 'elected' unopposed.

Many argue that the ninety-one days of violent movement of the BNP in the wake of the first anniversary of the election is to blame for the plight of the opposition. The strategy and tactics of the BNP during the 2015 movement which cost at least 138 lives and an economic loss of \$2.2 billion cannot be condoned, but it appears that the government's policy to use heavy-handed measures against the BNP was made well before the movement commenced; Zafar Sobhan predicted in a commentary on 1 January 2015, that "There can be only One." Sobhan wrote: "2014 marked the end of the compact of co-existence that was forged between the AL and BNP at the end of the 1980s, and that has provided the pattern for the past quarter century of political life. ... The gameplan for the ruling AL



is clear. ... The AL plan for the coming year is therefore straightforward: Continue to squeeze the life out of the BNP” (Sobhan, 2015). By May 2016, the Strategic Forecast identified one of the two trends that will shape the future Bangladesh in “its descent toward single-party authoritarianism” (Strategic Forecast, 2016).

### **SUSTAINING HYBRID REGIME: THE BANGLADESH EXPERIENCE**

Extant literature on the durability of hybrid regime have clearly established that while hybrid regimes are more prone to political instability compared to autocratic and established democracies (Epstein et al, 2006), they are neither inherently unstable nor are they less durable compared to other regimes. From 1972 to 2010, 66 hybrid regimes have lasted at least 10 years; and 22 endured more than 20 years (Gagné, 2012). The resiliency of these regimes has generated studies on the conditions for regime durability. In agreement with Letvitsky and Way, and Ekman, I argue that three arenas are crucial for the maintenance of hybrid regimes: the electoral arena, the executive and legislative arena, and the judicial arena (Ekman, 2009; Levitsky and Way, 2002, p. 52). I also argue that the state’s mobilization capacity is crucial for the durability of hybrid regimes.

The electoral arena serves as the foundation for the other two arenas. Political scientists tend to consider two roles of elections in non-democratic countries: regime-sustaining and regime subverting (Grishin, 2015). But in the case of hybrid regime the election serves several purposes. They include gaining both domestic and international legitimacy, strengthening existing patronage networks and managing elite relations (Morgenbesser, 2014), displaying government’s invincibility (Beatriz, 2006), and relieving popular discontent (Brumberg, 2002). These make the election a necessity for the incumbent, contra closed authoritarian regime, but the regime also wants to remove any uncertainty about the results. This is behind the temptation to manipulate the election. The level of manipulation depends on the strength of the opposition political parties and civil society. The records of hybrid regimes show that electoral manipulation has been both blatant and stealthy; constitutional measures have often been used by the regime. The BAL government’s insistence on conducting the 2014 election as a constitutional necessity stems from these roles of the election. But the situation was blemished by the 15th amendment of the constitution in 2011 and appointment of a subservient election commission. The politicization of administration, although not new in Bangladesh, reached its zenith before the election was scheduled. The failure of the opposition parties to devise an effective strategy to stop this on track helped the incumbent.

As for executive–legislative relations, weak and ineffective parliaments serve the purpose of the regime. The Bangladesh parliament since 1991 had limited effectiveness, thanks to repeated boycotts by opposition members, constitutional provisions limiting the independence of the

members (Article 70), and the structure of various oversight committees; yet it did provide a semblance of check on the executive. But with the 10th parliament elected in 2014 which essentially had no opposition party, the thin line between the executive and legislature is completely blurred. The rampant use of coercive apparatuses and allowing the blatant abuse of various restrictive laws such as Article 57 of the Information and Communication Act (and the Digital Security Act approved by the cabinet) made the situation worse.

Subordination of the judicial arena is a prerequisite for the maintenance of the hybrid regime. Levitsky and Way (2002, p. 52) argue that this is often done by bribery and extortion, and, if possible, by appointing and dismissing judges and officials. According to Brown and Wise, institutions such as the supreme court or constitutional courts tend to function not only as arbiters of constitutionality and legal principles but also as advocates of the current regime (Brown and Wise, 2004). This is true for any hybrid regime; the removal of the Lord President (the highest judicial figure) of Malaysia by Mahathir in 1988, and curtailment of power of the Venezuelan Supreme Court under the Chavez government (1992-2012) (Urribarri, 2011) are cases in point. The 16th Amendment of the Bangladesh Constitution passed by the parliament in September 2014 which has empowered the parliament to impeach judges of the Supreme Court for incapability or misconduct falls within this kind of effort. The insalubrious rhetoric of the ruling party leaders after it was struck down by the High Court (May 2016) and the Supreme Court (July 2016) is indicative of the mindset to establish complete control over the higher courts. This is what led to the 'resignation' of Chief Justice S K Sinha, who also left the country. Similarly, retaining the power of appointment, administration and removal of lower court judges in the president's hands as opposed to the Supreme Court through the Bangladesh Judicial Service (Discipline) Rules 2017 contravenes the spirit of the separation of executive and judiciary.

While establishing control over these three arenas are essential, the ruling party's ability to mobilize its supporters is the key. As elites of hybrid regimes do not enjoy monopoly over the streets, "rulers in contemporary hybrids have to be creative in order to find ways to mobilize support." In case of post-communist Russia, 'shadier organizations' like Nashi, Molodata Gvardia were created by the regime to "dominate streets" and "seize political initiatives away" from anti-government social and political movements (Robertson, 2010, p. 31). In Bangladesh, in the past years, independent civil society organizations and movement have been decimated, and a concerted effort to demean intellectuals and members of the civil society is palpable. The obliteration of civil society organizations was made possible by decades of politicization and fragmentation of many organizations and labor unions by various political parties, particularly the BAL and the BNP. Additionally, the regime has 'creatively' coopted any grassroots movements: the Shahbag movement in 2013 is a case in point (see, for details, Zaman, 2016). A spontaneous movement

alleging leniency to the war criminals by a special tribunal appointed by the government was transformed into a pro-government movement. The ruling party showed aptness in coopting the conservative Islamist movement named the Hefazat-i-Islam. The selective use of religion, as predicted by the Strategic Forecast in 2016, has increased in the past years to boost support for the regime. The phrase 'spirit of liberation', meaning of which remains unclear and continually shifting at the will of the ruling party supporters, has been used as a tool for mobilization and differentiation. A false dichotomy has been created between democracy and development with a preference for the latter by regime supporters to justify the democracy deficit.

Ekman, in his study of three hybrid regimes - Tanzania, Russia, Venezuela - found "a weak or ineffective political opposition" and widespread disillusionment with politics as enabling forces (Ekman, 2009). The lack of unity among opposition parties, absence of a clear direction within the BNP and the growing apathy towards politics warrants mention as an example of these elements in Bangladesh case.

### **THE TRAJECTORY: MARCHING TOWARDS AN AUTHORITARIAN REGIME?**

The question now is: where does the nation go from here? The events of past years reveal the incumbent's penchant for force as the principal means of governance; the state of politics and society indicates that the incumbent's goal is more than a simple status quo but establishing its unbridled control over the future course of politics for an indefinite period. As in other hybrid regimes, "[T]he opposition is [being] suffocated by the ruling party who accuse them of being traitors, disloyal, oligarchic etc... whereas the supporters are enlivened with social programs or lucrative business contracts." (Kilinc, 2017). These are the signposts on the road to authoritarianism. In this scenario, rulers in hybrid regimes expect that "Deprived of any kind of means and platforms to express itself, the opposition [will succumb] into vegetarian life, as if it is a body still alive yet dysfunctional" (Ibid).

But a principal dilemma for hybrid and authoritarian regimes alike is conducting an election. Contested elections provide legitimacy but also create political uncertainty that can threaten the incumbent's ability to stay in power (Petrov et al, 2014). Thus, the goal has been elsewhere and will be in Bangladesh in 2018 to have an election which provides no viable option to the electorate. This is why the nature of the 2018 election will have a lasting and determining effect on the trajectory. This is not to suggest that a fair, inclusive and acceptable election will be enough to reverse the course towards authoritarianism. Restoration of fundamental democratic rights such as freedom of expression and assembly, ending impunity to extrajudicial killings, establishing accountability, and strengthening institutions of checks and balance are key to halting the slide. However, the path to democracy goes only through a meaningful

participatory election.

## NOTES

1. Mahfuz Anam, the editor of the largest circulated English daily The Daily Star, who is facing 84 legal cases, confided "I'm at a very high level of self-censorship" (Steven Butler, 'Bangladesh's press say they are losing the courage to report amid threats from all sides', CPJ Blog 13 February 2018. Justin Rowlett, 'Attempt to crush independent media' in Bangladesh,' BBC News, 18 February 2016, <http://www.bbc.com/news/world-asia-35594968>).

2. The Secretary General of the main opposition party, Bangladesh Nationalist Party (BNP), claimed that between 2007 and January 2018 a total of 50,074 cases have been filed against BNP leaders and activists, and that 733 leaders and activists were killed during the period (Prothom Alo, 'Mamla Ponchash Hajar, Asami Baro Lakh: BNP', 25 January 2018. BNP chief Khaleda Zia is facing additionally 34 cases in addition to her sentencing of five years of imprisonment in graft case in February 2018).

3. Samuel Finer's typology of world's government in 1970 included façade democracy (Samuel E Finer, *Comparative Government*, London; Allen Lane 1970, pp. 442).

4. The Economist Intelligence Unit's Democracy Index show that in 2017, 39 out of 167 countries of the world fall within this category, up from 30 countries in 2006. About 16.7% of global population live under hybrid regime, up from 10.6% in 2006; whereas only 4.5% population enjoy full democracy, down from 13 percent in 2006. (The Economist Intelligence Unit, 'Democracy Index 2017: Free speech under attack', [https://www.eiu.com/public/topical\\_report.aspx?campaignid=DemocracyIndex2017](https://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2017))

5. In 1973 slightly more than a quarter of countries could be categorized as democratic. In 1980 the share was about one third, in 1992 about half, and three fifths by 2000. The wave reached its peak in 2006 when about 64 per cent of all countries (123 out of 193) were described as democracies by the Freedom House (*Freedom House, Freedom In The World 2013: Democratic Breakthroughs In The Balance*, Washington D.C: Freedom House 2014, pp. 29)

6. According to Fishman (1990), "Rethinking State and Regime: Southern Europe's Transition to Democracy", *World Politics*, Vol. 42, No. 3, 1990. pp. 422-440. "A regime may be thought of as the formal and informal organization of the center of political power, and of its relations with the broader society. A regime determines who has access to political power, and how those who are in power deal with those who are not. Regimes are more permanent forms of political organization than specific governments, but they are typically less permanent than the

state. The state, by contrast, is a (normally) more permanent structure of domination and coordination including a coercive apparatus and the means to administer a society and extract resources from it".

7. For an extensive discussion on definition and characteristics of regime see, Skaaning (2006).

8. The defining characteristics of the electoral democracy, as described by the Freedom House, are following: "A competitive, multiparty political system; Universal adult suffrage for all citizens (with exceptions for restrictions that states may legitimately place on citizens as sanctions for criminal offenses); Regularly contested elections conducted in conditions of ballot secrecy, reasonable ballot security, and in the absence of massive voter fraud, and that yield results that are representative of the public will; Significant public access of major political parties to the electorate through the media and through generally open political campaigning" (Freedom House, 'Methodology', Freedom in the World 2012, <https://freedomhouse.org/report/freedom-world-2012/methodology>).

9. For election results between 1991 and 2001, see Ali Riaz, Bangladesh: A Political History. London: I B Tauris, 2016, Appendix 4, pp. 241.

10. The JI opposed the founding of Bangladesh during the war of independence in 1971. Some of its leaders have been convicted by the International Crimes Tribunal established by the BAL in 2010, and five leaders have been executed between 2013 and 2015. The party has been deregistered by the Election Commission in 2013.

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